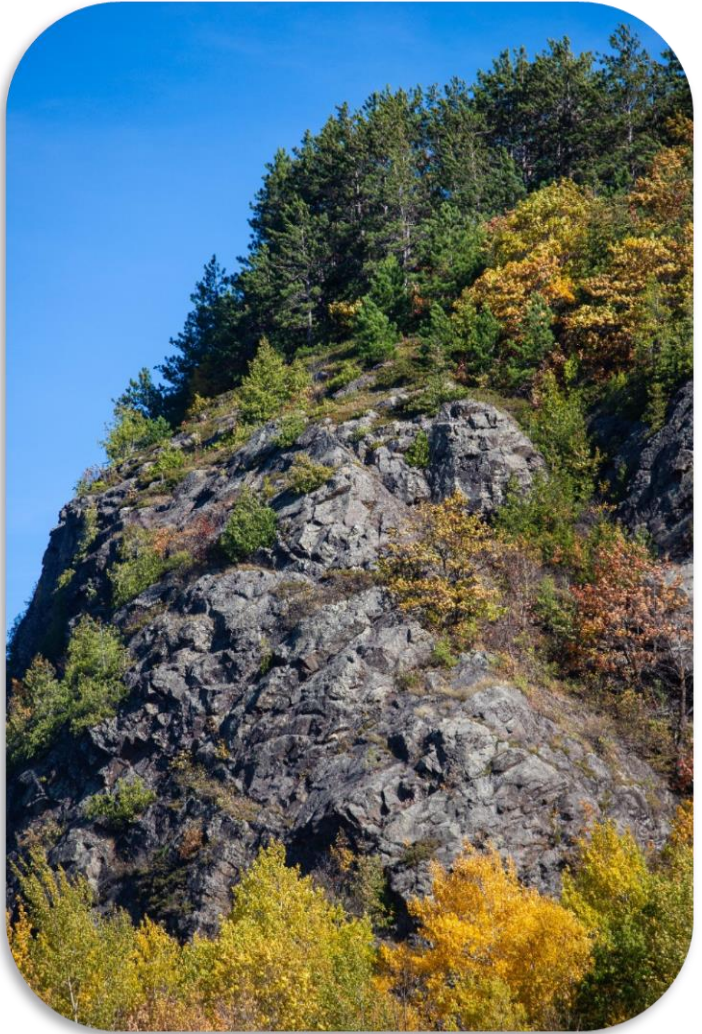


City of Bessemer Zoning Ordinance



Revised December 2021



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PREAMBLE

An ordinance to establish Zoning Districts for The City of Bessemer, Michigan; to establish regulations for those Districts; to encourage and regulate the proper use of land; to provide for the administration, enforcement, and penalties for violation; to continue a Board of Appeals and to provide duties for the Board of Appeals and Planning Commission pursuant to the *Michigan Planning Enabling Act, Public Act 33 of 2008*, which incorporate the powers and duties of a zoning commission pursuant to the *Michigan Zoning Enabling Act, Public Act 110 of 2006*, as amended, to repeal all inconsistent ordinances; and saving from the 1964 *City of Bessemer Zoning Ordinance*, as repealed, the penalties and liabilities therein imposed.

After careful study of this *Ordinance*, the City of Bessemer Planning Commission recommends its adoption to the City Council of the City of Bessemer, and does ordain:

Article 1 Introductory Provisions

Section 1.1 Title, Legal Basis, History & Jurisdiction

- A) Title:** This *Ordinance* shall be known as the ***City of Bessemer Zoning Ordinance***, and may be referred to within this document as “*Ordinance*”, or “*Zoning Ordinance*”.
- B) Legal Basis:** This *Ordinance* is adopted pursuant to the authority and requirements of the *Michigan Zoning Enabling Act, Public Act 110 of 2006*, as amended.
- C) History:** The original *City of Bessemer Zoning Ordinance* was adopted and became effective in 1964. It was subsequently revised and updated. That ordinance is repealed by and replaced with this *Ordinance* as provided in Section 1.3.G.6. The zoning districts of the 1964 ordinance remain the foundation of this *Ordinance*.
- D) Jurisdiction:** This *Ordinance* shall apply to all land and water within the City of Bessemer.

Section 1.2 Purposes

- A) Intent and Purposes:** The City of Bessemer declares, by reference to the Michigan Zoning Enabling Act declarations (Act 110 of 2006), that the purposes of this *Ordinance* are to:
- 1) Promote the public health, safety, and general welfare
 - 2) Meet the needs of the state's residents for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service and other uses of land
 - 3) Ensure that uses of land are situated in appropriate locations and relationships
 - 4) Limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities
 - 5) Facilitate the adequate and efficient provision of transportation systems, sewage disposal, energy, solid waste disposal, drainage, public water supply, education, recreation and other public service and facility requirements
- B) Relationship to Master Plan:** The Districts and other provisions of this *Ordinance* are also based upon the Future Land Use Map and policies of the CITY OF BESSEMER LAND USE PLAN OF 2010, with the intent to implement that plan by regulating the use of land and structures in order to:
- 1) Promote efficiency in the expenditure of funds for public improvements and services while preventing the overburdening of public facilities
 - 2) Support the desired character of the community
 - 3) Enhance and protect property values
 - 4) Prevent nuisances and preserve quality of life
 - 5) Provide adequate light and air, and protect air and water quality
 - 6) Encourage the use of lands and resources in accordance with their character and adaptability
 - 7) Conserve natural resources and energy and protect the quality of the natural environment

- 8) Reduce hazards to life and property due to fire, flooding, erosion, pollution, or excessive dust, fumes, smoke, noise, vibration, noxious odors, snow accumulation or other hazards
 - 9) Limit the improper use of land given the character of each Zoning District and its peculiar suitability for particular uses.
- C) Other Purposes:** No provision of this *Ordinance*, is intended to legitimize activities prohibited by local ordinance, state, or federal law. If a court finds any portion of this *Ordinance* invalid or unconstitutional, the City of Bessemer intends that portion be disregarded, reduced and/or revised so as to be consistent with the purposes of this *Ordinance* to the fullest extent allowed by law.

Section 1.3 Interpretation & Application

- A) Scope:** In interpreting and applying the provisions of this *Ordinance*, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B) Authority for Interpretation:** The Zoning Administrator is responsible for interpreting the text of this *Ordinance* in accordance with the standards set forth in this Section and applicable *Ordinance* standards and requirements, and applicable state law. Interpretations made by the Zoning Administrator may be appealed to the Zoning Board of Appeals pursuant to the requirements of Section 14.6.
- C) Meaning and Intent:** All provisions, terms, phrases, and expressions contained in this *Ordinance* shall be construed according to this *Ordinance's* stated purpose and intent, and applicable state law.
- D) Text Controls:** In case of any difference of meaning or implication between the text of this *Ordinance* and any heading, drawing, table, or figure, the text shall control.
- E) Statutory References:** All references to state law in this *Ordinance* refer to the *Michigan Compiled Laws (MCL)*, as amended.
- F) Relationship to Other Regulations and Restrictions:**
- 1) This *Ordinance* is not intended to interfere with or annul any ordinance, rule, regulation, or permit previously adopted and not in conflict with any of the provisions of this *Ordinance*.
 - 2) This *Ordinance* is not intended to interfere with or annul any easements, covenants, deeds or other agreements between parties, provided however, that where this *Ordinance* imposes a greater restriction, then the provisions of this *Ordinance* shall control in addition to all nonconflicting requirements.
 - 3) In the interpretation, application and enforcement of this *Ordinance*, whenever this *Ordinance* imposes a greater restriction than is required by another existing ordinance, law, rule, regulation, or permit, the provisions of this *Ordinance* shall control. Regardless of any other provision of this *Ordinance*, no land shall be

used and no structure erected or maintained in violation of any state or federal law or regulation.

- 4) In the event that the combined effect of the requirements of this *Ordinance* and any other law, rule, regulation or ordinance so severely limit the use of property subject to this *Ordinance* that no economically viable use of the property remains and a claim of taking under the Fifth Amendment to the U.S. Constitution could be made, then prior to seeking any redress in a court of law, the property owner shall file a petition with the City Council for a Hardship Planned Unit Development under Article 10, Section 10.9 of this *Ordinance*.
- 5) Meetings of the Bessemer City Council, Planning Commission, and Zoning Board of Appeals under this *Ordinance* are subject to the *Open Meetings Act, P.A. 267 of 1976*, and documents prepared for or retained associated with the administration of this *Ordinance* are subject to the *Freedom of Information Act, P.A. 442 of 1976*.

G) Scope of District Provisions:

- 1) Every building or structure erected, any use of land, building, structure or premises, any structural alteration or relocation of an existing building or structure and any enlargement of, or addition to, an existing use of land, building, structure or premises occurring after the effective date of this *Ordinance* shall be subject to this *Ordinance*.
- 2) All zoning approvals granted under this *Ordinance* run with the land. The right to continue a land use or activity or construct a building or structure which is either permitted by this *Ordinance* or established as a nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership unless such a permit is no longer valid as determined by the Zoning Administrator. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to other terms of this *Ordinance*.
- 3) **Vested Rights:** Except as otherwise noted in this *Ordinance*, 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 as may be necessary for the preservation or protection of public health, safety, and welfare.
- 4) **Validity and Severability:** If any court of competent jurisdiction shall declare any part of this *Ordinance* to be invalid, that ruling shall not affect any other provisions of this *Ordinance* not specifically included in the ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this *Ordinance* to a particular parcel, lot, use, building, or structure, that ruling shall not affect the application of provision to any other parcel, lot, use, building, or structure not specifically included in the ruling.
- 5) **Effective Date:** This *Ordinance* shall become effective seven (7) days from the date of publication of notice of adoption.
- 6) **Repeal of Prior Ordinance:** *The City of Bessemer Zoning Ordinance*, adopted in 1964, and all amendments thereto, and any prior Zoning Ordinances of the City are hereby repealed effective coincident with the effective date of this *Ordinance*. The repeal of these *Ordinances* shall not have the effect of releasing or relinquishing enforcement of any penalty, forfeiture, or liability incurred under such *Ordinance*.

Article 2 Definitions

Section 2.1 Purpose

The purpose of this Article is to clarify the meaning of any term used within this *Ordinance* for which the common definition may not serve the purpose of this *Ordinance*, or which is not a commonly used term outside of the context of this *Ordinance*.

Section 2.2 Rules of Construction:

The following rules of construction apply to the text, tables, and illustrations of this *Ordinance*:

- A)** The particular shall control the general. The use of a general or similar term shall not be taken to be the same as the use of any other specific term.
- B)** In the case of any difference of 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 "*dwelling*" includes "*residence*".
- G)** The word "*lot*" includes the word "*plot*", "*tract*", or "*parcel*".
- H)** The phrase "*used for*" or "*occupied*" includes "*arranged for*," "*designed for*," "*intended for*," "*maintained for*," or "*occupied for*."
- I)** The word "*person*" includes an individual, a corporation, a limited liability corporation, a partnership, a trust, a firm, an incorporated association, or any other similar entity.
- J)** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "*and*," "*or*," or "*either...or*," the conjunction shall be interpreted as follows:
 - 1)** "*And*" indicates that all the connected items, conditions, provisions or events shall apply.
 - 2)** "*Or*" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - 3)** "*Either...or*" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- K)** Words and phrases not otherwise defined in this *Ordinance* shall have the meaning customarily assigned to them.

- L) The words “*this Ordinance*” means the text of this *Ordinance* as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended. The “*City*” is the City of Bessemer, State of Michigan; the “*City Council*” is the City Council of the City of Bessemer; the “*Planning Commission*” is the Planning Commission of the City of Bessemer.
- M) All statutory citations are to statutes as amended, including codifications and repeals if a new statute is adopted with a similar scope and purpose.

Section 2.3 Definitions—A

Abutting (see also **Adjacent, Contiguous**): Next to, touching, having property or district lines in common.

Acceleration Lane: A speed-changing lane, including taper, for the purpose of enabling a vehicle entering the roadway to increase its speed to a rate at which it can safely merge with through traffic.

Access: A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.

Access Connection: Any driveway, street, road turnout, or other means of providing for the movement of vehicles to or from the public road system or between abutting sites.

Accessible: In reference to a parcel, means that the parcel has an area where a driveway provides vehicular access or is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of MDOT or the County Road Commission under *P.A. 200 of 1969, MCL 247.321 to 247.329, as amended*, and of the City; or has an area where a driveway can provide vehicular access or is served by a proposed easement that will provide vehicular access to an existing road or street and meet all such applicable location standards. Per the Land Division Act, P.A. 288 of 1967, MCL 560.102 as amended.

Access Management: The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.

Access Management Plan: A plan establishing the preferred location and design of access for properties along a roadway or the roadways in a community. It may be a freestanding document, or a part of a community master or comprehensive plan, or a part of a corridor management plan.

Accessory Building or Structure: A building or structure customarily incidental and subordinate to the principal building and located on the same lot as the principal building. Except as otherwise permitted by this *Ordinance*, an accessory building or accessory structure shall not be used for human habitation. An accessory building, including carports which are attached to the principal building, shall comply in all respects with the requirements of this *Ordinance* applicable to the principal building. Breezeways, as an attachment between the garage or carport and the principal building, shall be considered part of the principal building, but shall not be considered habitable space. See Figure 2-1.

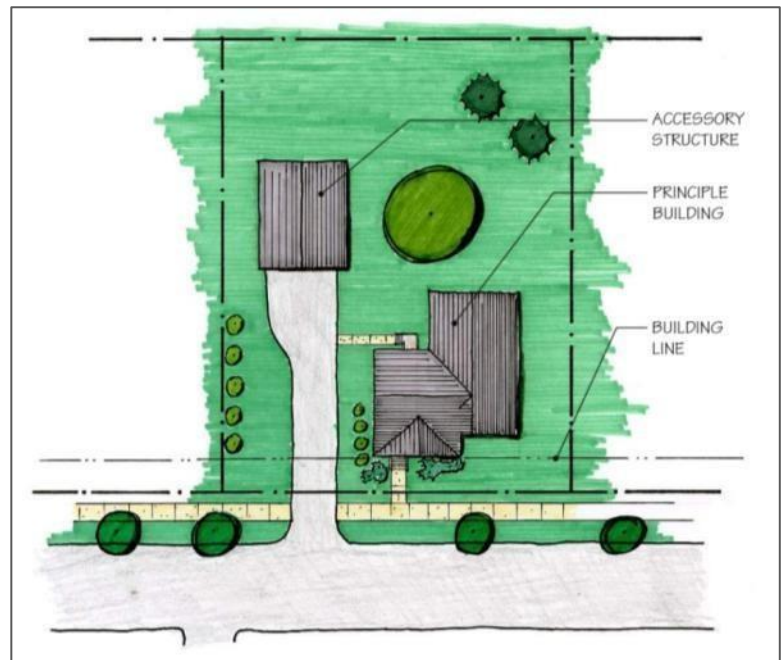


Figure 2-1 Accessory and Principle Buildings

Accessory Use (See also *Home*

Occupation): A use that: (1) is subordinate in area, extent, and purpose to the principle use; (2) is customarily found in connection with; (3) is incidental to; and (4) is located on the same lot as the principle use (except in the case of some accessory off-street parking spaces or loading). For example, a retail business is not considered customarily incidental to a residential use. Residential accessory uses may include storage of household goods, gardening, servant's quarters, private swimming pools, private emergency shelters, and other similar uses.

Access Point: 1) The connection of a driveway at the right-of-way line to a road, or 2) a new road, driveway, shared access or service drive.

Acre: A land area of 43,650 square feet.

Addition (same as **expansion**): Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

Adjacent (see also **Abutting**, **Contiguous**): Next to, touching, having property or district lines in common.

Adult Foster Care Congregate Facility: An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care per P.A. 218 of 1979, MCL 400.703, as amended.

Adult Foster Care Facility: A governmental or nongovernmental establishment that provides foster care to adults, and includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Does not include licensed nursing homes (*P.A. 368 of 1978, MCL 333.20101 to 333.22260, as amended*); licensed homes for the aged (*P.A. 368 of 1978, MCL 333.20101 to 333.22260, as amended*); licensed hospitals (*P.A. 368 of 1978, MCL 333.20101 to 333.22260, as amended*); hospital for the mentally ill or a facility for the developmentally disabled (*P.A. 258 of 1974, MCL 330.1001 to 330.2106, as amended*); county infirmaries (*P.A. 280 of 1939, MCL 400.55, as amended*); substance abuse rehabilitation centers, maternity homes, hotel or rooming houses not providing foster care; residential facility for persons released from adult correctional institutions; or licensed foster family homes or foster family group homes (*P.A. 116 of 1973, MCL 722.111 to 722.128, as amended*).

Adult Foster Care Family Home: A private residence, licensed by the State of Michigan pursuant to *P.A. 218 of 1979, MCL 400.703, as amended* or *P.A. 116 of 1973, as amended*, with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks, but not an adult foster care facility licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

Adult Foster Care Large Group Home: An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care per *P.A. 218 of 197, MCL 400.703, as amended*.

Adult Foster Care Small Group Home: An adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care per *P.A. 218 of 1979, MCL 400.703, as amended*.

Affordable Housing: Housing units where the occupant(s) is paying no more than 30 percent of gross household income of low income households (defined to be a household earning less than 80 percent of the median annual income adjusted for household size as determined by the U.S. Department of Housing and Urban Development) for housing costs, including taxes, insurance, and utilities.

Agricultural Service Establishments: Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, and farm labor and management services.

Agriculture: Means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive deer, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. It shall include incidental retail sales by the producer of products raised on the farm.

Agriculture, Urban: The production of fruits, vegetables, livestock, flowers and other natural food and non-food materials within or near the limits of a city, especially on vacant lots, in open

spaces such as parks, and in enclosed, indoor facilities such as greenhouses or aquaculture systems.

Alley: A dedicated public way, which is not a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

Alteration (of building): A change in the supporting members of a building, an addition, diminution, change in use, or conversion of a building or part thereof, or the removal of a building from one location to another.

Antenna: A device, including structure, used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures for the purpose of communication.

Apartment: A suite of rooms or a room in a multiple-family building, including bath and kitchen facilities, arranged and intended as a place of residence for a single-family.

Apartment Building: A building or structure arranged, intended, and designed to be occupied by three or more families living independently of each other, and each including its own private kitchen and bathroom facilities.

Applicant: A person who submits an application under one of the procedures set forth in this *Ordinance*.

Appurtenance: A right, privilege, or improvement belonging to, incident to, and passing with a principal property upon sale or transfer.

Aquaculture: The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

Assisted Living Facilities: A residential development that provides room and board, assistance with daily activities, and health care for three or more adult residents.

Attached Dwelling: A one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls. A townhouse is an attached dwelling. See *Figure 2-2*.



Figure 2-2 Attached Dwelling

Attic: That part of a building that is immediately below and wholly or partly within the roof framing.

Automobile Repair Shop: A garage, building, or area used for the repair or servicing of automobiles for a fee.

Automobile Sales Area: An area used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automobile Service Station (same as *gas station*): That portion of a property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include automotive repair and maintenance, car wash service, and retail sales.

Awning: A roof-like cover projecting from the exterior wall of a building and composed of nonrigid materials except for the supporting framework which can sometimes be retracted, folded, or collapsed against the face of the supporting building.

Section 2.4 Definitions—B

Basement: That portion of a building which is partly or wholly below finished 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. A cellar is a basement. See also definition of *story*. However, any walk-out basement, regardless of average grade, shall be considered a story. See *Figure 2-3*.

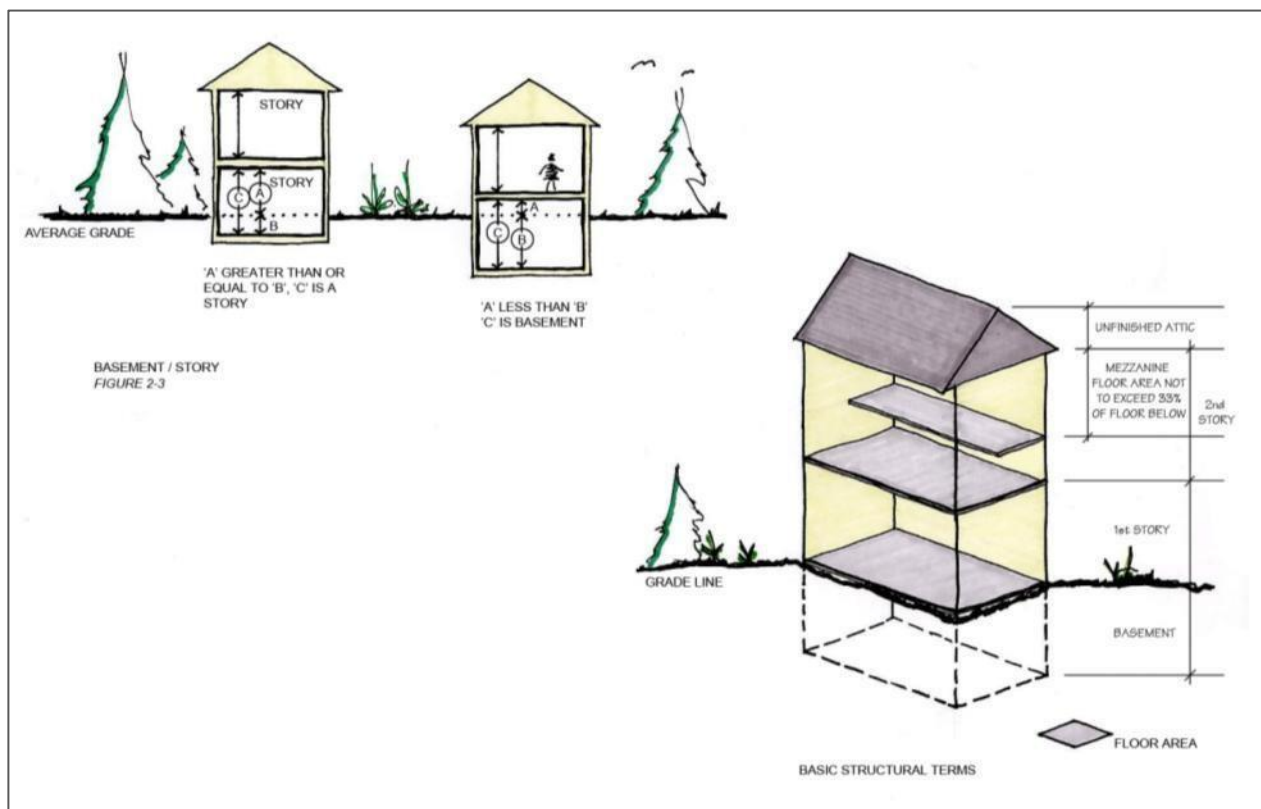


Figure 2-3 Basement / Story

Bed and Breakfast: A commercial use which is subordinate to the principal use of a building as a single-family dwelling unit, and in which transient guests (transient here defined as lodging for less than thirty (30) consecutive days) are provided a sleeping room in return for compensation. Meals also may be provided.

Bedroom: A room intended for sleeping. Any room designated on building plan submittals as a den, library, study, loft, or other extra room will be considered to be a bedroom for the purpose of this *Ordinance*.

Berm: A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity.

Blighted: A portion of a municipality, developed or undeveloped, improved or unimproved, with business or residential uses, marked by a demonstrated pattern of deterioration in physical, economic, or social conditions, and characterized by such conditions as functional or economic obsolescence of buildings or the area as a whole, physical deterioration of structures, substandard building or facility conditions, improper or inefficient division or arrangement of lots and ownerships and streets and other open spaces, inappropriate mixed character and uses of the structures, deterioration in the condition of public facilities or services, or any other similar characteristics which endanger the health, safety, morals, or general welfare of the municipality, and which may include any buildings or improvements not in themselves obsolescent, and any real property, residential or nonresidential, whether improved or unimproved, the acquisition of which is considered necessary for rehabilitation of the area. It is expressly recognized that blight is observable at different stages of severity, and that moderate blight unremedied creates a strong probability that severe blight will follow. Therefore, the conditions that constitute blight are to be broadly construed to permit a municipality to make an early identification of problems and to take early remedial action to correct a demonstrated pattern of deterioration and to prevent worsening of blight conditions.

Blighted Property: Property that meets any of the following criteria:

- Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- Is an attractive nuisance because of the physical condition or use.
- Is a fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of one year or more so that property is unfit for its intended use.
- Is tax reverted property owned by a municipality, by a county, or by the state. The sale, lease, or transfer of tax reverted property by a municipality, a county, or the state shall not result in the loss to the property of the status as blighted for purposes of the *Blighted Area Rehabilitation Act 344 of 1945 as amended*.
- Is property owned or under the control of a land bank fast track authority under the *Land Bank Fast Track Act, P.A. 258 of 2003, MCL 124.751 to 124.774, as amended*. The sale,

lease, or transfer of tax reverted property by a municipality, a county, or the state shall not result in the loss to the property of the status as blighted for purposes of the act.

- Is improved real property that has remained vacant for five consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.
- Any property that has code violations posing a severe and immediate health or safety threat and that has not been substantially rehabilitated within one year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

Boarding House (also *Rooming House*): A residential structure that provides lodging with or without meals for compensation (pay or any kind) to more than two (2) persons other than members of the family occupying such dwelling, and available for permanent occupancy only.

Brewpub: A restaurant in which beer or malt beverages, wine, and other alcoholic beverages are manufactured, brewed or distilled on site for retail purchase only.

Buffer: A strip or area of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts.

Buildable Area: The portion of a lot remaining after the minimum yard and setback requirements of this *Ordinance* have been met, leaving the area that building(s) may occupy. See *Figure 2-4*.

Building: Any structure, either temporary or permanent, having a fixed location and a roof supported by columns, walls or other supports, and used or built for the shelter or enclosure of persons, animals, or property of any kind or for the conduct of business. This shall include but is not limited to awnings, mobile homes, inflatable structures, fabric or membrane structures, sheds, garages, greenhouses and other similar structures. It shall also include trucks, vans, recreational vehicles or other vehicles or parts of vehicles situated on private property, and used for the purposes of building, whether or not mounted on wheels.



Building Area or Building Footprint: The total horizontal area of the largest story of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, patios and steps. See *Figure 2-4*.

Building, Attached: A building which has at least part of a wall in common with another building, or which is connected to another building by a roof.

Building Code: Regulations governing the erection and maintenance of buildings as currently enforced pursuant to the laws of the State of Michigan.

Building, Detached: Any structure that does not have a wall or roof in common with another structure.

Building Height: The vertical distance measured from the floor of the first story to the highest point of the roof surface for flat roofs and A-frames, to the deck line of mansard roofs, and to the average height between the highest eave and the highest ridge for gable, hip and gambrel roofs (see Figure 2-5). A cupola, widow's watch, tower or parapet wall that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. See also Section 5.2.A and 5.2.B concerning building height exceptions and building grades.

Building Line or Setback Line: A line parallel to a front, side or rear lot line, established for the purpose of prohibiting the erection of a structure between such line and the corresponding lot line. See Figures 2-1 and 2-4.

Building, Principle: A building in which is conducted the primary use of the lot on which it is located. See Figure 2-1.

Building Site: A lot or parcel of land, in single or joint ownership, and occupied or to be occupied by a principle building (or dwelling group) and accessory buildings, together with such open spaces as are required by the terms of this *Ordinance*, and having its required frontage on a street, road, highway, or waterway or accessible by legal easement.

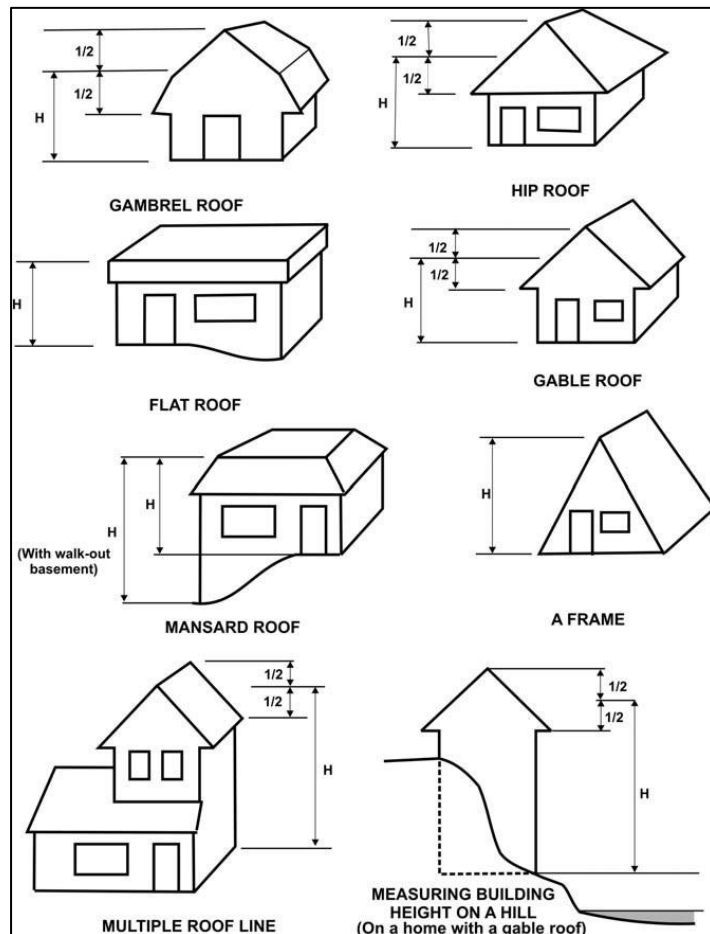


Figure 2-5 Building Height

Building, Temporary: A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction or as an office until the construction work is complete.

Business Center: Three (3) or more businesses which meet at least one (1) of the following:

- Are located on a single parcel of property
- Are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings
- Are under one (1) common ownership or management and have a common arrangement for the maintenance of the grounds
- Share a common parking area
- Otherwise present the appearance of a single, contiguous business area

Business Establishments: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis.

By Right: A use permitted in a district by action of the Zoning Administrator, without any special review and approval process, or special standards, provided the application demonstrates conformance with all the applicable nondiscretionary standards for that use in that district.

Section 2.5 Definitions—C

Cabin: A single-family dwelling unit of not more than four hundred (400) square feet designed and built for temporary (usually seasonal) use that meets building and sanitary codes at the time of construction.

Camp or Hunting Camp: A single building designed only for temporary human occupancy that is not considered a single-family dwelling unit which if constructed after the effective date of this *Ordinance* shall not be larger than four hundred (400) sq. ft., have an approved waste disposal system and no pressurized water, nor fixed connection to electrical service.

Camp, Organized: A parcel or tract of land with one or more buildings under the control of an organization or business that provides meeting spaces, dining facilities, sleeping quarters, and recreational and educational facilities. Organized camps include hunting lodges, retreat centers, religious retreats, therapeutic camps, convents and monasteries and have waste disposal and pressurized water systems approved by the Health Department.

Campground: Defined per the *Public Health Code P.A. 368 of 1978, MCL 333.12501, as amended* as a parcel or tract of land under the control of a person, in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for five or more recreational units such as tents, camper trailers, travel trailers, recreational vehicles, motor homes, or temporary sleeping quarters of any kind. A campground does not include a seasonal mobile home park, mobile home park, or manufactured housing community licensed under the *Mobile Home Commission Act, P.A. 96 of 1987, as amended*.

Candlepower: Luminous intensity expressed in candelas. The amount of light that will illuminate a surface one-foot distant from a light source to an intensity of one foot-candle. Maximum (peak) candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

Canopy: A permanent roof-like cover, usually of metal, wood, or glass, designed and intended for protection from the weather or as a decorative embellishment, and is free-standing or which projects from a wall or roof of a structure over a window, walkway, door, etc.

Carpport: A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all setback requirements applicable to garages.

Change of Use: A use of a building, structure or parcel of land, or portion thereof which differs from the previous use in the way it is classified in this *Ordinance*.

Channelized or Channelizing Island: An area within the roadway or a driveway not for vehicular movement; designed to control and direct specific movements of traffic to definite channels. The island may be defined by paint, raised bars, curbs, or other devices.

Child: A person under 18 years of age.

Child Care Center (also Day Care Center): Facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Includes the same provisions and exclusions as defined in *P.A. 116 of 1973, MCL 722.111, as amended*.

Child Care Home, Family: A private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. Does not include an individual providing babysitting services for another individual as defined in *P.A. 116 of 1973, MCL 722.111, as amended*.

Child Care Home, Group: A private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

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 shall not be the primary purpose of the facility. Includes a maternity home for the care of unmarried mothers who are minors. Also includes an agency group home that is

a small child caring institution owned, leased, or rented by a licensed agency providing care for more than four but less than 13 minor children. Also includes institutions for mentally retarded or emotionally disturbed minor children. Does not include a licensed hospital, nursing home, or home for the aged, a licensed boarding school, a mental health hospital or facility, a licensed adult foster care family home, or a licensed adult foster care small group home as described in *P.A. 116 of 1973, MCL 722.111, as amended*.

Children’s Therapeutic Group Home: A child caring institution receiving not more than six minor children who are diagnosed with a developmental disability as defined in section 100a of the mental health code, or a serious emotional disturbance as defined in section 100d of the mental health code *P.A. 258 of 1974, MCL 330.1100, as amended*. Meets all of the following requirements: 1) provides care, maintenance, and supervision, usually on a 24-hour basis, 2) complies with the rules for child caring institutions, except that behavior management rooms, personal restraint, mechanical restraint, or seclusion which is allowed in certain circumstances under licensing rules are prohibited in a children’s therapeutic group home, 3) is not a private home, and 4) is not located on a campus with other licensed facilities.

Church: A building wherein persons regularly assemble for religious worship, meetings and other activities, and which is maintained and controlled by a religious body with tax-exempt status organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Circulation Systems: Structures and physical improvements for the movement of people, goods, water, air, sewage, or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or trans-shipment points.

Clear Vision Area: Corner areas at intersecting streets, alleys and driveways in which unobstructed vision of motor vehicle operators is maintained.

Cluster Development: An approach to designing a site that maximizes the conservation of open space by placing dwelling units and other structures in closer proximity than usual while retaining the remaining land for recreation, open space, or preservation of sensitive land features.

Commercial: A use or facility providing building area, parking area, service area, screen plantings and traffic areas designed for the conduct of for-profit commerce.

Commercial Agriculture or Horticulture: The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as *“farm”* is defined in the Michigan Right to Farm Act, Public Act 93 of 1981; as amended.

Common Land: A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development or condominium project.

Common Open Space: Land within or related to a development, not individually owned, that is designed and intended for the common use or enjoyment of the residents and their guests of the development or the public at large if dedicated to and accepted by the public, and may

include such complementary structures and improvements as are necessary, appropriate and approved as part of the development according to the requirements of this *Ordinance*.

Communication Tower: A structure including but not limited to monopole, skeleton framework, or other design which is attached directly to the ground or to another structure which supports one or more antennae, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals. Antennae permitted as an accessory use under Article 4 of this *Ordinance* are excluded.

Community Garden: A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

Community Residential Care Facilities: Community residential care facilities provide shelter and care for individuals with special needs in facilities or single family dwellings for more than six persons. These are all state-regulated facilities, including large community residential care facilities, group child care homes, child caring institutions, children's therapeutic group homes, adult foster care facilities, and adult foster care congregate facilities.

Composting: Processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.

Composting Facility: A facility where organic matter that is derived primarily from off-site is to be processed by composting and/or is processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

Conditional Use: A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise) is not essentially incompatible with uses permitted in a zoning district, but which possesses characteristics which require individual review in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. A conditional use is permitted by right in a particular district, provided that the use complies with the nondiscretionary standards of Article 9 of this *Ordinance*.

Condominium Project: A plan or project including not less than two (2) condominium units established and approved in conformance with the *Condominium Act (Act 59 of the Public Acts of 1978)*.

Condominium Subdivision: A division of land on the basis of condominium ownership, pursuant to the *Condominium Act* and which is not subject to the provisions of the *Land Division Act of 1967, Public Act 288 of 1967*, as amended. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this *Ordinance*, the terms below are defined as follows:

- **Building Envelope:** The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed.
- **Building Site:** That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the *Zoning Ordinance* (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."
- **Condominium Unit:** That portion of a condominium project that 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. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this *Ordinance* pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.
- **General Common Area:** That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.
- **Limited Common Area:** That portion of a site condominium project designed and intended for separate ownership, but outside the building setbacks for the zoning district the property is located in, as described in the Master Deed.
- **Limited Common Element:** That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of the condominium unit.
- **Master Deed:** The document recorded as part of a condominium subdivision that contains the exhibits and incorporates by reference the approved bylaws for the Condominium Subdivision and Plan.
- **Plan:** The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Conflict: A traffic event that causes evasive action by a driver to avoid collision with another vehicle, bicycle or pedestrian.

Conflict Point: An area where intersecting traffic merges, diverges, or crosses.

Conservation Easement: The grant of a property right requiring that the described land will remain in its existing natural state in perpetuity. Also means that term as defined in *Section 2140 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended*, when applied to a cluster development or open space development as follows: an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water,

including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

Contiguous (*same as **Abutting, Adjacent***): Next to, touching, having property or district lines in common.

Convalescent Home (Nursing Home): A building having a principal purpose of providing of sleeping, eating and gathering rooms where infirm persons are housed, often for extended periods of time, and furnished with meals and nursing care.

Convenience Retail Establishments: An establishment offering for sale mainly prepackaged food and beverage products, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption directly to the ultimate consumer. Not a drive through establishment, but one designed to attract a large volume of stop-and-go traffic.

Craft Distillery: A “Craft Distillery” means a distiller producing one hundred fifty thousand (150,000) gallons or less of spirits, and providing for on-site consumption of spirits.

Cul-de-sac: A street with a single common ingress and egress and with a turnaround at the end.

Cut off Plane: A plane above a light source above which light from the light source does not penetrate.

Cut off Angle: An angle measured up from its lowest point, the vertical position directly under the light source, to the cut off plane.

Section 2.6 Definitions—D

Day Care Center (*see **Child Care Center***)

Day Care, Family Home (*see **Child Care Home, Family***)

Day Care, Group Home (*see **Child Care Home, Group***)

Day Care, Private, Home: A private residence in which a day care center operator licensed by the State of Michigan permanently resides as a member of the household, which residency shall not be contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home.

Deck: An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which is more than six (6) inches above the finished grade.

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. Unless the city has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the city.

Demolition: Any dismantling, intentional destruction, or removal of public or private structures, sites, surfaces, utilities, or other improvements.

Detached Dwelling: A dwelling that is not attached to any other dwelling by any means. See *Figure 2-6*.

Figure 2-6 Detached Dwelling



Development Site: Any parcel or lot on which exists or which is intended for building development other than agriculture as defined in this *Ordinance*, or forestry use involving the planting, management, or harvesting of timber.

Distillery: The structures and equipment used by a distiller to produce spirits.

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

Drive-Through Establishment: An establishment that dispenses products or services to patrons who remain in vehicles. Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).

Driveway: A means of access for vehicles from a street or alley to a parking or loading area, garage, dwelling or other structure or area.

Driveway Offset: The distance between the centerline of two driveways on opposite sides of an undivided roadway.

Driveway, Shared: A driveway connecting two or more contiguous properties to the public road system.

Dwelling: One or more rooms connected together but structurally divided from all other rooms in the same structure, constituting a separate, independent housekeeping establishment and containing independent kitchen, bathroom and sleeping facilities, but not including motels or tourist cabins.

Dwelling, Single-Family: A detached residential building containing only one (1) dwelling unit, and occupied by not more than one (1) family.

Dwelling, Two-Family: A detached residential building containing two (2) dwelling units, each with not more than one (1) family. Also known as a duplex.

Dwelling, Multiple-Family: A residential building containing three (3) or more dwelling units, each with not more than one (1) family.

Section 2.7 Definitions—E

Easement: That portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on, or above said lot or lots.

Eave: The overhanging lower edge of a roof.

Eave Height: Eave height shall be measured at the bottom of the top layer of roofing material at its outermost point from the building wall.

Educational Institutions: Any government or privately-owned and/or operated facility, building or part thereof which is designed, constructed, or used for education or instruction. Educational institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.

Egress: An exit.

Electrical Code: The electrical code as currently enforced pursuant to the laws of the State of Michigan.

Erected: Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for construction. Excavation, fill, drainage, installation of utilities and the like, shall be considered a part of erection.

Erosion: The removal of soil through the actions of water, wind, gravity, or a combination.

Essential Services: Means the erection, construction, alteration or maintenance by public utilities or municipal departments, of overhead, surface, or underground gas, electrical, steam, fuel, or water transmission or distribution systems; collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, hydrants, and similar accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare. Does not include communication towers or office buildings, substations, or structures for service equipment or maintenance depots.

Expansion (same as *addition*): Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

Extractive Industries: Industries engaged in excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.

Façade: That portion of an exterior building elevation facing the street space. Building elevations facing interior courts, common lot lines, and alleys are not facades.

Family: An individual or two or more persons related by blood, marriage, guardianship, duly authorized custodial relationship, or adoption; or a group not to exceed six (6) persons, whether or not related by blood or marriage; or two unrelated people and any children related to either of them; occupying premises and living as a single nonprofit housekeeping unit with single culinary facilities and whose relationship is of a permanent domestic character. This does not include a group occupying a boarding house, lodging house, club, fraternity, sorority, hotel or similar dwelling for group use; or a group of individuals whose association is temporary and resort seasonal in character; or a group of individuals who are in a group living arrangement as a result of criminal offenses. Domestic servants residing on the premises shall be considered as part of the family.

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products, per the Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.

Farm Product: Those plants and animals useful to human being produced by agriculture and includes, but is not limited to, biomass crops, forages and sod crops, grains, feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, trees and tree products, mushrooms, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture. Per the Michigan Right to Farm Act, P.A. 93 of 1981, MCL 286.472, as amended.

Farmer's Market: An occasional or periodic market held in an open area or in a structure where individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages.

Fence: An unroofed structure erected in such a manner and in such a location as to enclose, secure, partially enclose or secure, provide privacy for, or mark a boundary for all or any part of a lot.

Fence, Height: The average distance between the top element in the fence and the adjacent grade along any unbroken run of fence.

Fence, Living: A grouping of plants including, but not limited to hedges, shrubs, bushes, or trees, arranged and/or growing in such a manner as to enclose, secure, partially enclose or secure, provide privacy or mark a boundary for all or any part of a lot.

Fill: Any material, including by way of illustration earth material, concrete, rubble, and wood waste, that is placed or deposited on the surface of the ground resulting in a change in natural surface elevation.

Floodplain: A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or, an area subject to the unusual and rapid accumulation of runoff or surface waters from any source. This area includes floodway (channel and flood areas with flow), and flood fringe (flood areas with little or no flow).

Floor: The level base of the room, hollow structure, or enclosed area, including basements.

Floor Area, gross: The sum of the areas of all floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the interior faces of exterior walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts. It does not include patios, terraces, breezeways, carports, verandas and garages.

Food and Drink Establishment: An establishment where food and drink are prepared, served and consumed primarily on the premises.

Food Stand: A building or structure used for the retail sales of agricultural produce produced on the premises.

Footprint, Building: See building area.

Forest Management: The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services. Usually done in accordance with a forest management plan establishing best conservation and management practices, including schedules and responsible entities.

Foster Care: the provision of supervision, personal care, and protection in addition to room and board for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.

Foster Family Home: A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the adoption code, *chapter X of P.A. 288 of 1939, MCL 710.21 to 710.70*, as amended, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian. *Per P.A. 116 of 1973, MCL 722.1, as amended.*

Foster Family Group Home: A private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to *chapter X of P.A. 288 of 1939, MCL 710.21 to 710.70*, as amended, are provided care for 24 hours a day, for four or more days a week, for

two or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian. *Per P.A. 116 of 1973, MCL 722.11, as amended.*

Fraternity or Sorority House: A building occupied and maintained exclusively for students affiliated with and formally recognized as a group by an academic or professional college or university or other recognized institution of higher learning.

Frontage: The total continuous length of the front lot line. *See Figures 2-8 and 2-10.*

Frontage Road or Front Service Drive: A local street/road or private road typically located in front of principal buildings and parallel to an arterial to give access to abutting properties for the purpose of controlling access to the arterial.

Section 2.9 Definitions—G

Garage, private: An accessory building or portion of the principal building used for storage by the occupant of the principal building, with no facilities for mechanical service or repair of a commercial or public nature.

Garage, public: A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Garage, repair: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, storage, or refinishing of motor vehicles is conducted.

Garage Sale or Yard Sale: The sale or offering for sale to the general public of items of personal property by the owner or tenant of a lot on which a dwelling unit is located, whether within or outside the dwelling unit, a garage or other accessory building.

Garden: A tract of land devoted to outdoor cultivation of flowers, fruits, vegetables, or small plants, and unenclosed by any structure other than a fence.

Gas Station (*see Automobile Service Station*)

Grade: The vertical elevation of the ground surface.

Grade, Average: The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure not including window wells or required basement egress. *See Figure 2-7.*

Grade, Finished:
The final grade of the site after man-made alterations that conforms to the approved plan

Grade, Natural:
The elevation of the ground surface in its natural state, before man-made alterations.

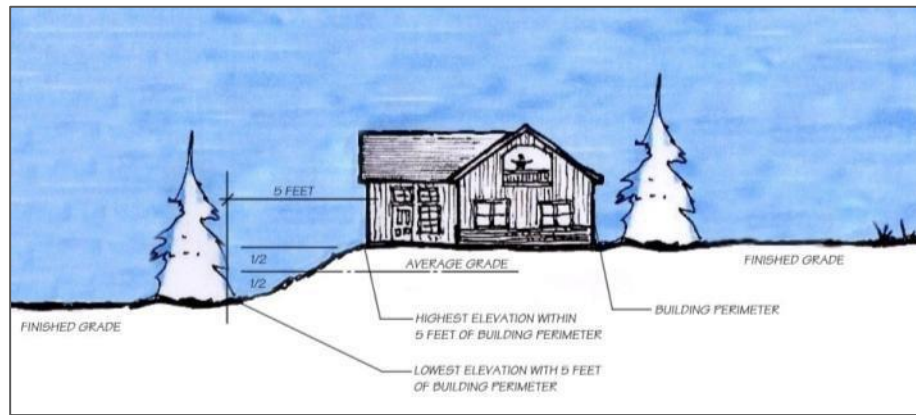


Figure 2-7 Average and Finished Grade

Greenhouse (same as Hoop House): A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other tender plants.

Greenway: A contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. *Per P.A. 110 of 2006, MCL 125.3102, as amended.*

Ground Cover: Living plants designed to grow low to the ground (generally one foot or less), forming a continuous vegetative surface, and intended to stabilize soils and protect against erosion.

Group Housing: Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. There is usually a common eating area for residents.

Group Residential Facility: The use of a site for occupancy by groups of people not defined as a family, and who are not mentally ill or developmentally disabled, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding/lodging houses, convents, and monasteries.

Section 2.10 Definitions—H

Hard Surface: Compacted gravel, concrete or asphalt pavement, pavers or other products designed for parking.

Hazardous Substance: Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to the public health,

safety, or welfare or to the environment. Includes "Hazardous substance" as defined in the *Comprehensive Environmental Response, Compensation and Liability Act of 1980*, as amended, *Public Law 96-510, 94 Stat. 2767*, and "Hazardous waste" as defined in the *Natural Resources and Environmental Protection Act of 1994*, as amended, *MCL 324.11103*, and "Petroleum" as defined in the *Natural Resources and Environmental Protection Act of 1994*, as amended, *MCL 324.21303(d)(ii)*.

Height (see *Building Height*)

Historic Site or District: A structure or geographically defined area possessing historical, archaeological, cultural, or architectural significance and designated as such by federal, state, county, or municipal government.

Home for the Aged: provides 24-hour room, board, and supervised personal care to 21 or more unrelated, non-transient individuals 60 years of age or older, or a home with 20 or fewer individuals 60 years of age or older that is operated in conjunction with and as a distinct part of a licensed nursing home.

Home Occupation: A commercial activity, whether for profit or otherwise, carried on by an occupant of a dwelling unit as a secondary use which is clearly subordinate and incidental to the use of the dwelling unit as a residence, and does not alter the exterior of the property or affect the residential character of the neighborhood.

Home Occupation, rural: An accessory use to a customary farming operation or a nonfarm household located in a rural area designed for gainful employment involving the sale of goods and services that is conducted either from within the dwelling and/or from accessory buildings located within 500 linear feet of the dwelling unit occupied by the family conducting the home occupation.

Hospital: An institution providing health services for inpatient and/or outpatient medical or surgical care of the sick or injured and including related facilities such as, but not limited to, laboratories, outpatient departments, central staff service facilities, and staff offices which are an integral part of the institution.

Hotel: A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a boarding or rooming house as defined in this *Ordinance*.

Housing for the Elderly: A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older. This does not include a development that contains convalescent or nursing facilities. On a continuum of care, these are independent living arrangements, and do not include health care facilities.

Section 2.11 Definitions—I

Impervious surface: Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include sand or graveled

driveways and parking areas that are highly compacted or covered with a layer that is resistant to infiltration by water.

Improvements: Those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project area, including, but not limited to roadways, lighting, utilities, sidewalks, screening, drainage, parking areas, and landscaping.

Independent Living Facility: Rental units limited to occupancy by elderly persons and/or persons with disabilities in which personal services or health services are not included as part of the rent, though they may be available on site and may be purchased by residents for an additional fee.

Indoor Entertainment Establishments: Business establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality associated with food service or accommodations.

Industrial park: A coordinated development for a variety of industrial and related uses, developed or controlled by one proprietary interest with an enforceable master plan and/or covenants, conditions, and restrictions.

Industrial Service Establishment: Establishment engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products, generally not attracting the general public.

Industry: The manufacture, fabrication, processing, assembly, reduction, or destruction of any article, substance, or commodity in such a manner as to change the form, character, or appearance thereof, and may include associated warehousing and/or storage facilities.

Industry, heavy: A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions with significant external effects.

Industry, light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing or the presence of hazardous or nuisance materials.

Ingress: Access or entry point or entrance.

Institution: A building or premises occupied by a nonprofit corporation or a nonprofit establishment for public use.

Institutional uses: Churches, schools teaching academic subjects, hospitals, parks, civic centers, libraries, and other public or quasi-public non-profit uses.

Institutions for Human Care and Habitation: Includes a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be dependent, ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, etc.). Does not include correctional facilities.

Section 2.12 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, which is collected, stored for salvage, destruction, or conversion to some use.

Junk Yard: Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, dismantling, disassembly, dumping, display, resale, exchange, bailing, cleaning, handling or disposal of junk or other salvaged materials but excluding such uses when conducted entirely within a completely enclosed building or when used as part of manufacturing operations.

Section 2.13 Definitions—K

Kennel: Any premises where domestic animals, such as dogs and cats, are confined, boarded, trained, treated, or groomed for compensation or bred or raised for sale purposes.

Section 2.14 Definitions—L

Landscaping: An area set aside from structures and parking which is characterized by the installation and permanent maintenance of vegetation and natural features. It includes the preservation of existing vegetation and the continued maintenance thereof and the installation of minor decorative features such as permeable paving materials, walls, fences, and street furniture.

Loading Zone: An off-street area on the same lot with a building, or group of buildings, for temporary access and parking of a commercial vehicle while loading and unloading merchandise or materials.

Lodging: A facility offering transient lodging accommodations to the general public and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities as accessory uses.

Lot (same as Parcel): Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on an approved private road or approved access easement.

Lot Area: The area contained within the lot lines or property boundary.

Lot, Corner: A platted parcel of land abutting two road rights-of-way at their intersection, or a lot abutting upon a curved street or streets involving a change of direction.

Lot Coverage: A measure of intensity of land use that represents the portion of a site that is impervious. This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, concrete, asphalt, or other hard surface.

Lot, Depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. See *Figure 2-8*.

Lot, Flag: A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. Flag lots are discouraged. See *Figures 2-9 and 2-10*.

Lot, Interior: Any lot other than a corner lot which has only one lot line fronting on a street. For this purpose, an alley is not considered a street unless the lot has no lot line fronting on a street. See *Figure 2-9*.

Lot Lines, Common: Lot lines shared by adjacent private lots.

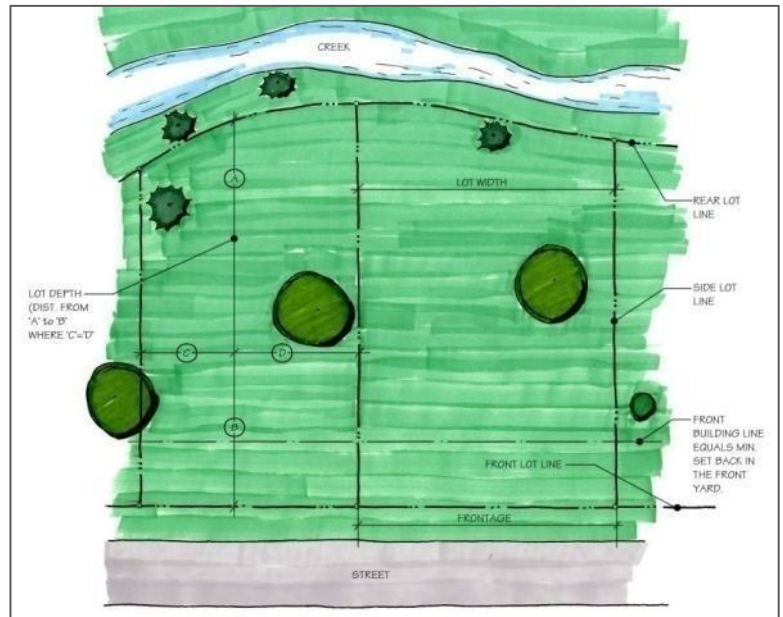


Figure 2-8 Lot Frontage, Width, Depth

Lot Line, Front: In the case of an interior lot, the line separating that lot from the street, a private road, or other access easement. In the case of a corner lot or through lot, the line separating that lot from either the street, a private road, or other access easement, and bearing the assigned street address for that lot. In the case of a flag lot, the line parallel and nearest to the main roadway. See *Figures 2-8 and 2-10*.

Lot Line, Rear: The line opposite the front lot line. In the case of a corner lot or through lot, the line which is opposite the street address. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. See *Figures 2-8 and 2-10*.

Lot Line, Side: Any lot line other than the front lot line or rear lot line. See *Figures 2-8 and 2-10*.

Lot of Record: A lot which is part of a recorded subdivision; or, a lot described by metes and bounds, the deed, survey or land contract, or land contract memoranda, which has been recorded in the Gogebic County Register of Deeds.

Lot, Through: An interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. All sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. See *Figure 2-9*.

Lot, Waterfront: A lot which fronts on a water body. All waterfront lots have two front yards, except corner waterfront lots which have three front yards. The owners of nonconforming waterfront lots may elect to meet rear lot requirements for the portion of the lot which fronts the public or private road providing access.

Lot, Width: The horizontal straight line distance between the side lot lines, measured at the required front set back. See *Figures 2-8 and 2-10*.

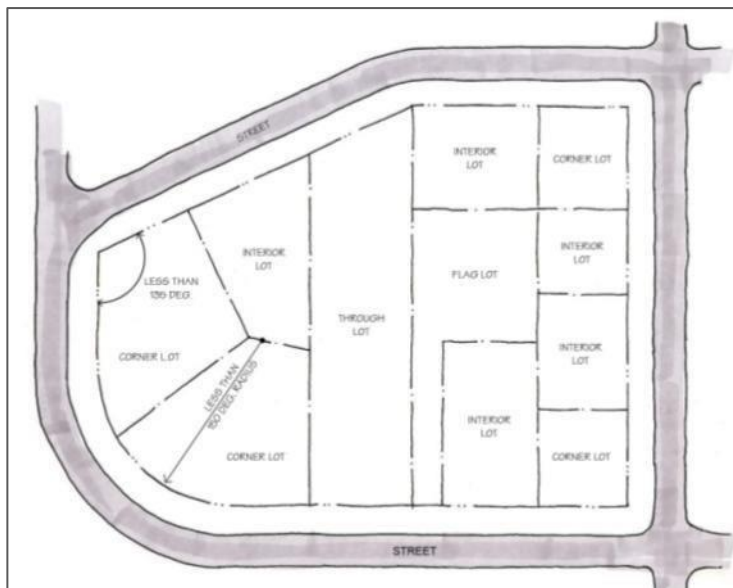


Figure 2-9 Lot Types

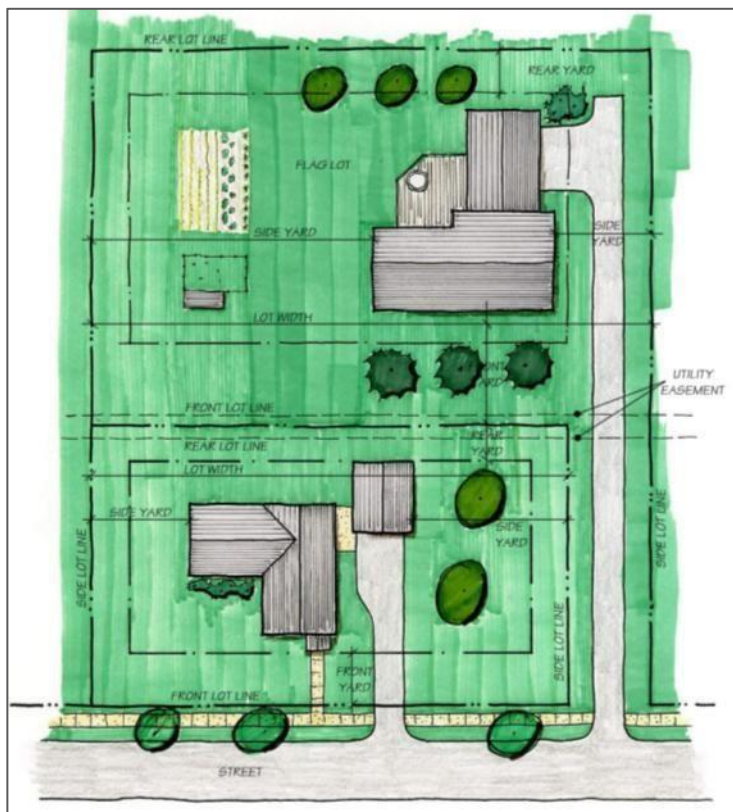


Figure 2-10 Lot Line & Yards

Section 2.15 Definitions—M

Manufactured Home: Factory-built, single-family dwelling units prefabricated in part or total which meet the *HUD Code 42 USC Sec 5401 (Federal Manufactured Home Construction and Safety Standards Act)*, and is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

Manufactured Housing Community: A private community of single family homes on individual lots owned by the owner of the manufactured home that resides upon it, that are built in accordance with the *Federal Manufactured Home Construction and Safety Standards Act*, and transported, sited and installed in compliance with the act and state requirements in the *Michigan Mobile Home Commission Act*.

Manufacturing Establishment: Facility where manufacturing, processing, fabrication, packaging, or assembly of goods takes place. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

Master Plan: A compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development, both public and private, of the community.

Medical Service Establishment: Health care facilities providing medical, dental, surgical and preventive health services to patients, as well as establishments providing support to health professionals and patients such as medical laboratories for research and testing, medical suppliers and service establishments.

Mezzanine: An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story. *See Figure 2-3.*

Microbrewery: A brewery producing malt or brewed beverages in a quantity of sixty thousand (60,000) barrels (US barrels) or less per year.

Mixed-Use: Shall consist of two (2) or more primary land use components such as residential-retail business, retail business-offices, residential-offices, etc., vertically or horizontally integrated in an arrangement not otherwise permitted under a single zoning district, and sharing a common circulation system including both vehicular and pedestrian ways and possibly a system of common open spaces including recreational and natural areas.

Mobile Home: Per the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302*, a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile Home Park: A parcel or tract of land under the control of a person upon which three or more mobile 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 mobile home, or as otherwise defined in the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended*.

Mobile Home Park, Seasonal: Per the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended*, a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Seasonal mobile home park does not include a campground licensed pursuant to the *Public Health Code, P.A. 368 of 1978, MCL 333.12501 to 333.12516, as amended*.

Motel: A building or group of buildings, whether detached or in connecting units, used or designed as individual sleeping units for transient automobile travelers and providing accessory off-street parking facilities. The term “motel” shall include buildings designed as “auto courts,” “tourist courts,” “motor courts,” “motel hotels,” and similar identification of integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple family dwelling, and is distinguished from furnished rooms in an existing residential building rented on a weekly, monthly, annual, or other non-transient basis.

Multiple Family Dwelling: A building or portion thereof used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage.

Section 2.16 Definitions—N

Nonconforming Building: A building lawfully existing on the effective date of this *Ordinance* or subsequent amendment, and which does not conform to the requirements of this *Ordinance*.

Nonconforming Lot: Any lot of record which at the time it was recorded fully complied with all applicable laws and ordinances, but which does not fully comply with the dimensional or proportional lot requirements of this *Ordinance* or subsequent amendment.

Nonconforming Structure: Any structure other than a sign, lawfully existing on the effective date of this *Ordinance* or subsequent amendment and which fails to meet the requirements of this *Ordinance*.

Nonconforming Use: An activity using land, buildings and/or structures for purposes which were lawfully established prior to the effective date of this *Ordinance* or subsequent amendment and that fails to meet the requirements of this *Ordinance*.

Nonconformity: Any nonconforming use, nonconforming building, nonconforming structure or nonconforming lot as defined in this *Ordinance*.

Nuisance: Any act, thing, condition, land, building or premises which annoys, injures or endangers the public health, safety, comfort, offends public decency, or in any way renders the public insecure in life or property.

Nursery: A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery within the meaning of this *Ordinance* does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

Nursing Home: A home licensed by the state for the aged or chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Section 2.17 Definitions—O

Office Establishments: Establishments characterized by activities conducted in an office setting and generally focusing on business, government, professional, financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.

Off-Street Parking: Vehicular parking spaces on premises other than streets.

Open Space: Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Open Space Preservation: A condition where land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the *Zoning Ordinance*, and as long as a percentage of the land area will remain perpetually in an undeveloped state, and meeting certain conditions as defined in this *Ordinance*.

Outdoor Commercial Recreation and Entertainment Establishments: Establishments that provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities largely in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, office for management functions, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses.

Overlay District or Overlay Zone: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Owner: The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, 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 2.18 Definitions—P

Parcel: (See *Lot*)

Park: Land that is publicly owned or controlled for the purpose of providing recreation or open space for public use.

Parking Lot: An open paved area, other than a street or other public way, used for the parking of three (3) or more motor vehicles, and available for public or private use whether for a fee or as an accommodation for clients, customers, residents, or employees.

Parking Space: An area of definite length and width, exclusive of driveways and aisles giving access thereto, and so prepared as to be usable for the parking of permitted vehicles and so located as to be readily accessible to a public street or alley.

Pedestrian Oriented Development: Development which places primary emphasis on the circulation of pedestrians, but accommodates multi-modal transportation systems with parking to the side or rear of a building, mixed uses, and a variety of interesting, detailed, and climate mitigating streetscapes.

Performance Guarantee: Cash, completion bond, certified check, irrevocable bank letter of credit or other financial security acceptable to the municipality as assurance that required improvements or conditions associated with project approval are properly built or brought to conformance.

Permitted Use: Any use allowed in a zoning district and subject to the regulations applicable to that zoning district.

Person: Means an individual, partnership, association, trust, or corporation, or any other legal entity or combination of legal entities.

Personal Service Establishments: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Planned Unit Development: 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 shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space, streets, circulation ways, utilities, buildings, and other land uses and improvements as provided in Article 10 of this *Ordinance*.

Plat: A map of a subdivision of land recorded with the County Register of Deeds pursuant to *Public Act 288 of 1967*, or a prior statute.

Plat Dedication: Means the dedication of private property for public use either on the face of an approved plat or by a separate legal instrument.

Porch: A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air conditioned and when the percentage of window area to wall area is less than fifty (50) percent.

Premises: A lot, parcel, tract or plot of land together with the buildings and structures thereon.

Principle Building: (See *Building, Principle*)

Principle Use: The primary or predominant use of any lot or parcel of land.

Professional Engineer: An engineer registered in the State of Michigan.

Projection: A portion of the main building that projects from the wall or established foundation line, such as overhanging eaves, bay windows, balconies, etc.

Public Facilities: Structures for public services of governmental units, such as libraries, museums, government offices, public safety facilities, educational institutions, information centers, boat launches/marinas, parks, cemeteries, public trails, etc.

Public space: Open space, including any park, lake, stream, stadium, athletic field, playground, school yard, street, avenue, plaza, square, transportation depot or terminal, cemetery, or any other place commonly open to view by the public.

Public Utility: A person, firm or corporation, municipal department, board or commission, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation, or water.

Section 2.19 Definitions—Q

Quarry: An open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes.

Section 2.20 Definitions—R

Ramp: A sloping walkway, roadway or passage used to join and provide a smooth transition between two levels of different elevation, including between land and water at a boat launching site.

Rear Service Drive: A local street/road or private road typically located behind principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

Recreational Vehicle: A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle per the *Mobile Home Commission Act P.A. 96 of 1987, MCL 125.2302, as amended*.

Recreational Structure: A cabin, cottage, camp, hunting camp, mobile home, or other similar structure used intermittently for recreational or vacation purposes and which is not a permanent place of residency.

Recycling Collection Center: A collection point for small recoverable items and materials, such as cans, bottles, newspapers, secondhand goods, and used motor oil. Activities are limited to sorting, compacting, and transferring.

Religious Institution: An institution that primarily provides meeting areas for religious activities. They may be associated with a convent (group housing) or provide caretaker housing or a parsonage on site (as an accessory use). NOTE: Schools, day care centers, homeless shelters, soup kitchens, and other uses sometimes associated with religious institutions are separate principal uses.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

Repair Services: Establishments that fix or restore to service small mechanical equipment or consumer goods within an entirely enclosed facility. Does not include repair of motor vehicles (see vehicle sales and service establishments).

Research and Development Establishment: An establishment or other facility for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development.

Resort: A place of typically seasonal entertainment, recreation and/or lodging. Resort lodging, if provided, may include hotels, motels, single or multiple-family residential dwelling units, cottages, campgrounds, bed and breakfasts, or some combination, as regulated by appropriate sections of this *Ordinance*.

Restaurant: A building in which food is prepared and sold for consumption within the building as opposed to a drive-in establishment where food may be taken outside of the building for consumption either on or off the premises.

Restaurant, drive in: A building from which the primary business is to serve food to the public for consumption on the premises by order from and service to vehicular passengers outside the building.

Restaurant, drive thru: A business that serves food to the public via direct service to vehicular passengers for consumption off premises, even if it also serves food to customers who are not in motor vehicles, for consumption either on or off the premises.

Restoration: The reconstruction or replication of an existing building's original architectural features.

Restrictive Covenant: In the case of a cluster or open space development, it means a legal written agreement which runs with the land establishing not less than fifty (50) percent (%) of the land to be developed will remain perpetually in an undeveloped state.

Retail Establishments: An establishment whose principal activity is the purchase and resale, leasing, or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering of services incidental to the sale of such goods.

Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries, and is dedicated or deeded to the public for public use and under the control of a public agency.

Road, Private: A private way or means of approach to provide access to two (2) or more abutting lots, and which is constructed and maintained by the owner or owners and is not dedicated for general public use.

Road, Public: A road dedicated to the public, such dedication having been accepted by the appropriate City of Bessemer, Road Commission or Department of Transportation, which meets the minimum construction standards of said Road Commission or the Michigan Department of Transportation.

Rooming House: (See *Boarding House*)

Roundabout/Traffic Circle: A circular, raised island installed at the intersection of two or more streets which are often used in place of traffic signals or four-way stops, requiring yield-at-entry design.

Section 2.21 Definitions—S

Salvage Yard: Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles that are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Such terms shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn materials that are parts of a motor vehicle or cut up the parts thereof.

Screen/Screening: A wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of non-living material, such material shall be compatible with materials used in the construction of the main building, but in no case shall include wire fencing.

Self-Service Storage Facility: A facility used for the storing of household and personal property with no commercial transactions permitted other than the rental of the storage units.

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

Setback Line: See Building Line.

Sexually Oriented Businesses (SOBS): Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character. SOBS include but are not limited to adult book or video store, adult entertainment establishment, adult mini-theater, adult motion picture theater, and adult novelty business as defined below.

- **Adult Book or Video Store:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "*specified sexual activities*" or "*specified anatomical areas*," as defined herein.
- **Adult Entertainment Establishment:** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the observations of the patrons which have paid or promised to pay an admission fee, and which are characterized by the exposure of "*specified anatomical areas*" or by "*specified sexual activities*".
- **Adult Mini-Theater:** A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "*specified sexual activities*" or "*specified anatomical areas*".
- **Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "*specified sexual activities*" or "*specified anatomical areas*," as defined herein.
- **Adult Novelty Business:** A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- **Nudity or State of Nudity:** The appearance or display of specified anatomical areas as defined below.
- **Specified Anatomical Areas** Includes:
 - Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
 - Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- **Specified Sexual Activities** Includes:

- Acts of human masturbation, sexual intercourse, or sodomy;
- Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- Human genitals in a state of sexual stimulation or arousal.
- **Substantial or Significant Portion:** A SOBS business will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:
 - Thirty-five (35) percent or more of the stock, materials, or services provided describes or relates to specified sexual activities, specified anatomical areas, or both.
 - Thirty-five (35) percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both.
 - The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

Shoreland: The land, water and land beneath the water, which is in close proximity to the shoreline of a water body, lake, river, or stream.

Shipping Container: A large standardized, durable, closed steel box, designed and built for intermodal freight transport. These containers are known under a number of names, such as intermodal container, simply container, cargo or freight container, ISO container, shipping, sea or ocean container, container can or (Conex) box, sea can or c can. The standard sizes are either twenty or forty feet standard length, 8 feet 6 inches or 9 feet 6 inches in height, and 8 feet in width.

Shoreline: That area of shorelands where land and water meet.

Sign: See definitions in Section 5.7.

Sight Distance: The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.

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

Site Plan: A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations. Includes lot lines, streets, building sites, reserved open space, buildings, major landscape features - both natural and manmade, and depending on requirements, the locations of proposed utility lines.

Social Institution: A privately owned or operated facility which is designed, constructed, or used to provide service of a public, nonprofit, or charitable nature to the people of the community on an ongoing basis (not just special events). Social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.

Special Use: A special use “S” is a use on Table 4-1, and Article 4, that is not essentially incompatible with the uses permitted in a zoning district, but possesses characteristics which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and/or adjacent uses of land. A special use is permitted in a particular district only after review by the Planning Commission and issuance of a permit, in accordance with the standards set forth in this *Ordinance*. A special use is referred to as a special land use in the Zoning Enabling Act.

Special Use Permit: A permit issued by the Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure specifically permitted as a special use pursuant to standards and procedures established in Article 5 and Article 9.

Stable, private: An accessory building in which horses are kept for private use and not for remuneration, hire, or sale.

Stable, public: An accessory building in which horses are kept for commercial use or remuneration including boarding, hire, sale, riding, or show.

State Licensed Residential Facility: A structure constructed for residential purposes that is licensed by the state under the *Adult Foster Care Facility Licensing Act, P.A. 218 of 1979, MCL 400.701 to 400.737*, or the *Child Care Organizations Act P.A. 116 of 1973, MCL 722.111 to 722.128*, and provides residential services for six or fewer individuals under 24-hour supervision or care.

Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story unless it is a walkout basement. See *Figure 2-3*.

Street: A thoroughfare for vehicular traffic, including all area within the right-of-way. Also see **Road, Public**.

Streetscape: Refers to the various components that make up the street right of way area. Includes pavement, parking spaces, planting areas, street trees, streetlights, sidewalks, etc.

Structure: Anything constructed or erected, the use of which requires permanent fixation on the ground or attachment to something having permanent fixation on or in the ground; including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services. A paved, uncovered parking lot is not considered a structure.

Structure Height: For all structures other than buildings, the vertical distance measured from the finished grade to the highest point of the structure. For buildings, see building height.

Subdivision: The division of a lot, tract, or parcel of land into one or more lots for the purpose of sale or development, and subject to the requirements of the *Land Division Act, Public Act 288 of 1967*, as amended, this *Ordinance* and the requirements of any adopted subdivision control or land division ordinance.

Swimming Pool, private: Any artificially constructed basin or other structure for the holding of water for use by the possessor, his family or guests, for aquatic activity and recreation. Does not include any plastic, canvas, or rubber pool temporarily erected upon the ground holding less than three hundred (300) gallons of water.

Section 2.22 Definitions—T

Tap Room: A retail establishment that is attached to a microbrewery and open to the public for the sale of malt or brewed beverage for on-site and/or off-site consumption.

Tavern: An establishment serving alcoholic beverages in which the principle business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises. Dancing and musical entertainment are permitted.

Temporary Use or Building: A use, building or structure permitted by Section 5.2 of this Ordinance, to exist during a specified period of time.

Thoroughfare, Major: A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which is classified as a city major street, county primary, state trunkline, or interstate highway See *Figure 2-11*.

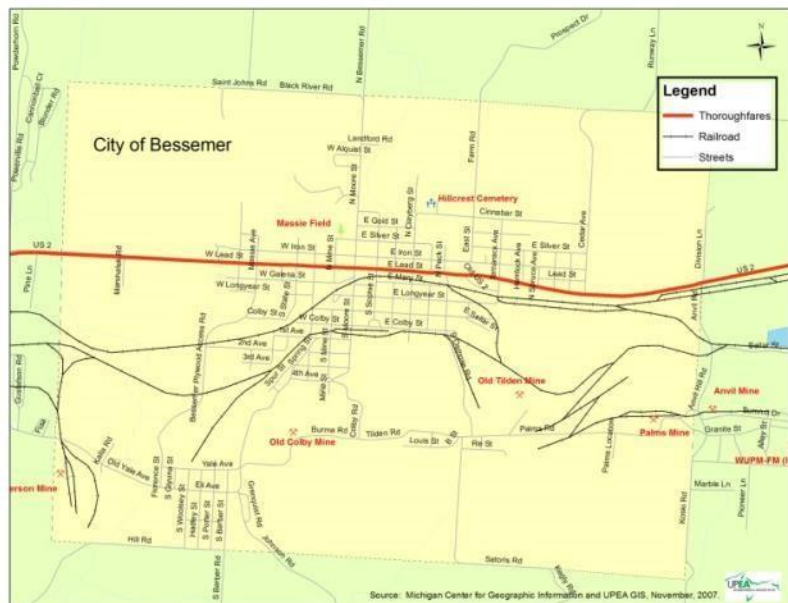


Figure 2-11 Major Thoroughfare

Throat Length: The distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left-turn. On roadways with curb and gutter, the throat length shall be measured

from the face of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the paved shoulder.

Throat Width: The distance edge-to-edge of a driveway measured at the right-of-way line.

Tourist Service Establishment: Business establishments primarily providing lodging/accommodations, entertainment, hospitality, food and beverage, goods, and/or services to tourists. Does not include drive-through establishments.

Traffic Calming: A concept fundamentally concerned with reducing the adverse impact of motor vehicles on built-up areas. Usually involves reducing vehicle speeds, providing quality space for pedestrians and bicyclists, and improving the visual interest of the public space.

Trip Generation: The estimated total number of vehicle trip ends produced by a specific land use or activity. A trip end is the total number of trips entering or leaving a specific land use or site over a designated period of time. Trip generation is estimated through the use of trip rates that are based upon the type and intensity of development.

Section 2.23 Definitions—U

Underground Storage Tank: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain hazardous substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is ten percent (10%) or more beneath the surface of the ground.

Underlying District: The base zone below an overlay zone that establishes the fundamental permitted uses, densities and dimensional regulations applicable to lands subject to a zoning ordinance.

Undeveloped State: A natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public per *P.A. 110 of 2006, MCL 125.3102*.

Use: The principal purpose or activity for which the land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied or maintained as permitted in the zoning district in which it is located.

Use, Agriculture: Agricultural activities including those in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. It shall include incidental retail sales by the producer of products raised on the farm.

Use, Conditional: see (*Conditional Use*)

Use, Nonconforming: see (*Nonconforming Use*)

Use, Permitted: A use which may be lawfully established in a particular zoning district or districts provided it conforms with all the requirements, regulations, and performance standards, if any, of such districts. Also known as a use by right ("*P*"), or a use by right with conditions ("*C*").

Use, Principle: The main use of land or a building as distinguished from a subordinate or accessory use. It may be either a permitted (“P” or “C”) or a special (“S”) use.

Use, Special: see (*Special Use*)

Utility and Public Service Installation: A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance.

Section 2.24 Definitions—V

Variance: A modification of the literal provisions of the *Zoning Ordinance*, granted by the Zoning Board of Appeals, when standards established in this *Ordinance* have been met. These standards seek to ensure that no variance is granted unless: (a) strict enforcement of the *Zoning Ordinance* would cause practical difficulty, (b) doing so would not be contrary to the public interest, (c) there are circumstances unique to the individual property on which the variance is granted, and (d) the variance request is not due to actions of the applicant.

Vehicle Sales and Service Establishment: Retail sales and service of motorized land and water vehicles. Does not include: auto body shop; frame reconstruction; repair and service of industrial vehicles and heavy trucks. See also Automobile Repair, Automobile Sales, Automobile Service Station, Industrial Services Establishment.

Section 2.25 Definitions—W

Warehousing Establishment: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time to persons and businesses.

Waterbody: Any body of water, including any creek, stream, canal, river, lake or bay, or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

Watercourse: Natural or once naturally flowing (perennially or intermittently) water including rivers, streams, and creeks. Includes natural waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

Watershed: A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

Water Table: The upper limit of the portion of the soil that is completely saturated with water. The seasonal high-water table is the highest level to which the soil is saturated.

Wetland: Those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

Wind Energy Conversion System (WECS): A machine that converts the kinetic energy in the wind into a useable form, commonly known as a “*wind turbine*”, “*wind generator*” or “*windmill*”; the WECS includes all parts of the system, including, but not limited to, the tower, pylon or other structure upon which any, all or some combination of components are mounted. The following associated definitions are also pertinent.

- **WECS:** A combination of:
 - A surface area, either variable or fixed, for utilizing the wind for generation of electrical power; and
 - A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device; and
 - The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
 - The tower, pylon or other structure upon which any, all, or some combination of the above are mounted.
- **Tower Height:**
 - **Horizontal Axis Wind Turbine Rotors:** The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontally-mounted WECS exceeds the structure which supports the rotor and blades;
 - **Vertical Axis Wind Turbine:** The distance between the ground and the highest point of the WECS.
- **Survival Wind Speed:** The maximum wind speed as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- **Interconnected WECS:** A WECS which is electrically connected to the local electrical power utility system and which could feed power back into the local electrical power utility system.

Wholesale Trade Establishment: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, fueling and maintenance.

Wireless Communication Facilities: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio and television broadcasting or relay towers, wireless or cellular telephone communication receivers and transmitters, telephone devices and

exchanges, microwave relay facilities and towers, telephone transmission equipment buildings, and public, private and commercial mobile radio service facilities

Section 2.26 Definitions—X

Reserved for Future Use.

Section 2.27 Definitions—Y

Yard: An open space at grade on the same lot with a building, unoccupied and unobstructed by a structure from the ground upward, except as otherwise provided in this *Ordinance*. See *Figures 2-4 and 2-10*.

- **Front Yard:** An open space extending the full width of a lot between the front line of the lot and the nearest point of the main building or land use, projected to the side lines of the lot; except on a waterfront lot.
- **Rear Yard:** An open space on the same lot with a main building, unoccupied, except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot. In the case of a corner lot, the rear yard may be opposite either street frontage.
- **Side Yard:** An open, unoccupied space on the same lot with the building, situated between the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a front or rear line shall be deemed a sideline or side lot line.

Yurt: A generally round domed building constructed of a membrane stretched on a collapsible or rigid frame used for transient recreational activities.

Section 2.28 Definitions—Z

Zone or Zoning district: A mapped area to which a uniform set of regulations governing the use of buildings and premises applies.

Zoning Administrator: The City of Bessemer Zoning Administrator is hired for the purposes of carrying out certain duties and responsibilities as defined in this *Ordinance*.

Zoning Board of Appeals: The body appointed by the Bessemer City Council to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this *Ordinance* would involve practical difficulties or would cause unnecessary hardship to the property owner.

Zoning Permit: A document signed by the Zoning Administrator according to procedures established in this *Ordinance*, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a

structure or building, that indicates that a site plan, and/or other zoning application or request for special zoning approval or variance for a use, structure or building has been reviewed and determined to comply with the requirements of this *Ordinance* or has been granted a variance therefrom, or has been granted a planned unit development approval or a Special Use Permit.

Section 2.29 Words not Defined

Any words requiring special interpretation and not listed above shall be used as defined in the dictionary maintained in the office of the Zoning Administrator, unless defined by specific action of the Zoning Board of Appeals.

Section 2.30 Acronyms

The following acronyms are used in this *Ordinance*:

ATV – All terrain vehicle
C – Use permitted by right with conditions
C-1 – Core Mixed-Use District
C-2 –Corridor Mixed-Use District
CE – Country Estate District
CFR – Congressional Federal Register
DEQ – Michigan Department of Environmental Quality
FAA – Federal Aviation Administration
FEMA – Federal Emergency Management Authority
FIRM – Flood Insurance Rate Map
HVAC – Heating, ventilation, air conditioning units
kv – Kilovolt
M-1 – Light Industrial District
M-2 – General Industrial District
MAC –Michigan Aeronautics Commission
MCL – Michigan Compiled Laws
MDOT – Michigan Department of Transportation
MHP – Mobile Home Park or Manufactured Housing Park
P – Use Permitted by Right
P.A. –Public Act
PUD – Planned Unit Development.
R-1 – Single-Family Residential District
R-2 – Mixed Density Residential District
ROW – Right-of-Way
RP – Resource Protection District
RV Park – Recreational Vehicle Park
S – Special Use
SLU – Special Land Use
SOBS – Sexually Oriented Business
WECS – Wind Energy Conversion System

Article 3 Ordinance and District Overview

Section 3.1 Purpose

The purpose of this Article is to provide an overview of the zoning districts within the City of Bessemer, to establish and define the *Official Zoning Map* that shows the location of zoning districts, and to create a framework for the interpretation of the *Official Zoning Map* and related zoning district boundaries.

Section 3.2 List of Zoning Districts

To achieve the purposes of this *Ordinance*, the City of Bessemer, Michigan, is hereby divided into the following zoning districts:

- CE—Country Estate District
- R-1—Single-Family Residential District
- R-2—Mixed Density Residential District
- C-1—Core Mixed-Use District
- C-2—Corridor Mixed-Use District
- M-1—Light Industrial District
- M-2—General Industrial District
- PD—Planned Development District (an overlay district)
- RP—Resource Protection Overlay District

Section 3.3 Official Zoning Map

- A)** The boundaries of the respective zoning districts are defined and established as depicted on the map entitled "*City of Bessemer Zoning Map*," which is an integral part of this *Ordinance*, and which, with the accompanying explanatory notes, shall be published as part of this Section and is incorporated by reference at the end of the *Zoning Ordinance*.
- B)** The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 3, Section 3.3d, of the *Zoning Ordinance of the City of Bessemer, Michigan*", together with the date of adoption of this *Ordinance*.
- C)** If in accordance with the provisions of this *Ordinance*, changes are made in district boundaries or other matters portrayed on the *Official Zoning Map*, such changes shall be entered on the *Official Zoning Map* promptly after the amendment has been approved by the City Council. No amendment to this *Ordinance* which involves matters portrayed on the *Official Zoning Map* shall become effective until such change and entry has been made on the map.
- D)** If amendments are made in district boundaries or other matters depicted on the *Official Zoning Map*, such changes shall not be considered final, and building permits shall not be issued until the appropriate amendments have been made on the *Official Zoning Map*. Such amendments shall be made within ten (10) normal working days after the effective date of the amendment. Each amendment shall be accompanied

by a reference number on the map, which shall refer to the official action of the City Council. One (1) copy of the *Official Zoning Map* shall be maintained and kept up to date in the office of the Zoning Administrator of the City of Bessemer, along with a chronological file of the official actions taken.

- E) Any unauthorized change on or defacing of the *Official Zoning Map* by any person or persons shall be considered a violation of this *Ordinance*.
- F) Regardless of the existence of copies of the *Official Zoning Map* which may be made or published, the *Official Zoning Map* retained in the office of the Zoning Administrator shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.
- G) Replacement of Official Zoning Map: In the event that the *Official Zoning Map* becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new *Official Zoning Map* which shall supersede the prior *Official Zoning Map*. The new *Official Zoning Map* may correct drafting or other errors or omissions in the prior *Official Zoning Map*, but no such correction shall have the effect of amending the original *Official Zoning Map* or any subsequent amendment thereof. The new *Official Zoning Map* shall be identified by the signature of the Mayor, attested by the City Clerk, bearing the seal of the City under the following words: "This is to certify that this *Official Zoning Map* supersedes and replaces the *Official Zoning Map* adopted (date of adoption of map being replaced) as part of the *Zoning Ordinance of the City of Bessemer, Michigan*" together with the date of adoption of this resolution. Unless the prior *Official Zoning Map* has been lost, or has been totally destroyed, the prior map or any significant parts that remain shall be preserved together with all available records pertaining to its adoption or amendment.

Section 3.4 Rules for Interpretation of District Boundaries

- A) Where a question arises with respect to the boundary of any district the following shall govern:
 - 1) Boundaries indicated as approximately following the center lines of streets or alleys shall be construed to follow the center lines.
 - 2) Where boundaries follow the shore line of a stream, lake or other body of water, the boundaries shall follow such shoreline, and in the event of change in the shoreline, the boundaries shall be the actual shoreline; where boundaries follow the centerline of streams, rivers, canals or other bodies of water, such shall follow the centerlines thereof.
 - 3) A boundary indicated as approximately following a recorded lot line or the line bounding a parcel (such as a section or quarter-section line) shall be construed as following the lot line.
 - 4) A boundary indicated as following the municipal boundary line of a city, City, or township shall be construed as following the boundary line.
 - 5) A boundary indicated as following a railroad line shall be construed to be midway between the main tracks or in the center of the right-of-way if the tracks have been removed.
 - 6) Boundaries indicated as parallel to, or extensions of features indicated in subsections A-E above, shall be so construed. A distance not specifically

indicated in the *Official Zoning Map* shall be determined by the scale of the map to the nearest foot.

- 7) Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A through F above, the Board of Appeals shall interpret the district boundaries.
- B)** Should the above rules not fully explain a question of boundaries, the Zoning Board of Appeals shall have the authority to make an interpretation on appeal based upon the aforementioned standards.

Article 4 Use Overview and Matrix

Section 4.1 Purpose

This Article defines the use classes of permitted, conditional, and special land uses. Examples of each class are presented, along with a matrix (table) illustrating overall use provisions by District.

Section 4.2 General Use Provisions

- A)** Only uses permitted under the provisions of this Article may be established on a parcel. All other uses may be permitted only if this *Ordinance* has been amended to permit them, unless authorized by means of approval of a Planned Unit Development by the Planning Commission or City Council pursuant to Article 10.
- B)** A change in use group under the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, such as from “storage” or “business” to “mercantile” or “assembly” is a change of use requiring review and approval under this *Ordinance*.
- C)** The principal and accessory uses permitted by zone are listed in Table 4-1.
- D)** Uses Permitted by Right are listed as "P" on Table 4-1, Section 4.4. Uses listed as "C" are permitted by right if the nondiscretionary conditions associated with that use, as set forth in Article 9, are met.
- E)** Accessory uses are permitted as indicated with a “P” on Table 4-2, Section 4.5 for the various zoning districts, if such uses are clearly incidental to the permitted principal uses. See Standards in Article 5.3. For those indicated as a “C” use, see Article 9.
- F)** Special Uses, listed as "S" on Table 4-1, Section 4.4, are permitted by Special Use Permit if the required discretionary and nondiscretionary standards associated with that use, as set forth in Article 9, are met, as reviewed by the Planning Commission and approved by the City Council.
- G)** Any of the uses permitted in a district may be combined in a Planned Unit Development per the requirements of Article 10.
- H)** Where a proposed use of land or use of building is not contemplated or specified by this *Ordinance*, or where the Zoning Administrator has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this *Ordinance*, the Zoning Administrator shall request the Planning Commission to consider the proposed use, and if deemed appropriate, to then initiate the necessary amendment to this *Ordinance* to provide for the requested use in appropriate districts and according to standards recommended by the Planning Commission. Following adoption of the amendment by the City Council, a permit application may be made to the Zoning Administrator to establish that use on a parcel in a district in which that use is permitted.
- I)** No part of a setback area, or other open space, or off-street parking or loading space required in connection with any use of land, building or structure, for the purpose of complying with this *Ordinance* shall be included as part of a setback area, open

- space, or off-street parking lot or loading space similarly required for any other use, building or structure, except as provided for joint use of parking in Section 5.5.A.5.
- J)** No use of land, buildings, structures or portions thereof of a size or character greater than the threshold as provided in Section 14.5.D of this *Ordinance*, shall be erected or utilized without the prior approval of the site plan in accordance with Article 14 of this *Ordinance*.
 - K)** All land within the boundaries of the City of Bessemer which is owned by the City of Bessemer shall be subject to the provisions of this *Ordinance*. All land within the City of Bessemer which is owned by the State or Federal governments, or other local agencies, including public schools and universities, or by any other public or quasipublic entity is subject to the requirements of this *Ordinance*, except as exempted or varied herein (see e.g., Essential Services Section 5.9), or as specifically exempted by State or Federal law (such as military establishments), or by action of a judge in a court of law.
 - L)** Whenever any street, alley or other public way within the City of Bessemer shall be vacated by official action, such street, alley or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.
 - M)** Every use must comply with all applicable regulations in this *Ordinance*. All relevant Sections must be consulted to understand the scope of regulations that apply in a particular case. The most common applicable regulations in addition to the use regulations of this Article, as well as Article 5 General Provisions; and Article 9 Special Uses and Conditional Uses; are found in Article 7 Overlay Zones and Related Regulations; section 5.5 Parking, Loading, Traffic & Access; Section 5.6 Landscaping, Buffering & Fencing; and Section 5.7 Signs.

Section 4.3 Definitions of Use Classes

- A)** Use classes arrange land uses and activities into use categories based on common functional, product or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.
- B)** When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, delicatessen and bakery, for example, would be classified in the Food and Drink Service Establishments category, because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that category. A mail order facility may simply be a call center or it may have warehouse or storage facilities on

site. The Zoning Administrator shall classify the facility into the proper zoning district based on the characteristics of the use.

- C)** Accessory uses are permitted in conjunction with a principal use, subject to any special regulations applicable to it and to the regulations applicable to the principal use if there are no special regulations. See also Article 5 for additional accessory use regulations.
- D)** The list of examples of permitted uses on Table 4-1, Section 4.4, lists common examples of uses included in the respective use category. The names of these sample uses are generic in interpreting use descriptions, the actual activity on the site will be matched to the use description. Uses categories are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse" but that sells mostly to consumers, is included in the General Retail Establishments category rather than the Wholesale Trade Establishments category. This is because the actual activity on the site matches the description of the General Retail Establishments category.
- E)** Many uncategorized uses are Special Uses for which particular standards are provided in Article 9. Others are basic uses permitted by right. Some uses are listed in more than one category (e.g. drugstores as Convenience Retail and also as Medical Service Establishments).
- F) Similar Use Interpretations:** The following considerations are examples of the factors that may be evaluated by the Zoning Administrator in making similar use interpretations:
 - 1)** The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
 - 2)** The relative amount of site area or floor space and equipment devoted to the activity.
 - 3)** Relative amounts of sales from each activity.
 - 4)** The customer type for each activity (retail or wholesale).
 - 5)** The relative number of employees in each activity.
 - 6)** Hours of operation.
 - 7)** Building and site arrangement.
 - 8)** Vehicles used with the activity.
 - 9)** The relative number of vehicle trips generated by the use.
 - 10)** How the use advertises itself.
 - 11)** Any other relevant considerations.
- G)** The Zoning Administrator shall keep a log of all use interpretations indicating the use, the options considered and the selection made, along with the reasons for that decision.

Section 4.4 Classes, Definitions, Permitted Uses by District

Table 4-1 presents land use classes, definitions, and examples of uses permitted per District.

Table 4-1, Use Matrix-Page 1							
Agricultural Uses							
Agricultural Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, and farm labor and management services.							
Livestock auction yards; livestock transport facilities; slaughterhouses; sawmills; grain and seed elevators and sales; fertilizer, herbicide and pesticide sales; farm implements sales or repair; and cold storage of agricultural products.	S	--	--	--	S	P	P
Animal Services: with Indoor Confinement. Animal hospitals or shelters, commercial kennels, veterinary services.	C	--	--	C	C	P	P
Animal Services: with Outdoor Confinement. Animal hospitals or shelters, commercial kennels, veterinary services.	C	--	--	--	C	P	P
Commercial Agriculture or Horticulture	Districts						
	CE	R1	R2	C1	C2	M1	M2
The commercial production, harvesting and storage of farm products on a farm and the farm operations typically attendant thereto, as "farm" is defined in the Michigan Right to Farm Act, Public Act 93 of 1981; as amended.							
Field crop and fruit farming; truck farming; commercial nurseries and greenhouses; turf/sod farms; apiaries; annelid farms; equine breeding and grazing; mushrooms; aquaculture; similar agricultural enterprises; and the usual farm buildings associated with such uses. A cervidae livestock operation as defined and regulated by Act No, 191 of the Public Acts of 2000.	C	--	--	--	--	C	C
Composting	S	--	--	--	S	S	S
Small Scale Food Production and Urban Agriculture	Districts						
	CE	R1	R2	C1	C2	M1	M2
The production of fruits, vegetables, livestock, flowers and other natural food and non-food materials within or near the limits of a city, especially on vacant lots, in open spaces such as parks, and in enclosed, indoor facilities such as greenhouses or aquaculture systems.							
Private yard vegetable gardens within any required yards, community gardens, small scale private composting, fruit trees, limited fowl raising.	C	C	C	C	C	P	P
Green houses or Aquaculture system as an Accessory Structure.	C	C	C	C	C	P	P
Farmer's Markets-Food Stands	C	--	C	C	C	P	P
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 2

Commercial & Commercial Services Uses							
Business Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Establishments primarily engaged in rendering services to business establishments on a fee or contract basis.							
Advertising and mailing; stenographic services; temporary personnel services; duplicating and copying services; building maintenance; employment services; commercial food catering management and consulting services; protective services; equipment rental and leasing; commercial research; photo finishing; data processing; telemarketing sales; vending machine service; and office supply services.	--	--	S	P	P	P	--
Convenience Retail Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
A retail establishment offering for sale prepackaged food products, milk, bread, donuts, sandwiches, beverages, newspapers and magazines, household items, pharmaceuticals, and other items for off-premises consumption. These are usually short trip, high volume uses not more than 3,500 square feet in size. A convenience retail establishment can share a building with another use, such as an automobile service station. Drive-through establishments are not convenience retail establishments.							
Party stores; drug stores; grocery stores; bakeries; delicatessens; magazine and newspaper stands.	--	--	S	P	P	--	--
Drive-Through Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
An establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to conveniently make deposits, view specified objects, receive services, or obtain goods without disembarking from their motor vehicles, and then proceeding elsewhere. Distinguished from a drive-in establishment by the absence of parking while the service is being provided (as in a drive-in theater).							
Drive-through fast food restaurants, banks, drug stores, photo shops, grocery or party stores, and related businesses. A drive-through window, or motor vehicle oriented pick-up window, even if accessory to the principal use, shall subject the use to all the standards applicable to uses in which the drive-through aspect is a principal feature of the use.	--	--	--	S	S	--	--
Food and Drink Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
An establishment where food and drink are prepared, served and consumed primarily on the premises.							
Restaurants (eat-in or take-out, but not drive-through); bakeries; cafes; bars and taverns; nightclubs; cabarets; brewpubs, microbreweries, and taprooms; craft distilleries; coffee shops; delicatessens; diners; soup kitchens; and related uses similar to and compatible with the above uses.	--	--	--	P	P	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 3

Commercial & Commercial Services Uses, continued

Forest Management	Districts						
	CE	R1	R2	C1	C2	M1	M2
The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services. Usually done in accordance with a forest management plan establishing best conservation and management practices, including schedules and responsible entities.							
Tree planting, harvesting, sawing, chipping, temporary storage, and transport of forest products, as well as forest research facilities are permitted uses. The processing of wood products is an industrial activity (see Manufacturing Establishments).	P	--	--	--	--	--	--
Sawmills, whether temporary or permanent.	P	--	--	--	--	--	P
Tree trimming/cutting, but not sawmills.	P	P	P	P	P	P	P
General Retail Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
The principal activity of general retail establishments is the purchase and resale, leasing or renting of goods or merchandise to the public for personal, household, or business use or consumption and rendering services incidental to the sale of such goods. There may be processing or manufacturing of products incidental or subordinate to the selling activities (such as a bakery or delicatessen at a grocery store). A common accessory use is repair of products sold on the premises. See also Tourist Service Establishments.							
Stores selling, leasing, or renting new or used consumer, home and business goods including, but not limited to, pharmaceuticals, food, electronic, office, building, personal care, and household goods.	--	--	S	P	P	--	--
Indoor Entertainment Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Business establishments providing recreation that diverts, amuses, entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments. Restaurants and cafes without entertainment are not indoor entertainment establishments, they are food service establishments. Hotels, motels and other temporary lodging are not indoor entertainment establishments if there is no entertainment offered, they are lodging/accommodation establishments.							
Athletic/fitness/exercise establishments; bowling alleys; ice or roller blade rinks; indoor soccer fields and racquet courts; amusement centers and game arcades; bingo parlors; pool or billiard halls; dance halls; theaters; membership clubs; saunas, hot tubs and similar establishments; indoor archery and shooting ranges; swimming pools/clubs; hotels, motels and other temporary lodging with an average length of stay of less than 30 days.	--	--	S	P	P	P	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 4

Commercial & Commercial Services Uses, continued

Outdoor Commercial Recreation & Entertainment Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Outdoor recreation and entertainment uses provide continuous, intermittent or seasonal recreation and/or entertainment-oriented activities largely in an outdoor setting. There may be concessions, restaurants, retail shops selling items related to the recreation or entertainment uses, office for management functions, spectator seating and service areas, including locker rooms and rest rooms, caretaker's quarters and maintenance facilities in addition to structures for the principal uses. Additional regulations apply to outdoor entertainment establishments that serve alcohol.							
Amusement and water parks; theme parks; miniature golf facilities; swimming clubs, tennis clubs; amphitheaters; batting cages; air gun or survival games, and skateboard parks.	S	--	S	S	S	S	--
Fairgrounds; zoos; golf driving ranges; golf courses and country clubs; ski slope and ski resorts; riding stables.	S	--	--	--	S	S	S
Archery, rifle, skeet, trap shooting ranges.	S	--	--	--	S	S	S
Animal racing; automobile and motorcycle race tracks.	S	--	--	--	--	--	S
Lodging/Accommodations	Districts						
	CE	R1	R2	C1	C2	M1	M2
A facility offering transient lodging accommodations to the general public and possibly providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities as accessory uses.							
Hotels, motels, auto courts, residence inns, tourist homes and other resident lodging facilities.	--	--	S	P	P	--	--
Bed and Breakfast Establishments	C	C	C	P	P	--	--
Organized camps, and campgrounds for tents or recreational vehicles.	C	--	--	--	--	--	--
Resorts	PUD	--	--	--	PUD	--	--
Medical Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Health care facilities providing medical, dental, surgical and preventive health services to patients as well as establishments providing support to health professionals and patients such as medical laboratories for research and testing, medical suppliers and service establishments.							
Small: Medical or dental clinics; doctor or dentist offices; medical or dental labs; blood collection facilities; x-ray and related scanning facilities; emergency medical care facilities; sales of medical supplies and prosthetics; drug stores; pharmacies; therapeutic massage by licensed masseuses, physical therapists, rehabilitation therapists, nurses, or physicians; veterinary clinics.	--	--	S	P	P	--	--
Large: Hospitals.	--	--	--	PUD	PUD	--	--
Medical Marijuana Dispensary	--	--	--	--	--	--	S
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 5

Commercial & Commercial Services Uses, continued

Mixed-Use Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Two (2) or more different primary land use components vertically or horizontally integrated in an arrangement not otherwise permitted under a single zoning district, and sharing a common circulation system including both vehicular and pedestrian ways and possibly a system of common open spaces that may include recreational and natural areas.							
Mix of uses such as compatible commercial and commercial services, institutional, public offices, residential services.	--	--	S	P	S	--	--
Office Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, financial services. Accessory uses may include cafeterias and health facilities established primarily to service the needs of employees on the premises.							
Financial institutions: lenders, brokerage houses, banks; insurance offices; real estate offices; offices for attorneys, accountants, architects, engineers and similar professionals; government offices; public utility offices; telemarketing sales offices and other similar compatible uses.	--	--	S	P	P	--	--
Home Occupations	C	C	C	C	C	--	--
Personal Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.							
Laundry pick-up stations; dry cleaning establishments performing the cleaning processes on site; self-service laundries; nails, beauty and barber shops and salons; shoeshine and shoe repair; tattoo parlors; tanning, steam baths, reducing salons and health clubs; tailor and dressmaker shops; tuxedo rental; photographic studios; animal grooming; funeral services, and domestic services. Does not include massage services except as accessory to a beauty shop or salon.	--	--	P	P	P	P	--
Crematoria	--	--	--	--	--	P	P
Repair Services	Districts						
	CE	R1	R2	C1	C2	M1	M2
Establishments that offer repair services for small mechanical equipment or consumer goods within an entirely enclosed facility. Includes customer drop-off and pick-up as well as off-site service calls. Does not include repair of motor vehicles.							
Light: Repair of televisions, bicycles, clocks, watches, cameras, shoes, guns, appliances and office equipment; clothing; locks, and upholstery.	--	--	S	P	P	P	P
Medium: Repair of small engines like lawn motors and small electric motors, snowmobiles, boat motors, ATV, trail groomers.	--	--	--	P	P	P	P
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 6

Commercial & Commercial Services Uses, continued

Research and Development Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
An establishment or other facility for carrying on investigation in the natural, physical, or social sciences which may include engineering and product development.							
Laboratories, research park, computer and related development and testing facility, software development. Other establishments similar to and compatible with the above establishments, as first determined by the zoning administrator. See "industrial service establishments".	--	--	S	P	P	P	P
Sexually Oriented Businesses	Districts						
	CE	R1	R2	C1	C2	M1	M2
Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character.							
Adult bookstore, adult club, adult massage parlor, adult model studio, adult motel, adult theater or escort agency.	--	--	--	--	--	--	S
Tourist Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Business establishments providing either/or: lodging/accommodations; gift shops and/or certain tourist related services; banks, real estate and other professional offices; and/or recreation that diverts, amuses entertains, or provides entertainment or other hospitality associated with food service or accommodations. Does not include drive-through establishments. Additional state regulations apply to tourist service establishments that serve alcohol.							
Rental, sales and service of non-motorized recreational equipment such as snow ski, bicycle, kayak, canoe, and other rentals. Gift shops, handicraft shops, candy, baked goods, pottery, furniture and other handcrafted enterprises. Financial institutions, banks, real estate offices; offices for attorneys, accountants, architects, engineers and similar professionals; government offices; and public utility offices.	--	--	S	P	P	--	--
Resorts	PUD	--	--	--	--	--	--
Gasoline and auto service station.	--	--	--	S	S	S	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 7

Commercial & Commercial Services Uses, continued							
Vehicle Sales and Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
Retail sales and service of motorized land and water vehicles. Except for filling vehicles with gasoline or diesel, or for an oil change, generally the customer does not wait at the site while the service or repair is being performed. Accessory uses may include offices, showrooms, sales of parts, and vehicle storage. Does not include: auto body shop; frame reconstruction; repair and service of industrial vehicles and heavy trucks. See also Industrial Services Use Class.							
Sales or rental of new and used automobiles, light and medium trucks; mobile homes; boats; campers and other recreational vehicles; trailers; motorcycles, snow mobiles, ATV's, personal watercraft and other motorized sporting goods.							
Service and repair of the above vehicles including: car wash, engine or transmission repair, muffler, brakes and windshield repair or replacement; upholstery repair; tire sales, alignment and mounting; auto detailing; vehicle wash; oil change, lubrication and related services; automobile service stations where fuel is dispensed; towing and short term vehicle storage.	--	--	--	--	P	P	--
Industrial & Warehousing Uses							
Dangerous Chemicals and Fuels: Manufacturing, Storage and/or Distribution	Districts						
	CE	R1	R2	C1	C2	M1	M2
Manufacturing or storage establishments which produce or store flammable, explosive or corrosive substances subject to state or federal regulation.							
Manufacture and/or storage of fireworks, petroleum products, propane, bottled gas storage, industrial acids or similar substances; refineries.	--	--	--	--	--	S	S
Extractive Industries	Districts						
	CE	R1	R2	C1	C2	M1	M2
Excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface.							
Sand and gravel extraction processing and transport including manufacture of cement and cement products. Underground mining, processing and transport.	S	--	--	--	--	--	S
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 8

Industrial & Warehousing Uses, continued

Industrial Service Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.</p> <p>“Light”: fully enclosed; no outdoor operations or storage of materials or vehicles.</p> <p>“Medium”: same uses identified in “light”, but with some outdoor operations or temporary storage of materials or vehicles.</p> <p>“Heavy”: same uses as light or medium, but at a greater scale or volume of activity plus other uses with greater nuisance characteristics.</p> <p>The scale or volume of an otherwise light industrial activity may result in classification as a medium or heavy industrial activity.</p>							
Light: Auto and small truck engine, radiator, transmission, body and frame repair; plumbing or electrical contractors; laundry, dry-cleaning and carpet cleaning plants; diaper services; linen supply services; photo-finishing laboratories; research and development laboratories.	--	--	--	--	P	P	P
Medium: Welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; small truck , body and frame repair; building, heating, general building contractors; exterminators; recycling operations (other than vehicles); fuel oil distributors, solid fuel yards, propane storage and distribution; lawn and garden services.	--	--	--	--	--	P	P
Heavy: Sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; junkyards; heavy truck servicing and repair; tire retreading or recapping; truck stops; asphalt and cement batching and redi-mix; contractors with large equipment stored on site; heavy equipment trade schools; meat and poultry processing and packing (wholesale excluding slaughtering); and sawmills.	--	--	--	--	--	--	P- No Junk S- with junk yard
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>							

Table 4-1, Use Matrix-pg 9

Industrial & Warehousing Uses, continued

Manufacturing Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary, or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.</p>							
Light: Creameries; bottling works; bakery goods; candy; food products; ice making; commercial greenhouses and nurseries; taxidermists; printing, publishing and engraving shops; automotive products; vehicle and machinery assembly; fabricated metal products; forming and molding plastic products; cosmetics; pharmaceuticals; toiletries; hardware and cutlery; tool, die, gauge and machine shops; processing of machine parts; musical instruments; toys; novelties; metal or rubber stamps; molded rubber products; monument and art stone production; industrial laundry operations; furniture and related wood products processing facility; assembly of electrical appliances, electronic instruments and devices; radios and phonographs.	--	--	--	--	P	P	P
Heavy: Wood products manufacture involving extensive use of glues and other chemicals, such as sheet boards and chip boards; drop forging; heavy stamping; punch pressing; heat treating, plating, hammering; or other similar activities; automobile, truck, farm or other large equipment assembly; manufacture of metallurgical products; and heavy machinery fabrication; dry bulk blending plant or handling of liquid nitrogen fertilizer and/or anhydrous ammonia.	--	--	--	--	--	--	P
Warehousing and Wholesale Trade Establishments	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time to persons and businesses. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, fueling and maintenance.</p>							
Self-service storage facilities, also known as: mini-warehouses, and rental storage units.	--	--	--	--	--	C	P
Warehousing, storage or transfer buildings, excluding the storage of flammable liquids. Truck, rail or air freight terminals; bus barns; cold storage facilities; parcel services, fertilizer sales, seed sales; lumber companies selling at wholesale; stockpiling of sand, gravel or other aggregate materials.	--	--	--	--	--	P	P
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>							

Table 4-1, Use Matrix-pg 10

Institutional Uses							
Educational Institutions	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>An educational institution is any government or privately-owned and/or operated facility, building or part thereof which is designed, constructed, or used for education or instruction. Educational institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.</p>							
Governmentally or privately owned and operated elementary and secondary schools. Other institutions similar to and compatible with the above uses, including research and development establishments when associated with an educational institution. See “research and development establishments”.	P	P	P	P	P	P	--
Religious Institutions	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Religious institutions primarily provide meeting areas for religious activities. They may be associated with a convent (group housing) or provide caretaker housing or a parsonage on site (as an accessory use). NOTE: Schools, day care centers, homeless shelters, soup kitchens and other uses sometimes associated with religious institutions are separate principal uses.</p>							
Churches, synagogues, temples, mosques.	P	P	P	P	P	--	--
Social Institutions	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>A social institution is a privately owned or operated facility which is designed, constructed, or used to provide service of a public, nonprofit, or charitable nature to the people of the community on an ongoing basis (not just special events). Social institutions may have offices, meeting areas, food preparation or serving areas, and athletic facilities as accessory uses.</p>							
Including military schools; business, trade and vocational schools (not construction equipment or large vehicles); art, music and dance schools; drivers’ training (not large vehicles); institutions for higher education.	--	--	S	P	P	P	--
Facilities to house charitable or philanthropic organizations such as United Way, Red Cross, Salvation Army, as well as centers for social activities such as neighborhood, community or senior centers; auditoriums and other places for public assembly.	--	--	S	P	P	P	--
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>							

Table 4-1, Use Matrix-pg 11

Public Uses							
Essential Services	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>The erection, construction, alteration or maintenance by public utilities or government departments or commissions of overhead, surface or underground gas, communication, telephone, television, electrical, steam, fuel or water distribution or transmission systems, collection, supply or disposal systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, BUT NOT INCLUDING communication towers or office buildings, substations, or structures for service equipment, or maintenance depots.</p>							
<p>Telephone, television, and electrical lines (except as noted below); sanitary sewer, storm sewer and water lines; railroad right-of-way and uses related thereto; gas and oil lines that link homes, businesses, schools and other buildings to utility and public services structures, but excluding "structures" such as telephone pedestals, cable television service boxes, and the like, so long as they do not exceed 10 sq. ft. in base building footprint and are no more than 4 ft. tall. Anything more than a pole, box and basic lines are classified as utility and public service installations. Also includes public roads and road rights-of-way.</p>	P	P	P	P	P	P	P
Public Buildings & Related Facilities	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Buildings housing public services of cities, villages, townships, counties, state and federal government, usually in offices, including publicly-owned "Utility and Public Service Installations" and "Educational and Social Institutions".</p>							
<p>Libraries, museums, township hall, county courthouse, police station, fire station, public works, schools, publicly owned tourist information centers, public boat launches/marinas, and other public buildings similar to and compatible with the above uses, and any publicly owned "Utility and Public Service Installations". Trails, trail easements (motorized and nonmotorized).</p>	S	S	S	S	S	S	S
Roadside parks and all other public parks.	P	P	P	P	P	P	P
Cemetery.	P	P	P	P	P	P	P
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>							

Table 4-1, Use Matrix-pg 12

Public Uses, continued							
Utility and Public Service Installations	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>A building or structure within which a utility or transportation service deemed necessary for the public health, safety or general welfare (an essential service) is provided to the public by an entity under public franchise or ownership; including but not limited to facilities created for the generation, transmission and/or distribution of electricity, gas, steam, communications, television, and water; the collection and treatment of sewage and solid waste; and the provision of roads, rails, air or mass transportation. Accessory uses may include offices, truck and large equipment parking, fueling and maintenance.</p>							
Light: Electrical substations, gas regulator stations; radio, television, cellular and microwave transmitter towers or other communication towers; satellite antennas larger than ten feet in diameter.	S	S	S	S	S	S	S
Heavy: Water and sewage treatment facilities; water towers; large scale artificially constructed stormwater retention and detention facilities; telephone exchanges; recycling collection centers; solid waste; road maintenance and other public works garages.	S	--	--	--	S	S	S
345kv or larger overhead electric transmission lines and towers constructed after the effective date of this Ordinance are prohibited in the City of Bessemer. Buried 345kv or larger electric transmission lines are permitted by special use permit.	--	--	--	S	S	S	S
Public airports.	S	--	--	--	--	--	--
Rail yards.	--	--	--	--	--	--	P
WECS towers under 35 feet in height.	C	C	C	C	C	C	C
WECS towers between 35 and 80 feet in height.	S	--	--	--	S	S	S
WECS towers over 80 feet in height.	S	--	--	--	S	S	S
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>							

Table 4-1, Use Matrix-pg 13

Residential Services Uses							
Institutions for Human Care and Habitation	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Institutions for human care include a broad spectrum of facilities for the diagnosis, treatment, care, rehabilitation or training of persons who may be dependent, ill, physically disabled, mentally retarded, emotionally disturbed, drug or alcohol dependent. Also includes facilities designed to meet the temporary housing needs of special populations (e.g. homeless, abused spouses, etc.). Does not include correctional facilities.</p>							
Nursing or convalescent homes; homes for the aged; assisted living facilities; orphanages; sanitariums; halfway houses; spouse abuse shelters; homeless shelters. Child Care Center/Day Care Center with over 6 minor children.	S	--	S	S	P	--	--
Community Residential Care Facilities	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Community residential care facilities provide shelter and care for individuals with special needs in facilities or single family dwellings for more than six persons. These are all state-regulated facilities.</p>							
Large Community Residential Care Facilities; Group Child Care/Day Care Homes; Child Caring Institutions; Children's Therapeutic Group Homes; Adult Foster Care: Facilities, and Congregate Facilities.	S	S	S	P	P	--	--
Group Housing	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>Group housing is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a "family" but often share a common situation. The size of the group may be larger than the average size of a household. Tenancy is usually arranged on a monthly or longer basis. It may be a form of transient lodging. There is usually a common eating area for residents.</p>							
Monasteries, seminaries and convents. Boarding house, rooming house, fraternity or sorority. Other housing similar to and compatible with the above housing. Does not include prisons, other correctional facilities, community residential care facilities or institutions for human care.	S	--	S	S	P	--	--
Mobile Home Park and Manufactured Housing Community	Districts						
	CE	R1	R2	C1	C2	M1	M2
<p>See definitions in Article 2.</p>							
Mobile home park and manufactured housing communities.	C	--	C	--	--	--	--
<p>Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.</p>							

Table 4-1, Use Matrix-pg 14

Residential Services Uses, continued

Multiple Family Dwellings	Districts						
	CE	R1	R2	C1	C2	M1	M2
A building or portion thereof used and designed to contain separate living quarters for three or more families on one or more levels, but which may have joint services or facilities, such as for laundry or storage.							
Apartment building, townhouses, and row houses, garden apartments, and condominiums when considering the entire structure (not the individual dwelling units). Other housing similar to and compatible with the above housing.	--	--	C	C	C	--	--
Single Family Dwelling	Districts						
	CE	R1	R2	C1	C2	M1	M2
A building containing not more than one dwelling unit used, intended or designed to be used as the home, residence or sleeping place of one-family. Includes site constructed, modular mobile home and other manufactured dwellings for a single family. Seasonal cottages/cabins for a single family are included in the single family dwelling category. Temporary dwelling units are included.							
Single family dwelling, site condominium, mobile or manufactured home on an individual lot. Other housing similar to and compatible with the above housing. Note: single-wide mobile homes are only permitted in mobile home parks.	P	P	P	P	P	--	--
Temporary dwellings, tents/yurts, recreational vehicles (not in campgrounds).	C	C	C	C	C	C	--
Cabins and camps for a single family for seasonal occupancy. See Section 5.2.E.	P	--	--	--	--	--	--
Open space and rural cluster developments.	C	C	C	--	C	--	--
Shipping Containers used for housing	S	S	S	S	S	--	--
Community Residential Care Facilities, Small; Child Care Center/Day Care Center with under 7 persons; Family Child Care Homes; Group Child Care Homes with under 7 persons; Adult Foster Care; Family Home; Large and Small Group Home; Foster Family Home; Foster Family Group Home; State Licensed Residential Facility. [See definitions of terms in Article 2].	P	P	P	P	P	--	--
Tourist homes/bed & breakfast establishments	C	C	C	P	P	--	--
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Table 4-1, Use Matrix-pg 15

Residential Services Uses, continued							
Two-Family Dwelling	Districts						
	CE	R1	R2	C1	C2	M1	M2
A building containing not more than two dwelling units, each designed and used exclusively as the home, residence or sleeping place of one-family.							
A duplex; a building with two dwellings constructed side-by-side, front-to-back, over and under, or some combination of the above. Can be new construction or modification of an existing structure provided each dwelling is separate. Other housing with only two units similar to and compatible with the above housing.	--	P	P	P	P	--	--
Special Mixed Uses							
Planned Unit Development (PUD)	District 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 shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space, streets, circulation ways, utilities, buildings, and other land uses and improvements as provided in Article 10 of this Ordinance.							
Single family or multiple family developments with cluster units around common open space; mixed use developments such as golf course communities surrounded by residences; ski resorts with common lodging, detached and/or attached single family residences; neotraditional or new urbanist developments mixing single family homes around a traditional small town commercial area with a common public open space; research and small manufacturing facilities in a campus like setting. NOTE: Rural cluster developments are <u>not</u> PUDs or PDs. They are exclusively single-family residential developments permitted as a "C" use pursuant to Section 9.11.AA.	P (Once Approved) See Section 10 for process.						
Note: P = Use permitted by Right, C = Use permitted by right with conditions, S = Special Use.							

Section 4.5 Accessory Uses by District

Table 4-2 presents accessory uses, structures, and buildings by district and references the appropriate general standards section. See also applicable District Standards.

Use/Activity	Districts								Std Section
	CE	R1	R2	C1	C2	M1	M2	PUD	
Airport, private	S	--	--	--	--	--	--	--	9.11.B
Amateur Radio and TV Antennae	P	P	P	P	P	P	P	P	5.2.A.2
Boathouses and Hoists	P	P	--	--	--	--	--	P	5.3
Bus Shelter	P	P	P	P	P	P	P	P	5.3
Decks and Patios	P	P	P	P	P	--	--	P	5.2.C, 5.3
Dog Shelter	P	P	P	P	P	P	P	P	5.3
Exterior Lighting	P	P	P	P	P	P	P	P	5.11.C
Fences, Walls, and Berms	P	P	P	P	P	P	P	P	5.6.C-G
Flagpoles	P	P	P	P	P	P	P	P	5.2.A.3
Garages and Small Sheds	P	P	P	P	P	P	P	P	5.3
Garage Sales	P	P	P	P	P	P	P	P	5.7.F.14, 14.3.C.3
Gazebos, Fireplaces, Outdoor Appurtenances	p*	p*	p*	p*	p*	--	--	P	5.3
Greenhouses	P	P	P	P	P	P	P	P	5.3, 9.11.A.4
HVAC Units	p*	p*	p*	p*	p*	p*	p*	p*	5.2.A.1, 5.6.F.2
Home Occupations	C	C	C	C	C	--	--	C	9.11.Q
Off-Street Loading/Unloading	P	--	P	P	P	P	P	P	5.5.B-C
Off-Street Parking	P	P	P	P	P	P	P	P	5.5
Outdoor Storage	P	P	P	P	P	P	P	P	5.11.B
Outdoor Tennis Courts	P	P	P	P	P	--	--	P	5.3
Outdoor Walkways and Stairways	P	P	P	P	P	P	P	P	9.11.EE
Pole Barn	P	P	P	P	P	P	P	P	5.3
Property Management or Temporary Real Estate Office	P	P	P	P	P	P	P	P	5.2.F.1
Pumphouses	P	P	P	P	P	P	P	P	5.12.A.4
Continued on next page									
P = Use Permitted By Right, C = Use Permitted By Right With Conditions, S = Special Use * = Permitted only in the rear or side yard, and in front yard if behind the front building line.									

Table 4-2, Continued

Use/Activity	Districts								Std Section
	CE	R1	R2	C1	C2	M1	M2	PD	
Sauna	P	P	P	P	P	P	P	P	5.3
Satellite Dishes	P	P	P	P	P	P	P	P	5.3, 5.4.F
Security Station	P	P	P	P	P	P	P	P	5.3
Shipping Containers used as storage	S	S	S	S	S	S	S	S	9.11 E
Signs and Name Plates	P	P	P	P	P	P	P	P	5.7
Swimming Pools	P	P	P	P	P	--	--	P	5.3.G
Swing Sets, Play Sets, Tree Houses, and other Playground Equipment	P	P	P	P	P	--	--	P	5.3, 5.4.F
WECS, Private less than 35'	C	C	C	C	C	C	C	C	9.11.II
Temporary Contractor's buildings	C	C	C	C	C	C	C	C	5.2.F
Temporary Buildings incidental to Church or School	P	P	P	P	P	--	--	P	5.2.F
Temporary Sawmills	P	--	--	--	--	P	P	--	
P = Use Permitted By Right, C = Use Permitted By Right With Conditions, S = Special Use * = Permitted only in the rear or side yard, and in front yard if behind the front building line.									

Article 5 General Provisions—All Districts

Section 5.1 Purpose

The provisions of this Article generally apply to all zoning districts unless indicated otherwise. Any conflicts between this article and the individual zoning district requirements resolve in favor of the latter.

Section 5.2 General Structures Regulations

- A) Height Exceptions:** The following non-residential structures and appurtenances shall be exempt from height regulations in all zoning districts in which they are permitted, provided no portion of the excepted structure may be used for human occupancy:
- 1) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks and water towers, elevator and stairwell penthouses, ventilators, fire and hose towers, cooling towers, grain elevators, stacks, stage towers or scenery lofts, monuments, cupolas, domes, church steeples and spires, parapet walls not exceeding six (6) feet in height, or other structures where the manufacturing process requires a greater height, provided these appurtenances do not exceed seventy-five (75) feet in height or not more than fifteen (15) feet higher than the highest point of the structure, whichever is higher, and are set back a distance from the property line at least equal to the height of the structure above the roofline. Public-owned water tanks and water towers are not subject to any height limitation.
 - 2) Communication towers including ham or amateur radio towers shall not exceed the height limits established in Section 9.11.F.
 - 3) Flagpoles shall not exceed thirty-five (35) feet in height.
 - 4) Except in the M-2 General Industrial District, all objects stored within an allowable outdoor storage area may not exceed the height of any required screen or fence except for recreational vehicles and boats.
- B) Building Grades, Fill to Increase Height:** Filling with earth or other materials to an elevation above the established or natural grade of adjacent land is prohibited without the express written approval of the Zoning Administrator. The intent of this provision is to prohibit the erection of buildings taller than the natural grade plus what the height restriction of this *Ordinance* would otherwise permit. Whenever deemed possible by the City Engineer, all water runoff shall be stored on site; no water shall be directed into public storm drains, sanitary sewers or abutting property unless owned by the applicant. Where a new building is constructed between two existing buildings or on a vacant lot adjacent to an existing building, the natural grade shall be used to determine the finished grade for the new building and the required yard space. See also Section 5.12.C.
- C) Porches and Decks:**
- 1) All proposed enclosed porches and all existing open porches, decks, or patios proposed for enclosure shall meet the setback and area requirements of this *Ordinance*.

- 2) An open, unenclosed, and uncovered porch or deck six (6) inches or more above finished grade shall meet the setback and area requirements of the district for a principal building if connected to and accessed from the principal building. Otherwise the porch or deck shall meet the yard and area requirements for an accessory structure.
- 3) Unless the yard abuts a public street, paved terraces, patios, and unenclosed, uncovered porches and decks shall not be subject to yard requirements, provided that all of the following conditions are met:
 - (a) It is less than six (6) inches above the finished grade.
 - (b) The paved or decked area is unroofed and without continuous enclosure linking it to the principal building in such a way that it appears functionally a part of the principal building.
 - (c) No portion of any paved or decked area is closer than three (3) feet from any side or rear lot line.

D) Additions:

Additions in the front yard of existing principal structures shall not project beyond the average of the existing front yards on the abutting lots or parcels on the same block.

E) Minimum Requirements for Single-Family Dwellings

- 1) It is the intent of this Section to provide a wide variety of single family housing options in the City of Bessemer, including the need for lower cost single family housing while protecting the public health and safety. Modern mobile and manufactured homes compare favorably with existing site constructed dwellings when they are similar in appearance, design, and construction with existing single family dwellings in the vicinity. The purpose of this Section is to provide standards for the construction, installation, and appearance of all single family homes to ensure compatibility with existing dwellings located in the surrounding area.
- 2) The following minimum requirements apply to all dwelling units outside of mobile home parks except as provided in subsection 3 of this Section.
 - (a) All construction required in this Section shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan Construction Code provisions and *Ordinance* requirements.
 - (b) Mobile homes not conforming to the standards of this Section shall not be occupied unless located within a mobile home park or unless used for temporary residence purposes as provided in Section 5.2.F.2.
 - (c) All dwelling units located outside of mobile home parks shall meet the following requirements:
 - (i) Compliance with all pertinent building and fire codes and all applicable roof snow load and strength requirements.
 - (ii) Removal of the wheels, pulling mechanism, and tongue of any mobile home shall occur before placement on a permanent foundation that meets all requirements of the Building Code.

- (iii) All dwellings shall be connected to a sewer system and water supply system approved by the District Health Department or municipal utilities.
- (iv) All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one (1') foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- (v) All additions, rooms, or other areas shall be constructed with similar or better quality materials and work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein. All additions to dwellings shall meet all of the requirements of this *Ordinance* and any applicable Codes.
- (vi) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity including: a minimum 4/12 roof pitch, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along sides of the dwelling; not less than two exterior doors with the first one facing the front yard and the second one being in either the rear or side of the dwelling; and, contains permanently attached steps connected to exterior door areas or to porches where a difference in elevation requires the same.
- (vii) The compatibility of design and appearance shall be determined at first by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards in this *Ordinance* as well as the character, design, and appearance of single family dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling. This shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (viii) Construction plans adequate to illustrate compliance with the requirements of this *Ordinance* shall be submitted to the Zoning Administrator prior to issuance of a Zoning Permit for any dwelling unit. If the dwelling unit is a mobile home, adequate evidence to assure that the dwelling complies with all the standards applicable to mobile homes set forth in this Section shall also be submitted.
- (ix) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development of Housing and Urban Development Regulations entitled "The National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401 et seq.; 24 CFR Part 3280 and Part 3282. All other dwellings shall meet the requirements of the *StilleDeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.* All dwellings

shall meet or exceed all applicable roof snow load and strength requirements.

- (x) A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure, as approved by the Zoning Administrator.
 - (xi) For legal nonconforming mobile homes that are located outside mobile home parks, mobile home plats, or places where Temporary Permits for placement of a mobile home have been issued; once that mobile home is removed it must be replaced with a mobile home in good condition that is also certified by the American National Standards Institute or the the National Manufactured Housing Construction and Safety Standards Act of 1974 or by a site constructed home or manufactured home that meets all applicable code requirements.
- 3) A single family dwelling in the CE, R-1, R-2, C-1, C-2 districts, including a mobile home except in a mobile home park, shall have a minimum width of twenty (20) feet over fifty (50) per cent of the entire structure length.

F) Temporary Buildings and Structures

1) Habitation of Accessory Structures, Tents, Yurts, and Travel Trailers:

Except for tents and recreational vehicles in legitimate campgrounds, no structure that does not meet the minimum standards for a dwelling unit as defined in this *Ordinance* and the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, shall be used for dwelling purposes for more than fourteen (14) days in succession nor more than sixty (60) days in one (1) year. Occupancy in excess of these time frames requires a Temporary Zoning Permit as provided for in Section 14.3.C, or by means of a Conditional or Special Land Use Permit pursuant to Article 9, or unless constructed as a year around dwelling per the applicable requirements of this *Ordinance*.

- (a) **Camps, Hunting Camp:** A camp is a permitted use in a CE District.
- (b) **Organized Camp:** Permitted as a conditional use in the CE District provided:
 - (i) The parcel on which the camp is located is at least five acres in size.
 - (ii) There is a pressurized water supply.
 - (iii) There is a waste disposal system that has been inspected and approved by the District Health Department.

2) Temporary Dwelling Permit: The Zoning Administrator may issue a temporary Zoning Permit for a mobile home or other temporary dwelling unit used for temporary dwelling purposes, subject to the following limitations and procedures:

- (a) The purpose of the temporary housing is to provide on-site housing for residents of the lot while a new dwelling unit is being constructed or rebuilt;
- (b) The permit is for a period not longer than one (1) year based on evidence presented by the applicant that he/she can have the foundation and complete building framing in place within six (6) months and the entire residence

completed within one (1) year. This period may be extended up to one (1) additional year by the Zoning Administrator when the following standards are met:

- (i) A good faith effort has been shown to build a new or rebuild a destroyed dwelling unit;
 - (ii) The time extension is reasonably necessary considering the practical difficulties associated with actual construction;
 - (iii) Occupancy of the structure being rebuilt is reasonably possible within the time extension;
 - (iv) Granting of the time extension to the applicant and other similarly situated parties will not prohibit enforcement of any provisions of this *Ordinance*, unduly overburden administration and enforcement resources, or adversely affect general health, welfare and safety of adjacent properties or the general community.
- (c) The lot or parcel is located in any residential district;
- (d) A performance guarantee pursuant to Section 14.3.G is collected and said temporary dwelling is removed within fifteen (15) days after construction is complete.
- (e) The following additional approvals are obtained:
- (i) Any applicable permits from the Building Inspector
 - (ii) Approval of a septic system and well from the District Health Department.
 - (iii) A driveway permit from the City of Bessemer or Michigan Department of Transportation, as applicable.
- (f) Any mobile home permitted by temporary permit for purposes other than (a) or (b) above before the effective date of this amendment may be issued a temporary permit by the Zoning Administrator for continuation of use by the present occupant, but no other, provided the dwelling remains in good structural condition, the septic system and well remain approvable by the District Health Department and a performance guarantee pursuant to Section 14.3.G is collected to ensure the temporary mobile home is removed within thirty (30) days of its no longer being used by the present occupant.
- 3) Temporary Contractor's Buildings:** Temporary structures and temporary uses incidental to construction work, such as contractor storage buildings, semis, or mobile homes used for contractor equipment, foreman offices, and related activities, but not for habitation are exempt from setbacks, and Temporary Zoning Permit requirements, provided:
- (a) Such buildings, structures or uses impede no clear vision area and
 - (b) Are removed upon the completion or abandonment of the construction work or within one (1) year from date of placement, whichever period of time is the shortest.
- 4) Temporary Real Estate Offices:** Are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The temporary Zoning Permit shall be valid for not more than one (1) year, but is renewable. The office shall be removed upon sale of seventy (70%) percent of the lots in the subdivision. A model home may be used as a temporary sales office.
- 5) Churches & Schools:** Temporary buildings incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the

Fire Chief and Building Inspector, and by relevant state agencies and all yard requirements of this *Ordinance* are met.

- 6) **Christmas Tree Sales:** The display and sale of Christmas trees on a farm in the CE District or at a business in the C-1 and C-2 Districts, or at a church in any District, is permitted without a temporary Zoning Permit, provided it is incidental and accessory to the principle use or a temporary use of a vacant lot. The display and sale of Christmas trees is permitted for a period not to exceed forty-five (45) days. All unsold trees must be removed from the property by December 31 of each calendar year. Any Christmas tree sales in a location or under circumstances other than those defined above is permitted only by a Temporary Zoning Permit issued at the discretion of the Zoning Administrator.
- 7) **Auctions:** The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within twenty-five (25) feet of any street or road right-of-way. Off-street parking areas shall be provided and parking is prohibited within the right-of-way of a major thoroughfare.
- 8) **Roadside Stands:** Roadside stands selling products grown on the premises are permitted in the CE, C-1, and C-2 Districts provided the following standards are complied with:
 - (a) Space for the parking of the customers' vehicles shall be furnished off the road right-of-way in the ratio of one (1) parking space for each fifteen (15) square feet of roadside stand floor area with a minimum of three (3) off-street parking spaces.
 - (b) The roadside stand shall be located at least twenty-five (25) feet from the edge of the road and any property line.
 - (c) Any roadside stand structure shall be seasonally erected and removed once the growing season is complete or November 1st, whichever comes first.
- 9) **Transient and Amusement Enterprises:** Circuses, carnivals, other transient amusement enterprises, music festivals, and similar temporary gatherings of people, may be permitted as a conditional use in specified zoning districts if approved by the Planning Commission and upon the finding by the Planning Commission that the location of such activity will not adversely affect adjoining properties or adversely affect public health, safety, morals, or general welfare. The Planning Commission may require posting of a bond or other acceptable security payable to the City of Bessemer in an amount sufficient to hold the City free of all liabilities incidental to the operation of such activity and indemnify any adjoining land owners for any damage resulting from operation of such activity. Such damages shall be provable before the court having jurisdiction over the premises upon which the damages occurred and shall be payable through such court.
- G) **Razing of Buildings:** No building shall be razed until a demolition permit has been obtained from the Building Inspector who shall be authorized to require a performance bond in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building

to be razed. That bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the City shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid within 3 months. This performance bond will be administered as described in Section 14.3.G except, as described above, the Building Inspector rather than the Zoning Administrator is responsible for administering this requirement, and that Planning Commission approval is not necessary to return the bond.

- H) Moving of Buildings:** No existing building or structure shall be moved into or within the City unless in accordance with a moving plan approved by the Zoning Administrator pursuant to Section 14.3.B. The relocated structure shall comply with all the requirements of this *Ordinance*.
- I) Damaged Buildings:** Any building or structure that has been partially destroyed by fire, storm, water, or other disaster, or is in such a state of disrepair, as to be declared unsafe or unfit for human occupancy by the proper authority shall either be entirely removed or repaired by the owner within twelve (12) months from the date of the determination or the effective date of this *Ordinance*. In the interim, the site shall be fenced or otherwise protected and prevented from becoming a nuisance.

Section 5.3 Accessory Structures Regulations

- A) Subordinate to Principal Use:** Accessory uses and structures must be subordinate to the principal use and structure on the subject lot in terms of area, extent and purpose.
- B) Time of Establishment:** Accessory structures must be constructed in conjunction with or after the principal building, and may not be constructed prior to the construction of the principal building, except per the provisions in this subsection:
 - 1)** A permitted accessory structure may be erected following receipt of a Zoning Permit for the accessory structure as well as a Zoning Permit and Building Permit for the construction of a principal structure on the lot.
 - 2)** Legitimate agricultural accessory structures can be erected independent of a permitted principal structure in the CE District.
- C) Erecting Accessory Structures before the Principal Dwelling:** If a garage or other accessory structure is built before a dwelling, where permitted above, the building footprint for the dwelling must be established prior to determining the size of the accessory structure, and before a Zoning Permit can be issued. The permitted single family dwelling which the accessory structure is to accompany, shall be erected within two (2) years as required in Section 14.3.B.
- D) Use of Accessory Structures as a Dwelling:** No garage or other accessory structure may be used as a dwelling before or after a principal structure is erected unless otherwise provided in this *Ordinance*.

E) Accessory Structure Requirements: Standards for site, placement, setback, and height of accessory structures are detailed within the District Standards. Total lot coverage may not exceed the requirements within the District Standards.

F) Other Accessory Structure Yard Exceptions:

The yard requirements of this *Ordinance* may be waived for the following accessory structures:

- 1) Mechanical structures, such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed in front yards, but they may be located in rear or side setbacks if they are located at least three (3) feet from rear and side lot lines.
- 2) Fences or screening walls, as permitted by Section 5.6, may be located in any required setback. Residential fences are permitted on the property lines in residential districts. Shall not be closer than three (3) feet to any alley right-of-way.
- 3) Essential services, utilities, electric power, and communications transmission lines are exempt from the yard and setback requirements of this *Ordinance*. See also Section 5.9.
- 4) Landscaping and vegetation are exempt from the yard and height requirements except for living fences as in accordance with Section 5.6 of this *Ordinance*.

G) Swimming Pools:

- 1) Pools used for swimming or bathing and all fencing, gates, or other barriers around them shall be in conformity with the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*
- 2) Swimming pools shall conform with the following requirements:
 - (a) The yard setback requirements as required for accessory uses and structures in this *Ordinance*.
 - (b) No swimming pool shall be located over a septic system, drain field, or on any area designated by the District Health Department as reserved for a replacement drain field unless approved by the District Health Department.
 - (c) No lights shall be erected, operated, or maintained in connection with a swimming pool in such a manner as to create a nuisance or hazard to nearby properties.
 - (d) Service drop conductors and any other open overhead wiring shall not be located above a swimming pool.
 - (e) No swimming pool shall be used unless adequate public health measures are periodically taken to ensure that use of the pool will not cause the spread of disease.
 - (f) All swimming pools shall be enclosed by a fence meeting the requirements of Section 5.6.G.4.
 - (g) Water shall not be allowed to drain on adjacent properties.

- A) Two dwelling units on a lot:** No lot on which a dwelling unit is permitted may have a second dwelling unit erected on the lot.
- B) Lots of Record:** A lot of record may be used as specified in the zoning district in which it is located. Any structure shall be located on the lot in compliance with all yard and setback requirements for the zoning district in which the lot is located.
- C) Division of Lots:** No lot shall be divided except in conformance with the requirements of the Land Division Act, Public Act 288 of 1967, being MCL 560.101 et seq. as amended, and any applicable City ordinances.
- D) Combination of Lots:** No lot shall be divided and combined with an abutting lot if the portion remaining following the division would not meet the minimum requirements for lots in the district, including the ability to support a septic system and well under the requirements of the District Health Department or connected to municipal utilities.
- E) Average Front Yards:** The required front yards may be decreased in any residential district to the average of the existing front yards of the abutting structures on each side, but in no case less than twenty (20) feet in any residential district.
- F) Projections in Yards:** The following projections into yards are permitted:
- 1) For existing structures, ramps to accommodate wheelchairs and/or related devices to assist the handicapped or infirm are permitted to encroach on the yard requirements of any district, provided an application for a Zoning Permit is filed with the Zoning Administrator who shall find as a condition of issuing the requested permit that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. No ramp is permitted to extend from a front or side door directly to the front sidewalk or curb, if it is reasonably feasible to connect to an existing private sidewalk or paved driveway. Ramps may not be covered within any setback. For ramps constructed as part of a new building, ramps must meet all setback requirements. Ramps must meet the requirements imposed by all applicable federal, state and local regulations.
 - 2) Self-supporting awnings in residential districts may project into a required yard area no more than three (3) feet and in commercial or industrial districts no more than five (5) feet. Awnings shall be at least eight (8) feet above grade at every point. No awning shall be erected over public right-of-way.
 - 3) Uncovered Stairs, landings, and fire escapes may project into any yard, but not to exceed six (6) feet, and not closer than three (3) feet to any lot line.
 - 4) Architectural Projections such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any required yard, but such projection shall not exceed four (4) feet.
- G) Condominium Subdivisions:** All condominium subdivisions shall conform to the following provisions in addition to all other applicable District provisions and shall be approved pursuant to the requirements of Article 10, Planned Unit Development Regulations.
- 1) A condominium unit, including single-family detached units, shall comply with the applicable site development standards contained in the district in which it is located unless those standards are waived as part of a PUD approval pursuant to the requirements of Article 10.

- 2) A condominium subdivision shall comply with the requirements of the Michigan Department of Environmental Quality and the District Health Department pertaining to potable water supply and waste disposal facilities.
- 3) The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.
- 4) In addition to the materials required by Section 14.5, Site Plan Review Procedures, and other requirements of Article 10, Planned Unit Development Regulations, a PUD permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:
 - (a) A site plan showing the location, size, shape, area and width of all condominium units.
 - (b) A description of the common elements of the condominium subdivision as will be contained in the master deed.
 - (c) Proposed use and occupancy restrictions as will be contained in the master deed.
- 5) All provisions of the condominium subdivision plan which are approved by the City Council shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as an amendment to a PUD, subject to the procedures of Article 10.
- 6) All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments as provided below:
 - (a) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
 - (b) All monuments used shall be made of solid iron or steel bars at least one half (1/2) inch in diameter and thirty six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
 - (c) Monuments shall be located in the ground at all angles in the boundaries of the condominium subdivision; at the intersection lines of streets with the boundaries of the condominium subdivision and at the intersection of alleys with the boundaries of the condominium subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

- (d) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium subdivision and referenced to the true point.
 - (e) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
 - (f) All required monuments shall be placed flush with the ground where practicable.
 - (g) All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one half (1/2) inch in diameter or other approved markers.
- 7) All streets within a condominium subdivision shall be public and shall be constructed in compliance with the construction standards of this *Ordinance* or as otherwise required by the City of Bessemer.

Section 5.5 General Parking and Loading Regulations

The purpose of this Article is to prescribe standards for off-street parking and loading areas. The City recognizes that inadequate off-street parking and loading areas may lead to traffic congestion and loss of economic opportunities, as well as unauthorized parking in adjacent lots and on nearby streets. Excessive parking and loading areas are an inefficient use of resources, and increase the potential for drainage problems. This Article seeks to balance the public and the private needs for off-street parking and loading areas.

A) Parking Requirements

- 1) **Intent:** Parking spaces shall be provided and adequately maintained by each property owner in every zoning District for the off-street storage of motor vehicles for the use of occupants, employees, and patrons of each property subject to the provisions of this *Ordinance*, except as otherwise provided by this *Ordinance*.
- 2) **General Provisions:**
 - (a) Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications or a change in use result in an increase in the required parking under this *Ordinance*, additional parking shall be provided and maintained as required by this *Ordinance*.
 - (b) No parking area, parking space, or loading area which exists on the effective date of this *Ordinance*, or which is later provided for in compliance with this *Ordinance*, shall thereafter be relinquished or reduced below the requirements established by this *Ordinance* until equal or better parking facilities in compliance with this *Ordinance* are provided.
 - (c) Required parking areas shall be used only for the parking of vehicles, and not for material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance.
 - (d) All parking spaces shall be designed and located consistent with all applicable barrier free and handicapped parking requirements under federal, state, county, and local law.

- 3) **Right-of-way:** No parking space located within or along the traveled portion of any street shall be counted toward the off-street parking requirements set forth in this *Ordinance*.
- 4) Vehicular parking can be reduced by replacing vehicular parking spaces with bicycle parking in the following format.

Number of required Vehicular Parking	Number of Spaces that can be replaced with bicycle parking
3-6	1
7-15	2
15-25	3
26+	15% of required spaces

The use of enclosed bicycle storage and/or shared facilities is encouraged. The Planning Commission can allow for more spaces to be replaced at their discretion, consistent with the standards of this code.

- 5) **Joint Use of Parking Areas:** The joint use of parking areas by two or more uses may be approved by the Zoning Administrator whenever such joint use is practical and satisfactory to each of the uses served, and when all requirements for location, design, and construction are met. Except as otherwise provided in this *Ordinance*, shared parking shall not include the parking required for residential uses.
 - (a) **Computing Capacities:** In computing capacities of any joint parking area, the total parking space requirement is the sum of the greatest number of parking spaces required for the individual uses that will occur at the same time. If the maximum space requirements for individual uses occur at distinctly different times, the total number of off-street parking spaces required for joint use may be reduced by the Zoning Administrator to not less than one-half (1/2) the number of required spaces provided on any one (1) lot. The lots shall be interconnected for vehicular and pedestrian circulation.
 - (b) **Record of Agreement:** A copy of an agreement between joint users shall be filed with and must be approved by the Zoning Administrator prior to the issuance of the Zoning Permit. The agreement shall include provisions for the continued long-term use and maintenance of the parking area as well as the allocation of parking spaces to each use.
 - (c) Whenever possible, joint or cooperative parking arrangements shall utilize shared driveways, shared service drives, cross access drives, and frontage roads to minimize driveways that access an arterial or collector street. Cross access easements, if necessary, shall be submitted to the City for approval.
- 6) **Parking Lot Deferment**
 - (a) Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller

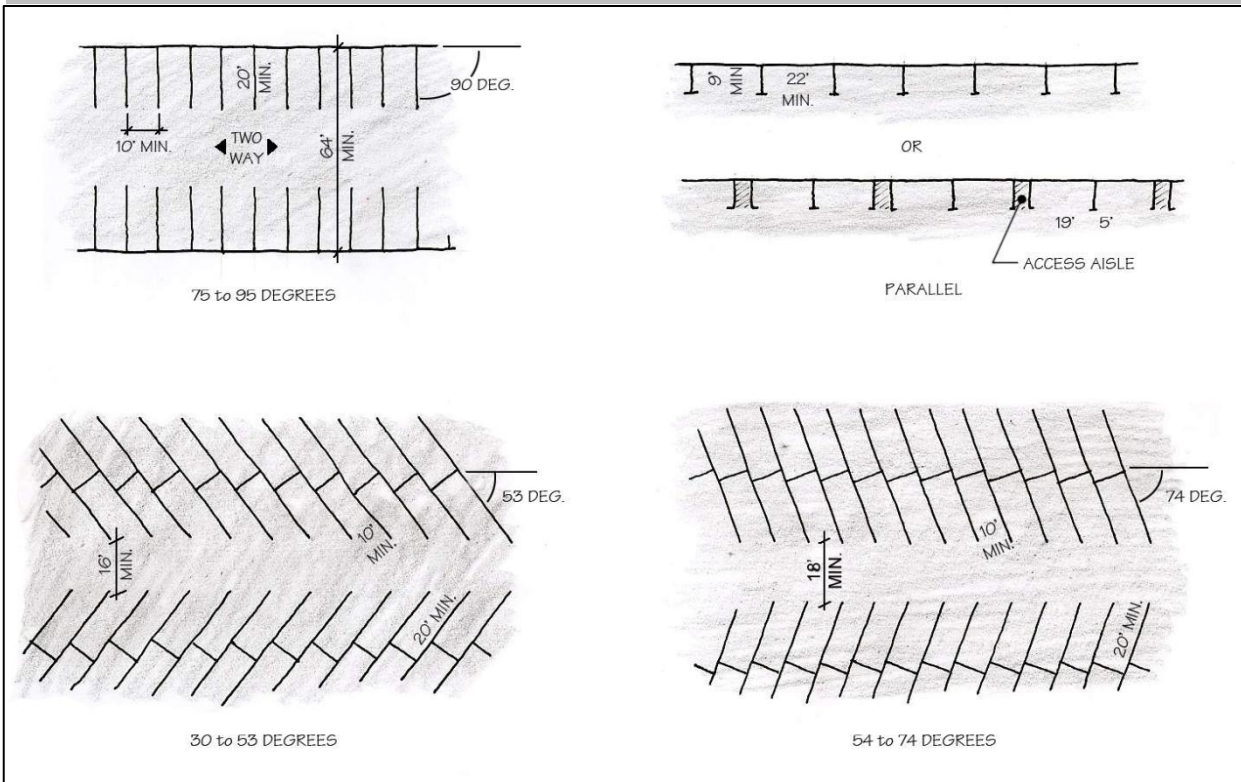
parking area, provided that area of sufficient size to meet the parking space requirements of this article is retained as open space, and the owner agrees in writing to construct the additional parking based on observed usage within six (6) months of receipt of a written response to the request by the Zoning Administrator.

- (b) The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
 - (c) Proof of an approved stormwater management plan for the complete parking area, including any deferred spaces, must be submitted.
- 7) Additional Parking:** To minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, no parking lot shall exceed the minimum parking space requirements by ten percent (10%) greater than required except as approved by the Zoning Administrator. In granting additional spaces, the Zoning Administrator shall determine that the parking will be required, based on documented evidence of actual use and demand provided by the applicant.
- 8) Permeable Surface for Paving:** At the discretion of the Zoning Administrator, parking areas may be surfaced with permeable asphalt, permeable concrete, or turf blocks. The calculations for required stormwater management and retention measure may be adjusted for the use of this paving.
- 9) Uses not Cited:** For uses not specifically listed in the District, the requirements for off-street parking facilities shall be in accordance with a similar use or based on documentation regarding the specific parking needs for the particular use, as determined by the Zoning Administrator.
- 10) Measurements and Calculations:** The following standards shall be used to determine the required number of parking spaces:
- (a) **Definition of Usable Floor Area:** The gross floor area used for services to the public, including those areas occupied by fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities, or other areas where customers, patients, clients, salesmen, and the general public are denied access. Floor area, whether usable or gross, shall be measured from the exterior faces of exterior walls, except in a case where an interior building wall separates two uses or users. In such a case, the floor area shall be measured from the inside face of such an inside wall.
 - (b) **Fractional Space:** When a calculation determining the number of required parking spaces results in a fractional space, any fraction shall be counted as one (1) additional space.
 - (c) **Employees:** Requirements for parking stated in terms of employees shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
 - (d) **Seating Capacity:** When benches, pews, or other similar seating is used, each twenty-four (24) inches of that seating shall be counted as one seat, unless Table 5-1 specifies otherwise.
- 11) Parking Space Requirements:**
- (a) Each off-street parking space shall be not less than nine feet (9') wide and eighteen feet (18') long, exclusive of access drives or aisles.

- (b) Plans and specifications showing the number of required off-street parking spaces for every use, as listed on Table 5-1, shall be provided and approved prior to the issuance of a zoning or building permit. If there is more than one principal use on a lot, then the combined parking requirements for each of the permitted uses must be met unless there is an approved joint use agreement as set forth above. Accessible parking spaces required under the Americans with Disabilities Act shall be counted toward the number of parking spaces required under this section. Loading and unloading spaces required under Section 5.5.B shall not be counted toward the number of parking spaces required under this section.
- (c) Any proposed use for which there is no comparable use parking standard on Table 5-1, shall conform to the standard for that use in the most recent edition of Parking Standards published by the American Planning Association.

12) Location of Parking Areas: Unless otherwise permitted under this *Ordinance*, all off-street parking facilities in R-1, R-2, and CE Districts shall be located on the same lot as the use they are intended to serve. Off-street parking facilities in multi-family, non-residential or mixed-use zones shall be provided within three hundred (300) feet of the principle building. If on adjacent premises, they shall be under the ownership of the applicant or part of an approved joint parking area under Section 5.5.A.5 above. If no parking is available on the same or an adjacent lot, the applicant shall submit a request with the Planning Commission for a Special Use Permit, which shall be approved only upon a finding of no significant negative impact on adjacent uses of land. The provisions of this Article may be met by participation in a municipal or joint community parking program designed to serve a larger area, provided all plans for such community parking have been approved by the City Council and the Planning Commission.

Figure 5-1 Parking Space Dimensions



13) Parking Area Plan Review: Whenever vehicle parking spaces are required for a given use, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the Zoning Administrator for review and approval before a zoning and/or building permit is issued. Such plans and specifications shall at minimum include:

- (a) Existing and proposed grades
- (b) Location of buildings and parking areas, including size and site design
- (c) Basis of capacity calculation
- (d) Specifications on surface and base materials for construction
- (e) Locations and applicable dimensions of marking, lighting, drainage, curb cuts, entrances, exits, landscaping, signage, and any other detailed feature essential to the complete design and construction of the parking area.
- (f) For site development requirements for off-street parking and loading, see Section 5.5.C.

14) Reserved for Future Use.

15) Special Parking Restrictions for Residential Districts:

- (a) **Driveways:**
 - (i) When a curb cut is permitted and constructed, a hard surface driveway meeting the requirements of 5.5.D.1.e leading to the carport, garage, or parking area shall be constructed.
 - (ii) Lots less than three-hundred (300) feet wide fronting on a paved street or road shall not have more than one driveway unless the lot is a corner lot

in which case there may be one (1) driveway per street provided it is at least fifty (50) feet from the intersection.

(b) Vehicle Parking:

- (i) The outdoor parking of motor vehicles on parcels in the R-1 and R-2 Districts shall be limited to passenger vehicles and a single commercial vehicle rated one-and-one-half (1 ½) tons or less. All such vehicles shall be currently operable and registered and shall display a current license plate. These vehicles may be parked in the front yard for a period not to exceed twelve (12) hours in any calendar day, provided that this time limitation shall not apply if the vehicles are parked in front of the required parking spaces such as a garage or carport or in front of the adjacent side yard.
- (ii) Mobile homes and recreational vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities, or have a fixed connection to electricity, water or gas, except as otherwise permitted in this *Ordinance*.

B) Loading and Unloading Space Requirements

- 1) Loading Space Requirements:** Plans and specifications showing the number of required off-street loading and unloading spaces for every use, including the means of ingress and egress and interior circulation, shall be provided and approved prior to the issuance of a zoning or building permit. In all Districts, for every building or part thereof which is to be occupied by manufacturing, storage, warehouse, goods display, retail store or block of stores over ten thousand (10,000) square feet, wholesale store or warehouse, market, hotel, motel, motor hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution of materials or merchandise by vehicle, there shall be provided and maintained on the same premises with the building off-street loading spaces in relation to floor areas. If there is more than one principle use on a lot, then the greater of the loading and unloading requirements for each of the permitted uses must be met. Each loading and unloading space required by this section shall not be less than twelve (12) feet in width, fifty (50) feet in length, and fourteen (14) feet in height. Accessible parking spaces required under the Americans with Disabilities Act and parking spaces required under Section 5.5.A shall not be counted toward the number of loading and unloading spaces required under this section.
- 2) Access:** Access to a loading and unloading space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley so as not to interfere with traffic on public streets or off-street parking. Loading/unloading areas and docks shall be prohibited in the front yard or on any building side facing and directly visible from a public street.
- 3) Site Requirements:** Off-street loading spaces and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where

needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. No loading space shall be located closer than fifty (50) feet to any lot in any residential District, or fronting educational, recreational, or religious uses, unless wholly within a completely enclosed building or enclosed on all sides by a wall or uniformly painted solid board or masonry fence not less than six (6) feet in height.

C) Parking, Loading, and Unloading Area Site Development Requirements Site

Development Requirements: All off-street parking, loading, and unloading areas shall be designed, constructed, and maintained in accordance with the following standards and requirements. For the purposes of this section, "parking area" shall mean any area serving as a parking area or a loading and unloading area:

- 1) Each parking, loading, or unloading space shall meet the minimum dimensional standards established in Section 5.5.A or 5.5.B, as appropriate, depending upon the use and layout of the area; each space shall be definitely designated and reserved for parking, loading or unloading purposes exclusive of space requirements for adequate ingress and egress.
- 2) Each parking area shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.
- 3) Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. See also the general access requirements of Article 5, Section 5.10, or Article 7 for the US-2 Highway Overlay Zone. Except for parking areas accessory to single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than twenty-four (24) feet wide for two-way access and at least twelve (12) feet wide for one-way access.
- 4) Each parking, loading, or unloading space shall be provided with adequate access by means of maneuvering lanes. The width of required maneuvering lanes for parking spaces varies, depending upon the proposed parking pattern as follows and as illustrated in Figure 5-1:
 - (a) For right angle parking patterns, seventy-five (75) to ninety (90) degrees, the maneuvering lane width shall be a minimum of twenty-four (24) feet.
 - (b) For parking patterns, fifty-four (54) to seventy-four (74) degrees, the maneuvering lane width shall be a minimum of eighteen (18) feet.
 - (c) For parking patterns, thirty (30) to fifty-three (53) degrees the maneuvering lane width shall be a minimum of sixteen (16) feet.
 - (d) For parallel parking, one-way drives or boulevards, the maneuvering lane width shall be a minimum of twelve (12) feet.
- 5) Parking areas shall be surfaced with a durable, smooth, and dustless material approved by the Zoning Administrator, such as asphalt, concrete, pavers, aggregate stone or gravel, or appropriately reinforced and constructed permeable surfaces such as permeable pavers or reinforced turf. Parking areas shall be graded and provided with adequate drainage. Surface drainage may not be directed or permitted to flow from or across the parking area onto the public right-of-way. The required parking area and/or surface shall be maintained and replaced if necessary, as long as the building it serves is occupied or the use is continued.
- 6) Except for single-family and two-family residential lots, adequate lighting satisfying the requirements of Article 5, Section 5.11.C shall be provided for each parking area.

- 7) Where a parking area with a capacity of four (4) or more vehicles and serving any non-residential use, or a parking area with a capacity of eleven (11) or more vehicles and serving any residential use, adjoins a residential use, a greenbelt, buffer strip or berm shall be provided between the parking area and the adjoining residential property, or a fence or wall no less than four (4) feet in height shall be erected per Section 5.6.G.
- 8) When safe and feasible, adjoining parking areas of businesses on abutting properties in any District other than R-1 or R-2 may be connected so that drivers of motor vehicles do not need to enter onto a street or road and then immediately exit in order to go from one establishment to another. The particular design of such connections shall be approved by the Zoning Administrator following consultation with the City Engineer.
- 9) Off street parking areas with the capacity of 50 or more vehicles shall include a minimum landscaped area equal to 18 square feet for each vehicle parking space. Landscaped areas shall be kept continuously planted with living vegetation. The landscaped areas may be located at the perimeter of the parking area, as separate areas within the parking area, or in combination at the discretion of the developer. If the design includes separate areas, each area must contain at least one tree to be maintained in a healthy condition and pruned to remove dead wood. All plant materials shall not create a hazard to drivers or pedestrians.

Table 5-1 Parking Standards

PARKING STANDARDS	
USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
RESIDENTIAL & RELATED USES	
Bed and breakfast operations	One (1) space for each sleeping room, plus two (2) spaces for permanent residents.
Boarding houses, fraternities, sororities	One (1) space for each bedroom or each two (2) occupants of the structure, whichever is greater.
Community residential care facilities 6 or less persons	Four (4) spaces.
Convalescent homes, convents or similar uses	One (1) space for each three (3) beds, plus one (1) space for every three (3) employees,
Mobile home parks	Two (2) spaces for each mobile home site, plus one (1) space for each mobile home park employee.
Multiple-family dwellings	One and a half (1.5) spaces for each dwelling unit.
Single- and two-family dwellings	Two (2) spaces for each family dwelling unit. Includes approach to garage on-site and stalls in garage.
CIVIC, NONPROFIT, INSTITUTIONAL, PUBLIC & PRIVATE, RECREATION & RELATED USES	
Public buildings	One (1) space for each two hundred and fifty (250) sq. ft. of gross floor area used by the public, and one (1) space for each six hundred (600) sq. ft. of gross floor area not used by the public.
Religious institutions and houses of worship	0.25 times maximum seating capacity.
Theatre, Auditoriums, Spectator/Sports Arenas	0.25 times maximum seating capacity.
COMMERCIAL & RELATED USES	
Automobile service and repair garages, gasoline filling and service stations (see convenience retail establishments)	Two and a half (2.5) spaces for each repair and service stall, plus one (1) space for every employee.
Other business service establishments: <ul style="list-style-type: none"> • Advertising and mailing • Banks and credit unions • Employment services • Investment companies • Real estate companies 	One (1) space for every three hundred (300) sq. ft. of usable floor area.
Drive-through restaurants or fast-food establishments	One (1) space per sixty (60) sq. ft. of eating area, plus one (1) space for each employee on the largest working shift.
Food service establishments:	
<ul style="list-style-type: none"> • Carry-out food or walk-up, establishment including bakeries, ice cream shops and delicatessens if carry-out only, or if all seating is exterior only. 	One (1) space for each employee, plus four (4) spaces.
<ul style="list-style-type: none"> • Restaurant or establishment for sale and consumption, of beverages, food or refreshments on the premises including drive-in, but not including drive-through restaurants. 	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for each two (2) persons allowed within the maximum occupancy load as established by the local fire marshal.

Table 5-1 Parking Standards, Continued

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
General retail stores, except otherwise specified herein	One (1) space for every two hundred and fifty (250) sq. ft. of usable floor area.
Motels, hotels and auto courts	One (1) space for each sleeping unit, plus, one (1) space for each two (2) employees.
Personal service establishment	One (1) space per two hundred fifty (250) sq. ft. or retail sales area, and one (1) space for each four hundred (400) sq. ft. of service area.
Planned commercial or shopping center	One (1) space for each two hundred fifty (250) sq. ft. of usable floor area.
Repair services	One (1) space per each two hundred fifty (250) sq. ft. of usable floor area, plus one (1) space for each employee.
Supermarket, self-service food store	One (1) space for each seventy-five (75) sq. ft. of usable floor area.
Taverns, bars	One (1) space for each seventy-five (75) sq. ft. of usable floor area, or one (1) space for every three (3) seats, whichever is greater.
Vehicle wash (automatic)	Two (2) spaces each stall.
Vehicle wash (self-service or coin operated)	Two (2) spaces for each washing stall, in addition to, the stall itself.
Indoor Entertainment	
All indoor entertainment facilities	One (1) space for every two hundred and fifty (250) sq. ft. of usable floor area.
Outdoor Entertainment	
Campground	Two (2) 10' x 30' spaces for every campsite.
Golf courses open to the public	Four (4) spaces for each hole, plus one (1) space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Golf driving range	One (1) space for each tee, plus one (1) space for each employee on the largest work shift.
INDUSTRIAL & RELATED USES	
Industrial or manufacturing establishments, testing laboratories, creameries, bottling works, printing and engraving shops, and industrial service establishments.	One space for every two (2) employees for industries working two (2) or more shifts. One space for every three (3) employees for industries working one shift or one space for every 400 sq. ft. of gross floor area, whichever is smaller.
Mini-warehouse (self-service storage facility)	One (1) space per fifteen (15) storage units plus one (1) space per employee.
Research and development establishments	One (1) space per employee on the largest shift.
Wholesale trade establishments and warehouses	One (1) space for every nine hundred (900) sq. ft. of gross floor area.

Section 5.6 General Landscaping, Buffering and Fence Regulations

A) Purpose:

The purpose of this Article is to provide regulations and requirements for landscaping, buffering, and fencing the perimeter of certain activities in order to protect the character of the surrounding area, enhance aesthetics, protect property values, discourage theft, stabilize soils, control windblown dust and debris, prevent light from glaring onto adjoining properties, reduce stormwater runoff, increase groundwater infiltration, provide for snow accumulation, and reduce noise.

B) Right-of-Way Protection and Public Safety:

- 1) **General:** In public rights-of-way, landscaping, buffering, and fencing shall be placed and maintained so as not to present a hazard to the public.
- 2) **Clear Vision Areas:** In order to preserve sight distance, an unobstructed view shall be maintained within the triangular areas illustrated on Figures 5-2 and 5-3 and described below:
 - (a) Where the speed limit is less than thirty (30) miles per hour, at the intersection of two streets, or where a street intersects with an alley: a triangle defined by measuring twenty-five (25') feet in length along each street/alley right-of-way line from their point of intersection, the third side being a diagonal line connecting the first two.
 - (b) Where the speed limit is thirty (30) miles per hour or more, at the intersection of two streets, or where a street intersects with an alley: a triangle defined by measuring fifty (50') feet in length along each street/alley right-of-way line from their point of intersection, the third side being a diagonal line connecting the first two.
 - (c) At the intersection of a driveway and a street: Two sides of the triangle defined by measuring twenty (20') feet in length along the edge of the

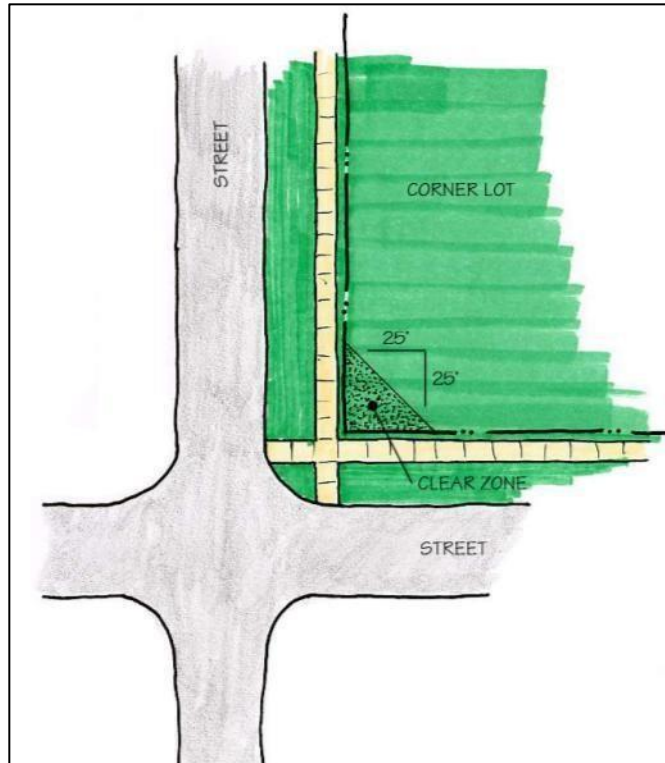


Figure 5-2 Corner Lot Clear Vision

driveway and along the street right-of-way line and the third side being a diagonal line connecting the first two. Both sides of the driveway shall be protected.

- (d) No shrubs, ground covers, boulders, berms, fences, or other material constituting visual obstructions will impede clear vision in a vertical area between 30 inches and 96 inches above the grade of the lower roadway or driveway adjacent to the triangular areas.

C) Required Vegetation:

When required by this *Ordinance* or by the Planning Commission as a condition to the approval of a Site Plan, Special Use Permit, Planned Unit Development Permit or variance, a greenbelt, buffer strip, or berm shall be installed and maintained in a healthy living condition for the duration of the principle use of property in accordance with the following requirements. Where the *Ordinance* or Planning Commission does

not specify which option to use, the applicant shall choose. Where existing vegetation is adequate to achieve the screening requirements of this *Ordinance* as determined by the Planning Commission it may serve as an option. Necessary drives and access ways from public rights-of-way through greenbelts, buffer strips, or berms may be permitted.

- 1) A **greenbelt** shall consist of an open space strip running along the property line at least thirty (30) feet in width, seeded and maintained as grass or other plant ground cover. Trees or shrubs may be planted at the discretion of the landowner, subject to any applicable City ordinances and Section 5.6.B.
- 2) A **buffer strip** shall consist of a landscaped strip at least fifteen (15) feet in width containing at least two (2) trees plus one (1) additional tree for each twenty (20) feet in length of the buffer strip. The trees shall be at least one and three-fourths ($1\frac{3}{4}$) inches in diameter measured six (6) inches above ground level, at the time of planting. Dead or dying trees shall be replaced within eight (8) months. Landscaping, such as grass or other plant ground cover, mulch, or bark or stone, shall completely cover area not planted in trees or shrubs.
- 3) A **berm** shall consist of a linear mound of earthen material rising to a height of at least four (4) feet with a minimum base of sixteen (16) feet covered and maintained as grass or ground cover and constructed in accordance with the

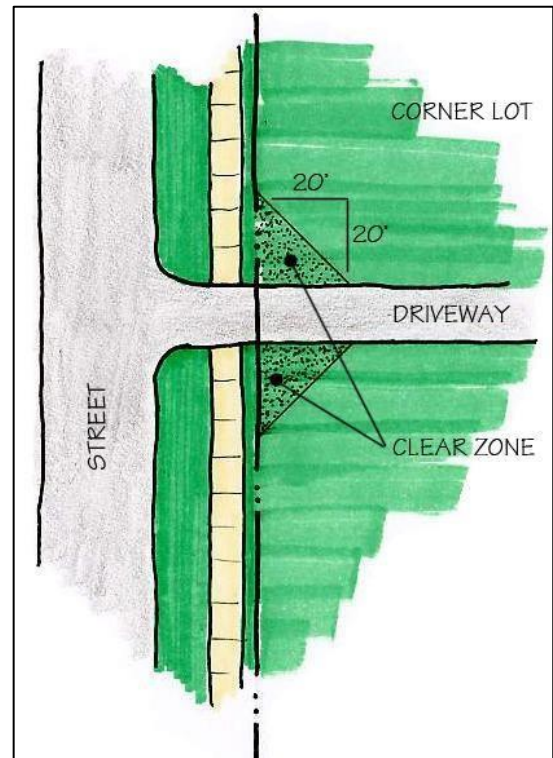
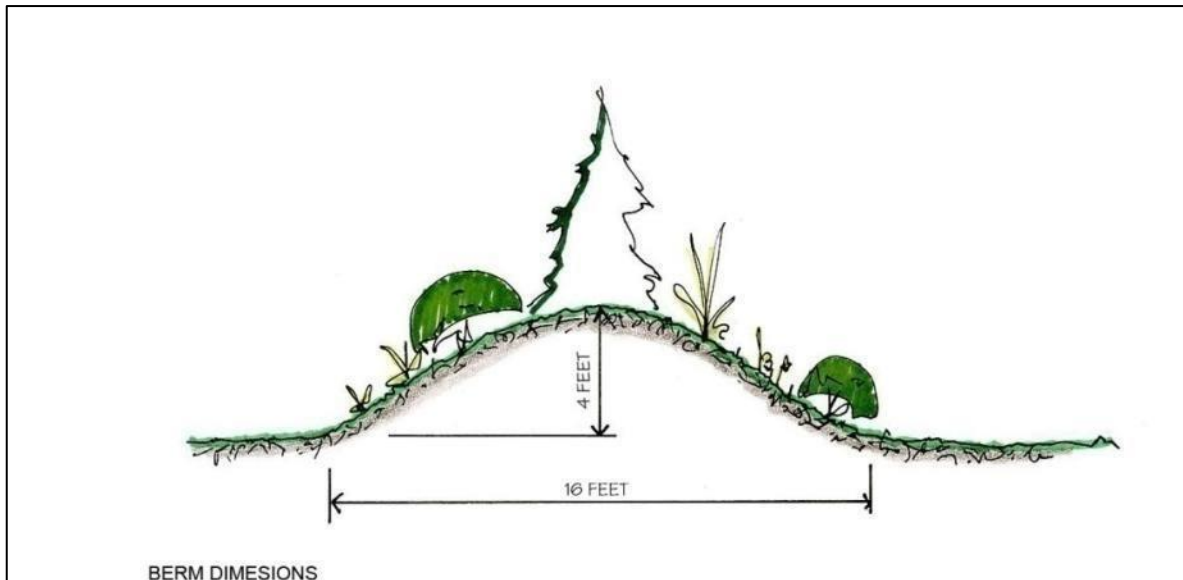


Figure 5-3 Driveway Clear Vision

diagram below, or with a base of at least four (4) times the desired height of the berm. A berm shall not be higher than a permitted fence in the location. A fence or living fence may be erected on a berm, so long as the combined height of the berm and the fence does not exceed the permitted fence height in the location. The width of a berm may be reduced by up to fifty percent (50%) if a retaining wall is used, but the retaining wall must be on the side of the berm not facing the nearest property line. See Figure 5-4.

Figure 5-4 Berm Dimensions



- D) Landscape Maintenance:** It shall be the owner's responsibility to see that any landscaping installed as a condition of development approval is maintained in a neat, clean, orderly, and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all vegetation.
- E) Native Vegetation:** Planting of landscaping using vegetation native to Gogebic County is strongly encouraged. Every property owner is encouraged to protect existing native vegetation, especially along roadways.
- F) Screening:**
- 1) Transition Zone Between Land Uses and the Street:** Any nonresidential land use, plus all hotels, motels, apartment buildings and mobile home parks shall have screening constructed along all boundaries adjoining residentially zoned or used property. Either a landscape buffer pursuant to Article 5, Section 5.6.C, or fence or solid wall pursuant to Article 5, Section 5.6.G may be used.
 - 2) Mechanical Equipment:** When located outside of a building, support equipment including air conditioning and heating devices, but not including plumbing or exhaust vents or chimneys, is to be screened to the height of the particular piece of equipment, as follows:
 - (a) **Roof-Mounted or Wall-Mounted Equipment:** To be screened by architectural features from the view of pedestrians on abutting streets and parcels.
 - (b) **Other Exterior Equipment:** To be screened by landscaping, a solid wall or fencing from the view of pedestrians on abutting streets and parcels. Such equipment is encouraged to be installed on the rear slope of the building. The

above requirement does not apply to single-family residential or two-family residential uses.

- 3) **Outdoor Storage of Trash or Rubbish:** All areas used for the storage of trash or rubbish in dumpsters and other commercial containers shall be screened by a solid fence, wall or dense plant materials no less than six (6) feet in height to keep from the view of pedestrians on abutting streets and parcels. If a fence is used, view obstructing doors at least six (6) feet in height shall be installed and kept closed except when accessing.
- 4) **Exceptions to Screening and Fencing Requirements:**
 - (a) Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
 - (b) Any fence, landscape screen, wall or hedge which does not conform to this *Ordinance* and which legally exists at the effective date of this *Ordinance* may be continued and maintained, provided there is no physical change other than necessary maintenance and repair; unless otherwise regulated by this *Ordinance*.

G) Fences and Walls

- 1) **Living Fence:** Shrubs and trees planted for the purpose of creating a living fence shall be planted so that the trunk or main stem of the plant is no closer than three feet (3') from any property line. A living fence is not limited to the height requirements of other fences and no building permit is needed.
- 2) **Fence Placement:** Fences may be erected along property lines (except living fences as noted above) or within yards, irrespective of the setback requirements of this *Ordinance*.
- 3) **Fence Approval:**
 - (a) Fences or walls over six (6) feet in height require a building permit. No fence, wall, or structural screen other than plant material shall be erected higher than eight (8) feet except as noted below.
 - (b) No site plan review is required for a fence which conforms to *Ordinance* standards.
 - (c) The Zoning Administrator may require the removal, reconstruction or repair of any fence, living fence, wall or screen not in good condition. The removal reconstruction or repair can be a condition of any application for approval under this *Ordinance*.
- 4) **Fence Standards:**
 - (a) Fences in CE, R-1, R-2, C-1 and C-2 districts shall not contain barbed wire or chain link fences with sharp wire edges exposed, except as otherwise stated below.
 - (b) No fence, wall, planting, or structure shall, within the clear vision area described in Section 5.6.B.2, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley, or driveway.
 - (c) In R-1, R-2, C-1, and C-2 Districts, fences located in the front yard or between the front lot line and the building line shall not exceed four (4) feet in

height, measured along the average grade of an unbroken run. Except in a clear vision area (as in Section 5.6.B) fences in the front yard may be solid for not more than three (3) feet in height.

- (d) In R-1, R-2, C-1, and C-2 Districts, fences located in a required side yard or rear yard shall not exceed six (6) feet in height (except as stated below) measured along the average grade of an unbroken run. Fences in the rear and side yards may be solid, and may extend from the side lot line to the side of the principle structure, but shall not occupy the portion of the front yard in front of the principle structure unless in compliance with c) above.
- (e) In all districts a security fence surrounding a public utility, police or correctional facility fence may extend to eight feet (8') in height and may contain barbed wire or chain link fences with sharp wire edges and be located within a required side yard, rear yard, or front yard, the barbed wire cannot exceed eighteen inches in height and must be located on top of and may be in addition to the eight (8') foot height fence. The barbed wire shall slant inwards toward the property or be straight up. Security fences with barbed wire in any other location or surrounding any other use require approval by the Planning Commission.
- (f) No fence shall be constructed or maintained which is charged or connected with an electrical current.
- (g) To allow for snow storage adjacent to alleys, all fences hereafter erected adjacent to an alley shall be set back a minimum of 3 feet from the property line.
- (h) Decorative or ornamental sides of fence, wall and fence screen shall face the adjoining properties (face the outside).

H) Street Trees

The Planning Commission strongly encourages developers plant street trees to abide by the standard below:

- 1) **Spacing:** On every site involving a new development or re-development, street trees shall be provided at 24-40 foot intervals.
- 2) Street Trees shall be in compliance with the city's right-of-way ordinances.
- 3) Street Trees shall not impair the clear vision area addressed in Section 5.6 B) 2).

Section 5.7 General Sign Regulations

The purpose of this Article is to establish requirements for placement of signs on private and public property in the City of Bessemer.

A) Statements of Purpose:

- 1) It is acknowledged that the tourism industry positively impacts the City's economic wellbeing, and that the beauty of the natural environment and the wooded, small town character is essential to continuing to attract tourists. One goal of the City of Bessemer Land Use Plan is to preserve and utilize the natural resources such as the scenic views and bluffs and open space for the benefit and enjoyment of citizens. Because of this relationship, it is very important to protect the natural and built environment from unnecessary and cluttered signage that detracts from this character.

- 2) These sign standards are declared to be necessary to protect the public health, safety, and general welfare of the citizens of the City of Bessemer, and are based on the following objectives:
- (a) To reflect the primary purpose of signs as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.
 - (b) To enhance pedestrian, bicycle, snowmobile, and traffic safety, by avoiding the creation of obstacles or traffic hazards that may be distracting or confusing to motorists, or which may impair the ability of motorists to see pedestrians, read other traffic signs or see other vehicles.
 - (c) To avoid excessive use of signs in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
 - (d) Enhance the effectiveness of necessary directional and warning signs.
 - (e) To preserve property values from the negative impacts of blighted, unsafe, cluttered, and otherwise unregulated signs on abutting property or in the area.
 - (f) To encourage native plants and other landscaping materials around ground signs so as to compliment the site and integrate the sign with the buildings, parking areas, and natural site features.
 - (g) To maintain and enhance economic stability by retaining aesthetic appeal to visitors, and encouraging signing practices that will complement the City's natural environment and preserve its scenic and natural beauty by minimizing visual obstructions to the natural landscape.
 - (h) To encourage the use of aesthetically pleasing sign materials and colors that compliment and do not detract from the natural environment, such as types of weather tolerant wood, stone, or material of equivalent character.
 - (i) To avoid bright lights and reflection and to protect views of the night sky from poorly shielded lights.
- B) Minimum Standards:** The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes.
- C) Scope of Regulations:** Compliance with this Article does not relieve the applicant for sign approval from the responsibility for compliance with other local, state, or federal sign regulations. The issuance of a Sign Permit grants permission to the applicant for placement of signs only on property owned or legally controlled by the applicant (but not in road rights-of-way). The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of the *City Zoning Ordinance*.
- D) Definitions:** The following definitions apply only to words and phrases used in this Section.
- 1) **Banner:** A sign made of natural, synthetic, or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.

- 2) **Billboard:** An off-premises sign owned by a person, corporation, or the entity that engages in the business of selling the advertising space on that sign and is subject to regulation under the Highway Advertising Act, Public Act 106 of 1972.
- 3) **Business Center Sign:** A sign which gives direction, name, and identification to a business center and which does not contain any additional information regarding individual stores, businesses, institutions, organizations, located within the planned complex or contiguous stores.
- 4) **Changeable Copy Sign:** A sign or portion thereof on which the copy or symbols change manually through placement of letters or symbols on a panel mounted in or on a track system.
- 5) **Directional Sign:** An on- or off- premises sign which provides no advertising display or commercial message, but is used to direct visitors or customers to a particular land use.
- 6) **Electronic Message Centers (EMC):** A sign or portion thereof on which the copy or symbols change automatically through electrical or electronic means (such as time and temperature units).
- 7) **Entrance Way Sign:** A sign that designates the street entrance way to a residential or industrial subdivision, apartment complex, condominium development, or institutional campus setting from a public right-of-way.
- 8) **Flag:**
 - (a) **Governmental Flag:** Usually a rectangular piece of fabric of distinctive design that is used as a symbol of a nation, state, or other governmental entity;
 - (b) **Nongovernmental Flag:** A sign made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem. A flag of a nation or state is not a sign.
- 9) **Flashing Sign:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when the sign is in use.
- 10) **Governmental Sign:** A sign authorized by the City of Bessemer, the county, a governmental agency, the State of Michigan, or the federal government, for street direction, destination, hazardous condition, traffic control, public notice, or identification purposes.
- 11) **Ground or Pole Sign:** A freestanding sign supported by one (1) or more uprights, poles, braces, or some other structure, placed in or upon the ground surface and not attached to any building.
- 12) **Home Occupation Sign:** A non-illuminated sign announcing a home occupation or professional service.
- 13) **Identification Sign:** A sign containing the name of a business operating on the premises where located, the type of business, owner or resident, and/or the street address, and sets forth no other advertisement display.
- 14) **Illuminated Sign:** A sign that provides artificial light by either emission (usually from inside) or reflection (usually either from light above or below the sign).
- 15) **Informational Sign:** A small, non-advertising sign used to identify architectural features of a land use such as building entrances, drop boxes, restrooms, handicapped ramps, and similar features.
- 16) **Ingress-Egress Sign:** A sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.
- 17) **Marquee Sign:** An "identification or business" sign attached to a marquee, canopy, or awning projection from the building.

- 18) Nonconforming Sign:** A sign lawfully existing on the effective date of this *Ordinance* which does not conform to one (1) or more of the regulations set forth in this *Ordinance*.
- 19) Off-Premises Advertising Sign:** A sign which advertises a business or activity conducted elsewhere than on the premises where the sign is located.
- 20) Pennant:** A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.
- 21) Portable Sign:** A freestanding sign not permanently anchored or secured to either a building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.
- 22) Projecting Sign:** A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.
- 23) Residential Neighborhood Identification Sign:** A free-standing ground sign used to identify a subdivision plat, condominium project, apartment complex or residential PUD.
- 24) Roof Sign:** A sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.
- 25) Sign:** Any identification, description, illustration, display, or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information. For the purpose of removal, signs shall also include all sign poles and similar supporting structures. House or building numbers and tenant nameplates under one-square foot in size on or next to a door or on a mailbox are not considered signs.
- 26) Seasonal Commodity Sign:** An on- or off-premise sign which indicates the name of the farm, the sale of farm products produced seasonally on the premises, the location of the premises, and/or the hours open to the public.
- 27) Sign Face:** That part of a sign structure which is used to graphically communicate a message or announcement.
- 28) Temporary Sign:** A display sign, banner, or advertising device with or without a structural frame such as a portable or trailer sign, intended for a limited period of display, such as grand openings, vehicle shows, displays, craft shows, benefits, fund raisers, festivals, holidays or public demonstrations.
- 29) Wall Sign:** A sign which is attached directly to or painted upon a building wall which does not project more than twelve (12) inches. The exposed face of the sign must be in a plane parallel to the building wall or structure. The sign shall not extend above the height of the building, wall, or structure.

E) Prohibited Signs: The following limitations, obligations, and prohibitions apply to all signs:

- 1) Any sign installed before the effective date of this *Ordinance* without a Sign Permit, when the prior *Ordinance* required a permit, is prohibited.
- 2) Any sign, unlawfully installed, erected, or maintained after the effective date of this *Ordinance* is prohibited.
- 3) No portion of a privately-owned sign, or its supporting structures, such as poles or cables, shall be placed on, or within the air space above, publicly owned property, a public right-of-way (such as a street or sidewalk), or a proposed public right-of-way.
- 4) Animated, flashing, blinking, fluctuating, rotating signs and festoons or any element having the appearance of moving or animated or moving parts as defined in Section 5.7.D; inflatable signs, tethered balloons, banners, pennants, streamers, searchlights, exposed light bulbs, and any clearly similar features, except those specifically exempt from regulation in this Article; special event signs or banners permitted in Section 5.7.F; or electronic message centers as permitted in Section 5.7.G.
- 5) No sign shall be erected at the intersection of any street, or in driveways, parking lots, or loading areas in such a manner as to obstruct free and clear vision; or that simulate or could be confused with the lighting of emergency vehicles or traffic signals; or that flash intermittent red, yellow, or green illumination on any sign located in the same line of vision as a traffic control system; or make use of the words "Stop", "Look", "Danger", or any other words, phrases, symbols, or characters that interfere with, mislead, or confuse traffic.
- 6) Signs and sign structures no longer in use as originally intended, are abandoned, structurally unsafe, insecurely attached, in disrepair, or otherwise constitute a hazard to safety and health are prohibited.
- 7) Any sign obstructing free ingress to or egress from a required door, window, fire escape or other required exit way is prohibited.
- 8) Signs affixed to trees, rocks, shrubs, fences, utility poles (except utility company signs), or other similar features are prohibited.
- 9) Billboards, except in the C-2 and M-1 Districts, are prohibited.
- 10) A sign erected on a roof of a building above the roofline is prohibited.
- 11) Any sign on a motor vehicle or trailer which is parked in a position visible to traffic on a public road or parking area for a period longer than six days in a 60-day period is prohibited.
- 12) Any sign greater than eighty (80) square feet in any district is prohibited.
- 13) Signs remaining after a business or activity has terminated must be removed within thirty (30) days.
- 14) Off-premise signs erected for the purpose of advertising a product, event, person, or subject are prohibited unless otherwise provided for in this Section.

F) Signs Allowed in any District Without a Permit: Subject to other applicable requirements and permits, and provided they are not located in the public right-of-way, the following signs are authorized without a Sign Permit but shall still conform with all other applicable requirements of this Article:

- 1) **911, Address, and Driveway Signs:** One 911 or driveway per lot or parcel, not illuminated, and not exceeding one and ½ (1.5) square feet; address numbers with a numeral height no greater than six (6) inches for residences and eighteen (18) inches for businesses.

- 2) **Small Sign:** One sign per lot or parcel, not illuminated, and not exceeding three (3) square feet in area. The sign may not exceed a height of forty-two inches (42") above ground level. This sign may carry any lawful message. No home occupation is permitted additional signs.
- 3) **Warning and Directional:** No hunting, no trespassing, dangerous animal, and on-premise directional signs not exceeding two (2) square feet in area each. Except for no trespassing signs which may be placed at any spacing interval, no other sign addressed in this Section may be placed closer than three hundred (300) feet from one another per lot or parcel.
- 4) **Governmental Signs** and signs identifying conservation areas owned and maintained by public or quasi-public entities like land trusts are permitted in all districts, but may not exceed the maximum sign area permitted in the district or fifty (50) square feet, whichever is larger.
- 5) **Ingress/Egress Signs** are permitted, however:
 - (a) Only one sign per legal driveway.
 - (b) An ingress/egress directional sign may not exceed one and ½ (1.5) square feet.
- 6) **Flags:** Three governmental flags are permitted per parcel. Governmental flags must be displayed in a dignified, non-commercial manner and shall be governed by the standard rules of national protocol, except that no governmental flag shall exceed fifty-six (56) square feet. Non-governmental flags are signs subject to the sign regulations of this Article and shall not exceed more than thirty-two (32) square feet per face. No flag pole may exceed thirty-five (35) feet above ground level.
- 7) **Public Warning Signs:** Signs exclusively devoted to warning the public of dangerous conditions and unusual hazards such as drop offs, high voltage, fire danger, and explosives, are permitted. Warning signs may not exceed three (3) square feet unless the governmental body erecting the sign makes a fact specific determination that a larger sign is needed in that location.
- 8) **Historical Site Signs:** A sign erected by a government agency which exclusively denotes a government-recognized historical site is permitted. This sign shall not exceed twelve square feet unless otherwise provided by a state or federal program.
- 9) **Trail Signs:** Signs on public hiking, biking, snowshoeing, skiing and snowmobile trails identifying the trail, providing direction and/or identifying the availability of products, services or businesses ahead, provided all such signs are made of materials and erected per the requirements of the entity responsible for trail maintenance and operations, and provided all product, services, and business signs are posted not less than two-hundred feet from the intersection of a public road or public right-of-way, the sign face with a message is not visible from the right-of-way and the sign area of each sign is not more than two (2) square feet.

- 10) For Sale Sign:** Any identification, address, or "for sale" sign affixed to a wall, mailbox, post, lamp post, or pillar; and which is not larger than four (4) square feet in display surface.
- 11) Construction Site Identification Signs:** Such signs may identify the development project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including, but not limited to, sale or leasing information on lots in a subdivision, site condominium or PUD. Not more than one such sign, not exceeding thirty-two (32) square feet in sign face area, shall be erected per site. In the place of the one large sign up to four (4) individual smaller signs may be erected on the site, upon the condition that each such smaller sign shall not exceed four (4) square feet in sign face area per sign. All such signs shall be removed not more than one (1) year after the sale of seventy (70%) of the lots or dwelling units within the development.
- 12) Seasonal Commodity Sign & Banners:** Seasonal commodity signs (such as for garden produce or products like maple syrup) or special seasonal banners (such as welcoming hunters with a beverage special) shall not have a total sign face greater than thirty-two (32) square feet. Such signs shall not be set in place for use until one (1) week before the beginning of the season and shall be removed within one week of the close of the season and may not remain hanging for more than ninety (90) days. Additional banners are permitted if draped over a permitted wall sign and if not larger in area than a permitted wall sign.
- 13) Special Temporary Event Signs:** One sign not exceeding thirty-two (32) square feet in sign face indicating a special temporary event such as a carnival, circus, festival or similar event, placed on the lot where the activity is to take place. Such signs may be erected not sooner than four (4) weeks before the event and must be removed not later than seven (7) days after the event. A lot or parcel may not have both a seasonal commodity banner and a special temporary event sign.
- 14) Yard Sale Signs:** Yard sale, or garage sale signs or other similar temporary activity signs not covered in the foregoing categories, so long as such signs meet the following restrictions:
- (a) Not more than one (1) such sign may be located on any lot or parcel.
 - (b) No such sign may exceed four (4) square feet in surface area.
 - (c) Such signs shall be erected not more than three (3) days prior to the event and shall be removed immediately following the event.
 - (d) Such signs shall not be erected more than one (1) time per each six (6) months.
 - (e) Directional signs not exceeding two (2) square feet in area may be erected, but no advertising signs may be installed on public or utility poles.
 - (f) All directional signs shall be removed within twenty-four (24) hours of the sale.
- 15) Sandwich and Related Signs:** One sandwich or similar portable sign without any lights or moving images is permitted on a lot or parcel if not greater than eight (8) square feet on each sign face, provided the sign is not in the right-of-way.
- 16) Political Signs:** Signs erected in connection with elections or political campaigns. Such signs shall be removed within six (6) days following the election or conclusion of the campaign. No such exempt sign may exceed six (6) square

feet in sign face area. Any larger political signs require a Sign Permit to ensure placement in a location which does not create a traffic hazard.

17) Memorial Sign: Memorial signs or tablets, names of buildings, and dates of erection, when cut into any masonry surface or when constructed of bronze or other noncombustible material.

18) Changeable copy signs, as defined in Section 5.7.D, may be utilized on any permitted sign. Characters shall be securely attached to the sign face.

19) Other temporary signs, not listed in subsection (A), shall be regarded and treated in all respects as permanent signs which require a permit.

G) Signs Authorized with a Permit: The Zoning Administrator shall issue a Sign Permit for signs in accordance with the following provisions.

1) Permitted Signs in Any District:

(a) **Total permitted sign area** of signs permitted in Section 5.7.G shall be calculated as follows (except those that are exempt in Section 5.7.F, or permitted separately as a temporary portable sign below; or a billboard as regulated in this section). The total permitted area of signs shall not exceed the sum of the following:

- (i) All sign faces for wall or ground signs on the premises (when two identical sign faces are placed back to back on a ground sign so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces. When a sign has more than two display surfaces, the sign area is the area of the largest display surface that is visible from any single direction);
- (ii) All sign faces for all other signs including Business Center sign, Changeable Copy sign, Electronic Message Center sign, Directional sign, Identification sign, Marquee sign, Off-premises sign, Projecting sign, and/or any other sign (does not include those regulated as a temporary sign or a sign allowed without a permit).
- (iii) In the event of a dispute in calculating the area or dimensions of any sign, a negative decision of the Zoning Administrator may be appealed by formal submission of an application to the Planning Commission for review.

(b) **Sign height** shall be calculated as follows:

- (i) The height of a ground sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the highest point of the sign. A ground sign on a man-made base, including a graded earth mound, or that is located in a depression below the adjacent street grade, shall be measured from the grade of the nearest pavement to the highest point of the sign.
- (ii) Vertical clearance shall be measured as the smallest distance between the finished grade and the lowest point of the sign, including any framework or other embellishments.

- (c) **Setbacks** for all ground and temporary signs shall not be less than ten (10) feet from the right-of-way of any street or road, except for “no trespassing” signs which can be placed on the property line.
 - (d) **Portable, movable and temporary signs** with or without lights greater than eight (8) square feet in area (of each sign face) shall be permitted only in accordance with the following provisions:
 - (i) **Use:** Portable signs are permitted for grand openings, advertising charitable or community-related events and the like.
 - (ii) **Lighting:** All externally illuminated portable signs shall comply with the requirements of Section 5.7.H.
 - (iii) **Placement:** All portable signs shall be located no closer than ten (10) feet to the street right-of-way line.
 - (iv) **Area:** Any portable signs shall not exceed thirty-two (32) square feet of sign face on one side. No more than two sign faces are permitted on one sign.
 - (v) **Number:** Only one (1) portable sign may be established on a lot or parcel.
- 2) Permitted Signs in C-1 and C-2 Districts:** Non-residential uses are permitted one wall sign and one ground sign for each lot or parcel.
- (a) All signs for a single lot shall not exceed ten percent (10%) of the area of the front face of the building on the lot or parcel, or fifty (50) square feet, whichever is less for signs placed between the right-of-way of the street from which access is taken to the building line. Total sign area is permitted to increase one (1) percent for each additional foot signs are set back behind the building line.
 - (b) A ground sign may not exceed a height of fifteen (15) feet above the uniform finished grade, unless the placement of the sign is below the grade of the road from which access is taken, in which case it shall not be more than fifteen (15) feet above the grade of the road.
 - (c) Signs for multi-tenant structures are subject to the same restrictions as above, except the total sign area can rise to eighty (80) square feet with not more than twenty (20) square feet for any one tenant.
 - (d) Non-residential uses on corner lots may have a second wall sign that is not larger than the wall sign on the street from which primary access is taken.
 - (e) All other uses are permitted a single ground or wall sign not larger than twenty (20) square feet. Total sign area is permitted to increase one (1) percent for each additional foot signs are set back behind the building line.
 - (f) **Electronic Message Centers (EMC):** Only one (1) electronic message center is permitted per visible street frontage per lot, not to exceed fifty (50) percent of the total sign area permitted on the lot. The copy shall not change more than once every six (6) seconds. All EMC’s are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.
 - (g) **Billboards** may be permitted by Special Use Permit in the C-2 District. Land may not be rezoned to permit a billboard as a principal use. No billboard greater than eighty (80) square feet in area shall be permitted, nor may any billboard exceed fifteen (15) feet in height. Any billboard must be no closer to the highway than the building line of the property on which it is located. Only one billboard is permitted per lot or parcel and all billboards must be at least

one thousand (1000) feet apart as measured on both sides of the road. All required permits from the Michigan Department of Transportation shall also be obtained prior to erecting the billboard adjacent to any state highway. A billboard may not be located closer than 600 hundred (600) feet from a school, church, residence or district permitting residences. A billboard may not be used for on-premises advertising.

3) Permitted Signs in M-1 and M-2 Districts. One wall sign or one ground sign is permitted for each lot.

- (a) All signs shall not exceed ten percent (10%) of the area of the front face of the principle building, or eighty (80) square feet, whichever is less for signs placed between the right-of-way of the street from which access is taken to the building line. Total sign area is permitted to increase one (1) percent for each additional foot signs are set back behind the building line.
- (b) A ground sign may not exceed a height of fifteen (15) feet above the uniform finished grade unless the placement of the sign is below the grade of the road from which access is taken, in which case it shall not be more than fifteen (15) feet above the grade of the road.
- (c) Uses on corner lots may have a second wall sign that is not larger than the wall sign on the street from which primary access is taken.
- (d) **Electronic Message Centers (EMC):** Only one (1) electronic message center is permitted per visible street frontage per lot, not to exceed fifty (50) percent of the total sign area permitted on the lot. The copy shall not change more than once every six (6) seconds. All EMC's are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.
- (e) **Billboards** may be permitted by Special Use Permit in the M-1 District. Land may not be rezoned to permit a billboard as a principal use. No billboard greater than eighty (80) square feet in area shall be permitted, nor may any billboard exceed fifteen (15) feet in height. Any billboard must be no closer to the highway than the building line of the property on which it is located. Only one billboard is permitted per lot or parcel and all billboards must be at least one thousand (1000) feet apart as measured on both sides of the road. All required permits from the Michigan Department of Transportation shall also be obtained prior to erecting the billboard adjacent to any state highway. A billboard may not be located closer than 600 hundred (600) feet from a school, church, residence or district permitting residences. A billboard may not be used for on-premises advertising.

4) Permitted Signs in CE, R-1, R-2, and PD Districts.

- (a) A residential neighborhood identification sign is permitted to have one residential neighborhood identification sign for each entrance street. Such signs shall not extend into any public right-of-way. The face of the sign shall not exceed twenty (20) square feet. The height of the sign may not exceed eight (8) feet above the uniform finished grade, unless the placement of the

sign is below the grade of the road from which access is taken, in which case it shall not be more than eight (8) feet above the grade of the road.

(b) Non-dwelling use signs. A non-dwelling use in a residential area, such as a school, a religious facility, an institutional use, a club house, etc., is permitted to have one ground sign and one wall sign, neither of which shall exceed twenty (20) square feet in area. Total sign area is permitted to increase one (1) percent for each additional foot signs are set back behind the building line. The height of a ground sign may not exceed eight (8) feet above uniform finished grade, unless the placement of the sign is below the grade of the road from which access is taken, in which case it shall not be more than eight (8) feet above the grade of the road.

(c) All other uses other than individual single family homes, or duplexes, are permitted a single ground or wall sign not larger than twenty (20) square feet.

H) Construction Requirements: All signs shall conform with the following requirements related to construction.

- 1) Codes:** All signs shall conform to the latest edition of the applicable building and electrical codes, particularly as relates to wind load, bracing and anchorage.
- 2) Fastenings:** All signs must remain safe and secure during the period of use. All parts of the signs, including bolts and cables, shall remain painted, and free of corrosion.
- 3) Fire Escapes:** A sign may not obstruct a fire escape.
- 4) Lighting:** External lighting shall be down directed and shielded from view and shall be focused upon the sign to avoid stray lighting. Lighting should be of no greater wattage than necessary to make the sign visible at night and should not unnecessarily reflect on adjacent properties or impair the vision of drivers. Flashing, rotating, and intermittent lighting are prohibited. Reflective sign lettering is preferred to externally illuminated signs. No externally lighted signs are permitted in the CE, R-1, or R-2 districts. Internally lighted signs are prohibited in all districts except C-1, C-2, M-1 and M-2.
- 5) Identification:** All signs for which a permit is required shall identify the name and operating telephone number of the person responsible for the sign.
- 6) Proximity to Electrical Conductors:** Signs and all supporting structures shall be no closer to electrical utilities than is permitted by applicable codes. No sign, including cables and supports, shall, in any event, be within six feet (6') of any electrical conductor, electrical light pole, electric street lamp, traffic light, or other public utility pole.
- 7) Sanitation:** Property surrounding any ground sign shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable material.
- 8) Landscaping:** The area beneath and around a sign shall be landscaped with plants and material so as to complement the site and integrate the sign with buildings, parking areas, and natural site features.
- 9) Responsibility for Compliance:** The owner of the parcel on which a sign is placed and the person maintaining the sign are each fully responsible for the condition and the maintenance of the sign, and the area around the sign.

I) Nonconforming Signs

- 1)** It is the intent of this Section to permit the continuance of all permanent signs or outdoor advertising structures existing at the effective date of this Article, although such sign or outdoor advertising structure may not conform with the

provisions of this Article, except for illegal permanent signs in a public right-of-way. It is also the intent that nonconforming signs shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs shall be gradually eliminated and terminated upon their natural deterioration, destruction, removal or replacement. The continuance of all nonconforming signs and outdoor advertising structures within the City shall be subject to the conditions and requirements set forth below.

- 2) **Structural Changes:** A non-conforming sign or sign structure shall be brought into conformity with this *Ordinance* if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this section. An alteration also does not include maintenance that is intended to keep the nonconforming sign or sign structure in good condition per its original state, such as replacing or repairing worn or damaged parts. However, changes or additions shall not be made to any sign on a site so as to increase the total non-conformity.
 - 3) **Placement:** No nonconforming sign shall be relocated on a property, unless located in conformance with this *Ordinance* and sized so as to conform with this *Ordinance*.
 - 4) **Illumination:** Illumination may not be added to any nonconforming sign.
 - 5) **Destruction:** If a nonconforming sign is destroyed more than sixty (60) percent of its replacement cost, exclusive of foundations, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this *Ordinance*.
 - 6) **Change on Sign Face:** The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed.)
 - 7) A sign shall be considered **abandoned** if:
 - (a) The sign advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted for more than one-hundred twenty (120) consecutive days; or
 - (b) The sign does not display a well-maintained message for one-hundred twenty (120) consecutive days; or
 - (c) The owner of the sign cannot be located at the owner's last known address, as reflected on the records of the City; or
 - (d) A structure designed to support a sign no longer supports the sign for a period of one-hundred twenty (120) consecutive days.
 - (e) A sign shall not be considered abandoned if it is seasonally removed and reinstalled year after year.
- J) First Amendment Protection:** The number, size, placement and related characteristics of signs is specifically regulated in this *Ordinance*. All signs allowed under this *Ordinance* may contain any lawful message.

K) Reserved for Future Use

L) Permit Requirements

- 1) Application for a Sign Permit to erect or replace a sign regulated under Section 5.7.G shall be made to the Zoning Administrator, by submission of the required forms, fees, exhibits, and information by the owner of the property on which the sign is to be located, or by his agent, or lessee. The application shall contain the following information unless a site plan meeting the requirements of Section 14.5 has already been submitted and the following sign information is included on it:
 - (a) The property owner's name and address in full.
 - (b) Applicant's name and address, phone, fax and email address.
 - (c) Address of property on which sign is to be situated.
 - (d) Business to which sign belongs or relates.
 - (e) Total display area in square feet.
 - (f) Proposed setback from right-of-way.
 - (g) A scale drawing of the property at one inch equals twenty (20) feet, showing the location of all buildings/structures and their uses, and the location of the proposed sign on the lot, building or structure.
 - (h) Sign type and purpose.
 - (i) Sign height.
 - (j) Height and width of building to be served.
 - (k) Drawing of proposed sign indicating proposed copy or message.
 - (l) Evidence of knowledge of all applicable building code requirements.
- 2) Sign Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the design and construction set forth in such approved plans and applications, and no other design.
- 3) The Zoning Administrator shall not approve plans or issue Sign Permits for any sign which does not conform to the provisions of this *Ordinance*.
- 4) The Zoning Administrator shall maintain a record of all Sign Permits issued, and said record shall be open for public inspection.
- 5) A Sign Permit shall become null and void if the work for which the permit was issued has not been completed within a period of six (6) months after the date of the permit. Said permit may be extended for a period of thirty (30) days upon request by the applicant.

M) Sign Permit Fees: Sign Permit fees shall be established by Resolution of the City Commission. A copy of current fees is available from the Zoning Administrator.

N) Illegal Signs: For all signs hereafter erected without issuance of a required Sign Permit, the Zoning Administrator shall issue a citation per the requirements of Article 5, Section 5.7.

O) Appeals: The Board of Appeals may authorize a variance of the requirements of this Article, provided the standards established in Article 14 of this *Ordinance* are fully met; however, the Board of Appeals may not grant a variance for a larger sign or total sign area larger than that permitted in this Article.

Section 5.8 Prohibition of Recreational Marihuana Establishments

- A)** Addition of Section 5.8 to *Zoning Ordinance* "Prohibition of Recreational Marihuana Establishments," is added to the *Zoning Ordinance* of the City of Bessemer to read as

follows: SECTION 5.8 PROHIBITION OF RECREATIONAL MARIHUANA ESTABLISHMENTS.

- 1) Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the “Act”), are prohibited in all zoning districts, and shall not be permitted as home occupations under Section 9.11 (Q) of this *Zoning Ordinance*.
 - 2) No use that constitutes or purports to be a marihuana grower marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of this *Ordinance*, shall be deemed to have been a legally established use under the provisions of the City Ordinances; that use shall not be entitled to claim legal nonconforming status.
 - 3) Violations of this section are subject to the violations and penalties pursuant to Section 14.9 of this *Zoning Ordinance*.
 - 4) This section does not supersede rights and obligations with respect to the transportation of marihuana by marihuana secure transporters through the City to the extent provided by the Act.
- B) Conflict and Repeal:** All ordinances or parts of ordinances in conflict with this ordinance are repealed.
- C) Effective Date:** The adoption of this ordinance is hereby declared an emergency affecting the public peace, health and safety and this ordinance shall, therefore, be effective immediately.
- D) Publication:** After its adoption, this ordinance or a summary thereof, as permitted by law, shall be published.

Section 5.9 General Essential Services, Communication, Utility, and Public Infrastructure Regulations

- A) Essential Services, Public Facilities, and Utilities:** The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories, but not including communication towers, which are reasonably necessary for the furnishing of adequate service by such public utility or public department or commission or for the public health, safety or general welfare is permitted in any zoning district.
- 1) A fence or wall six (6) feet high and adequate to obstruct passage of persons or materials shall enclose electrical substations and/or gas regulator stations.

- 2) Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.
- 3) Communication towers require a Special Use Permit according to the standards of Section 9.11.F.

B) Governmental Facilities:

The provisions of this *Ordinance* apply to buildings, structures, facilities and/or uses owned or operated by the City of Bessemer. All buildings, structures and/or uses owned or operated by any other local, county, state or federal agency within the City of Bessemer require review and approval of a site plan by the Planning Commission before construction or alteration, except as provided elsewhere in this *Ordinance*, or by State or Federal Law.

C) Potable Water and Sewage Disposal:

- 1) Any building erected for human occupancy after the effective date of this *Ordinance* and used for dwelling, business, industrial, recreational, institutional, mercantile or storage purposes shall not be erected, altered, used or moved upon any premises without a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.
- 2) All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the District Health Department as well as those of other applicable local, county, state, or federal agencies.

D) Vacated Street:

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of the vacated area.

Section 5.10 General Access Standards

A) Curb Cuts and Driveways:

No driveway shall connect to a public street or road without first receiving approval of the driveway location and cross section specifications from either the City of Bessemer (on a local road) or the Michigan Department of Transportation (MDOT) (on a state highway). However, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.

- 1) All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the City shall contain a plan for the proposed driveway access to the premises. Such plan shall be approved by the Zoning Administrator before the issuance of a Zoning Permit. No such plan shall be approved unless such driveway access is onto a dedicated public street or road, or to a pre-existing private street or road.
- 2) All driveways shall, at a minimum, meet the following standards:
 - (a) Drives should enter perpendicular to the existing public street, private street, or alley.

- (b) No portion of the driveway entrance within the right-of-way shall have a grade of greater than fifteen (15) percent (1 foot vertical rise in 6.7 feet of horizontal distance) unless a greater slope is necessary because of site conditions.
- (c) The driveway shall meet clear vision standards of Section 5.6.B.
- (d) Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street except on a nonconforming lot of record, in which case the maximum separation feasible shall be achieved, but in no case shall it be less than twenty-five (25) feet.
- (e) Driveways shall be designed to minimize runoff and erosion and shall not alter existing drainage unless approved by the City of Bessemer or MDOT depending on which agency is responsible.

3) Residential Driveway Specifications:

Residential Driveway Specifications		
Design Features	Standard Specification	Accepted Range
Intersecting Angle	90 degree	70 to 110 degree
Driveway Width	12 feet	10 to 24 feet
Entering and Exit Taper	2 feet	2 to 4 feet
Curb Cut	14 feet	14 to 28 feet

4) Nonresidential Access:

Non-Residential Driveway Specifications*		
Design Features	Standard Specification	Accepted Range
Intersecting Angle	90 degree	70 to 110 degree
Driveway Width	24 feet	12 to 35 feet
Entering and Exit Taper	6 feet	3 to 20 feet
Curb Cut	36 feet	18 to 75 feet
*Commercial, Industrial, Multiple-Family (5 unit and greater)		

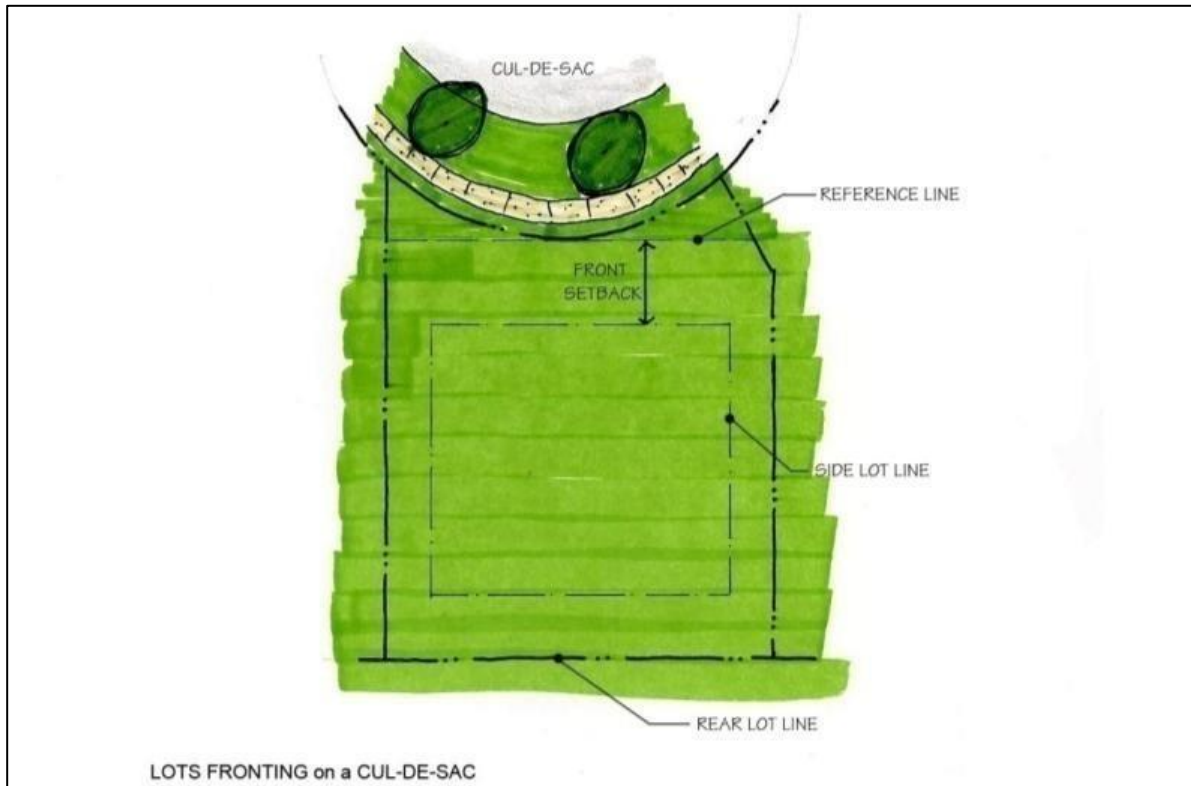
- 3) The City of Bessemer or MDOT shall inspect the constructed driveway for compliance to the above standards and shall so notify the Building Inspector prior to issuance of a Building Permit.

- 4) In nonresidential zones, no more than one driveway shall be allowed per lot or parcel on a street unless separated by two hundred (200) feet, or unless traffic safety requires another driveway within a shorter distance as established by the City of Bessemer, or MDOT, or a qualified traffic engineer by means of a traffic impact study prepared according to MDOT guidelines, or unless additional driveways are permitted in Special Use standards for a particular use.
 - 5) The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features provided that the resulting alignment provides safe access and if all other access requirements of this *Ordinance* are met.
 - 6) The location of new driveways shall conform with road improvement plans or corridor plans adopted by the City of Bessemer or Michigan Department of Transportation.
 - 7) No driveway shall serve more than one (1) dwelling unless the use is a duplex, multiple-family structure, a PUD, an apartment building, or the Zoning Administrator approves allowing not more than two dwelling units to be served by a single driveway pursuant to 11) below and Section 5.5.A.5.
 - 8) An individual driveway serving more than one non-residential use is permitted as described in 4) above, but access for a non-residential use shall not cross residentially-zoned property.
 - 9) **One Driveway per Parcel:** Each parcel with a single tax code number on the date of the amendment adding this provision to the *Ordinance*, which fronts on one side of a major thoroughfare shall be entitled to one (1) driveway access from that street or highway. Subsequent division of each parcel, by metes and bounds descriptions, by plats created in accord with P.A. 288 of 1967 as amended, or by site condominiums in accord with Act 59 of 1978 as amended, shall provide access by a single public road or by an approved joint parking area or driveway, as described in Section 5.5.A.5. No direct additional access to the major thoroughfare shall be permitted with subsequent land divisions unless the parcel has more than six hundred (600) feet of frontage and driveway separation is at least six hundred (600) feet; except following a careful review of onsite conditions by the City of Bessemer or MDOT, as applicable, a lesser separation distance is approved. However, if a parcel is split by a street or road, there may be a driveway on both sides of the road, provided they are both in direct alignment with one another.
- B) Sidewalks:** Every subdivision, condominium project, PUD, commercial, industrial, or other public or private project newly constructed in the City or which must go through site plan review shall have sidewalks or another approved walkway system at least five (5) feet in width that meet the construction standards of the City for sidewalks.
- C) Public Street Standards:** New public roads or streets shall conform to the requirements of this Section.
- 1) **Construction Standards:** The creation of a street that serves a division of land, a subdivision or a parcel shall meet or exceed the cross-sectional construction standards established by the City of Bessemer.
 - 2) **Right-of-Way Width:** All streets shall have a minimum right-of-way easement of at least sixty-six (66) feet.
 - 3) **Dedication of Rights-of-Way or Easements:** All new streets shall be dedicated to and accepted by the public, and no structure or development activity shall be established within approved rights-of-ways or easements. All plans as submitted for approval must show the proposed street including a legal description and

sketch of description, and must include profiles with the horizontal and vertical alignments and drainage systems for these streets.

- 4) **Connection to City of Bessemer and State Highways:** Connection to City roads requires construction authorization from the City of Bessemer; and connection to State highways requires construction authorization from the Michigan Department of Transportation. The City may disapprove a proposed public street or road that does not provide a connection to another public street or road when that connection is necessary for safe traffic flow and emergency vehicle access.
- 5) **Cul-de-Sacs:** Cul-de-sacs shall meet or exceed cross-section specifications established by the City of Bessemer and:
 - (a) Any cul-de-sac shall terminate at the property line except when precluded by a natural barrier or when the cul-de-sac terminates at the last available lot or parcel within the development which lot or parcel fronts upon the cul-de-sac.
 - (b) Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 5-5.
Not more than four (4) lots or parcels shall have frontage on a cul-de-sac.
- 6) **Maximum Number of Lots Served:** No more than twenty-five (25) lots may gain access to a single street if only one point of intersection is provided between the new street and another existing public street. No more than seventy-five (75) lots may gain access to a new street where two or more points of intersection are provided between the new street and other public streets.
- 7) **Application Review and Approval or Rejection:**
 - (a) The Zoning Administrator shall review, and send to the City of Bessemer Public Works Department for review and comment, the plans of a new public street. If the new street is proposed to connect to a city road or state highway, a copy of the application shall be sent to the City of Bessemer or MDOT as applicable, for review and comment with a date specified as to when comments are needed.
 - (b) The Zoning Administrator will arrange for inspections by the City of Bessemer during construction of, and upon completion of the new street.
 - (c) If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.

Figure 5-5 Lots Fronting on a Cul-De-Sac



- 8) Failure to Perform:** Failure by the applicant to begin construction of the new street according to approved plans on file with the City within one (1) year from the date of approval shall void the approval and a new plan shall be required by the City subject to any changes in regulations, standards, and specifications for road construction and development. The new street shall be completed within one and one-half (1 ½) years of the date of approval of the street.
- 9) Issuance of Building Permit:** No building permit shall be issued for a structure on any new public street until such street is given final approval by the City of Bessemer.
- 10) Posting:** All new public streets shall be designated as such and shall be posted by the City with an easily readable name which can be clearly seen in an emergency. The sign shall be paid for by the developer. The Zoning Administrator shall check with adjoining jurisdictions to avoid a duplication of names and give approval of same. If the street is a stub street that eventually will be extended into adjoining property, the street shall have a sign posted at the end of the stub clearly informing sign readers that the stub street will someday be expanded.

Section 5.11 General Miscellaneous Regulations

- A) Building Materials:** New buildings are strongly encouraged to mimic designs and materials indigenous to the area and long recognized as part of the character of Bessemer.
- B) Open Storage:** Storage of major recreational equipment such as utility trailers, boat trailers, boats, recreational vehicles and similar major recreational equipment may be stored in the open on any lots subject to the following:
- 1) Dead storage only is allowable and no connection to any permanent power, water or sewer facilities is allowed.
 - 2) Such equipment shall not be used for human occupancy nor used as business, recreational or housekeeping purposes.
 - 3) Such equipment must be in usable and in safe condition for use except for periods when necessary repairs or alterations are being conducted.
 - 4) Said equipment shall be stored in the side or rear yard provided accessory building setbacks are met, unless it is stored in an existing garage or carport.
 - 5) No such equipment shall be parked or stored in such manner or in such location in the lot or parcel as to create a dangerous or unsafe condition.
- C) Outdoor Lighting**
- 1) All outdoor lighting above 70 watts, including illuminated signs, shall be placed, and shielded to reduce glare and reflect light away from adjacent Residential Districts and adjacent dwelling units as well as to prevent interference with the vision of persons on adjacent highways.
 - 2) All freestanding outdoor lighting shall not exceed thirty (30) feet in height except to light a public athletic field, except for lighting located in public rights-of-way used to light public streets.
 - 3) All off-street commercial parking areas open to the public shall be illuminated by natural or artificial light during all hours of operation, and not more than thirty (30) minutes after the business closes.
 - 4) All lighting in business districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent roads and streets or adjacent property.
 - 5) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent roads and streets or adjacent property.

Section 5.12 Environmental Protection

- A) Environmentally Sensitive Areas:** The protection of areas of environmental concern, such as wetlands, high risk erosion, dunelands, floodplains, or steep slope areas, must be considered in conjunction with development and such areas must be developed in conformance with the following regulations of state and county agencies as applicable:

- 1) **Wetlands** are defined by degree of soil wetness, generally including those soils classified by the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 303, Section 324.30301 et seq (formerly, the GoemereAnderson Wetlands Act, PA 203 of 1979) as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environmental Quality.
- 2) **Sensitive Riverine Areas** are defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land may require a soil erosion and sedimentation control permit under Part 91, Section 324.9101 et seq of the Michigan Natural Resources & Environmental Protection Act, Public Act 451 of 1994, (formerly, PA 346 of 1972). See also Flood Plain Areas below.
- 3) **Inland Lakes** are sensitive areas around the water body, including the watershed, which could be subject to flooding, erosion, or pollution per Part 301, Section 324.30101 et seq of the Michigan Natural Resources & Environmental Protection Act, Public Act 451 of 1994, (formerly, PA 345 of 1966).
- 4) **Flood Plain Areas** are low areas adjacent to inland lakes and streams subject to flooding according to the one hundred (100) year flood hazard boundary map as administered by the Federal Emergency Management Agency (FEMA) or an Intermediate Regional Flood map prepared by the Army Corps of Engineers. A structure proposed within a floodplain shall not be erected until after receipt of a permit from the Michigan Dept. of Environmental Quality pursuant to Part 31 of the Michigan Natural Resource & Environmental Protection Act, Public Act 451 of 1994.
 - (a) Local Floodplain Regulatory Intent: The objectives of these regulations include:
 - (i) The protection of human life, health, and property from the dangerous and damaging effects of flood conditions.
 - (ii) The minimization of public expenditures for flood control of projects, rescue and relief efforts, repair of damaged public facilities and utilities, and the costs of redevelopment.
 - (iii) The prevention of private and public economic loss and social disruption.
 - (iv) The maintenance of stable development patterns not subject to the blighting influence of flood damage.
 - (v) To preserve the ability of floodplains to carry and discharge a base flood.
 - (b) Local Floodplain Development Regulations (to be certified by a registered engineer):
 - (i) Any structure built within a floodplain shall have its lowest occupied level one foot above the base flood elevation.
 - (ii) Accessory structures and uses are permitted provided they meet the standards of this *Ordinance*, and the following:
 1. The structure will not cause an increase in water surface elevation, obstruct flow, or reduce the impoundment capacity of the floodplain.
 2. All equipment and structures shall be anchored to prevent flotation and lateral movement.

- (iii) Dredging and filling and/or dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable state regulations are met.

(c) Within floodplains, no land shall be used except for one or more of the following uses:

- (i) Harvesting of a native or wild crop permitted by law such as wild rice, marsh hay, berries, and seeds
- (ii) Harvesting of trees
- (iii) Parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, bridle paths, nature paths, trails, day camps, outdoor recreational clubs, golf courses, and public open land
- (iv) Wildlife preserves, conservation areas, arboretum or botanical gardens.
- (v) Historic sites and structures
- (vi) Swimming beaches, fishing and boating docks in accord with Part 301 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended
- (vii) Required open space or yard for landward structural uses
- (viii) Agriculture and Nurseries

5) Steep Slopes: When the proposed building site has slopes in excess of fifteen (15) percent, questionable soils stability, or evidence of erosion, the Zoning Administrator shall require the applicant to obtain a site analysis and conform with the applicable requirements of this Article.

B) Retaining Wall Permit: No shoreline retaining wall shall be erected without first having obtained a permit from the Michigan Department of Environmental Quality.

C) Grading and Filling of Property and Stormwater Detention:

- 1) When any land in the City is developed or altered in any way which affects stormwater runoff, the owner shall detain such stormwater from runoff onto adjacent properties, including roads and other rights-of-way, in such a manner which shall result in the maximum amount of stormwater runoff not exceeding that which existed prior to the development or improvement of the property, and in accord with the requirements of the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 91, Section 324.9101 et.seq. formerly the Soil Erosion/Sedimentation Control Act, PA 347 of 1972, as amended. In addition, all development shall conform to the County Soil Erosion, Sedimentation and Stormwater Control Resolution and any general rules or administrative guidelines.
- 2) Special attention shall be given to proper site drainage so that runoff of stormwater will not adversely affect neighboring properties or the water quality of the City's lakes and streams. Stormwater control mechanisms, such as retention/detention basins, vegetative buffers, swales, and infiltration trenches,

shall be required to ensure that the peak rate of stormwater runoff after development does not exceed the rate prior to development.

- 3) The final grade surface of ground areas remaining after the construction of a building or structure, and any earth changes made in connection with use of land shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids any increase in surface water discharge onto adjacent properties or public roads, the erosion of or filling of any road ditch, the blockage of any natural or public watercourse, the creation of standing water over a private sewage disposal drainage field, and any unnecessary impoundment of surface water. The provisions of this section shall be administered and enforced pursuant to the site plan review provisions of Section 14.5, when applicable. In all other cases, the Zoning Administrator shall determine whether the provisions of this section are met. When it is determined that inadequate surface water control exists, no Zoning Permit shall be issued until the situation is corrected and approved by the Zoning Administrator.
- 4) Creation of Ponds: A manmade excavation or impoundment of surface water designed to retain or detain water with a surface area of at least one thousand (1000) square feet is subject to the following regulations:
 - (a) A pond is an accessory or conditional use in all zoning districts.
 - (b) No person shall commence the excavation, dredging, or construction of a dam that is designed, intended or results in the creation or enlargement of a pond without first making application for and receiving a Zoning Permit approving the specific plans for a pond.
 - (c) An application for a Zoning Permit for a pond shall be made pursuant to Article 14 of this *Ordinance*.
 - (d) Proposed ponds of less than one (1) acre in size shall be considered under a minor site plan.
 - (e) Applications for ponds larger than one (1) acre and/or ponds which are located within five-hundred (500) feet of a lake, river, stream, or open City drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, apply to the proposal.
 - (f) Ponds (or man-made lakes) in excess of 5 acres shall be considered major site plans under Article 14.
 - (g) Plans for ponds shall indicate the size, depth, and proposed finished grade of the land both above and below water level, any proposed fencing location and specifications. In addition, the applicant shall indicate sources of water being used to supply the pond (such as stream impoundment, surface water runoff, springs, and wells).
 - (h) No pond shall be closer than fifty (50) feet from any property line, easements for egress, dwelling units, septic drainage fields and domestic wells.
 - (i) Ponds on parcels of less than 20 acres in size that are not enclosed by a four feet high fence shall be required to provide and maintain one or more safety stations in compliance with the following:
 - (i) U.S. Coast Guard approved ring buoys securely connected to forty feet of rope mounted on posts located at 500 feet intervals around the perimeter of the pond.

- (ii) A twelve feet long pole shall be attached to one safety station.
- (j) Ponds under five (5) acres are permitted without regard to the nine (9) previous subsections if:
 - (i) On a bonafide commercial agriculture or horticulture operation;
 - (ii) The pond is approved by the National Resources Conservation Service as being in conformance with their existing pond design standards.

D) General Environmental Protection & Nuisance Prevention Provisions: Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located. It shall be unlawful to carry on or permit to be carried on any activity or operation of use of any land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or to human activity.

1) Dangerous Explosive and Flammable Materials:

- (a) No use of a building or premises shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. All buildings, above or below ground storage and handling areas where dangerous chemicals, salts, flammable materials, or hazardous substances are regularly used, moved or stored shall conform to all applicable local, County, State and Federal regulations and requirements; including the maintenance of any clear zone and/or containment structures required by government authorities. Failure to disclose such materials to fire, emergency services agencies and the Michigan Department of Environmental Quality as may be required by State or Federal laws, is also a violation of this *Ordinance*.
- (b) All outdoor above or below ground handling area and storage facilities for dangerous chemicals, explosive or flammable materials, fuels and other hazardous substances in excess of 50 gallons or 150 pounds per month, shall:
 - (i) Be constructed and maintained in compliance with:
 1. All applicable Michigan Department of Environmental Quality, Michigan Department of Agriculture, State Fire Marshal and U.S. EPA Standards;
 2. The *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, and
 3. All applicable County, local Fire Code and "Right-to-Know" laws.
 4. A Pollution Incidence Prevention Plan (PIPP) if required under state law.
 - (ii) Be located on a lot at least one-half (½) acre in size.
 - (iii) Not store fuel in above or below ground tanks closer than seventy-five (75) feet to a building unless it is liquefied petroleum gas or heating fuel

- in an approved tank, in which case it shall not be closer to a building than the distance allowed by the State Mechanical Code.
- (iv) Secondary containment structures shall be required to protect the environment from accidental spills of all hazardous liquids. Hazardous liquids shall include all "hazardous wastes" as defined by Act 64 of 1979, that are in liquid form. Secondary containment structures shall include structures such as but not limited to dikes and berms surrounding transfer and storage areas, enclosed structures, and interior storage rooms with sills and no floor drains. All secondary containment structures shall be at least large enough to hold the capacity of the largest drum or tank in the transfer or storage area. Secondary containment structures shall be covered, but if flammable, not fully enclosed, with a satisfactory dewatering plan to prevent leaks and spills from entering drains, sewers, surface or groundwater.
 - (v) No floor drains shall be permitted in any areas involving the transfer or disposal of hazardous liquids unless all hazardous liquids are collected and properly treated or disposed of off site.
- (c) If the quantity of material in Section 5.12.D.1 above is less than the regulatory threshold of the Michigan Department of Environmental Quality, the Michigan Department of Agriculture, State Fire Marshal or U.S. EPA Standards then the secondary containment structures required above shall conform with standards prepared by the Zoning Administrator and adopted by the Planning Commission.
 - (d) The owner shall supply the Zoning Administrator, Police and Sheriff's Department and Emergency Services Coordinator with the name and phone number of persons responsible for materials on the site and who is available 24 hours in case of a leak or spill.
- 2) **Junk:** No person shall store, place, abandon, or permit to be stored, placed, abandoned, or allow to remain in any district a dismantled, partially dismantled, unlicensed, or inoperable motor vehicle or farm machinery, junk, rubbish, or litter upon any premises, except as provided for in Article 9, or in the case of motor vehicles or inoperable farm machinery, unless confined in a wholly enclosed structure.
 - 3) All proceedings of the Planning Commission, Zoning Board of Appeals, and City Council shall be conducted, and all decisions shall be made with due consideration given to the maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

Section 5.13 **Tiny Houses**

- A) **Purpose.** The purpose of this section is to:
 - 1) Maintain the character of single-family neighborhoods;

- 2) Ensure that new units are in harmony with developed neighborhoods; and
 - 3) Allow for houses smaller than 480 square feet in districts R-1, R-2, and CE as permitted with conditions.
- B) Conflicts between Standards.** The standards below apply to Tiny Houses and Tiny Houses on Wheels. When there are conflicts between the standards herein and those of other sections, the standards of this section shall take precedence.
- C) Architectural compatibility.** If visible from a public street or park, the architectural design roofing material, exterior materials and colors, roof pitch, and style, type of windows, and trim details of the tiny house shall be substantially the same as and visually compatible with the primary dwelling.
- D) Definition.**
- Tiny house on wheels.** A structure intended for separate, independent living quarters for one household that meets these five conditions:
- 1) Is licensed and registered with the Michigan Department of Motor Vehicles and meets ANSI requirements;
 - 2) Is towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection. Cannot (and is designed not to) move under its own power. When sited on a parcel per requirements of this code, the wheels and axles shall be removed, undercarriage shall be skirted, and the structure permanently attached to the ground;
 - 3) Is no larger than allowed by Michigan state law for movement on public highways (8'6" wide and 13'6" tall) and is less than 480 square feet total;
 - 4) Is a detached self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping, and toiletry; and
 - 5) Is designed and built to look like a conventional building structure.
- Tiny House.** A structure intended for separate, independent living quarters for household that meets these conditions:
- 1) Is a detached self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping, and toiletry;
 - 2) Is designed and built to look like a conventional building structure; and
 - 3) Is under 480 square feet
- E) Maximum floor area.** Tiny houses are under 480 square feet. The calculations only include habitable floor space. Minor deviations and/or variances are not permitted to increase the maximum floor areas.
- F) Exceptions.** Tiny Houses and Tiny Houses on Wheels are not required to have minimum storage spaces.
- G) Development standards.** The units shall conform to the height, setbacks, lot coverage and other zoning requirements of the zoning district in which the site is located, the development standards as may be modified per this subsection, other requirements of the zoning ordinance, and other applicable city codes.
- H) Mechanical equipment.** Mechanical equipment shall be located on the ground or, in the case of a tiny house on wheels, incorporated into the structure, but shall in no case be located on the roof.

- I) Utilities.** Separate gas, electric, and water meters are required for each tiny house and tiny house on wheels. All utilities hookups must follow the requirements for potable water and sewage disposal as required by the City of Bessemer and the State of Michigan for buildings with human occupancy.
- K) Density/Occupancy.** There shall be a maximum of two tiny houses per residential house. Maximum occupancy of a tiny house is three (3) people and the maximum number of bedrooms is two (2).

Article 6 Schedule of District Regulations—Regular Districts

The purpose of this Article is to present the purpose and intent, development requirements, and accessory provisions applicable to lots and parcels by zoning district. This includes development requirements that are specific to various uses, and those relating to yard size, minimum lot area and width, lot coverage, building height, building separation, and minimum floor area. Specific requirements for accessory structures are detailed in addition to the reference to applicable general requirements. Other exceptions and special situation standards can be found in the regulations of Articles 5, 7, 9, 13. The standards of this Article are presented as minimums and maximums to provide clear guidance as well as flexibility to landowners while still ensuring the long-term character of the individual districts is being maintained. The zoning districts are listed on each of the Schedules by their abbreviated names as defined in Article 3, Section 3.2.

Section 6.1

Country Estate District (CE)

Country Estate District (CE)						
Intent and Purpose						
<p>The Country Estate District (CE) is established to provide for large lot single-family residential development in areas that begin a transition to more rural and agricultural areas in neighboring townships, and to provide for the continuation of limited agricultural pursuits. The purpose of these areas is to preserve the rural-open character of the community in areas characterized by the presence of natural landscape features, a greater level of open space, and greater building setbacks. Cluster development through open space design is both promoted and encouraged in these areas provided at least fifty (50) percent of the site is permanently retained as open space. This district is intended to encourage the raising of food close to urban areas to enhance food security.</p>						
Development Requirements						
Site Layout						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
5 Acres***	30%	40 ft	25 ft	25 ft	150 ft	75 ft
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
***Minimum lot size for lots connecting to municipal utilities can be a minimum of 2 acres.						
Principle Structures						
Minimum Ground Floor Area Requirement per unit building or structure	Maximum Height of Principle Structures		Minimum Front, Side, and Rear Setbacks of Agricultural Use from Roads or Lot Lines		Setbacks of Special Ag Uses from all roads and lot lines	
			State	County		
480 sq ft	35 ft	2.5 Stories	50 ft	40 ft	100 ft	
Accessory Structures - see section 5.3 for general requirements						
Maximum Height in Feet	Minimum Setback from all lot lines in Feet		No accessory structure will be closer than 10 ft to a principle structure.			
35' except barns and silos 100'	50' except if livestock sheltered then 100'					

Country Estate District (CE)				
Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	Animal Services (indoor or outdoor confinement)	Conditions: <i>See Section 9.11.A</i>	Agricultural Service Establishments (except animal services)	Special Use: <i>See Section 9.11.A</i>
	Commercial Agriculture or Horticulture (except composting)	Conditions: <i>See Section 9.11.A</i>	Composting	Special Use: <i>See Section 9.11.H</i>
	Small Scale Food Production and Urban Agriculture	Conditions: <i>See Section 9.11.A</i>		
Commercial & Commercial Services	Forest Management	Permitted	Outdoor Commercial Recreation & Entertainment	Special Use: <i>See Section 9.11.X</i>
	Bed & Breakfasts, Organized Camps, Campgrounds	Conditions: <i>See Section 9.11.C - D</i>		
	Home Occupations	Conditions: <i>See Section 9.11.Q</i>	Resorts	PUD, see Section 10
Industrial & Warehousing			Extractive Industries	Special Use: <i>See Section 9.11.M</i>
Institutional	Educational Institutions	Permitted		
	Religious Institutions	Permitted		
Accessory Uses	All accessory uses listed in Section 4.5, except private airports, Home Occupations, Temporary Contractor Buildings, WECS Towers under 35 feet	Permitted according to standards contained in Sections 5.2 and 5.3	Private Airport	Special Use: <i>See Section 9.11.B</i>
	Temporary Contractor Buildings	Conditions: Section 5.2.F.3 and 5.3		
	WECS, private under 35 feet	Conditions: <i>See Section 9.11.II</i>		
	Home Occupations	Conditions: <i>See Section 9.11.Q</i>		

Country Estate District (CE)-continued

Uses

Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11
	Public Parks including Roadside Parks	Permitted		
	Cemetery	Permitted		
	WECS towers under 35 feet in height	Conditions; See Section 9.11.II	Light, Heavy Utility & Public Service Install.	Special Use: See Section 9.11.FF
			Public Airports	Special Use: See Section 9.11.B
			WECS towers over 35 feet in height	Special Use: See Section 9.11.II
Residential Services	Single Family Dwelling	Permitted	Institutions for Human Care and Habitation	Special Use: See Section 9.11.R
	Cabins, Camps	Permitted	Large Community Residential Care Facilities	Special Use: See Section 9.11.G
	Mobile Home Park	Conditions: See Section 9.11.V	Group Housing	Special Use: See Section 9.11.P
	Small Community Residential Facilities, Small Child Care Centers, Family Child Care Homes, Small Group Child Care Homes, Adult Foster Care Homes and Group Homes, Foster Family Homes and Group Homes. State Licensed Residential Facility.	Permitted		
	Temporary Dwellings	Conditions: See Section 5.2.F		
	Tourist Homes/Bed and Breakfasts	Conditions: See Section 5.2.C		
	Open Space and Rural Cluster Developments	Conditions: See Section 9.11.AA		

Section 6.2 Single-Family Residential District (R-1)

Single-Family Residential District (R-1)						
Intent and Purpose						
The Single Family Residential District (R-1) is one of two residential districts that together provide the full range of residential housing types in an urban core environment where all of the facilities for urban living, including community sewer and water facilities, are available. This district is also applicable to traditional neighborhood cluster development traditionally established around the mining locations in the more rural areas of the City of Bessemer that have similar street layouts and parcel dimensional characteristics as those in the urban core, and which are provided with public sewer and water service.						
Development Requirements						
Site Layout						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
Platted lot size not less than 5,000 sq ft	30%	25 ft	7.5 ft	20 ft	50 ft	50 ft
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Principle Structures						
Minimum Ground Floor Area Requirement per unit building or structure	Maximum Height of Principle Structures					
480 sq ft	35 ft	2.5 Stories				
Accessory Structures - see Section 5.3 for general requirements						
Maximum Height in Feet	Minimum Setback from all lot lines in Feet			Maximum Size of the Sum of Square Footages of all Accessory Structures on a Lot		
	Front	Side	Rear			
18 ft	Not allowed in front yard	3	10***	Not larger than building footprint of the principle dwelling unless lot is larger than 20,000 sq ft, then not more than 1.5 times the building footprint of the principle dwelling up to a lot of 40,000 sq ft, thereafter not more than 2 times the building footprint of the principle dwelling.		
*** Accessory structures not more than fifteen (15) ft in height may be located in required rear setbacks if they do not occupy more than thirty-three percent (33%) of the actual rear yard area and are located at least five (5) feet from any lot line; except in those instances where the rear lot line is co-terminus with an alley right-of-way, the accessory structure may be as close as one (1) foot to such rear lot line.						
No accessory structure will be closer than 10 feet to a principle structure.						

Single-Family Residential District (R-1)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	Small Scale Food Production and Urban Agriculture (except Farmer's Markets and Food Stands)	Conditions: See Section 9.11.A		
Commercial & Commercial Services	Tree trimming/cutting, but not sawmills	Permitted		
	Bed & Breakfast Establishments	Conditions: See Section 9.11.C		
	Home Occupations	Conditions: See Section 9.11.Q		
Institutional	Educational Institutions	Permitted		
	Religious Institutions	Permitted		
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11
	Public Parks including Roadside Parks	Permitted		
	Cemetery	Permitted		
	WECS towers under 35 feet in height	Conditions; See Section 9.11.II	Light Utility and Public Service Installations (does not include heavy)	Special Use: See Section 9.11.FF

Single-Family Residential District (R-1)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with Conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Residential Services	Single Family Dwelling (Except Cabins/Camps) and Two-Family Dwelling	Permitted	Large Community Residential Care Facilities	Special Use: See Section 9.11.G
	Temporary Dwellings	Conditions: See Section 5.2.F		
	Small Community Residential Facilities, Small Child Care Centers, Family Child Care Homes, Small Group Child Care Homes, Adult Foster Care Homes and Group Homes, Foster Family Homes and Group Homes. State Licensed Residential Facility.	Permitted		
	Open Space and Rural Cluster Developments	Conditions: See Section 9.11.AA		
	Tourist Homes/Bed and Breakfasts	Conditions: See Section 5.2.C		
Accessory Uses	All accessory uses listed in Section 4.5, except private airports, Off-Street Loading/Unloading, Home Occupations, Temporary Contractor Buildings, Private WECS Towers under 35 feet, Temporary Sawmills.	Permitted according to standards contained in Sections 5.2 and 5.3		
	Temporary Contractor Buildings	Conditions: Section 5.2.F.3 and 5.3		
	WECS, private under 35 feet	Conditions: See Section 9.11.II		
	Home Occupations	Conditions: See Section 9.11.Q		

Section 6.3 Mixed Density Residential District (R-2)

Mixed Density Residential District (R-2)								
Intent and Purpose								
The Mixed Density Residential District (R-2) is an urban residential district that allows for the highest density housing and thus provides important diversity to housing choices. This district is only intended where all of the facilities for urban living, including community sewer and water facilities, are available. It is intended to accommodate apartment development, as well as mobile home park and manufactured housing community development.								
Development Requirements								
Site Layout - Single Family								
Minimum Lot Area per dwelling unit, building or structure		Max % Total Lot Area Covered by Structures*		Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
				Front	Side	Rear		
Platted lot size not less than 4,500 sq ft		50%		10 ft	5 ft	25 ft	45 ft	50 ft
*Including both Principle and Accessory structures **As measured from the ordinary high water mark								
Site Layout - Two and Multiple Family								
Minimum Lot Area per dwelling unit, building or structure		Max % Total Lot Area Covered by Structures*		Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
				Front	Side	Rear		
Minimum Area-2 Family	9000 sq ft	30%		10 ft	5 ft	25 ft	100 ft	75 ft
Maximum Area-Multi Family	15 dwelling units per acre or 30 bedrooms per acre	30%		10 ft	20 ft	25 ft	100 ft	75 ft
*Including both Principle and Accessory structures **As measured from the ordinary high water mark								
Site Layout - Mobile Home Park								
Minimum Lot Area per dwelling unit, building or structure		Max % Total Lot Area Covered by Structures*		Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
				Front	Side	Rear		
Per State Mobile Home Commission Act, must have approved public or community sewer and water		30%		50 ft	50 ft	50 ft	200 ft	75 ft

Principle Structures - Single Family					
Minimum Ground Floor Area Requirement per unit building or structure	Maximum Height of Principle Structures				
480 sq ft	35 ft	2.5 Stories			
Principle Structures - Two and Multi-Family					
	Maximum Height of Principle Structures		Minimum Ground Floor Area Requirement per unit building or structure		
			Efficiency Apt.	480 sq ft	
			1-Bedroom Apt.	480 sq ft	
	45 ft	3 Stories	2-Bedroom Apt.	580 sq ft	
			3+ Bedroom Apt.	200 sq ft per bedroom	
Accessory Structures - see Section 5.3 for general requirements					
Maximum Height in Feet	Minimum Setback from all lot lines in Feet			Maximum Size of the Sum of Square Footages of all Accessory Structures on a Lot	
	Front	Side	Rear		
18 ft	15 ft. Planning Commission can review side setbacks between 10 and 15 ft.	6 ft. Planning Commission can review side setbacks between 3-6 ft.	10** *	Not larger than building footprint of the principle dwelling unless lot is larger than 20,000 sq ft, then not more than 1.5 times the building footprint of the principle dwelling up to a lot of 40,000 sq ft, thereafter not more than 2 times the building footprint of the principle dwelling.	
<p>***Accessory structures may be located 3 ft from rear lot line if co-terminus with alley right-of-way.</p> <p>*** If working within the acceptable range, the Planning Commission can authorize accessory structures if the garage meets the following characteristics.</p> <ul style="list-style-type: none"> • It does not interfere with lines of sight. • The fire chief reviews and okays it for fire safety. • Snow removal/water run-off will not impact the adjacent properties. Study type of roof and slope for snow fall. • The garage setbacks are similar to other setbacks on the block. • The site plan includes all the requirements as stated in Table 14-5-1. • The adjacent properties will not be negatively impacted in any other way. • There is room for a car to park between the sidewalk and the garage. 					
No accessory structure shall be closer than 15 ft from a principle structure. Planning Commission can review distances less than 15 ft.					

Mixed Density Residential District (R-2)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	Small Scale Food Production and Urban Agriculture	Conditions: See Section 9.11.A		
Commercial & Commercial Services	Tree trimming/cutting, but not sawmills	Permitted		
	Bed & Breakfast Establishments	Conditions: See Section 9.11.C		
	Home Occupations	Conditions: See Section 9.11.Q		
	Personal Service Establishments (except crematoria)	Permitted	Mixed-Use Establishments	Special Use: See Section 9.11.Z
Institutional	Educational Institutions	Permitted	Social Institutions	Special Use: See Section 9.11.CC
	Religious Institutions	Permitted		
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11
	Public Parks including Roadside Parks	Permitted		
	Cemetery	Permitted		
	WECS towers under 35 feet in height	Conditions; See Section 9.11.II	Light Utility and Public Service Installations (does not include heavy)	Special Use: See Section 9.11.FF
Accessory Uses	All accessory uses in Section 4.5, except private airports, Boathouses/Hoists, Home Occupations, Temporary Contractor Buildings, Private WECS Towers under 35 feet, Temporary Sawmills.	Permitted according to standards contained in Sections 5.2 and 5.3		
	Temporary Contractor Buildings	Conditions: Section 5.2.F.3 and 5.3		
	WECS, private under 35 feet	Conditions: See Section 9.11.II		
	Home Occupations	Conditions: See Section 9.11.Q		

Mixed Density Residential District (R-2)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Residential Services	Mobile Home Park	Conditions: See Section 9.11.V	Institutions for Human Care and Habitation	Special Use: See Section 9.11.R
	Multiple Family Dwellings	Conditions: See Section 9.11.W	Large Community Residential Care Facilities	Special Use: See Section 9.11.G
	Single Family Dwelling (Except Cabins/Camps) and Two-Family Dwelling	Permitted	Group Housing	Special Use: See Section 9.11.P
	Temporary Dwellings	Conditions: See Section 5.2.F		
	Open Space and Rural Cluster Developments	Conditions: See Section 9.11.AA		
	Small Community Residential Facilities, Small Child Care Centers, Family Child Care Homes, Small Group Child Care Homes, Adult Foster Care Homes and Group Homes, Foster Family Homes and Group Homes, State Licensed Residential Facility.	Permitted		
	Tourist Homes/Bed and Breakfasts	Conditions: See Section 5.2.C		

Section 6.4 Core Mixed-Use District (C-1)

Core Mixed-Use District (C-1)						
Intent and Purpose						
<p>The Core Mixed-Use District (C-1) is established to accommodate a broad variety of retail, office, and residential uses, providing goods and services for adjacent neighborhoods as well as visitors. Uses such as retail and wholesale activities; consumer services; professional, business, and government offices; and other compatible uses should be directed to these areas. The business category encourages a mix of uses primarily focused in the historic commercial core of Bessemer, and so any new development should be integrated with the historic pattern of the Core Mixed-Use area. The first floors of buildings are primarily for commercial goods and services, with upper stories occupied by offices, services, and residences. High density housing is appropriate. Pedestrian oriented features should be maintained and enhanced.</p>						
Development Requirements						
Site Layout: Single and Two - Family Residential						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
Platted lot size not less than 4,000 sq ft	50%	10 ft	5 ft	10 ft	40 ft	50 ft
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Site Layout: Multi Family and Non-Residential						
Minimum Lot Area per dwelling unit, building, or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
5,000 sq ft	70%	None	None	20 ft	50 ft	75'
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Principle Structures						
Minimum Ground Floor Area Requirement per unit Residential building or structure	Maximum Height of Principle Residential Structures		Maximum Height of Principle Non-Residential Structures			
	480 sq ft	35 ft	2.5 Stories	45 ft		
Accessory Structures - see Section 5.3 for general requirements						
Maximum Height in Feet	Minimum Setback from all lot lines in Feet			Maximum Size of the Sum of Square Footages of all Accessory Structures on a Lot		
	Front	Side	Rear			
20' Residential, and not higher than the principle building for Non-Residential	Not allowed in front yard	5	10***	Not larger than the Principle Building		
***Accessory structures not more than fifteen (15') ft in height may be located in required rear setbacks if they do not occupy more than thirty-three percent (33%) of the actual rear yard area and are located at least five (5) feet from any lot line; except in those instances where the rear lot line is co-terminus with an alley right-of-way, the accessory structure may be as close as one (1') foot to such rear lot line.						
No accessory structure will be closer than 10 feet to a principle structure.						

Core Mixed-Use District (C-1)				
Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	Animal Services Indoor Confinement	Conditions: See Section 9.11.A		
	Small Scale Food Production and Urban Agriculture	Conditions: See Section 9.11.A		
Commercial & Commercial Services	Business Service Establishments	Permitted	Outdoor Commercial Recreation & Entertainment (including ONLY amusement/water parks, theme parks, miniature golf, amphitheaters, air gun or survival games, batting cages, swimming clubs, tennis clubs, and skate board parks)	Special Use: See Section 9.11.X
	Convenience Retail Establishments	Permitted		
	Food and Drink Service Establishments	Permitted		
	Tree trimming/cutting, but not sawmills	Permitted		
	General Retail Establishments	Permitted		
	Indoor Entertainment Establishments	Permitted		
	Lodging/Accommodations (except organized camps and campgrounds or resorts)	Permitted	Drive-Through Establishments	Special Use: See Section 9.11.J
	Small Medical Service Establishments (not large)	Permitted	Large Medical Service Establishments	PUD
	Office Establishments (except Home Occupations)	Permitted	Gasoline and Auto Service Stations	Special Use: See Section 9.11.O
	Home Occupations	Conditions: See Section 9.11.Q	Mixed-Use Establishments	Special Use: See Section 9.11.Z
	Personal Service Establishments (except crematoria)	Permitted		
	Repair services	Permitted		
	Research and Development Establishments	Permitted		
	Tourist Service Establishments (Except Gasoline, Auto Service Stations, Resorts)	Permitted		

Core Mixed-Use District (C-1)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Institutional	Educational Institutions	Permitted		
	Religious Institutions	Permitted		
	Social Institutions	Permitted		
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11
	Public Parks including Roadside Parks	Permitted		
	Cemetery	Permitted		
	WECS towers under 35 feet in height	Conditions; See Section 9.11.II	Light Utility and Public Service Installations (does not include heavy)	Special Use: See Section 9.11.FF
			Buried 345v or larger electric transmission lines	Special Use: See Section 9.11.L
Accessory Uses	Home Occupations, Temporary Contractor Buildings, Private WECS Towers under 35 feet, Temporary Sawmills.	Permitted according to standards contained in Sections 5.2 and 5.3		
	Temporary Contractor Buildings	Conditions: Section 5.2.F.3 and 5.3		
	WECS, private under 35 feet	Conditions: See Section 9.11.II		
	Home Occupations	Conditions: See Section 9.11.Q		

Core Mixed-Use District (C-1)

Uses

Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Residential Services	Large Community Residential Care Facilities	Permitted	Institutions for Human Care and Habitation	Special Use: See Section 9.11.R
	Multiple Family Dwellings	Conditions: See Section 9.11.W	Group Housing	Special Use: See Section 9.11.P
	Single Family Dwelling (Except Cabins/Camps and Open Space/Rural Cluster Devel) and Two-Family Dwelling	Permitted		
	Temporary Dwellings	Conditions: See Section 5.2.F		
	Small Community Residential Facilities, Small Child Care Centers, Family Child Care Homes, Small Group Child Care Homes, Adult Foster Care Homes and Group Homes, Foster Family Homes and Group Homes, State Licensed Residential Facility.	Permitted		
	Tourist Homes/Bed and Breakfasts	Permitted		

Section 6.5 Corridor Mixed-Use District (C-2)

Corridor Mixed-Use District (C-2)						
Intent and Purpose						
The Corridor Mixed-Use District (C-2) is established to provide convenience and retail products and services both to local residents and visitors, but also to the larger region. This area will provide for larger commercial development sites where appropriate, mixed with regional institutional uses and integrated into the neighborhoods. Closer to the urban core, corridor mixed uses will have more pedestrian-friendly requirements, transitioning to larger and more automotive-oriented uses in the less dense transitional areas.						
Development Requirements						
Site Layout-Single Family Residential						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of Principle Structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
Platted lot size not less than 5,000 sq ft	30%	25 ft	10 ft	20 ft	50 ft	75 ft
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Site Layout: Non-Residential						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of Principle Structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
10,000 sq ft	50%	25 ft	10 ft	20 ft	100 ft	75'
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Principle Structures						
Minimum Ground Floor Area Requirement per unit building or structure	Maximum Height of Principle Structures					
480 sq ft	35 ft	2.5 Stories				
Accessory Structures - see Section 5.3 for general requirements						
Maximum Height in Feet	Minimum Setback from all lot lines in Feet			Maximum Size of the Sum of Square Footages of all Accessory Structures on a Lot		
	Front	Side	Rear			

18 ft Residential, and not higher than the principle building for Non-Residential	15 ft. Planning Commission can review side setbacks between 10 and 15 ft.	6 ft. Planning Commission can review side setbacks between 3-6 ft.	10***	Not larger than the Principle Building
<p>*** Accessory Structures may be located 3 ft from rear lot line if co-terminus with alley right-of-way. *** If working within the acceptable range, the Planning Commission can authorize accessory structures if the garage meets the following characteristics.</p>				
<ul style="list-style-type: none"> • It does not interfere with lines of sight. • The fire chief reviews and okays it for fire safety. • Snow removal/water run-off will not impact the adjacent properties. Study type of roof and slope for snow fall. • The garage setbacks are similar to other setbacks on the block. • The site plan includes all the requirements as stated in Table 14-5-1. • The adjacent properties will not be negatively impacted in any other way. • There is room for a car to park between the sidewalk and the garage. 				
<p>No accessory structure shall be closer than 15 ft from a principle structure. Planning Commission can review distances less than 15 ft.</p>				

Corridor Mixed-Use District (C-2)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	Animal Services (indoor or outdoor confinement)	Conditions: See Section 9.11.A	Agricultural Service Establishments (except animal services)	Special Use: See Section 9.11.A
	Small Scale Food Production and Urban Agriculture	Conditions: See Section 9.11.A	Composting	Special Use: See Section 9.11.H
Commercial & Commercial Services	Business Service Establishments	Permitted	Drive-Through Establishments	Special Use: See Section 9.11.J
	Convenience Retail Establishments	Permitted		
	Food and Drink Service Establishments	Permitted		
	Tree trimming/cutting, but not sawmills	Permitted	Gasoline and Auto Service Stations	Special Use: See Section 9.11.O
	General Retail Establishments	Permitted		
	Indoor Entertainment Establishments	Permitted		
	Lodging/ Accommodations (except organized camps, campgrounds, resorts)	Permitted	Outdoor Commercial Recreation & Entertainment Establishments (except animal racing, automobile and motorcycle race tracks)	Special Use: See Section 9.11.X
	Small Medical Service Establishments (not large)	Permitted	Resorts	PUD
	Office Establishments (except Home Occupations)	Permitted	Large Medical Service Establishments	PUD
	Home Occupations	Conditions: See Section 9.11.Q	Mixed-Use Establishments	Special Use: See Section 9.11.Z
Personal Service Establishments (except Crematoria)	Permitted			

Corridor Mixed-Use District (C-2), continued

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Commercial & Commercial Services, continued	Repair services	Permitted	Gasoline and Auto Service Station	Special Use: See Section 9.11.O
	Research and Development Establishments	Permitted		
	Tourist Service Establishments (Except Gasoline and Auto Service Stations and Resorts)	Permitted		
	Vehicle Sales and Service Establishments	Permitted		
Industrial & Warehousing	Light Industrial Service Establishments	Permitted		
	Light Manufacturing Establishments	Permitted		
Institutional	Educational Institutions	Permitted		
	Religious Institutions	Permitted		
	Social Institutions	Permitted		
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11
	Public Parks including Roadside Parks	Permitted		
	Cemetery	Permitted		
	WECS towers under 35 feet in height	Conditions; See Section 9.11.II	Utility and Public Service Installations (Light and Heavy)	Special Use: See Section 9.11.FF
			Buried 345v or larger electric transmission lines	Special Use: See Section 9.11.L
WECS Towers 35 feet and over in height.		WECS Towers 35 feet and over in height.	Special Use: See Section 9.11.II	

Corridor Mixed-Use District (C-2), continued

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Residential Services Uses	Institutions for Human Care and Habitation	Permitted		
	Large Community Residential Care Facilities	Permitted		
	Group Housing	Permitted		
	Multiple Family Dwellings	Conditions: See Section 9.11.W		
	Single Family Dwelling (Except Temporary, Cabins/Camps and Open Space/Rural Cluster Devel) and Two-Family Dwelling	Permitted		
	Temporary Dwellings	Conditions: See Section 5.2.F		
	Small Community Residential Facilities, Small Child Care Centers, Family Child Care Homes, Small Group Child Care Homes, Adult Foster Care Homes and Group Homes, Foster Family Homes and Group Homes, State Licensed Residential Facility.	Permitted		
	Tourist Homes/Bed and Breakfasts	Permitted		
	Open Space and Rural Cluster Developments	Conditions: See Section 9.11.AA		

Corridor Mixed-Use District (C-2), continued

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Accessory Uses	All accessory uses in Section 4.5, except private airports, Boathouses/Hoists, Home Occupations, Temporary Contractor Buildings, Private WECS Towers under 35 feet, Temporary Sawmills.	Permitted according to standards contained in Sections 5.2 and 5.3		
	Temporary Contractor Buildings	Conditions: Section 5.2.F.3 and 5.3		
	WECS, private under 35 feet	Conditions: <i>See Section 9.11.II</i>		
	Home Occupations	Conditions: <i>See Section 9.11.Q</i>		

Section 6.6 Light Industrial District (M-1)

Light Industrial District (M-1)						
Intent and Purpose						
<p>The Light Manufacturing District (M-1) is established to provide areas for light industrial uses, office and administrative uses having few, if any, adverse effects on neighboring properties. The M-1 use has been identified for areas south of and along U.S. 2 where compatible with the surrounding property and in transitional areas between high density housing and more intense industrial uses. Because of the proximity to residential homes, high standards of neighborliness are expected in these areas.</p>						
Development Requirements						
Site Layout						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of Principle Structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
1 Acre	50%	50 ft	20 ft	20 ft	150 ft	75'
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Principle Structures						
	Maximum Height of Principle Structures					
	35 ft 2 Stories					
Accessory Structures - see Section 5.2 for general requirements						
Maximum Height in Feet	Minimum Setback from all lot lines in Feet			Maximum Size of the Sum of Square Footages of all Accessory Structures on a Lot		
	Front	Side	Rear			
Not more than the Principle Building	50	10	10	Not larger than the Principle Building		
No accessory structure will be closer than 10 feet to a principle structure.						

Light Industrial District (M-1)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	All agricultural service establishments	Permitted	Composting	Special Use: See Section 9.11.H
	Commercial Agriculture or Horticulture (except composting)	Conditions: See Section 9.11.A		
	All Small Scale Food Production and Urban Agriculture	Permitted		
Commercial & Commercial Services	Business Service Establishments	Permitted	Gasoline and Auto Service Stations	Special Use: See Section 9.11.O
	Tree trimming/cutting, but not sawmills	Permitted		
	Indoor Entertainment Establishments	Permitted		
	Personal Service Establishments	Permitted	Outdoor Commercial Recreation & Entertainment Establishments (except animal racing, automobile and motorcycle race tracks)	Special Use: See Section 9.11.X
	Repair Services	Permitted		
	Research and Development Establishments	Permitted		
	Vehicle Sales and Service Establishments	Permitted		
Industrial & Warehousing	Light and Medium Industrial Service Establishments (not heavy)	Permitted	Dangerous Chemicals and Fuels: Manufacturing, Storage, and/or Distribution	Special Use: See Section 9.11.I
	Light Manufacturing Establishments (not Heavy)	Permitted		
	Warehousing and Wholesale Trade Establishments Except Self-Serve Storage	Permitted		
	Self-Service Storage Facilities	Conditions: See Section 9.11.HH		

Light Industrial District (M-1)					
Uses					
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements	
Institutional	Educational Institutions	Permitted			
	Social Institutions	Permitted			
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11	
	Public Parks including Roadside Parks	Permitted			
	Cemetery	Permitted			
	WECS towers under 35 feet in height		Conditions; See Section 9.11.II	Utility and Public Service Installations (Light and Heavy)	Special Use: See Section 9.11.FF
				Buried 345v or larger electric transmission lines	Special Use: See Section 9.11.L
				WECS Towers 35 feet and over in height.	Special Use: See Section 9.11.II
Residential Services	Temporary Dwellings	Conditions: See Section 5.2.F			
Accessory Uses	All accessory uses in Section 4.5, except private airports, Boathouses/Hoists, Decks and Patios, Gazebos Fireplaces and Outdoor Appurtenances, Home Occupations, Outdoor Tennis Courts; Swimming Pools; Swing Sets, etc; Temporary Contractor Buildings; Temporary Buildings Incidental to Church or School; Private WECS Towers under 35 feet.	Permitted according to standards contained in Sections 5.2 and 5.3			
	Temporary Contractor Buildings	Conditions: Section 5.2.F and 5.3			
	WECS, private under 35 feet	Conditions: See Section 9.11.II			

Section 6.7 General Industrial District (M-2)

General Industrial District (M-2)						
Intent and Purpose						
The General Industrial District (M-2) is established to provide areas in which heavy industrial uses, manufacturing, and related industrial commercial operations are the principal use of land. Such uses have some adverse effects on surrounding properties, and are not compatible with residential and retail uses.						
Development Requirements						
Site Layout						
Minimum Lot Area per dwelling unit, building or structure	Max % Total Lot Area Covered by Structures*	Minimum Yard Setback of principle structure			Min Lot Width	Min Setback of Principle Structure from a lake, river, or stream**
		Front	Side	Rear		
1 Acre	50%	50 ft	20 ft	20 ft	150 ft	75'
*Including both Principle and Accessory structures **As measured from the ordinary high water mark						
Principle Structures						
	Maximum Height of Principle Structures					
	35 ft	2 Stories				
Accessory Structures - see Section 5.2 for general requirements						
Maximum Height in Feet	Minimum Setback from all lot lines in Feet			Maximum Size of the Sum of Square Footages of all Accessory Structures on a Lot		
	Front	Side	Rear			
Not more than the Principle Building	50	10	10	Not larger than the Principle Building		
No accessory structure will be closer than 10 feet to a principle structure.						

General Industrial District (M-2)

Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Agricultural	All agricultural service establishments	Permitted	Composting	Special Use: See Section 9.11.H
	Commercial Agriculture or Horticulture (except composting)	Conditions: See Section 9.11.A		
	All Small Scale Food Production and Urban Agriculture	Permitted		
Commercial & Commercial Services	Sawmills and Tree Trimming	Permitted	Outdoor Commercial Recreation & Entertainment including ONLY Fairgrounds; zoos; golf driving ranges; golf courses and country clubs; ski slope and ski resorts; riding stables; archery, rifle, skeet, trap shooting ranges; animal racing; automobile and motorcycle race tracks.	Special Use: See Section 9.11.X
	Repair Services	Permitted		
	Research and Development Establishments	Permitted		
	Sexually Oriented Business		Special Use: See Section 9.11.BB	
	Personal Service Establishments-Crematoria	Permitted	Medical Marijuana Dispensary	Special Use: See Section 9.11.U
Industrial & Warehousing	All Industrial Service Establishments except Heavy Industrial Service Establishments with junkyards	Permitted	Dangerous Chemicals and Fuels: Manufacturing, Storage, and/or Distribution	Special Use: See Section 9.11.I
	All Manufacturing Establishments	Permitted	Extractive Industries	Special Use: See Section 9.11.M
	Warehousing and Wholesale Trade Establishments	Permitted	Heavy Industrial Service Establishments with junkyards	Special Conditions: See Section 9.11.S

General Industrial District (M-2)				
Uses				
Uses (See Article 4, Section 4.4)	Uses by Right and with conditions (P) & (C) *As defined in Table 4-1	Development Requirements	Special Land Uses (S) or (PUD) *As defined by Table 4-1	Development Requirements
Public	Essential Services	Permitted	Public Buildings & Related Facilities (except roadside parks, public parks, and cemeteries)	Special Use: See Section 9.11
	Public Parks including Roadside Parks	Permitted		
	Cemetery	Permitted		
	Rail yards	Permitted	Utility and Public Service Installations (Light and Heavy)	Special Use: See Section 9.11.FF
	WECS towers under 35 feet in height	Conditions; See Section 9.11.II	Buried 345v or larger electric transmission lines	Special Use: See Section 9.11.L
			WECS Towers 35 feet and over in height.	Special Use: See Section 9.11.II
Accessory Uses	All accessory uses in Section 4.5, except private airports, Boathouses/Hoists, Decks and Patios, Gazebos Fireplaces and Outdoor Appurtenances, Home Occupations, Outdoor Tennis Courts; Swimming Pools; Swing Sets, etc; Temporary Contractor Buildings; Temporary Buildings Incidental to Church or School; Private WECS Towers under 35 feet.	Permitted according to standards contained in Sections 5.2 and 5.3		
	Temporary Contractor Buildings	Conditions: Section 5.2.F and 5.3		
	WECS, private under 35 feet	Conditions: See Section 9.11.II		

Article 7 Schedule of Regulations—Overlay Districts

Section 7.1 US 2 Highway Overlay Zone

A) Findings and Intent

Conditions along the major highways in Gogebic County are changing with increasing development and traffic. Continued development along US-2 will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway. The conditions along US-2 and a series of access management recommendations are embodied in the US-2 Highway Corridor Access Management Plan. Among those recommendations are the creation of an overlay zone along these highways within Gogebic County and the adoption of uniform access management standards by all the jurisdictions along the US-2 corridor which are based on the Michigan Department of Transportation access management standards and the Michigan Access Management Guidebook, provided to local governments by the Michigan Department of Transportation.

The provisions of this Section are intended to promote safe and efficient travel on US-2 highways within the City of Bessemer; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the *Gogebic County Comprehensive Plan*, the *City of Bessemer Future Land Use Plan*, and the *US-2 Highway Corridor Access Management Plan* recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, and adjoining jurisdictions, as applicable.

B) General Access Management Objectives

- 1) Within the City of Bessemer, regulate access points along US-2 through a Highway Overlay Zone.
- 2) Require additional submittal information and review procedures for parcels that front along US-2.
- 3) Require demonstrations that new parcels are accessible and in compliance with the access standards of this *Ordinance* to ensure safe accessibility as required by the Land Division Act.
- 4) Restrict lots and parcels within the Highway Overlay Zone to a single access point except under certain circumstances.
- 5) Require longer frontages or wider minimum lot widths than those present in the underlying Districts to help achieve access management spacing standards.
- 6) Require coordinated access among adjacent lands wherever feasible.

- 7) Improve situations where existing development along the highways does not conform to the standards and intent of this *Ordinance*.
- 8) Establish uniform standards to ensure fair and equal application.

C) Applicability

- 1) The standards of this Section apply to all lots and parcels that abut the highway right-of-way of US-2 and such other lands that front on intersecting streets within two hundred (200) feet of the US-2 right-of-way within the City of Bessemer. This area is referred to as the Highway Overlay Zone.
- 2) The standards of this Section shall be applied by the Zoning Administrator and Planning Commission during site plan review, as is appropriate to the application. The Planning Commission shall make written findings of nonconformance, conformance, or conformance if certain conditions are met with the standards of this Section prior to disapproving or approving a site plan per the requirements of Article 14, Section 14.5. The City of Bessemer shall coordinate its review of the access elements of a site plan with the appropriate road authority prior to making a decision on an application (see Section 7.1.E). The approval of a site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, either the City of Bessemer or the Michigan Department of Transportation (depending on the roadway). Any driveway permit obtained by an applicant prior to review and approval of a site plan as required under this *Ordinance* will be ignored, unless it is conditioned upon approval under this *Ordinance*.
- 3) These regulations apply in addition to, and simultaneously with, the other applicable regulations of the *Zoning Ordinance*. Permitted, Conditional, and Special Land Uses within the Highway Overlay Zone shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that District, with the following additional provisions:
 - (a) The number of access points is the fewest needed to allow motorists reasonable access to the site.
 - (b) Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay Zone, and the guidelines of the appropriate road authority, and the recommendations of the *US-2 Highway Corridor Access Management Plan* as appropriate.
 - (c) Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the Zoning Administrator.
 - (d) No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay Zone regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.

- (e) No land division, subdivision or site condominium project for land within this Highway Overlay Zone shall be approved unless compliance with the access spacing standards in this Section is demonstrated.
- (f) Any change in use on a site that does not meet the access standards of this Highway Overlay Zone, shall be required to submit an application for approval by the Planning Commission and submit information to the appropriate road authority to determine if a new access permit is required. (See Section 7.1.G.2)
- (g) For building or parking lot expansions, or changes in use, or site redevelopment that cannot meet the standards of this *Ordinance* due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with the access standards of this Highway Overlay Zone. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the *US-2 Highway Corridor Access Management Plan*, and any recommendations from an appropriate road authority. Required improvements may include removal, rearrangement or redesign of driveways or other access.
- (h) Where conflict occurs between the standards of this *Ordinance* and other applicable ordinances, the more restrictive regulations shall apply.

D) One Access Per Parcel

- 1) All land in a parcel or lot having a single tax code number, as of the effective date of the *Ordinance* (hereafter referred to as "the parent parcel"), that shares a lot line for less than six hundred (600) feet with right-of-way on US-2 shall be entitled to one (1) driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.
 - (a) All subsequent land divisions of a parent parcel shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this *Ordinance*.
 - (b) Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive.
- 2) Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements of Section 7.1.D.1.a and 7.1.D.1.b above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each six hundred (600) feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the Planning Commission that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety. (See also Section 7.1.I.2.a)

E) Applications

- 1) Applications for driveway or access approval shall be made on a form prescribed by and available at the City of Bessemer and the Michigan Department of Transportation as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well.
- 2) Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article 14, Section 14.5 in addition to those of this Section. In addition:
 - (a) Applications are strongly encouraged to rely on the following sources for access designs, the —*National Access Management Manual*”, TRB, 2003; National Cooperative Highway Research Program (NCHRP), “*Access Management Guidelines to Activity Centers*” Report 348, “*Impacts of Access Management Techniques*” Report 420; and the AASHTO (American Association of State Highway and Transportation Officials) —*Green Book: A Policy on Geometric Design of Highways and Streets*”. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:
 - (i) Not more than one driveway access per abutting road
 - (ii) Shared driveways
 - (iii) Service drives: front and/or rear
 - (iv) Parking lot connections with adjacent property
 - (v) Other appropriate designs to limit access points on an arterial or collector.
 - (b) As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of Section 7.1.M.
 - (c) In addition to the information required in Article 14, Section 14.5 the information listed below shall also be submitted for any lot or parcel within the Highway Overlay Zone accompanied by clear, scaled drawings (minimum of 1”=20’) showing the following items:
 - (i) Property lines.
 - (ii) Right-of-way lines and width, and location and width of existing road surface.
 - (iii) Location and size of all structures existing and proposed on the site.
 - (iv) Existing access points. Existing access points within 250 feet on either side of the US-2 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
 - (v) Surface type and dimensions shall be provided for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs), intersecting streets, and all curb radii within the site.
 - (vi) The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar

vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.

- (vii) Size and arrangement of parking stalls and aisles.
- (viii) The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation are met.
- (ix) Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).
- (x) Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.
- (xi) Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the Zoning Administrator.
- (xii) Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.
- (xiii) Dumpsters or other garbage containers.
- (xiv) The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.
- (xv) Traffic impact study meeting the requirements of subsection L below where applicable.

F) Review, Approval, Renewal Process

The following process shall be completed to obtain access approval:

- 1) An Access Application meeting the requirements of Section 7.1.E above shall be submitted to the Zoning Administrator on the same day it was submitted to the Michigan Department of Transportation, as applicable.
- 2) The completed application must be received by the Zoning Administrator at least fourteen (14) days prior to the Planning Commission meeting where the application will be reviewed.
- 3) The applicant, the Zoning Administrator, representatives of the Michigan Department of Transportation, and the Planning Commission may meet prior to the Planning Commission meeting to review the application and proposed access design. Such a meeting shall occur for all projects where a traffic impact study is required.
- 4) If the Planning Commission considers the application first, it shall recommend approval conditioned upon approval of the applicable road authority, or it shall recommend denial based on nonconformance with this *Ordinance*, or if necessary, table action and request additional information. The action of the Planning Commission shall be immediately transmitted to the applicable road authority.
- 5) It is expected that if the Michigan Department of Transportation reviews the application first, each entity will immediately send its decision on the application to the Planning Commission for their consideration. One of three actions may result;

- (a) If the Planning Commission and the Michigan Department of Transportation, as applicable, approves the application as submitted, the access application shall be approved.
 - (b) If both the Planning Commission and the Michigan Department of Transportation, as applicable, deny the application, the application shall not be approved.
 - (c) If either the Planning Commission or Michigan Department of Transportation, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the Zoning Administrator, a representative of the Planning Commission, and staff of the Michigan Department of Transportation, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.
- 6) No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies, as applicable, have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case the application shall be denied by that agency and the requested driveway(s) shall not be constructed. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any driveway permit approved by a road authority.
- 7) **Record of Application:** The Zoning Administrator shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.
- 8) **Period of Approval:** Approval of an application remains valid for a period of one year from the date it was authorized. If authorized construction, including any required rear service road or frontage road is not initiated by the end of one (1) year, the authorization is automatically null and void. Any additional approvals that have been granted by the Planning Commission or the Zoning Board of Appeals, such as Special Land Use Permits, or variances, also expire at the end of one year.
- 9) **Renewal:** An approval may be extended for a period not to exceed one-year. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The Zoning Administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or planned, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that creates an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall consult a representative of the Michigan Department of Transportation, as applicable, for input.

- 10) **Re-issuance Requires New Application:** Re-issuance of an authorization that has expired requires a new Access Application form to be filled out, fee paid, and processed independently of previous action. (See Section 7.1.F.1)

G) Implementation

- 1) **Maintenance:** The applicant shall assume all responsibility for all maintenance of driveway approaches from the right-of-way line to the edge of the traveled roadway.
- 2) **Change of Use Also May Require New Driveway:** When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities may be required to be brought into compliance, with all design standards as required by the appropriate road authority as applicable, and as set forth in this *Ordinance* prior to the issuance of a Zoning Permit, and pursuant to the procedures of this section.
- 3) **Changes Require New Application:** Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised Access Application has been submitted and approved as specified in this Section.
- 4) **Closing of Driveways:** Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner, unless some other arrangement is agreed to by the road authority responsible for the road in question.
- 5) **Inspection:** The Zoning Administrator may inspect the driveway and any other required access elements during construction and following construction for conformance with the approved application prior to allowing occupancy. The Zoning Administrator may consult with MDOT, as applicable, prior to making a determination of conformance or nonconformance with an approved application.
- 6) **Performance Bond:** The community may require a performance bond or cash deposit in any sum not to exceed \$5,000 for each such driveway approach or entrance to ensure compliance with an approved application. Such bond shall terminate or the deposit be returned to the applicant, when the terms of the approval have been met or when the authorization is released, cancelled or terminated.

H) Lot Width and Setbacks

- 1) **Minimum Lot Width:** Except for existing lots of record, all lots fronting on US-2 subject to this Section, shall not be less than three hundred (300) feet in width, unless served by shared access or a service drive that meets the requirements of Section 7.1.I.9-Section 7.1.I.11 below, in which case minimum lot width may be reduced to not less than one hundred (100) feet in width if a deed restriction is approved and recorded with the County Register of Deeds demonstrating an effective method for long term maintenance of the shared access, service drive and/or parking lot cross-access.
- 2) **Structure Setback:** No structure other than signs, as allowed in Article 5, Section 5.7, telephone poles, and other utility structures that are not buildings, transfer stations or substations, shall be permitted within twenty-five (25) of the roadway right-of-way, and shall not encroach upon a clear zone, or potential clear zone area.

- 3) **Parking Setback and Landscaped Area:** No parking or display of vehicles, goods or other materials for sale, shall be located within thirty-five feet (35) of the roadway right-of-way. Setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils unless another design is approved under the landscape provisions of Article 5, Section 5.6. This provision improves the aesthetic appearance along a roadway, and enhances visibility by improving the contrast between a vehicle and the pavement. The setback also serves as a snow storage zone. See MDOT rule 32(2) in administrative rules in Appendix D of the Michigan Access Management Guidebook.)

I) Access Management Standards

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay Zone shall be established, reconstructed or removed without first meeting the requirements of this Section as follows:

- 1) Each lot/parcel with highway frontage on US-2 shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted in Section 7.1.C and Section 7.1.D above, land divisions shall not be permitted that may prevent compliance with the access location standards of this Highway Overlay Zone.
- 2) When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on US-2, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:
 - (a) One (1) standard, two-way driveway;
 - (b) Additional ingress/egress lanes on one (1) standard, two-way driveway;
 - (c) Two (2), one-way driveways;
 - (d) Additional ingress/egress lanes on two (2), one-way driveways;
 - (e) Additional driveway(s) on an abutting street with a lower functional classification;
 - (f) Additional driveway on arterial street

Note: Restricted turns and roadway modifications will be considered in conjunction with alternative driveway designs.
- 3) Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves less based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

Posted Speed Limit	Along US-2*	Along Other Intersecting Major Arterials**	Along all Other Intersecting Streets (not major arterials)
35 mph or less	245 ft.	245 ft.	150 ft.
40 mph	300 ft.	300 ft.	185 ft.
45 mph	350 ft.	350 ft.	230 ft.
50 mph	455 ft.	455 ft.	275 ft.
55 mph	455 ft.	455 ft.	350 ft.

*Unless greater spacing is required by the appropriate road authority **None in Bessemer*

- 4) Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
- 5) Driveways or new intersecting streets along sections of US-2 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.
- 6) Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.
- 7) Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless the appropriate road authority authorizes a lesser spacing:

Signalized Locations*	Distance in Feet	Unsignalized Locations	Distance in Feet
Along US-2	300	Along US-2	300
Along other public streets	200	Intersections with US-2	300
		Other intersections	150

Spacing for signalized intersections shall also be applied at intersections where MDOT indicates spacing and approach volumes may warrant a signal in the future.

- 8) Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.

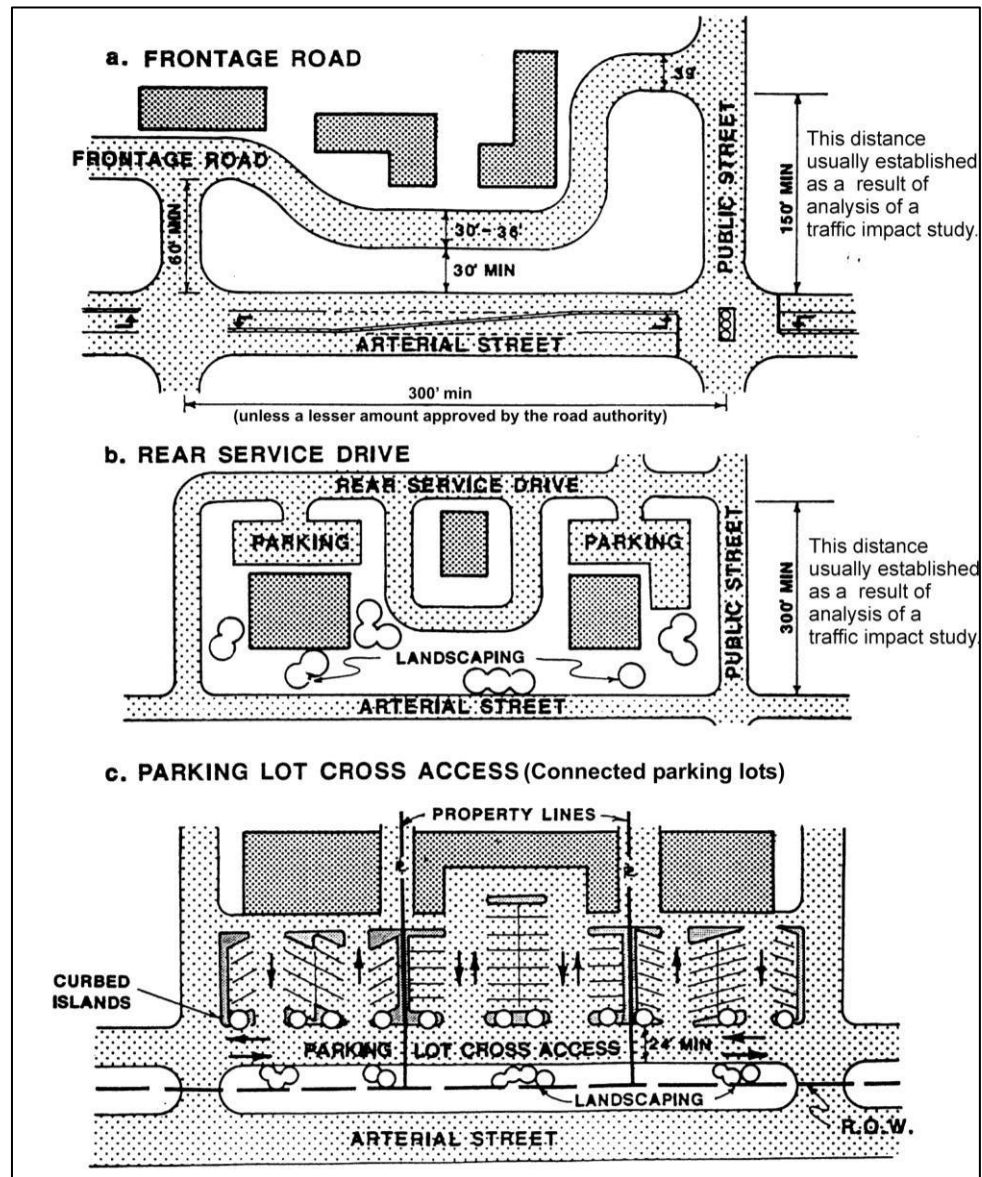
- 9) Sharing or joint use of a driveway by two or more property owners shall be encouraged.
- (a) In cases where access is restricted by the spacing requirements of Section 7.1.1.3 above, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written and recorded easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
 - (b) In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written, recorded agreement is submitted that the temporary access will be removed by the applicant or successor to the applicant, when the alternative access system becomes available. This may require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.
- 10) Frontage roads or service drives (*see Figure 7-1*) shall be designed, constructed and maintained in accordance with the following standards:
- (a) **Location:** Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.
 - (b) **Alignment:** The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation.
 - (c) **Setback:** Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of thirty (30) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum sixty (60) feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this *Ordinance*.
 - (d) **Access Easement:** A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be recorded with the County Register of Deeds. This easement shall be at least forty (40) feet wide. A frontage road or service drive shall have a minimum pavement width of twenty-six (26) feet, measured face to face of curb with an approach width of thirty-six (36) feet at

intersections. The frontage road or service drive shall be constructed of a paved surface material that is resistant to erosion and shall meet the City of Bessemer or MDOT – (depending on what road the service drive parallels) standards for base and thickness of asphalt or concrete, unless the community has more restrictive standards.

- (e) **Snow Storage:** A minimum of fifteen (15) feet of snow storage/landscaping area shall be reserved along both sides of the frontage road or service drive.
- (f) **Service Drive Maintenance:** No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. The agreement shall also specify who is responsible for enforcing speed limits, parking and related vehicular activity on the service drive. This agreement shall be approved by the City of Bessemer attorney and recorded with the deed for each property it serves by the County Register of Deeds. If the service drive is a private road, the local government shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefiting landowners if they fail to properly maintain a service drive.
- (g) **Landscaping:** Landscaping along the service drive shall conform to the requirements of Article 5, Section 5.6. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.
- (h) **Parking Areas:** All separate parking areas (*i.e. those that do not use joint parking cross-access*) shall have no more than one (1) access point or driveway to the service drive.
- (i) **Parking:** The service road is intended to be used exclusively for circulation, not as a parking, loading or unloading aisle. Parking shall be prohibited along two-way frontage roads and service drives that are constructed at the minimum width. One-way roads or two-way roads designed with additional width for parallel parking may be allowed if it can be demonstrated through traffic studies that on-street parking will not significantly affect the capacity, safety or operation of the frontage road or service drive. Perpendicular or angle parking along either side of a designated frontage road or service drive is prohibited. The Planning Commission may require the posting of "no parking" signs along the service road. As a condition to site plan approval, the Planning Commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road. Temporary parking spaces permitted within the service drive shall be in excess of the minimum required under Article 5, Section 5.5, Parking and Loading Standards.
- (j) **Directional Signs and Pavement Markings:** Pavement markings may be required to help promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform with the current *Michigan Manual of Uniform Traffic Control Devices*.

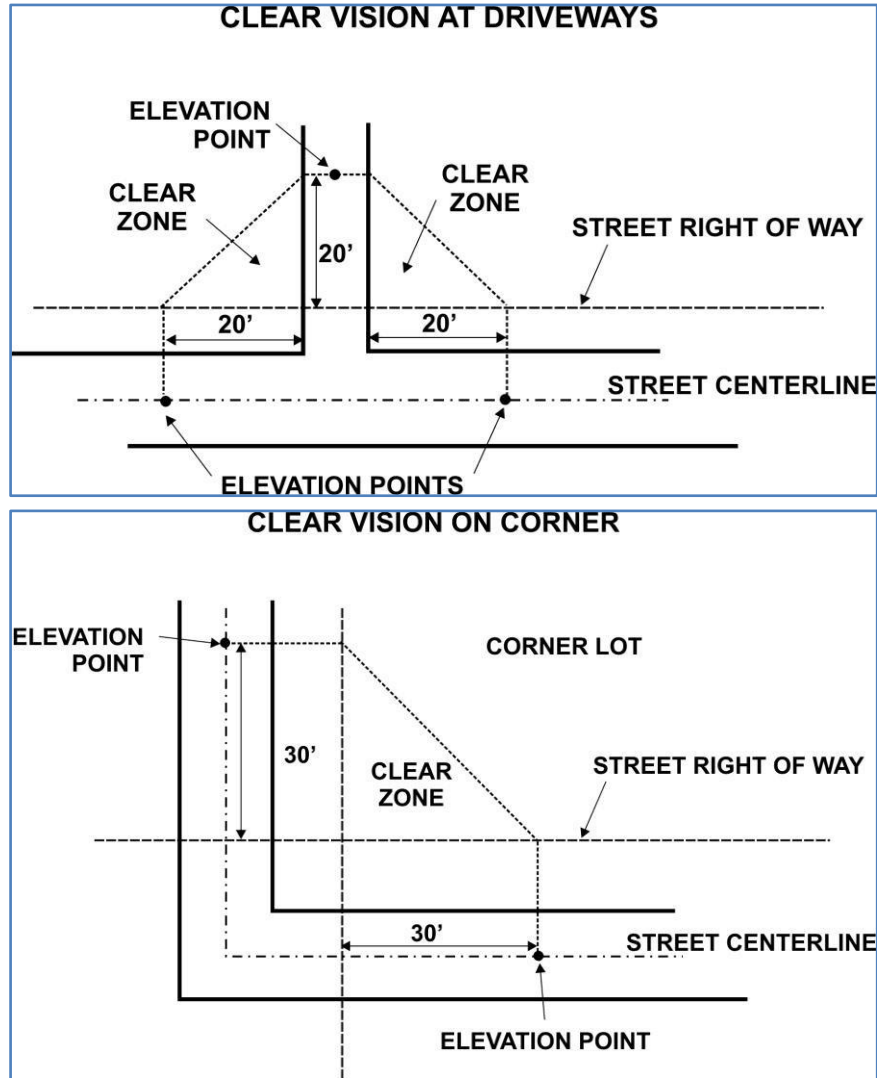
- (k) **Assumed Width of Pre-existing Service Drives:** Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be forty (40) feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.
- (l) **Pedestrian and Bicycle Access:** Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the Planning Commission.
- (m) **Number of Lots or Dwellings Served:** No more than twenty-five (25) lots or dwelling units may gain access from a service drive to a single public street.
- (n) **Service Drive Signs:** All new public and private service drives shall have a designated name on a sign meeting the standards on file in the office of the Zoning Administrator.
- (o) **Pre-existing Conditions:** In the case of expansion, alteration or redesign of existing development where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the Planning Commission shall have the authority to allow and/or require alternative cross access between adjacent parking areas through the interconnection of main circulation aisles. Under these conditions, the aisles serving the parking stalls shall be aligned perpendicularly to the access aisle, as shown in *Figure 7-1* (below) with islands, curbing and/or signage to further delineate the edges of the route to be used by through traffic.

Figure 7-1 Frontage Road, Rear Service Drive, and Parking Lot Cross Access



- 11) **Parking Lot Connections or Parking Lot Cross-Access:** Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection.
- 12) **Access Easements:** Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed.
- 13) Access points shall be located to provide safe sight distance, as determined by the applicable road agency.
- 14) All access points shall maintain clear vision as illustrated in *Figures 7-2 and 7-3*.

Figures 7-2 and 7-3 Clear Vision and Driveways and Corners



- 15) Throat width and throat length of driveways shall be as required by the road authority and this *Ordinance*. The driveway design shall safely accommodate the needs of pedestrians and bicyclists.
- 16) **Grades and drainage:**
 - (a) Driveways shall be constructed such that the grade for the 25 feet nearest the pavement edge or shoulder does not exceed 1.5% (one and one-half foot vertical rise in one-hundred feet of horizontal distance) wherever feasible.

Where not feasible, grades shall conform with requirements of the applicable road authority.

- (b) Driveways shall be constructed such that drainage from impervious areas located outside of the public right-of-way, which are determined to be in excess of existing drainage from these areas shall not be discharged into the roadway drainage system without the approval of the responsible agency. Storm drains, or culverts, if required shall be of a size adequate to carry the anticipated storm flow and be constructed and installed pursuant to the specifications of the responsible road authority.

17) Directional Signs and Pavement Markings: In order to ensure smooth traffic circulation on the site, direction signs and pavement markings shall be installed at the driveway(s) in a clearly visible location as required by the City of Bessemer as part of the site plan review process and approved by the Michigan Department of Transportation, as appropriate, and shall be maintained on a permanent basis by the property owner. Directional signs and pavement markings shall conform to the standards in the *Michigan Manual of Uniform Traffic Control Devices*.

18) Traffic Signals: Access points on US-2 may be required to be signalized in order to provide safe and efficient traffic flow. Any signal shall meet the spacing requirements of the applicable road authority. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined by the road authority that the signal is warranted by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria of the road authority with jurisdiction.

19) No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any new or proposed such driveways shall be at the expense of the property owner with the problem driveway.

J) Nonconforming Driveways

- 1)** Driveways that do not conform to the regulations in this Section, and were constructed before the effective date of this Section, shall be considered legal nonconforming driveways. Existing driveways previously granted a temporary access permit by the City of Bessemer or MDOT are legal nonconforming driveways until such time as the temporary access permit expires.
- 2)** Loss of legal nonconforming status results when a nonconforming driveway ceases to be used for its intended purpose, as shown on the approved site plan, or a plot plan, for a period of twelve (12) months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this Article.
- 3)** Legal nonconforming driveways may remain in use until such time as the use of the driveway or property is changed or expanded in number of vehicle trips per day or in the type of vehicles using the driveway (such as many more trucks) in

such a way that impact the design of the driveway. At this time, the driveway shall be required to conform to all aspects of the *Ordinance*.

- 4) Driveways that do not conform to the regulations in this *Ordinance* and have been constructed after adoption of this *Ordinance*, shall be considered illegal nonconforming driveways.
- 5) Illegal nonconforming driveways are a violation of this *Ordinance*. The property owner shall be issued a violation notice which may include closing off the driveway until any nonconforming aspects of the driveway are corrected. Driveways constructed in illegal locations shall be immediately closed upon detection and all evidence of the driveway removed from the right-of-way and site on which it is located. The costs of such removal shall be borne by the property owner.
- 6) Nothing in this *Ordinance* shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways, provided it is done consistent with the requirements of this Section.

K) Waivers and Variances of Requirements

- 1) Any applicant for access approval under the provisions of this Section may apply for a waiver of standards in Section 7.1.I above if the applicant cannot meet one or more of the standards according to the procedures provided below:
 - (a) For waivers on properties involving land uses with less than 500 vehicle trips per day based on rates published in the *Trip Generation Manual* of the Institute of Transportation Engineers: Where the standards in this Section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the Section may be accepted by the Zoning Administrator, provided that all of the following apply:
 - (i) The use has insufficient size to meet the dimensional standards.
 - (ii) Adjacent development renders adherence to these standards economically unfeasible.
 - (iii) There is no other reasonable access due to topographic or other considerations.
 - (iv) The standards in this Section shall be applied to the maximum extent feasible.
 - (v) The responsible road authority agrees a waiver is warranted.
 - (b) For waivers on properties involving land uses with more than 500 vehicle trips per day based on rates published in the *Trip Generation Manual* of the Institute of Transportation Engineers: During site plan review the Planning Commission shall have the authority to waive or otherwise modify the standards of Section 7.1.I following an analysis of suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this Section, provided all of the following apply:

- (i) Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.
- (ii) Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
- (iii) The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
- (iv) The proposed location and design is supported by the applicable road authority as an acceptable design under the circumstances.

2) Variance Standards: The following standards shall apply when the Board of Appeals considers a request for a variance from the standards of this Section.

- (a) The granting of a variance shall not be considered until a waiver under Section 7.1.K above has been considered and rejected.
- (b) Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, steep slopes, an odd parcel shape or narrow frontage, or location relative to other buildings, driveways or an intersection or interchange) that make strict application of the provisions of this Section impractical. This shall include proof that:
 - (i) indirect or restricted access cannot be obtained; and,
 - (ii) no reasonable engineering or construction solution can be applied to mitigate the condition; and,
 - (iii) no reasonable alternative access is available from a road with a lower functional classification than the primary road; and,
 - (iv) without the variance, there is no reasonable access to the site and the responsible road authority agrees.
- (c) The Board of Appeals shall make a finding that the applicant for a variance met their burden of proof above, that a variance is consistent with the intent and purpose of this Section, and is the minimum necessary to provide reasonable access.
- (d) Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an unnecessary hardship on the applicant. No variance shall be granted where such hardship is self-created.

L) Traffic Impact Study

- 1) If the proposed land use exceeds the traffic generation thresholds below, then the Zoning Administrator shall require submittal of a traffic impact study at the expense of the applicant, as described below prior to consideration of the application or site plan by either the Zoning Administrator or the Planning Commission. At their discretion, the Planning Commission may accept a traffic impact study prepared for another public agency. A traffic impact study shall be provided for the following developments unless waived by the Planning Commission following consultation with the Michigan Dept. of Transportation, as applicable:
 - (a) For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or
 - (b) When permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the

peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day.

- (c) Such other development that may pose traffic problems in the opinion of the Planning Commission.
- 2) At a minimum the traffic impact study shall be in accordance with accepted principles as described in the handbook *Evaluating Traffic Impact Studies, a Recommended Practice for Michigan*, developed by the MDOT and other Michigan transportation agencies and contain the following:
- (a) A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current data transportation system inventory, peak hour volumes at present and projected, number of lanes, roadway cross section, intersection traffic, signal progression, and related information on present and future conditions. The capacity analysis software should be the same for each project, such as using HCS 2000 or a later version.
 - (b) Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers *Trip Generation* manual. The City of Bessemer may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.
 - (c) Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the *Highway Capacity Manual* published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact study.
 - (d) Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.
 - (e) Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the US-2 Highway Corridor Access Management Plan and the Community or Comprehensive Master Plan, and will not reduce capacity or traffic operations along the roadway.
 - (f) Qualifications and documented experience of the author of the Traffic Impact Study, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

- 3) The City of Bessemer may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per Section 7.1.M below.

M) Fees in Escrow for Professional Reviews

- 1) Any application for rezoning, site plan approval, a Special Land Use Permit, Planned Unit Development, variance, or other use or activity requiring a permit under this *Ordinance* above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required by either the Zoning Administrator or the Planning Commission for any project which:
 - (a) Requires a traffic impact study or
 - (b) Has more than twenty (20) dwelling units or
 - (c) Has more than twenty-thousand (20,000) square feet of enclosed space or
 - (d) Requires more than twenty (20) parking spaces or
 - (e) Which involves surface or below surface mining or disposal of mine materials or
 - (f) Any other project which may, in the discretion of the Zoning Administrator or Planning Commission, create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.
- 2) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the City of Bessemer values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Planning Commission indicating the extent of conformance or nonconformance with this *Ordinance* and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the City of Bessemer and a copy of the statement of expenses for the professional services rendered, if requested.
- 3) No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- 4) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by the City of Bessemer in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.
- 5) Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

- A) Purpose:** The purpose of this Section is to ensure that property is developed in a manner consistent with its zoning designation, and the proposed physical elements are designed and arranged to protect the priority resource protection areas both on the site and in the vicinity of the site as identified by the City of Bessemer. The Overlay District establishes procedures to enable the applicant and City of Bessemer to achieve the mutually compatible objectives of reasonable use of land and protection of vital natural resources.
- B) Applicability:** To the maximum extent feasible, any development plan (i.e. site plan, subdivision plat, and site condominium plan) shall be designed and arranged to ensure that disturbance to any priority resource protection area as a result of the development, and that impacts and disturbance to such areas and the plants and wildlife inhabiting those areas, shall be minimized through the use of natural area buffers, conservation easements, and creative land development techniques. To that end, the City of Bessemer has identified areas to be regulated on a Priority Resource Protection Map, which is attached to and made part of this *Ordinance*.
- C) Ecological Characterization:** It is intended that these *Ordinance* requirements be applied based upon reliable and factual data. Applicants are encouraged to consult the Michigan Natural Features database. Where detailed studies have been prepared by the Michigan Natural Features Inventory no other additional ecological study is required. If a development site is determined by the City of Bessemer, upon information or from inspection, that the site likely includes areas with wildlife, plant life, and/or other natural characteristics in need of protection, and if the City of Bessemer does not then possess the information required to apply review standards, then the developer shall provide to the City of Bessemer a report prepared by a professional qualified in the areas of ecology, botany, wildlife biology, or other relevant discipline that describes, without limitation, the following:
- 1) The wildlife use and habitat showing the species of wildlife using the area, the times or seasons that the area is used by those species, and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;
 - 2) The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;
 - 3) Any prominent views from or across the site;
 - 4) The pattern, species, and location of any significant native trees and other native site vegetation;
 - 5) The bank, shoreline, and high water mark of any stream or body of water on the site;
 - 6) Wildlife movement corridors;
 - 7) The general ecological functions provided by the site and its features.

- 8) The City of Bessemer may employ their own consultants with the relevant expertise to review materials submitted by the applicant.
- D) Establishment of Priority Protection:** For every development subject to this *Ordinance*, the applicant shall propose, and the City of Bessemer shall establish on the project development plan, areas of priority protection. The development plan shall establish the development capability of the site and indicate the specific area(s) of a site within which the developed project may be constructed and within which the development activity shall be contained. In establishing the development capability of a site, the City of Bessemer shall consider and apply the following criteria:
- 1) The actual boundary of development capability designation to be shown on a development plan shall be proposed by the applicant, and established by the City of Bessemer through site evaluations and reconnaissance, and shall be based on the ecological characterization of the area.
 - 2) In establishing the development capability of the site, the following shall be taken into account:
 - (a) Visual impacts, including but not limited to ridgeline protection areas and protection of scenic views.
 - (b) Erosion prevention and control, including but not limited to protection of natural drainage channels and compliance with an approved stormwater drainage management plan.
 - (c) Preservation of significant native trees and other native site vegetation, including protection of natural area buffers zones.
 - (d) Conservation of water, including but not limited to preservation of existing native vegetation, reduction in amounts of irrigated areas, and similar considerations.
 - (e) Stream corridor and wetland protection and buffering.
 - (f) Site topography, including but not limited to such characteristics as steepness of slopes, existing drainage features, rock outcroppings, river and stream terraces, valley walls, ridgelines, and scenic topographic features.
 - (g) Floodplains and floodways.
 - (h) Wildlife movement corridors.
 - (i) Natural area buffer zones as delineated below.
 - (j) The practical needs of approved construction activity in terms of ingress and egress to the developed project and necessary staging and operational areas.
 - (k) Hydrology and groundwater flow.
- E) Development Standards and Guidelines:**
- 1) To the maximum extent feasible, no construction activity, including, without limitation, grading, excavation, or stockpiling of fill material shall be permitted within priority protection areas whether to provide for a building site, on-site utilities or services, or for any roads or driveways except as provided for below:
 - (a) Mitigation of development activities;
 - (b) Restoration of previously disturbed or degraded areas;
 - (c) Emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained to areas outside of those identified as significant;
 - (d) Construction of trails or pedestrian walkways that will provide access in an environmentally appropriate manner;

- (e) The enhancement of the habitat values and/or other natural resource values of a natural area.
- 2) Establishment of Buffer Zones:** Buffer zones shall be established adjacent to areas of priority protection. Such buffers shall be a minimum of fifteen (15) feet in width. The City of Bessemer may increase or decrease the buffer zone requirement as reasonably appropriate under such circumstances. In establishing the buffer zone(s), the City of Bessemer shall consider and apply the following criteria:
- (a) The foreseeable impacts of development on the wildlife usage or ecological character or function of the natural area.
 - (b) The ecological and wildlife use characterization of the natural area.
 - (c) The existence of wildlife movement corridors.
 - (d) The extent of floodplains and floodways.
 - (e) The type, amount, and extent of existing vegetation on the site.
 - (f) The existence of special wildlife habitat features.
 - (g) The character of the proposed development in terms of use, density, traffic generation, quality of runoff water, noise, lighting, and similar potential development impacts.
 - (h) Site topography, including but not limited to such characteristics as steepness of slopes, existing drainage features, ridgelines, and scenic topographic features.
- 3) Mitigation of Disturbance:** While development is anticipated outside of priority protection areas, the applicant shall avoid disturbance to priority protection areas and undertake mitigation measures to restore any damaged or lost natural resource. Any such mitigation or restoration shall be roughly equivalent to the loss suffered by the community because of the disturbance, and shall be based on such mitigation and restoration plans and reports as have been requested, reviewed and approved by the City of Bessemer.
- 4) Connections:** If the development site contains priority protection areas that connect to other off-site areas of a similar nature, to the maximum extent feasible, the development plan shall preserve such connections. If priority protection areas lie adjacent to the development site, but such areas are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife movement between natural areas and to enhance the opportunity for the establishment of new connections between areas for the movement of wildlife.
- 5) Lakes, Reservoirs, and Ponds:** If the development site contains a lake, reservoir, or pond, the development plan shall include such enhancements and restoration as are necessary to provide reasonable wildlife habitat and improve aesthetic quality in areas of shoreline transition and areas subject to wave erosion. The development plan shall also include a design that requires uniform

and ecologically and aesthetically compatible treatment among the lots or tracts surrounding a lake, reservoir, or pond with regard to the establishment of erosion control protection and shoreline landscaping on or adjacent to such lots or tracts.

- 6) **Design and Aesthetics:** Projects located within the Overlay District, shall be designed to complement the visual context of the natural area. Techniques such as architectural design, site design, the use of native landscaping, and choice of colors and building materials shall be utilized in such manner that scenic views across or through the site are protected, and manmade facilities are screened from off-site observers and blend with the natural visual character of the area.
- 7) **Stormwater Drainage/Erosion Control:** All stormwater drainage and erosion control plans shall meet the standards adopted by the City of Bessemer for design and construction and shall, to the maximum extent feasible, utilize nonstructural control techniques, including but not limited to:
 - (a) Limitation of land disturbance and grading;
 - (b) Maintenance of vegetated buffers and natural vegetation;
 - (c) Minimization of impervious surfaces;
 - (d) Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined swales;
 - (e) Use of infiltration devices.

Section 7.3 Central Business District Overlay

- A) **Purpose:** The Purpose of the Central Business District Overlay is to preserve the historical characteristics and create a long-lasting benefit to the City of Bessemer, specifically in the downtown.
- B) **Boundaries:** The boundaries are the lots bordering Sophie St from Colby St North to US-2 and the lots bordering Mary St from Moore St East to Sophie St.
- C) **Design Standards**
 - 1) **Building Entrance**
 - a. All buildings shall have at least one public, pedestrian entrance that faces the main street on the frontage line and is directly accessible from the sidewalk. In the event that the building is located on a corner lot or faces upon a public space, said building face shall also be treated as a building front face. Rear entrances are permitted, only if there is a primary entrance from main street.
 - b. All buildings shall retain the original building entrance, if historically accurate.
 - c. **Doors**
 - i. Doors shall use transparent glass.
 - ii. Front entrance doors shall be constructed out of material compatible with the historic character of the district.
 - iii. Entrances must be barrier free and universally accessible.
 - 2) **Front Façade Design**

All building façades that face a street shall conform to the following design criteria:

 - a. **Street face:** Walls facing a public street shall include windows and architectural features customarily found on the front façade of a building such as awnings, edge details, or decorative finish material. Blank walls shall not face a public street. Significant protrusions (more than 6 inches), such as awnings, cornice lines, details at the top of windows and sills are encouraged to create shadow lines or bands on the façade.

- b. **Storefront entrances:** The storefront opening shall be a rectangular opening, ten (10') feet to twelve (12') feet high and approximately 20% of the width of the storefront or bay. The opening shall be almost entirely glass (window or showcases) with few subdivisions to help maintain visual contact between the street and building interior. Recessed openings are required.
- 3) **Building Material**
- a. **Buildings:** The buildings are to constructed from permanent or permanent appearing materials that will weather well over time, such as brick, stone, masonry, or other natural materials. The use of metal panels, vinyl siding, wood siding, and cement board siding shall not be allowed unless the zoning administrator and/or planning commission grant special approval in circumstances where the architecture is in keeping with the historic nature of the district.
 - b. **Storefront opening:** Glass shall be clear. Reflective, mirror, heavily tinted, or unusually colored glasses must first receive approval from the city.
- 4) **Balconies, railings, and porch structures**
- a. **Windows:** Second story windows shall maintain the height and width of the original historic window openings.
 - b. **Security systems:** Security bars, solid metal security gates, or solid roll-down windows shall be prohibited. Any exterior security lighting must meet the general requirements and intent of this code.
 - c. **Mechanical equipment:** Roof top mechanical equipment shall be hidden from view from adjacent properties and the right-of-ways.
- 5) Rear and side store fronts should be similarly designed as front façades if they abut a street in the overlay district.
- 6) **Mechanical equipment**
- a. **Mechanical equipment:** All air-conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view on the public rights-of-way by using walls, fences, roof elements, or landscaping without impeding on the function of the device.
 - b. **Fire escapes:** Fire escapes shall not be permitted on a building's front façade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.
- 7) **Setbacks**
- a. There shall be no front setbacks in this overlay district.

Article 8 Reserved for Future Use

Article 9 Conditional and Special Land Use Regulations

Section 9.1 Purpose

The purpose of this Article is to establish procedures and criteria that shall be applied in the determination of requests for Conditional and Special Land Uses. Conditional Land Uses and Special Land Uses are not essentially incompatible with uses permitted in a Zoning District, but possess characteristics which require individual review and discretion to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The criteria for decision and requirements set forth in this Article shall be in addition to those required elsewhere in this *Ordinance* which apply to the use or location under consideration.

Section 9.2 Types of Use Regulations

As provided in the *Michigan Zoning Enabling Act, PA 110 of 2006*, site plans for Special Land Uses, Planned Unit Developments, Condominium Projects, Variances or other discretionary decisions may be approved with reasonable conditions that are necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:

- Be designed to protect the air, water and other natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners adjacent to the proposed land use or activity, and the community as a whole.
- Be related to the valid exercise of the police power, and to the proposed use or activity.
- Be necessary to meet the intent and purpose of the zoning requirements; be related to the standards established in this *Ordinance* for the land use or activity under consideration; and be necessary to insure compliance with those standards.
- Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.

Conditional Land Uses are permitted by right in a particular District and are listed as “C” on Article 4, Table 4-1, Section 4.4.3, provided that the use complies with the referenced requirements.

Special Land Uses are uses that may be permitted in a particular District and are listed as “S” on Article 4, Table 4-1, Section 4.4.3, but only after review by the Planning Commission and issuance of a permit by the City Council, in accordance with the standards and procedures set forth in this *Ordinance*.

Section 9.3 Conditional Land Use Permits

Conditional Land Use Permits may be approved, modified, conditioned, or denied by the Zoning Administrator based on the standards presented in this Chapter and subject to such conditions as are reasonably necessary to minimize adverse impacts on abutting property, and protect the public health, safety, and general welfare.

A) Conditional Land Use Application

- 1) Any person or entity shall obtain a Zoning Permit from the Zoning Administrator under Article 14, Section 14.3.A and 14.3.B, using a form provided by the City, before establishing, expanding, or amending a Conditional Land Use (this does not apply to terminating a Conditional Land Use).
- 2) The Zoning Administrator shall review each application pursuant to the requirements of Article 14, Section 14.3.A.
- 3) Required information shall include:
 - (a) A fully completed Conditional Land Use Permit application on a form supplied by the Zoning Administrator.
 - (b) A minor site plan, satisfying the requirements of Article 14, Section 14.5 entitled Site Plan Review.
 - (c) A statement of compliance with the standards required for approval in Section 9.5 and other standards imposed by other sections of this *Ordinance* affecting the Conditional Land Use under consideration.

B) Conditional Land Use Approval Procedure

- 1) The Zoning Administrator shall make a determination in accordance with the criteria described in Section 9.5.A, and such other standards contained in the *Ordinance* which relate to the Conditional Land Use under consideration.
- 2) The Zoning Administrator may refer the application for a Conditional Land Use Permit to the Planning Commission for a decision. The Planning Commission shall make a determination in accordance with the criteria described in Section 9.5.A, and such other standards contained in the *Ordinance* which relate to the Conditional Land Use under consideration in the same way as the Zoning Administrator and in accordance with their standard review procedures.
- 3) A request for approval of a land use or activity which the Zoning Administrator or Planning Commission finds is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes, shall be approved.
- 4) Upon the approval, the Zoning Administrator shall prepare and issue a permit to the Applicant incorporating the conditions of approval. If the application is denied, the Zoning Administrator shall identify the reasons for that denial. In such a case, an aggrieved Applicant may appeal the Zoning Administrator's determination to the Zoning Board of Appeals, as described in Section 14.6.

Section 9.4 Special Land Use Permits

Any person or entity must obtain a permit before establishing, expanding or amending a Special Land Use, with the exception of terminating the Special Land Use as described in Section 9.8.D. Article 10 applies to any applications for a combined Special Land Use Permit and Planned Unit Development, not Article 9.

A) Special Land Use Application

- 1) Any person or entity shall obtain a Zoning Permit from the Zoning Administrator under Article 14, Section 14.3.A and 14.3.B, using a form provided by the City, before establishing, expanding, or amending a Special Land Use (this does not apply to terminating a Special Land Use).
- 2) The Zoning Administrator shall review each application pursuant to the requirements of Article 14, Section 14.3.A, and when deemed complete, schedule it for a public hearing at a regular Planning Commission meeting, unless the applicant pays all the costs for a special meeting.
- 3) An application for a Special Land Use Permit shall include the following documents and information:
 - (a) A fully completed Special Land Use Permit application on a form supplied by the Zoning Administrator.
 - (b) A Major Site Plan, satisfying the requirements of Article 14, Section 14.5 entitled Site Plan Review.
 - (c) A statement of compliance with the standards required for approval in Section 9.5 and other standards imposed by this *Ordinance* affecting the Special Land Use under consideration, including but not limited to those in Section 9.11, those in Article 5, Section 5.5 (General Parking & Loading), Section 5.6 (General Landscaping, Buffering & Fence), and Section 5.7 (General Sign).

B) Special Land Use Approval Procedure

- 1) Public Hearing, Planning Commission
 - (a) After notice of the public hearing under Section 14.4.A, the Planning Commission shall conduct the hearing in accord with the provisions of Section 14.4.B.
 - (b) The Planning Commission shall review the application, public comments, the Site Plan, and other pertinent information received, and shall make a determination in accordance with the criteria described in Section 9.5.A, and such other standards contained in the *Ordinance* which relate to the Special Land Use under consideration.
 - (c) The Planning Commission shall forward its recommendation to the Bessemer City Council for final action.
- 2) Public Hearing, City Council
 - (d) After notice of the public hearing under Section 14.4.A, the City Council shall conduct the hearing in accord with the provisions of Section 14.4.B.
 - (e) The Bessemer City Council may, by majority vote of its members, deny, approve, or approve with conditions the Special Land Use application. Its decision shall be incorporated in a statement of conclusions about the Special Land Use under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which the Council finds is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes shall be approved.

- 3) Upon approval, or approval with conditions, by the Bessemer City Council, the Zoning Administrator shall prepare and issue a permit to the Applicant incorporating the conditions imposed, if any, by the Bessemer City Council.
- 4) An appeal of a decision by the Bessemer City Council to approve, deny, or approve with conditions a Special Land Use Permit application may be taken to Circuit Court, and may not be first appealed to the Board of Appeals.

Section 9.5 Basis of Determination

- A) General Standards:** The Planning Commission and the Bessemer City Council shall make a specific finding of compliance with each of the following standards:
- 1) The Special Land Use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - 2) The Special Land Use shall not change the essential character of the surrounding area.
 - 3) The Special Land Use shall not be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other features of the proposed use.
 - 4) The Special Land Use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
 - 5) The Special Land Use shall meet the Site Plan review requirements of Article 14, especially Section 14.3.B.3 and Section 14.5.F.
 - 6) The Special Land Use shall meet the requirements of Section 9.11 specific to that use.
 - 7) The Special Land Use shall meet the requirements for parking, landscaping and signage as required in Article 5, Sections 5.5, 5.6, and 5.7 respectively.
 - 8) The Special Land Use shall demonstrate compliance with all other related requirements of this *Ordinance*.
 - 9) The Special Land Use shall conform with all applicable City, County, State and Federal requirements for that use.
 - 10) The applicant is in substantial compliance with any previously issued Zoning Permits and is not otherwise disqualified from receiving a permit under Section 14.9 of this *Ordinance*.
- B) Conditions:** The Planning Commission may recommend, and the Bessemer City Council may impose, conditions with approval of a Special Land Use Permit which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this *Ordinance*. Such

conditions shall be considered an integral part of the Special Land Use Permit and shall conform with the requirements of Section 14.3.F and 14.3.G.

Section 9.6 Previously Approved Special Land Uses

A Special Land Use approved by the Bessemer City Council before the adoption or amendment of this *Ordinance* may be amended only through the filing and approval of a new application under this Article. The application shall be considered under the current standards of this *Ordinance*, rather than the standards in effect at the time of the original approval. If the application is denied, the previously approved Special Land Use shall remain valid.

Section 9.7 Reserved for Future Use

Section 9.8 Use Permit Details

- A) Validity of Permit:** A Special Land Use Permit shall be valid for a period of one (1) year from the date of issuance, unless another, longer, time period is set by the Bessemer City Council as a condition of approval. If the use has not commenced by the end of this time period, the permit shall expire automatically without any further action or notice by the City unless an extension is requested in writing by the permit holder and granted by the Council.
- B) Permit Revocation:** In the event the Bessemer City Council believes the holder of a Special Land Use Permit has failed to comply with one or more of the terms or conditions of the permit or of this *Ordinance*, the Bessemer City Council may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen (15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder, interested parties, and the Zoning Administrator shall be allowed to appear at the hearing and to present evidence pertinent to whether the permit should be revoked. If the Bessemer City Council decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this *Ordinance*. On the 60th day after the hearing, the Zoning Administrator may inspect the property and notice the permit holder that the use is a per se nuisance and a violation of this *Ordinance*.
- C) Permit Transferability:** A Special Land Use Permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property provided that the permit holder is in compliance with the terms of the permit. A Special Land Use Permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes for which the Special Land Use Permit was granted as long as all conditions and terms of the permit are satisfied. Permit transfer is automatic, provided that within sixty (60) days of acquiring ownership the new Owner registers his intent to continue the Special Land Use with the Zoning Administrator on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable ordinance requirements that apply to the property and any special conditions imposed upon the Special Land Use when the transfer form is submitted.

- D) Termination of a Special Land Use Permit if the Use Changes:** If there is a change in the use of a property for which a Special Land Use Permit was issued, the Special Land Use shall automatically terminate and the property shall only be used for a use permitted in the District in which the property is located. A Special Land Use Permit for a seasonal use is also subject to termination, if the season passes in which the Special Land Use would normally occur and a different use is in place instead.
- E) Recording with Register of Deeds:** A Special Land Use Permit, or expiration, revocation or termination thereof, may be recorded by the City with the Gogebic County Register of Deeds.

Section 9.9 Reapplication

No application for a Special Land Use Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence or a falsehood previously relied upon by the City, which, through the exercise of normal diligence, could not have been discovered before the hearing as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

Section 9.10 Reserved for Future Use

Section 9.11 Standards for Conditional and Special Land Uses

The following standards apply to Conditional and Special Land Uses permitted in this *Ordinance*, in addition to any other applicable standard or regulation.

A) Agricultural Uses:

- (1) **Agricultural Service Establishments:** Agricultural service establishments (except animal services) permitted by Special Land Use Permit in the CE and C-2 Districts must meet the following requirements:
- (a) Shall be on a parcel or lot with a minimum size of ten (10) acres and a minimum frontage of three hundred (300) feet in the CE District and on a lot of at least two (2) acres in the C-2 District.
 - (b) Shall meet all Health Department and MDEQ standards, as applicable.
 - (c) If within three hundred (300) feet of a dwelling unit, the use must be screened and buffered as provided for in Section 5.6.C or Section 5.6.G.
 - (d) No storage or loading activities shall be permitted within one hundred (100) feet of any lot line; all lighting shall be down-shining and shielded from other properties and roadways.
 - (e) Parking and signage shall be as required in Article 5, Section 5.5 and Article 5, Section 5.7 respectively.

- (2) **Animal Services:** Animal services establishments permitted with conditions in the CE, C-1, and C-2 Districts must meet the following requirements:
- (a) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.
 - (b) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
 - (c) Signage will meet all requirements of Section 5.7.
 - (d) Noise or similar objectionable characteristics incident thereto shall not be discernible beyond the boundaries of the lot or premises.
 - (e) The kennel facility shall have waste disposal systems adequate to handle all animal waste generated by the facility at its maximum capacity.
 - (f) The kennel facility shall be designed, constructed, operated, and maintained in such a manner as to at all times provide humane, clean, dry, and sanitary conditions for each animal kept on the premises, including sufficient square footage for each animal, in accordance with applicable state laws and regulations, and the recommendations of the U.S. Department of Agriculture and the American Kennel Club.
 - (g) A fully-enclosed kennel facility without any outside animal runs shall be located at least 100 feet from all boundary lines of any residential uses or districts.
 - (h) Animal services facilities or kennels with outdoor (not fully enclosed) facilities must be in conformance with the following additional requirements:
 - (i) Must be located at least 500 feet from all boundary lines of any residential uses or districts.
 - (ii) Outside animal runs and/or outside dog exercise areas shall be sufficiently monitored such that any dog(s) engaging in repetitive barking shall be promptly brought inside.
 - (iii) A privacy fence six (6) feet in height meeting the standards of Section 5.6.G shall be installed around the perimeter of all the outdoor, unenclosed kennel facilities.
- 3) **Commercial Agriculture or Horticulture:** (Composting see Section 9.11.H) Commercial Agriculture and Horticulture operations permitted with conditions in the CE, M-1, and M-2 Districts must meet the following requirements:
- (a) Generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture per the *Michigan Right to Farm Act, P.A. 93 of 1981, as amended*.
 - (b) Applicable provisions of the *Michigan Right to Farm Act, P.A. 93 of 1981, as amended*.
 - (c) Applicable provisions of the *Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106, as amended*.
 - (d) Shall meet all Health Department and MDEQ standards, as applicable
- 4) **Small Scale Food Production and Urban Agriculture:** Small scale food production and urban agriculture operations permitted with conditions in the CE, R-1, R-2, C-1, and C-2 Districts (per Section 4.4) must meet the following requirements:
- (a) **Community Gardens:** Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Such land may include available public land. Community Gardens permitted

with conditions in the CE, R-1, R-2, C-1, and C-2 Districts must meet the following requirements:

- (i) The land shall be served by a water supply sufficient to support the cultivation practices used on the site.
 - (ii) Site users shall use raised beds with new soil or provide a Phase 1 Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening. Raised beds shall also be used if the ESA finds the proposed site to be contaminated.
 - (iii) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots in a fair and impartial manner according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the City.
 - (iv) The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.
 - (v) There shall be no retail sales, except for produce grown on the site.
 - (vi) No building or structures shall be permitted on the site except sheds for storage of tools; greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated; chicken coops; benches; bike racks; raised/accessible planting beds; compost or waste bins; picnic tables; seasonal farm stands; fences; garden art; rain barrel systems; and children's play areas. The combined area of all buildings or structures shall not exceed 15 percent of the garden site lot areas. Any signs shall comply with Section 5.7.
 - (vii) Any fences or screen on the site shall comply with Section 5.6.
- (b) **Keeping of Chickens:** The raising of chickens permitted with conditions in the CE, R-1, R-2, C-1, and C-2 Districts must meet the following requirements:
- (i) **Permits:**
 1. Any person who keeps chickens in the City of Bessemer shall obtain a permit from the City prior to acquiring the chickens.
 2. The City shall issue no permit and no chickens shall be kept unless the owners of all residentially zoned adjacent properties consent in writing to the permit and this consent is presented along with an application for a permit.
 3. Written statements waiving the distance requirement in subsection (ii) below shall also be submitted at the time of application and become a

part of any permit if issued. Application shall be made to the City Clerk with the permit fee as determined by Council resolution.

4. Permits expire and become invalid five (5) years after the date of issuance. A person who wishes to continue keeping chickens shall obtain a new permit on or before the expiration date of the previous permit. Procedures and requirements in effect at the time of the request apply to the permit.
 5. Notwithstanding the issuance of a permit by the City, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
- (ii) **Requirements:** A person who keeps or houses chickens on his or her property shall comply with all of the following requirements:
1. Have the permit required under subsection (i) above.
 2. Keep no more than four (4) chickens.
 3. The principal use of the person's property is for a single-family dwelling or two-family dwelling.
 4. No person shall keep any rooster.
 5. No person shall slaughter any chickens.
 6. There shall be a covered enclosure for the chickens. Fenced enclosures are subject to all provisions of Section 5.6.
 7. A person shall not keep chickens in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two family structure and extending to the side lot lines.
 8. Any covered enclosure or fenced enclosure shall be a minimum of ten (10) feet from any property line of an adjacent property;
 9. All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
 10. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
 11. A covered enclosure or fenced enclosure shall not be located closer than forty (40) feet to any residential structure on an adjacent property.
 - a. This requirement can be waived if the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners, and in the case of a two-family dwelling, the other occupants of the premises, that there is no objection to the

issuance of the permit and the waiver of the forty (40) foot distance requirement.

- b. For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.

12. If the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

- (c) **Greenhouses and Aquaculture Systems:** Greenhouses and aquaculture systems as an accessory structure permitted with conditions in the CE, R-1, R-2, C-1, and C-2 Districts must meet the following requirements:
 - (i) Allowed as an accessory building to principle use with a maximum size of 400 square feet.
 - (ii) Shall meet generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture per the *Michigan Right to Farm Act, P.A. 93 of 1981, as amended.*
 - (iii) Subject to applicable provisions of the *Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106, as amended.*
 - (iv) Shall meet all Health Department and MDEQ standards, as applicable.
 - (v) If within three hundred (300) feet of a dwelling unit, the use must be screened and buffered as provided for in Section 5.6.C or Section 5.6.G.
 - (vi) No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.
 - (vii) All lighting shall be down-shining and shielded from other properties and roadways.
 - (viii) Parking and signage shall be as required in Article 5, Section 5.5 and Article 5, Section 5.7 respectively.
 - (ix) Site shall be designed and maintained so that all wastes will not drain onto adjacent property.
- (d) **Farmer's Markets and Food Stands:** Food Stands permitted with conditions in the CE, R-2, C-1, and C-2 districts must meet the requirements of Section 5.2.F, Temporary Buildings and Structures. Farmer's Markets permitted with conditions in the CE, R-2, C-1, and C-2 districts must meet the following requirements:
 - (i) All Farmer's Markets and their vendors shall receive all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as

applicable, on the site of the Farmer's Market during all hours of operation.

- (ii) All Farmer's Markets shall meet all Health Department, MDEQ, and Public Safety standards, as applicable.
- (iii) All Farmer's Markets shall comply with the Generally Accepted Agricultural and Management Practices for Farm Markets established by the Michigan Department of Agriculture.
- (iv) All lighting shall be down-shining and shielded from other properties and roadways.
- (v) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.
- (vi) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
- (vii) Signage will meet all requirements of Section 5.7.

B) Airports: All airports and landing strips are permitted by Special Land Use Permit in the CE District provided they are designed and built:

- 1) In conformance with all FAA and MAC regulations, including, but not limited to 1950 PA 23, 1999 PA 382 and 383, which require an Airport Layout Plan, and an Airport Accident Safety Zone.
- 2) BII basic utility airports (as defined and regulated by MDOT) shall be located on property served by a paved road or street; BIII commercial airports (as defined and regulated by MDOT) shall be located on property served by a paved major thoroughfare.
- 3) Lodges, schools, churches, or other assembly buildings shall not be located within two thousand six hundred-forty (2,640) feet of any runway.
- 4) A six (6) foot chain link fence shall be provided to prevent the attendant hazards of inadvertent entries onto the airport properties.
- 5) All lights, used for landing strips and other lighting facilities, should be so arranged as not to reflect towards adjoining districts or uses.
- 6) The storage and handling of flammable liquids, liquefied petroleum gases and explosives at the airport shall comply with applicable State Rules and Regulations.
- 7) Off-street parking should be provided in sufficient amounts to provide for the parking of automobiles and other motor vehicles used by the employees, patrons and visitors to the airport and which should not be less than one (1) parking space for each one employee and one (1) parking space for each one (1) aircraft harbored at the airport.

C) Bed & Breakfast Establishments: Tourist homes and bed & breakfast establishments permitted with conditions in the CE, R-1, and R-2 Districts must meet the following requirements:

- 1) The minimum lot size and yard requirements shall conform with district requirements.
- 2) One (1) off-street parking space per room to be rented shall be provided on site or if the dwelling had no onsite parking prior to conversion to a bed and breakfast, on the side of the road or on a site within two hundred (200) feet of the site at the nearest point, in addition to the parking required for a single-family dwelling. Parking shall be screened from adjacent residential parcels.

- 3) The bed and breakfast must be the primary dwelling unit for the owner, who must operate and occupy the structure. The bed and breakfast facility may have up to six (6) bedrooms used for transient guests for compensation.
 - 4) The applicant shall provide a scaled floor plan of the premises as part of the Special Land Use application.
 - 5) The exterior appearance of the structure shall be harmonious with the character of the surrounding District.
 - 6) A fire escape plan shall be developed and graphically displayed in each guest room.
 - 7) A minimum of one (1) fire extinguisher, in proper working order, shall be located on each floor, in a place readily accessible to guests.
 - 8) The establishment shall contain at least two exits to the outdoors.
 - 9) No guest room shall be located in a basement or cellar.
 - 10) No transient occupant shall reside on the premises for more than ninety (90) days in any calendar year.
 - 11) Lavatories and bathing facilities shall be available to all persons using the premises.
 - 12) No separate or additional kitchen facilities shall be provided for the guests.
 - 13) Retail sales are not permitted beyond those activities serving the registered overnight patrons.
 - 14) Meals shall not be served to the public at large but only to registered guests.
 - 15) No receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve only registered guests.
 - 16) The rental sleeping rooms shall have a minimum size of one-hundred (100) square feet for each two (2) occupants, excluding bathrooms, with an additional thirty (30) square feet for each additional occupant, to a maximum of four (4) occupants per room.
 - 17) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
 - 18) Signage shall conform to the requirements of Section 5.7.
- D) Campgrounds and RV Parks, Organized Camps:** Organized camps permitted with conditions in the CE district must meet the requirements of Section 5.2.F. Campgrounds and RV Parks permitted with conditions in the CE district must meet the following requirements:
- 1) Sites shall be a minimum of ten (10) acres.
 - 2) Developments shall comply with the provisions of *P.A. 368 of 1978, as amended*, and also with the following:
 - (a) Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in the districts in which trailer parks are allowed, provided that:

- (i) Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.
- (ii) Such establishments shall be restricted in their use primarily to occupants of the park.
- (iii) Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
- (b) No space shall be so located that any part intended for occupancy is within one hundred (100) feet of a residential district and spaces shall be buffered as provided in Section 5.6.C.
- (c) Lighting shall meet the requirements of Section 5.11.C and signage shall meet the requirements of Section 5.7
- 3) In addition to meeting the above requirements the site plan shall be subject to the review and approval of the Health Department.

E) Shipping Containers

Shipping Containers (except semi-trailers) permitted by Special Land Use Permit in all districts for the use of storage and permitted in CE, R1, R2, C1, C2, and PUD for housing and must meet the following requirements.

- 1) The Shipping Container(s) must be installed on blocks, poured concrete pad, or other prepared pad to prevent rusting.
- 2) The Shipping Container(s) must be repainted and the paint must be kept in good, non-flaking condition.
- 3) Semi-Trailers are not allowed.
- 4) Shipping Container(s) used for storage are forbidden in the front yards but could be in other than backyard (excluding front) as long as inconspicuous.
- 5) If the Shipping Container is not of Standard length, height, and/or width, specific approval of the size is required.
- 6) Shipping Container(s) used for housing must meet all state building code requirements.
- 7) Not to be located on any utility, right-of-way, or easement.
- 8) Not located as to impede ingress, egress, or emergency access.
- 9) Must abide by setback requirements customary for Accessory Structures in each given zone.

F) Communication Towers, Utility and Public Service Installations:

Communication towers permitted by Special Land Use Permit in all Districts must meet the following requirements:

- 1) The location of a proposed communication tower shall not be approved unless the Zoning Administrator determines that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building located within the applicant's search radius of the proposed tower due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- (b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing or approved towers and buildings within the search area cannot accommodate the planned equipment at a height necessary to provide reasonable coverage and/or capacity as documented by a qualified and licensed professional engineer.
 - (d) Other reasons that make it infeasible to locate the planned equipment upon an existing or approved tower or building, including but not limited to documented proof that the owner of such tower or building will not lease space to the applicant, that there is insufficient ground, building, roof or tower area on which equipment may be installed, existing towers or buildings would not provide required setback distances, etc.
- 2) Subject to the setback and other requirements of this *Ordinance*, a communication tower shall be located on a parcel of land so as to provide a fall zone of not less than one hundred ten percent (110%) of the height in the tower to any lot line. This fall zone shall be maintained throughout the existence of the communication tower. No land division shall be approved which would violate this provision.
- 3) Communication towers shall be of a monopole or self-supporting lattice design, unless the Bessemer City Council finds that an alternative design will not adversely impact the surrounding area.
- 4) Proposed wireless telecommunication towers of the guyed or self-supporting lattice type shall be structurally designed, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. Proposed monopole wireless telecommunication towers shall be structurally designed to accommodate both the applicant's antennas and comparable antennas for at least one additional user. All towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- 5) The base of the tower and wire/cable supports shall be fenced with a minimum six foot (6') climb-resistant fence.
- 6) All communication towers erected, constructed, or located within the City shall comply with the following requirements:
- (a) Discontinuance and Abandonment: The holder of a Special Land Use Permit for a wireless telecommunications tower shall remove all discontinued communication towers and give notice of discontinuance of use of a tower within ninety (90) days of the date that the use of the tower ceases. If at any time the use of the tower is discontinued for more than 365 consecutive days, the Zoning Administrator may declare the tower abandoned. Notice of abandonment shall be sent by first-class mail to the applicant instructing the applicant that the tower must either be reactivated or dismantled and

removed from the site within 120 days of the date the notice is sent to the applicant. If reactivation or dismantling and removal of the tower does not occur, the City may contract to remove the tower and assess all cost on the property taxes of the owner of the tower or file a lawsuit to collect the costs plus reasonable attorney fees.

- (b) Towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA). If required to be lighted, all options for lighting shall be presented to the City Planning Commission which shall select the option with the least negative visual impact in the area, unless the FAA dictates a particular option.
- (c) There shall be no display advertising or identification of any kind intended to be visible from the ground or other structures.

G) Community Residential Care Facilities, Large: Community residential care facilities for more than six (6) persons permitted by Special Land Use Permit in the CE, R-1, and R-2 districts must meet the following requirements:

- 1) Prior to the issuance of any permit to operate a community residential care facility, and no later than December 31 of each subsequent year, the Applicant or operator shall submit to the Zoning Administrator a photocopy of a valid and current license issued by the State of Michigan. Proof of such licensing shall be required prior to the opening, and as a condition for the continued operation.
- 2) Safe areas for pick-up and discharge of users shall be provided that do not interfere with the free flow of traffic on adjacent streets. Accessible routes shall be provided from the pick-up/discharge areas to the facility.
- 3) Community residential care facilities shall be in full compliance with all applicable requirements of the Americans with Disabilities Act.
- 4) Adequate provision shall be made for access by emergency medical and fire vehicles.
- 5) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
- 6) For any child care center there shall be provided and maintained an outdoor area suitable for play activity and containing a minimum of two thousand (2,000) square feet. The outdoor play area shall be immediately contiguous to the facility it is intended to serve and shall be enclosed by a protective wall or fence.

H) Composting: Composting as a principal use of land or accessory to a commercial operation permitted by Special Land Use Permit in the CE, C-2, M-1 and M-2 districts must meet the following requirements:

- 1) The site shall be at least twenty (20) acres and have access from a paved road or high quality gravel road that is maintained in a quality condition.
- 2) Compost piles shall be managed using contemporary best management practices that include measures to minimize odor, dust and windblown debris, rodents and other nuisance animals.
- 3) No compost shall be located closer than six hundred-sixty (660) feet to any dwelling unit, church, school, other public gathering space or residential District.
- 4) There shall be a plan for controlling water-ponding and runoff approved by the County Soil Erosion and Sedimentation Control officer.

I) Dangerous Chemicals, Fuel Storage and Manufacturing: Dangerous chemicals and fuel manufacturing, storage, and/or distribution permitted by Special Land Use Permit in the M-1 and M-2 Districts must meet the following requirements:

- 1) Minimum lot size shall be three (3) acres, and no fuel tanks shall be located less than seventy-five (75) feet from any occupied building or lot line, and shall be mounted on a concrete slab to prevent overturning and spilling.
 - 2) Adequate room shall be provided for vehicle movement, the perimeter shall be fenced for safety and appropriate screening shall be provided to limit noise and headlight glare onto adjoining properties. See Section 5.6
 - 3) Pollution Prevention Plans shall be approved by the MDEQ and State Fire Marshall as required.
 - 4) Parking and signage shall be as provided in Sections 5.5 and 5.7 respectively.
- J) Drive-Through Establishments:** Drive-through establishments, including drive-through establishments as an accessory use, permitted by Special Land Use Permit in the C-1 and C-2 Districts must meet the following requirements:
- 1) The minimum lot area shall be twenty thousand (20,000) square feet.
 - 2) The minimum lot width shall be one hundred twenty-five (125) feet.
 - 3) The site shall have at least one (1) lot line on a paved major thoroughfare.
 - 4) The outdoor storage of trash and rubbish shall be screened per the requirements of Section 5.6.F.
 - 5) An adequate number of outdoor trash receptacles shall be provided in convenient locations at drive-in and carry-out food establishments.
 - 6) Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
 - 7) Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent sound or music from being audible beyond the boundaries of the site.
 - 8) Bathroom facilities shall be provided at food establishments for use by patrons even if no indoor seating is provided.
 - 9) There shall be at least two (2) temporary vehicle stopping spaces after the delivery window so motorists may prepare themselves for a safe exit onto the public roadway.
 - 10) Parking shall comply with the requirements of Section 5.5, landscaping with Section 5.6, and signage with the requirements of Section 5.7.
- K) Reserved for Future Use**
- L) Electric Transmission Lines:** 345 kv overhead electric transmission lines or larger are prohibited in City. Buried 345 kv or larger electric transmission lines permitted in C-1, C-2, M-1, and M-2 districts by Special Land Use Permit must meet the following requirements:
- 1) Siting shall conform with the requirements of the Electric Transmission Line Certification Act, PA 30 of 1995, (MCL 460.561-460.575).
 - 2) All 345 kv or larger electric transmission lines shall be within a right-of-way or easement which is at least six hundred-sixty (660) feet from any residential district, existing dwelling unit, church, school or other public gathering place.

M) Extractive Industries: Mining of clay, gravel, sand, peat, topsoil, rock, stone or minerals permitted by Special Land Use Permit in the CE and M-2 districts must meet the following requirements:

- 1) All uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.
- 2) The applicant may be required to file a cash bond, performance bond or irrevocable letter of credit of sufficient amount, or other guarantees, to assure reclamation of the site following excavation, as required by item ten (10) of this Section.
- 3) The minimum lot size shall be twenty (20) acres. No machinery shall be erected, maintained, or operated within two hundred (200) feet of any property line.
- 4) All uses shall be enclosed by a fence, berm or suitable plantings six (6) feet or more in height for the entire exposed periphery of the property per the requirements of Section 5.6.F.
- 5) All slopes and banks shall be graded and treated to prevent erosion or any other potential deterioration.
- 6) No building shall be erected on the premises except as temporary shelter for machinery or a field office unless specifically approved as part of the Special Use Permit.
- 7) Routes shall be established for truck movement to and from the site in order to minimize the wear on public roads and to prevent hazards and damage to properties in the City. That portion of access roads within the area of operation shall be constructed or treated to minimize dust if there are any dwelling units within one-half mile.
- 8) All installations shall be maintained in a neat, orderly condition so as to prevent injury to property, any individual, or the City in general.
- 9) Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include limitations upon the practice of stock-piling excavated materials on the site.
- 10) When excavation and removal operations are completed, the excavated area shall be graded according to an approved reclamation plan so that no gradients in disturbed earth shall be steeper than a slope of three (3) to one (1) in horizontal-vertical gradient. A layer of arable top soil shall be spread over the excavated area, in accordance with an approved contour plan furnished by the applicant. The area shall be seeded with a perennial grass, or other similar soil-holding material, and maintained by the applicant until the area is stabilized.
- 11) Individual excavation areas shall not exceed three (3) acres in size before reclamation.
- 12) All extraction areas in existence on the effective date of this *Ordinance* are considered a nonconforming use. Any expansion of any area is subject to the requirements of this *Ordinance*, including the preparation and implementation of an approved reclamation plan. Sites owned and maintained by the City of Bessemer or County Road Commission are subject to these regulations, the same as any privately owned site.

N) Reserved for Future Use

O) Gasoline and Auto Service Station:

Automotive services to passenger vehicles and trucks permitted by Special Land Use Permit in the C-1, C-2, and M-1 districts must meet the following requirements:

- 1) All uses and services, except gasoline, diesel or other fuel dispensing, are conducted within a completely enclosed building.
 - 2) The proposed site shall have at least one (1) property line on a major thoroughfare.
 - 3) The service station building or buildings shall be set back fifty (50) feet from all street right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line in a residential district.
 - 4) No more than two (2) driveways shall be permitted directly from any major thoroughfare nor more than one (1) additional driveway from any other public street.
 - (a) Driveway widths shall not exceed thirty-six (36) feet measured at the property line.
 - (b) Driveways shall be located as far from street intersections as practical, but no less than ninety (90) feet.
 - (c) No driveway or curb cut for a driveway shall be located within fifteen (15) feet of an adjoining property line, unless it is a shared driveway.
 - (d) Exterior lighting shall be so arranged that light is down-shining and is deflected away from adjacent properties and roadways.
 - (e) Signs shall conform with Section 5.7.
 - (f) Off-Street Parking shall conform with Section 5.5.
 - (g) Fencing/buffering shall conform with requirements of Section 5.6.G.
- P) Group Housing:** Group housing permitted by Special Land Use Permit in the CE, R2, and C-1 districts must meet the following requirements:
- 1) The minimum site size is one (1) acre.
 - 2) Parking shall meet the requirements of Section 5.5.
 - 3) There shall be at least fifty (50) feet between buildings with dwelling units or sleeping space and abutting single-family dwellings.
 - 4) There shall be a written fire safety and emergency escape plan.
 - 5) Must conform with all other applicable city, county, state and federal requirements.
 - 6) Adequate provision shall be made for access by emergency medical and fire vehicles.
 - 7) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
- Q) Home Occupations:**
- Home occupations permitted with conditions in CE, R-1, R-2, C-1, and C-2 districts must meet the following requirements:
- 1) **Uses Allowed:** Uses that comply with all of the standards of this subsection will be allowed as home occupations unless they are specifically prohibited. The home occupation must be clearly subordinate and incidental to the use of the dwelling as a dwelling unit, and no more than one home occupation is permitted in a dwelling.

- 2) **Size:** A home occupation may not occupy more than twenty-five percent (25%) of the gross area of any one story used for the home occupation.
- 3) **Prohibited Uses:** The following uses are prohibited as home occupations in all districts.
 - (a) **Vehicle and Large Equipment Storage/Repair:** Any type of repair, assembly or storage of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to motor vehicles and their parts.
 - (b) Restaurants are prohibited as home occupations in all districts.
 - (c) Kennels and Stables are prohibited as home occupations in all districts.
- 4) **Resident Operator:** The operator of a home occupation must be a full-time resident of the subject dwelling unit and be on the premises during the hours of operation of the home occupation.
- 5) **Employees:** A maximum of one (1) nonresident employee may be on the premises at any one time. For the purpose of this provision, the term “nonresident employee” includes an employee, business partner, co-owner, independent contractor, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
- 6) **Location:** All work areas and activities associated with home occupations must be conducted and located inside the principal dwelling unit, or in accessory buildings or garages. If in a detached accessory structure, the space allocated to the home occupation shall not exceed four hundred (400) square feet.
- 7) **Exterior Appearance:** There may be no visible evidence of the conduct of a home occupation when viewed from the street right-of-way or from an adjacent lot, except there may be one (1) non-illuminated sign advertising the home occupation, no larger than two (2) square feet and firmly affixed to the dwelling unit as a wall sign. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation or the site upon which it is conducted that will make the dwelling appear less residential in nature or function. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting or signs.
- 8) **Operational Impacts:** No home occupation or equipment used in conjunction with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage, or light beyond that customary for residential uses that is perceptible beyond the lot line of the lot upon which the home occupation is conducted. No hazardous substances may be used or stored in conjunction with a home occupation.
- 9) **Retail Storage, Sales and Display:** No stock-in-trade may be stored, produced or sold upon the premises, other than within the allowed area used for the home occupation.
- 10) **Deliveries:** Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. Tractor-trailers or semi-trucks are expressly prohibited.
- 11) **Traffic:** No traffic shall be generated by any home occupation in greater volume than would normally be expected in a residential neighborhood.

12) Registration: Any person conducting a home occupation shall register with the Zoning Administrator, on a form to be provided by the Zoning Administrator, within thirty (30) days of beginning that use, or within sixty (60) days of the effective date of this *Ordinance*, whichever is later.

R) Institutions for Human Care & Habitation:

Institutions for Human Care & Habitation permitted by Special Land Use Permit in the CE, R-2, and C-1 districts must meet the following requirements:

- 1) The minimum site size is one (1) acre.
- 2) There shall be one off-street parking space for each resident and staff.
- 3) There shall be at least fifty (50) feet between buildings with dwelling units or sleeping space and abutting single-family dwellings.
- 4) There shall be a written fire safety and emergency escape plan.
- 5) Must conform with all other applicable city, county, state and federal requirements.

S) Junk Yards: Establishments primarily engaged in assembling, breaking up, sorting and wholesale or retail distribution of scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, or for the purpose of selling secondhand parts, or for the recycling of reusable materials including paper, cardboard, glass and plastics. Junk yards with no exterior storage or disassembly of junk or recycled materials outside of a building are permitted by right in the M-2 District. All other junkyards permitted by Special Land Use Permit in the M-2 District must meet the following requirements:

- 1) All uses shall be established and maintained in accordance with all applicable State of Michigan and federal statutes.
- 2) The site shall be a minimum of ten (10) and a maximum of twenty (20) acres in size.
- 3) A solid uniformly finished fence or wall at least eight (8) feet in height shall be provided along the exposed sides of the site. The fence height shall be great enough to screen all materials from the road and abutting properties.
- 4) All activities, equipment, or material shall be confined within the fenced-in area and there shall be no stacking of material above the height of the fence, or wall.
- 5) All fenced-in areas shall be set back at least one hundred (100) feet from a public street or highway right-of-way line. The front yard shall be landscaped with plant materials as approved by the Planning Commission pursuant to the requirements of Section 5.6.
- 6) Burning of material shall conform to state regulations.
- 7) Whenever the installation abuts upon property within a residential district, a transition strip at least one hundred (100) feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass, and structural screens of a type approved by the Planning Commission to effectively minimize the appearance of the installation.
- 8) No oils, lubricants or other such fluids shall be disposed of on-site except in MDEQ approved facilities.

- 9) At least two (2) parking spaces per one-hundred (100) square feet of office or retail space shall be provided.
- T) Temporary dwellings, tents/yrurts, recreational vehicles (not in campgrounds):**
These uses are permitted with conditions per the requirements of Section 5.2.F.
- U) Medical Marihuana Dispensary:**
Medical Marihuana Dispensaries permitted by Special Land Use Permit in the M-2 district must meet the following requirements:
- 1) No medical marihuana dispensary shall be established on a parcel within one thousand three hundred twenty feet (1,320') of any dwelling unit, park, school, child care organization, or place of worship. The distance shall be measured in a straight line from the nearest property line upon which the proposed medical marijuana dispensary is to be located to the nearest property line of the dwelling unit, park, school, child care organization, or place of worship.
 - 2) The proposed use must meet all applicable written and duly promulgated regulations of City and or other governmental agencies having jurisdiction, including the *Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended*, and must, to the extent required, have the approval of these governments and/or governmental agencies or be reasonably assured of such approval.
 - 3) The location shall be monitored at all times by closed circuit video recording system for security purposes. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the ready identification of any individual committing a crime anywhere on the site, and recordings kept for at least 30 days.
 - 4) The location shall have a centrally-monitored alarm system.
 - 5) Interior and exterior lighting must be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of forty (40) feet.
 - 6) Windows and roof hatches shall be secured overnight with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.
 - 7) No cultivated marihuana or dried marihuana product may be visible from the building exterior.
 - 8) Any beverage or edible produced, provided, or sold and containing marihuana shall be so identified with a prominent and clearly legible warning advising that the product contains marihuana and that it is to be consumed only with a physician's recommendation.
 - 9) No persons under the age of eighteen shall be allowed on site, unless the individual is a qualified patient or person with a registry identification card and accompanied by his or her licensed attending physician, parent, or documented legal guardian.
 - 10) No medical marihuana dispensary shall provide medical marihuana to any persons other than qualified patients or persons with registry identification cards and designated primary caregivers legally authorized to possess marihuana pursuant to Michigan law.
 - 11) No cultivation of medical marihuana shall be visible with the naked eye from any public or other private property. No outdoor cultivation shall occur at a location unless it is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

- 12) Dried marihuana shall be stored in fully enclosed and secured structures or a locked vault or safe bolted to the floor of the facility.
 - 13) Medical marihuana shall not be consumed on site.
- V) Mobile Home Park:** A development of three (3) or more mobile homes, either on individual privately owned lots or on private elements within a condominium project comprise a mobile home park. Mobile Home Parks permitted with conditions in the CE and R-2 Districts must meet the following requirements:
- 1) All Mobile Home Parks and Subdivisions shall conform to *P.A. 96 of 1987, as amended*.
 - 2) A ten (10) acre site accessible to a major thoroughfare is required as the minimum park size.
 - 3) The mobile home park shall be located so that all ingress and egress driveways or roadways within the mobile home park development are connected to a major thoroughfare, except for restricted emergency exits.
 - 4) All mobile home park developments with more than thirty (30) mobile homes shall provide at least two (2) points of entrance or exit from the park located no closer than two hundred (200) feet from the intersection of any two (2) public roads. The ingress and egress drives or roadways within the park shall be paved, and for a distance of at least one hundred (100) feet from the public roads, the ingress and egress routes shall be no less than twenty-four (24) feet wide.
 - 5) The mobile home park shall be screened from adjacent properties by a greenbelt, buffer strip or berm at the developer's option, as provided in Section 5.6 of this *Ordinance*.
 - 6) The outdoor storage of trash or rubbish shall be screened in accordance with Section 5.6.F of this *Ordinance*.
 - 7) The signage shall be as required in Section 5.7.

W) Multiple Family Development:

A building for multiple family dwellings permitted with conditions in the R-2, C-1, and C-2 districts must meet the following requirements:

- 1) Density no greater than one dwelling unit per every four thousand (4,000) square feet of parcel area.
- 2) Maximum lot coverage shall be forty (40%) percent of the parcel.
- 3) The ingress and egress drives or roadways shall be paved, to the parking lot, and shall be at least twenty-four (24) feet wide.
- 4) The development shall be screened from adjacent properties by a greenbelt, buffer strip or berm at the developer's option, as required in Section 5.6.
- 5) Lighting shall meet the requirements of Section 5.11.C.
- 6) The outdoor storage of trash or rubbish shall be screened in accordance with Section 5.6.F.
- 7) The signage shall be as required in Section 5.7.
- 8) The minimum distance between two (2) residential structures shall be thirty (30) feet, whether on or off the site.

- X) Outdoor Commercial Recreation:** Outdoor Commercial Recreation & Entertainment Establishments of specific types permitted by Special Land Use Permit as indicated in Section 4.4 in the CE, C-1, C-2, M-1, and M-2 districts must meet the following requirements:
- 1) Shall be on an appropriate sized property to accommodate the activity, with onsite auto stacking and on-site parking, one hundred (100) feet setback from existing dwelling units, and screening to reduce noise and headlight glare onto adjoining residential uses. No conversation or speaker systems shall be audible on adjoining properties.
 - 2) No more than one dwelling unit occupied by the owner, manager or employee shall be allowed.
 - 3) All lighting shall be down-shining and shielded from adjoining properties and roadway per the requirements of Section 5.11.C.
 - 4) Site shall be directly accessible from a major thoroughfare.
 - 5) Signage shall meet the requirements of Section 5.7.
 - 6) Facilities which have a capacity for greater than two hundred (200) people must have favorable letters of review from the City Police, Fire Chief and Road Commission or MDOT.
 - 7) Operating hours shall be determined by the Planning Commission based on the nature of the use.
 - 8) All archery, rifle, skeet and trap shooting ranges shall be carefully designed to prevent safety or nuisance noise problems on abutting property. To that end, each application shall be accompanied with a written description of all the design characteristics and operational measures to be taken to ensure safety and prevent unwanted noise impacts on nearby property. Such measures shall be consistent with the most current DNR and National Rifle Association guidelines as directly referenced in the application.
- Y) Public Buildings:** Public buildings and facilities owned by governmental entities including the City of Bessemer permitted by Special Land Use Permit in all Districts must meet the following requirements:
- 1) No building, structure (except for flagpoles), or use shall be located within thirty (30) feet of a residential zoned parcel or use.
 - 2) If located in a Residential District, all buildings and structures shall be designed to be compatible with the character of the surrounding neighborhood.
 - 3) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.6.
 - 4) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
 - 5) The property shall be suitably landscaped per the requirements of Section 5.6.
 - 6) Signs shall conform with the requirements of Section 5.7.
- Z) Mixed-Use Establishments:** Mixed-use establishments permitted by Special Land Use Permit in the R-2, C-1, and C-2 districts must meet the following requirements:
- 1) The structure shall contain at least one (1) residential use which may be located above the ground floor or in not more than 50 percent of the gross floor area of the ground floor.
 - 2) Permitted non-residential uses include business service establishments, convenience retail establishments, food and drink establishments, general retail establishments, indoor entertainment establishments, small medical service establishments, office establishments, personal service establishments (except

crematoria), light repair services, tourist service establishments (except resorts and gasoline and auto service station), educational institutions, religious institutions, social institutions, and public buildings and facilities. All conditional or special use regulations per this article also apply to these uses in a mixed-use setting.

- 3) All dimensional regulations of the applicable district apply.
- 4) Each mixed-use establishment shall devote a minimum of two percent of the lot area to one of the following types of private common open space or pedestrian amenities (this does not include private yards, public or private streets or rights-of-way, parking areas and driveways, or detention ponds):
 - (a) A natural and undisturbed private common open space for the use of the residents, employees, and visitors to the establishment.
 - (b) A playground, patio, or plaza with outdoor seating areas with a minimum depth and width of ten (10) feet and a minimum total area of two hundred (200) square feet.
- 5) At least forty (40) percent of the wall area that is between two (2) and ten (10) feet above grade on the primary front façade shall be transparency. At least twenty-five (25) percent of the wall area of the second story front façade shall be transparency. At least twenty-five (25) percent of the wall area of other secondary façades fronting a public street shall be transparency.
- 6) The front façade must include balconies, porches, stoops, or other similar architectural features, and must have an awning along at least 50 percent of the length of the ground floor façade.
- 7) All parking (except on-street parking) must be located to the side or rear of the building.
- 8) All lighting shall be down-shining and shielded from adjoining properties and roadway per the requirements of Section 5.11.C.

AA) Rural Cluster Development: This residential open space development option permitted as a Conditional Use in the CE, R-1 R-2, and C-2 districts must meet the following requirements:

- 1) At least fifty (50) per cent of the lot (or parent parcel) to which this development option is applied, shall be retained permanently in agriculture, woods or other natural open space use.
- 2) Density shall be as established in the District.
- 3) The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this *Ordinance* without clustering. That means dividing the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements, and ensuring that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, and ensuring that adequate right-of-way for a public road meeting City of Bessemer standards is provided, and ensuring that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune or high risk

erosion regulations. No existing or proposed easement shall be counted as available for development. The whole number of lots that results from this calculation, is the maximum number of lots, or dwelling units that may be clustered on the site under this Section.

- 4) The site shall have direct access to a city street, county road or state highway via a new public road built to City of Bessemer standards.
- 5) The density of the Rural Cluster Development shall conform with all the following standards:
 - (a) At least fifty (50) percent of the lot or parent parcel shall remain in agriculture, woods or other open space in an undeveloped state after the single family dwellings in the rural cluster development are constructed. Land in an undeveloped state means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be dedicated to the use of the public.
 - (i) The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.
 - (ii) Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
 - (iii) Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.
 - (iv) New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.
 - (v) Open space shall be reasonably shaped and contiguous, and located for convenient use by residents of the development.
 - (vi) The open space shall be permanently protected by recording the use restriction with the County Register of Deeds in a form approved by the City Attorney such as by means of a conservation easement, plat dedication, restrictive covenant or other legal means that keeps the open space undeveloped in perpetuity.
 - (b) The open space may be retained by the original landowner or held in common by one or more of the new landowners in the rural cluster development.
 - (c) Up to twenty (20) percent of the useable common open space may be used for septic drainfields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.
 - (d) Lot size for individual lots within the rural cluster shall not be more than two and one-half (2.5) acres nor less than one-third (1/3) acre in size and no parcel shall have an area less than that required to meet District Health Department septic waste disposal requirements if served by individual septic systems. If public sewer is available, individual lot size could be reduced to one-quarter (1/4) of an acre.

- (e) Minimum width of an individual lot in a cluster at the building line shall not be less than sixty (60) feet.
 - (f) Dwelling units shall be separated from nearby farm structures by at least five hundred (500) feet.
 - (g) The cluster development design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing city street, county road or state highway.
- 6) The application shall be accompanied by a Site Plan that conforms to the requirements of Section 14.5.
 - 7) A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission, the Zoning Administrator and any planning consultant retained by the City shall be held prior to submittal or review of any site plan for a Rural Cluster Development. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review *Ordinance* requirements as they apply to the site, before the applicant spends any significant money on even preliminary site designs. The Zoning Administrator will direct the applicant to various publications on Rural Cluster Development available from MSU Extension and the American Planning Association to help the applicant through the design process with the least amount of difficulty.

BB) Sexually Oriented Businesses: Sexually oriented businesses permitted by Special Land Use Permit in the M-2 district must meet the following requirements:

- 1) No person shall reside in or on, or permit a person to reside in or on, a building or property occupied by a sexually oriented business.
- 2) No sexually oriented business shall be established on a parcel which is within one thousand three-hundred twenty feet (1,320) of any parcel zoned CE, R-1, R2, C-1, or C-2 District.
- 3) No sexually oriented business shall be established on a parcel within one thousand three hundred twenty feet (1,320') of any dwelling unit, park, school, child care organization, place of worship or other sexually oriented business. The distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the dwelling unit, park, school, child care organization, place of worship, or other sexually oriented business.
- 4) The proposed use shall conform with all regulations of the zoning district in which it is located unless those regulations conflict with these standards, in which case these standards shall control.
- 5) The proposed use must meet all applicable written and duly promulgated standards of City and or other governmental agencies having jurisdiction, and must, to the extent required, have the approval of these governments and/or governmental agencies or be reasonably assured of such approval.

- 6) The outdoor storage of trash or rubbish shall be screened from view and located so as not to be visible from neighboring properties or adjacent roadways in accordance with Section 5.6.F of this *Ordinance*.
 - 7) Any sign or signs proposed for the sexually oriented business shall not include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination, and otherwise shall conform with the requirements in Section 5.7.
 - 8) Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting from the business, and using lettering no less than two (2) inches in height that say:
 - (a) "Persons under the age of 18 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."
 - 9) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
 - 10) Hours of operation shall be limited to 10:00 AM to 11:00 PM., Monday through Saturday.
 - 11) All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one-half hour after the business closes, and shall conform with applicable regulations of Section 5.5.
 - 12) Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities shall:
 - (a) Be handicap accessible to the extent required by the Americans With Disabilities Act;
 - (b) Be unobstructed by any door, lock or other entrance and exit control device;
 - (c) Have at least one side totally open to a public, lighted aisle so that there is always an unobstructed view from the adjoining aisle of any occupant;
 - (d) Be illuminated by a light bulb of wattage of no less than 25 watts;
 - (e) Have no holes or openings in any side or rear walls not dedicated for use by a utility, or a heating, air conditioning or ventilation system.
 - 13) **Special Hardship:** If the regulations above, or in combination with other regulations of this *Ordinance* have, in the opinion of the applicant, the effect of precluding establishment of a sexually oriented business, then the applicant shall not have exhausted his/her administrative remedies under this *Ordinance* without first applying for a Hardship PUD according to the provisions of Section 10.9.
- CC) Social Institutions:** Social institutions permitted by Special Land Use Permit in the R-2 District must meet the same requirements as for Public Buildings (Section 9.11.Y), and no alcohol shall be served on premises.
- DD) Reserved for Future Use**
- EE) Trails and Trail Easements:** Trails and trail easements for motorized and non-motorized use permitted by Special Land Use Permit in all districts must meet the following requirements:

- 1) Trails for public use shall be owned and managed by a public entity or a nonprofit land trust, or nonprofit conservation organization, or a private entity approved by the Planning Commission.
- 2) Wherever feasible, trails shall be sited to minimize negative impacts on nearby residences, churches and schools.
- 3) Signs on trails shall conform with the requirements of Section 5.7 and shall conform with accepted standards for trail management. Signs along the trail advertising products, services or businesses shall not be visible from nearby roadways.
- 4) Trail management shall be guided by a plan prepared and adopted by the management entity. A current copy of such plan shall be filed with the Zoning Administrator.
- 5) All trail access points at which there is vehicular parking and/or toilet facilities shall conform with the following requirements:
 - (a) No building, structure (except for flagpoles), or parking lot shall be located within thirty (30) feet of a residentially zoned parcel or use.
 - (b) All buildings and structures shall be designed to be compatible with the character of the surrounding area.
 - (c) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.
 - (d) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
 - (e) The property shall be suitably landscaped per the requirements of Section 5.6.
 - (f) Signs shall conform with the requirements of Section 5.7.

FF) Utility and Public Service Installations

- 2) Light Utility and Public Service Installations such as electrical substations and gas regulator stations (this does not include those that qualify as essential services per Section 5.9 or communication towers per Section 9.11.F) permitted by Special Land Use Permit in all Districts must meet the following requirements:
 - (a) Buildings, structures (except for flagpoles), and uses shall be located at least thirty (30) feet from all lot lines and street lines.
 - (b) Exterior equipment shall be screened from adjacent residential Districts per the requirements of Section 5.6.F.
 - (c) The property shall be suitably landscaped per the requirements of Section 5.6.
 - (d) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.
 - (e) Lighting shall be down directed and conform with the requirements of Section 5.11.C.
- 3) Heavy Utility and Public Service Installations permitted by Special Land Use Permit in the CE, C-2, M-1, and M-2 districts must meet the requirements in subsection 1) above and must also meet the following requirements:

- (a) If located in a residential district, all buildings and structures shall be designed to be compatible with the character of the surrounding neighborhood.
- (b) Off-street parking shall be screened from adjacent residential uses or districts per the requirements of Section 5.5.
- (c) Signs shall conform with the requirements of Section 5.7.

GG) Reserved for Future Use

HH) Warehousing: Self-service storage facilities, such as mini-warehouses, and rental storage units as well as warehousing for businesses primarily engaged in selling merchandise to retailers permitted with conditions in the M-1 District must meet the following requirements:

- 1) Mini-warehousing storage sites shall be no less than one (1) acre, and all other warehousing shall be no less than two (2) acres unless there is outdoor storage of boats or other recreational vehicles in which case the minimum lot size shall be five (5) acres, accessible by a year-round public maintained road.
 - 2) Drives, between buildings, shall be a minimum width of thirty-five (35) feet if one-way with parking allowed, or forty-five (45) feet if two-way. Where no parking is allowed, the building separation need be only twenty-five (25) feet. Traffic direction and parking shall be prominently indicated.
 - 3) No retail, wholesale, fabrication, manufacturing or service activities shall be conducted in mini-warehousing storage units. Storage of goods shall be limited to personal property with no commercial distribution allowed.
 - 4) All storage shall be within an enclosed building except for boats and vehicles which will be screened according to Section 5.6.
 - 5) When adjoining a Residential District or use, adequate buffering, either by a wall, fence, berm or dense vegetation strip shall be erected and maintained per the requirements of Section 5.6. A twenty (20') foot landscaped strip shall be required adjacent to any public road.
 - 6) Lighting shall be down-shining and shielded from adjacent properties and roadways per the requirements of Section 5.11.C.
 - 7) Signage shall be as required by Section 5.7.
 - 8) The outdoor storage of trash or rubbish shall be screened in accordance with Section 5.6.F.
 - 9) No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility.
- II) Wind Towers:** Wind Energy Conversion Systems (WECS) under thirty-five (35) feet in height permitted as a Conditional Use in all districts, and WECS thirty-five (35) feet and greater in height permitted by Special Land Use Permit in the CE, C-2, M-1 and M-2 districts must meet the following requirements:
- 1) In addition to the requirements of this section, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all occupied buildings within three-hundred feet (300') of the WECS.
 - 2) Each application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following:

- (a) A standard foundation and anchor design or specifications for normal soil conditions; and
 - (b) A detailed parts list; and
 - (c) Clearly written detailed instructions for the assembly, installation, check-out, operation and maintenance of the WECS on site; and
 - (d) The list of warning labels required by this section;
 - (e) Grounding and lightning procedures protection which follow the National Electrical Code Articles 250 (Grounding) and 280 (Lightning Arresters) or any subsequent, superceding regulations; and (f) Underwriters label; and (g) Proof of insurance.
 - (h) Results of avian and bat mortality analysis and measures to be taken to reduce negative impacts on birds and bats.
 - (i) Analysis of minimum, mean and maximum noise analysis at each property line.
 - (j) Analysis of ice throw under minimum, mean and maximum wind conditions.
- 3)** The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Rules, 47 CFR Parts 15 (including subparts A and F) and 18 (including subparts A, D, and H) or any subsequent, superceding regulations.
- 4)** The maximum level of noise permitted to be generated by any WECS shall be sixty (60) decibels, as measured on the dBA scale, and measured at the property line nearest the WECS. The WECS shall not cause human detectible vibrations at the property line.
- 5) Setbacks:** No WECS shall be erected such that any portion of the tower or turbine is closer to utility lines or property lines than the total distance equal to the height of the tower and rotor combined. If the ice throw distance is greater than this distance, and if there are any principal or accessory structures within reach of ice throws, then the WECS location shall be adjusted to prevent ice throw impact on all abutting property. The lowest point of the arc created by rotating blades shall be at least fifteen (15) feet above ground level.
- 6) Labeling:** The following information shall be provided on labels attached to the WECS tower subsystem in a visible, easily accessible location:
- (a) Equipment weight of the tower subsystem;
 - (b) Manufacturer's name and address;
 - (c) Model number;
 - (d) Serial number;
 - (e) The following tower warning label or equivalent warning: Installation and Maintenance of This Product Near Power Lines is a Danger. For your Safety Follow the Installation and Maintenance Instructions.

- 7) WECS shall be sited and constructed of materials which use the best available technology at the time, with special consideration to minimizing noise and threats to birds and bats.
- 8) WECS shall require the applicant to make application to the Federal Aviation Administration to apply for lighting standards that:
 - (a) Are the lowest intensity allowable.
 - (b) Avoids strobe lighting or other intermittent white lighting fixtures.
 - (c) May be a green or red top light that does not pulsate or blink.
 - (d) Are in compliance with legal minimums per FAA requirements. A written FAA report shall be submitted to verify lighting requirements.
- 9) WECS shall be secured or protected to prohibit access by unauthorized persons and a security fence may be required if determined to be in the best interest of the community.

Article 10 Planned Unit Development Regulations

Section 10.1 Purpose

The Planned Unit Development (PUD) is a zoning district intended to accommodate innovative and compatible land use developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or land which exhibits difficult or costly development problems, and shall not be allowed where Planned Unit Development approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives below.

The purpose of this Article is to permit innovation and variety in land use, design, and layout of property in order to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and address opportunities suited specifically to the needs of the residents of the City of Bessemer, provided such opportunities have complimentary economic, social and environmental impacts on surrounding land uses.

The Planned Unit Development (PUD) is intended to permit and control the development of preplanned areas for various compatible uses. The PUD provides a procedure by which the City Council can hold pre-application conferences with the applicant before submission of preliminary site plans, saving resources by reducing the need for expensive design re-iterations. The procedure entails a discretionary review and approval procedure that results in approval if all standards of this Article are met and denial if they are not. The Zoning District does not change if a PUD is approved, but like a Special Use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are satisfied and the approved use continues. This process involves meeting eligibility criteria and established standards for approval through a site plan review procedure.

Section 10.2 Objectives

The applicant shall demonstrate that approval of the PUD would result in a recognizable and substantial benefit to the community that could not be achieved under the normal regulations of the District, satisfying one or more of the following objectives:

- A)** To provide more desirable living, shopping, and working environments by preserving as much of the natural character of the property as possible, including but not limited to, open space, stands of trees, brooks, ponds, river and lake shorelines, floodplains, hills, and similar natural assets.
- B)** To encourage the provision of open space and the development of recreational and other common facilities within reasonable distance of all seasonal and permanent dwelling units.

- C) The long-term protection or preservation of natural resources, natural features, historical elements, scenic vistas, or architectural features of a significant quantity or quality.
- D) Modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the Zoning District in which it is situated.
- E) The provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space, community gardens, orchards, or alternative energy systems.
- F) To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land uses, and utilities.
- G) To combine and coordinate architectural styles, building forms, and building relationships within the PUD.
- H) To more effectively accommodate the needs of diverse populations including but not limited to the needs of the aging population (through Universal Design), or low- to moderate-income residents (or single households) with affordable units.
- I) To permit more flexibility and innovation in the design, layout and type of development provided the development is consistent with the intent of the *City of Bessemer Zoning Ordinance* and the provisions of the *City of Bessemer Land Use Plan*.

Section 10.3 **General Provisions**

- A) Relationship of PUDs to Zoning Districts:** Except as otherwise provided in other Sections of this Article, while PUDs are permitted in all Zoning Districts, the underlying Zoning District that applies to a particular parcel establishes the permitted uses and densities, as well as the basic limitations on height, bulk, setback, yard area and related requirements. Yet, the PUD process does allow for some flexibility in land uses, densities, height, bulk, setbacks, parking, signage, and related standards, allowing some standards to be waived or reduced as a part of the Site Plan Review and approval process for a PUD, provided such actions are within the parameters detailed in the remainder of this Article. Property subject to an approved PUD shall be labeled PDD on the zoning map.
- B) Minimum Eligibility Requirements:**
 - 1) The site shall be not less than five (5) acres in area.
 - 2) Minimum yard restrictions of the Zoning District in which the project is located shall be maintained around the perimeter of the project.
 - 3) Required open space shall be dedicated to the public or set aside for common use of the owners and users within the PUD so that there are assurances that the required open spaces shall remain open. Required open space shall conform with the requirements of Section 10.6.B.
 - 4) Permitted density in terms of dwelling units per acre may be increased in a PUD up to fifteen (15) percent, when the design of PUD demonstrates complete conformance with the requirements of this Article. No intensity increase is permitted for a PUD overlying a C-1, M-1 or M-2 District.
 - 5) The following uses may be permitted within a residential planned unit development:

- (a) All uses permitted by right, by right with conditions, or by Special Land Use Permit in the district in which the property is located and subject to all restrictions specified for that district except as modified by a PUD Permit.
- (b) Recreation and open space, provided that the following uses may be set aside as common land for open space or recreation use under the provisions of this Section:
 - (i) Private recreational facilities such as golf courses, swimming pools, ski resorts, or other recreational facilities which may or may not be limited to the use of the owners or occupants of the lots located within the PUD, depending on what is permitted in the underlying District.
 - (ii) Historic sites, parks, greenways, extensive areas with tree cover, lowlands along streams, or areas of rough terrain when such areas have natural features worthy of scenic preservation.
- 6) The following uses may be permitted within a nonresidential planned unit development: All uses permitted by right, by right with conditions, or by Special Land Use Permit in the District in which the property is located and subject to all restrictions specified for that District except as modified by a PUD Permit. Limited permanent dwelling units may be permitted, especially if above ground floor commercial uses. All nonresidential PUDs shall have direct access to a paved public road.
- 7) In the case of a mixed-use PUD which includes a use permitted by right in the Zoning District, a building devoted primarily to such a permitted use must be built before or concurrently with any building devoted primarily to any use not permitted by right.
- 8) A PUD must be designed as a single development and shall be at least fifty percent (50%) completed within two (2) years, unless otherwise stated in the approved PUD permit.

C) Eligibility Requirements:

No PUD shall be approved unless the applicant demonstrates, through written submittal, that the land use and development substantially advances objectives described in Section 10.2, and meets the eligibility requirements and the standards set forth in this *Ordinance*, and in addition that:

- 1) The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the City of Bessemer. Such benefit must otherwise be unfeasible or unlikely to be achieved under the standards of a single Zoning District.
- 2) If requested by the landowner, the City Council may approve a PUD with open space that is not contiguous with the rest of the PUD if other benefits to the public are sufficiently great to warrant such consideration.
- 3) The PUD shall remain under the control or authority of a single individual, corporate, or organizational owner who is authorized to administer the PUD.

D) Calculating Density:

The permitted density on a specific parcel or parcels subject to a PUD application is first established by applying the minimum lot size in the underlying district to the buildable portion of the parcel or parcels and then applying a density bonus of not more than fifteen (15) percent as the design warrants and in the complete discretion of the City Council. This density is achieved either by reducing the minimum lot size of the underlying district, or by clustering lots, or both, and is calculated as follows:

- 1)** The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this *Ordinance* without a bonus or clustering in this manner:
 - (a) Divide the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements.
 - (b) Ensure that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer.
 - (c) Ensure that adequate right-of-way for a public road meeting City of Bessemer standards is provided.
 - (d) Ensure that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune or high risk erosion regulations.
 - (e) No existing or proposed easement shall be counted as available for development.

The whole number of lots that results from this calculation is the maximum number of lots or dwelling units that may be clustered on the site under this Section before any bonus is applied.

- 2)** The site shall have direct access to a city road or state highway via a new public road built to City or MDOT standards.

- 3) The PUD shall conform with all the following standards:**

- (a) Open space shall conform to the requirements of Section 10.6.B.
- (b) The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.
- (c) Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
- (d) Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.
- (e) New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.
- (f) Open space shall be designed and located for convenient use by residents of the development.
- (g) The open space may be retained by the original landowner or held in common by one or more of the new landowners in the rural cluster development.
- (h) Up to twenty (20) percent of the useable common open space may be used for septic drain-fields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.

- (i) Minimum width of an individual lot in a cluster at the building line shall not be less than sixty (60) feet.
- (j) Dwelling units shall be separated from nearby farm structures by at least five hundred (500) feet.
- (k) The PUD design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing county road or state highway.

4) Site Plan:

The application shall be accompanied by a Site Plan that conforms to the requirements of Section 14.5.

5) Pre-Application Conference:

A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission, the Zoning Administrator, and any planning consultant retained by the City shall be held prior to submittal or review of any site plan for a PUD. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review *Ordinance* requirements as they apply to the site before the applicant investments in preliminary site designs.

6) Density Bonus:

The applicant shall receive a 5% bonus density for each of the following up to a maximum of fifteen (15) percent:

- (a) Fifteen (15) percent more usable, common open space (not wetland) than the minimum required in Table 10-1.
- (b) A design that blends well with the natural environment and abutting lands and utilizes alternative energy technology, or community food production.
- (c) A design that is aesthetically pleasing and compatible with structures on abutting property.
- (d) A design that creates diversity of housing types with attention to Universal or affordable housing design.

Section 10.4 Previously Approved Planned Unit Developments

A PUD approved by the City of Bessemer prior to the adoption or amendment of this *Ordinance* may be amended only through the filing and approval of a new application under this Article. The application shall be considered under the current standards of this *Ordinance*, rather than the standards in effect at the time of the original approval. If the application is denied, the previously approved PUD shall remain valid even if the underlying district has been changed.

A) Application:

An application for PUD shall be accompanied by the following documents and information:

- 1) A PUD application form supplied by the Zoning Administrator which has been completed in full by the Applicant.
- 2) A Major Site Plan satisfying the requirements of Section 14.5 entitled Site Plan Review.
- 3) A statement with regard to compliance with the objectives of a PUD stated in Section 10.2, the minimum and eligibility requirements of Sections 10.3.B and 10.3.C respectively, the criteria for approval in Section 10.6, and other criteria imposed by this *Ordinance* affecting the PUD under consideration, including but not limited to those in Article 5, General Provisions—All Districts.

B) Approval Procedures:

- 1) The Zoning Administrator shall review each application pursuant to the requirements of Section 14.3.A, and when it is determined to be complete, schedule it for a public hearing at a regular Planning Commission meeting, unless the applicant pays all of the costs for a special meeting.
- 2) A notice of the public hearing shall be given pursuant to Section 14.4, and the first public hearing shall be conducted by the Planning Commission pursuant to the requirements of Section 14.4.B.
- 3) The Planning Commission and City Council, in their respective meetings, shall review the application, comments, the Site Plan, and other pertinent information received and shall make a determination in accordance with the criteria described in Section 10.3.B, 10.3.C and 10.6, and such other standards contained in the *Ordinance* which relate to the PUD under consideration.
- 4) The Planning Commission's recommendation shall be forwarded to the City Council for final action.
- 5) Prior to action on the request, the City Council shall also conduct a public hearing, preceded by notice in the same manner as for the public hearing by the Planning Commission.
- 6) The City Council may, by majority vote of its members deny, approve, or approve with conditions the application for PUD approval. Its decision shall be incorporated in a statement of conclusions relative to the PUD under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which is in compliance with *Ordinance* standards, other applicable ordinances, and state and federal statutes shall be approved.
- 7) Upon the approval, or approval with conditions, by the City Council, the Zoning Administrator shall prepare and issue a permit to the applicant incorporating the conditions if any, imposed by the City Council.
- 8) An appeal of a decision by the City Council to approve, deny or approve with conditions a PUD Permit application may be taken to Circuit Court, and may not be first appealed to the Board of Appeals.
- 9) The Zoning Map shall have the notation "PDD" written on any parcel for which PUD approval has been granted and remains in effect.

Section 10.6 Basis of Determination

A) General Standards:

The Planning Commission and the City Council, in their respective hearings, shall review the particular circumstances of the PUD application under consideration in terms of the following standards and shall recommend approval, or approve, respectively, a PUD only upon a specific finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this *Ordinance*:

- 1) The PUD shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- 2) The PUD shall be designed in a manner to ensure healthful living conditions and adequate light, air, and accessibility for fire and police protection for the inhabitants and users of the development as well as adjacent City residents.
- 3) The PUD shall be consistent with the intent of the City of Bessemer Land Use Plan.
- 4) The PUD shall not change the essential character of the surrounding area.
- 5) The PUD shall not be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other features of the planned use.
- 6) The PUD shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion.
 - (a) The PUD site plan shall demonstrate a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, that are efficiently integrated into off-site potable water and wastewater public improvement plans, where public off-site facilities are available.
 - (b) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection, and roads are planned and programmed for the development proposed in the PUD site plan, and the development is appropriately located in relation to schools, police protection and other emergency services.
- 7) The PUD shall be designed to preserve public vistas and existing important natural, historical, scenic, and architectural features of significance within the development.
- 8) The PUD shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems.
- 9) The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate

access for emergency vehicles and adequate space for turning around shall be provided.

- 10) The PUD shall not result in any greater stormwater runoff to adjacent property after development than before.
- 11) The design of the PUD shall exhibit a reasonable harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
- 12) The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties as provided in Section 5.6.F.
- 13) The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- 14) The PUD shall conform to all applicable City, County, State, and Federal requirements for that use.
- 15) The Applicant shall be in substantial compliance with any previously issued Zoning Permits and shall not otherwise be disqualified from receiving a permit under Sections 14.3.B.4 or 14.9.E of this *Ordinance*.
- 16) All signs in a PUD shall comply with the requirements of Article 5, Section 5.7, except that the City Council may approve different signage if a comprehensive sign plan for the proposed PUD is submitted that does not result in greater total sign area, or sign height, even though more signs are used, and is otherwise consistent with the intent and purpose of the sign regulations as determined by the Planning Commission.
- 17) The Planning Commission shall find that review of the Site Plan for the Planned Unit Development provides safe and convenient vehicular and pedestrian traffic within the site and that the proposed parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. All parking shall comply with the requirements of Article 5, Section 5.5, except that where the overall integrity of the PUD would be improved with a waiver of parking design standards that do not undermine the intent and purpose of the parking regulations, then the City Council may grant such waiver, however, the total number of required parking spaces cannot be reduced below that necessary to meet anticipated need.
- 18) Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment. All landscaping shall comply with the requirements of Article 5, Section 5.6, except that the City Council may approve different landscaping if a comprehensive landscape plan for the proposed PUD is submitted that would result in a comparable or better design that is also consistent with the intent and purpose of the landscape regulations.

B) Open Space Requirements:

- 1) The minimum amount of permanent common open space that shall be provided for each PUD by underlying District is listed in Table 10-1. Permanent common open space and maximum open space that is wetlands or open water in columns two and three of Table 10-1 respectively, shall be measured as a percentage of the total acreage of the land that makes up the PUD, except as otherwise provided in this Article.

**Table 10-1
Minimum Permanent Common Open Space**

Underlying District	Minimum Open Space	Maximum Open Space that is Wetlands or Open Water
CE	50%	25%
R-1 or R-2	40%	25%
C-1	5%	0%
All Other Districts	20%	10%

- 2) All land designated and approved as common open space in a PUD shall remain as permanently protected open space. All open space, tree cover, recreational area, scenic vista, or other approved open land areas shall be either set aside as common land for the sole benefit, use, and enjoyment of present and future lot owners or residents within the PUD, or at the initiative of the applicant and acceptance by the appropriate public body, may be dedicated to the public as park land for the use of the general public. The Planning Commission shall determine which is most appropriate based on the following considerations:
 - (a) That open space land shall be legally conveyed from the tract owner or owners to a homeowners association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, provided that permanent arrangements have been made for the maintenance of the land and any buildings thereon, and that an open space easement for said land may be conveyed to the public to assure that open space land shall remain open.
 - (b) That open space land may be voluntarily dedicated to the public for park or recreational purposes by the tract owner or owners, provided that the location and extent of the land conforms to the City of Bessemer Land Use Plan, and that the land has appropriate characteristics and location such that it will be

readily available to and desirable for public use, development, and maintenance, releasing the developer from further improvements.

- (c) The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is reviewed and approved by the City Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the *State of Michigan Conservation and Historic Preservation Easement Act, P.A. 197 of 1980, as amended (MCL 399.251)* or dedication to and acceptance of the open space by the City or other public entity. Such conveyance shall assure, unless the land is dedicated to the City and accepted by it, that the City will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the City Council and the property owner or homeowners association. Such conveyance shall also:
 - (i) Indicate the proposed allowable use(s) of the dedicated open space.
 - (ii) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space in the manner specified in the PUD approval.
 - (iii) Provide standards for scheduled maintenance of the open space.
 - (iv) Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners.
 - (v) Bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the City and the land uses continue as approved in the planned unit development.

C) Waiver of Planned Unit Development Standards: The City Council, following the recommendation of the Planning Commission, may waive partially or wholly any of the standards for a PUD contained in this Article or other relevant standard in this *Ordinance* where all of the following findings are documented along with the rationale for the decision:

- 1) No substantial public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
- 2) The spirit and intent of the PUD provisions will still be achieved and there will be no increase in density or intensity of use of more than 5% above what is otherwise allowed in this Article, or of mass of buildings or structures, or of traffic that will be generated (beyond the amount that would be permitted without this waiver).
- 3) No nuisance will be created.

D) Conditions: The Planning Commission may recommend, and the City Council may impose, conditions with the approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this *Ordinance*. Such conditions shall be considered an integral part of the PUD approval and shall conform with the

requirements for Conditional Approvals and Performance Guarantees/Bonding in Section 14.3.F and 14.3.G.

Section 10.7 Permits

- A) Validity of Permit:** A Zoning Permit authorizing a PUD (hereafter referred to as a PUD Permit) shall be valid for a period of one (1) year from the date of issuance, unless another, longer, time period is set by the City Council as a condition of approval. If the use has not commenced by the end of this time period, the permit shall expire automatically without any further action or notice by the City unless an extension is granted pursuant to Section 14.3.A.11.
- B) Permit Revocation:** In the event the City Council believes the holder of a PUD Permit has failed to comply with one or more of the terms or conditions of the permit or of this *Ordinance*, the City Council may schedule a hearing to consider the revocation of the permit. The permit holder shall be given reasonable notice of the hearing date, which shall in any event be not less than fifteen (15) days from the date of the notice. The notice of hearing shall include a written statement of the reasons for the possible revocation. The permit holder shall be allowed to appear at the hearing and to present evidence pertinent to whether the permit should be revoked. If the City Council decides to revoke the permit, the use for which the permit was granted must cease within sixty (60) days of the hearing date. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this *Ordinance*.
- C) Permit Transferability:** A PUD Permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property. A PUD permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes for which the PUD was granted as long as all conditions and terms of the permit are satisfied. Permit transfer is automatic, provided that within sixty (60) days of acquiring ownership the new owner registers his intent to continue the PUD with the Zoning Administrator on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable *Ordinance* requirements that apply to the property and any special conditions imposed upon the PUD when the transfer form is submitted.
- D) Termination of a PUD if the Use Changes:** If there is a change in the use of a property for which a PUD was issued, the PUD shall automatically terminate and the property shall only be used for a use permitted in the underlying District in which the property is located. A PUD including a seasonal use is also subject to termination, if the season passes in which the seasonal use would normally occur and a different use is in place instead.
- E) Recording with Register of Deeds:** A PUD Permit, or expiration, revocation or termination of a PUD permit, shall be recorded at the Gogebic County Register of Deeds.

F) Continuing Adherence to Approved Site Plan: Any property owner who fails to develop and maintain an approved PUD according to the approved Site Plan shall be deemed in violation of the provisions of this *Ordinance* and shall be subject to the penalties for same.

G) Amendments: Amendments to an approved Site Plan for a PUD shall be processed according to the procedure in Section 14.5.K Amendment to a Site Plan.

H) Scheduled Phasing:

- 1) When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the open space development and the residents of the surrounding area.
- 2) Each phase of the project shall be commenced within the schedule set forth on the approved Site Plan. One phase must be completed before beginning work on the next unless explicitly authorized during Site Plan approval. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the developer and approval of same by the City Council.

I) Reapplication:

No application for a PUD Permit which has been denied, wholly or in part, shall be resubmitted for a period of one (1) year from the date of the denial, except on satisfactory proof of substantially changed conditions, newly discovered evidence, or a falsehood previously relied upon by the City which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A reapplication shall be processed as a new application.

Section 10.8 Reserved for Future Use

Section 10.9 Hardship Planned Unit Development

A) Intent and Purpose: It is the intent of this section to provide a site specific administrative remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates to the City Council that (1) the applicant's property cannot be used for the purposes permitted in the Zoning District, (2) the plight is due to the unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

If and when a property owner meets the above four-part threshold burden of proof, it is not intended that any use may then be approved. Rather, this section is intended to authorize administrative relief to the minimum extent necessary to allow reasonable use of property on the particular site, which is compatible to the extent possible with the uses of adjacent properties.

In order to satisfy the finality requirement dictated by the Michigan Supreme Court in *Paragon Properties Company v. County of Novi, 452 Mich 568 (1996)*, a property

owner shall not be required to seek variance relief at the Zoning Board of Appeals if relief is sought and denied under this Section.

B) Application:

- 1) In addition to the information required for other variance requests, an application for a Hardship Planned Unit Development shall include a Site Plan and a summary of the facts which support each of the following conclusions:
 - (a) Applicant's property cannot be used for the purposes permitted in the Zoning District.
 - (b) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
 - (c) Applicant's suggested use would not alter the essential character of the area.
 - (d) Applicant's problem has not been self-created.
- 2) At the end of each statement (a through d in Subsection 1 above) identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

C) Approval Procedures:

1) Pre-Hearing Conference:

- (a) Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference. The Zoning Administrator shall determine who should be present at the prehearing conference based upon the application submitted, and shall proceed in as expeditious manner as possible after satisfying all the information needs.
- (b) The purposes of the pre-hearing conference shall be to:
 - (i) Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
 - (ii) Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
 - (iii) Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals.
 - (iv) Discuss the need, desirability, and the terms of providing a verbatim record of the hearing.

2) Hearing:

- (a) City staff or representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the Zoning District, and any planning, engineering, financial, environmental, or other considerations which are generally relevant within the Zoning District and/or in the general area of the property at issue.

- (b) The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in Section 10.9.B.1, subsections a through d. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions.
- (c) The City Council may require the presence of any witness who has offered testimony to permit members of the City Council to ask questions of these witnesses.
- (d) At the conclusion of the applicant's presentation, hearing attendees shall be provided with the opportunity to present testimony and evidence in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
- (e) When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the City Council for consideration as it relates to the specific application presented.
- (f) The applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives, with the same procedure as provided above for the applicant's principal presentation.
- (g) If a hearing is not completed at a given meeting within the time period allowed by the City Council, the Council shall adjourn the hearing to a date certain for continuation.
- (h) At the conclusion of the hearing, the City Council may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- (i) If the City Council determines to grant a Hardship Planned Unit Development, it shall be the minimum relief required to allow reasonable use of property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law. A motion to grant a Hardship PUD may be made as a tentative grant of relief, subject to review by the Planning Commission, Zoning Administrator, City Engineer, or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the City Council, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

Article 11 Reserved For Future Use

Article 12 Reserved For Future Use

Article 13

Nonconforming Lots, Uses, and Structures

Section 13.1 Intent and Purpose

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

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

Section 13.2 Nonconforming Lots

- A) In any District permitting residences, a single-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record that was recorded in the office of the County Register of Deeds before the effective date of this *Ordinance*, [REDACTED], or before an amendment to this *Ordinance* which made the lot nonconforming, provided such lots meet the requirements of subsections B and C below. No use of any nonconforming lot of record which was divided after the effective date of this *Ordinance* shall be permitted which created a lot with a width, depth or area below the requirements stated in this *Ordinance*.
- B) Where two or more vacant nonconforming lots were in common ownership on the effective date of this *Ordinance*, [REDACTED], and have remained in common ownership since then, and were contiguous to one another alongside lot lines, such lots shall be considered as a single lot of record for purposes of this *Ordinance*, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this *Ordinance*, nor shall they be transferred or sold except in blocks that equal the original ownership interest, or in a combination of lots that meets the minimum requirements of the District in which they are located.
- C) Provided that adequate potable water and proper and safe septic or sewerage disposal can be provided, as determined by the District Health Department, the Zoning Administrator shall permit single lots of record or combinations of single lots of record (those in subsection B above) that are nonconforming because they are substandard in area, width, or depth to be built on without variances provided the requirements for yards, width, depth and area is no less than seventy-five (75%) percent of that required by the terms of this *Ordinance*.

Section 13.3 Nonconforming Uses of Land

Where, at the effective date of adoption or amendment of this *Ordinance*, lawful use of land exists that is made no longer permissible under the terms of this *Ordinance* as enacted or amended, such use may be continued in the same manner and to the same extent as it existed when it became nonconforming, and so long as it remains otherwise lawful, subject to the following provisions:

- A)** No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land, nor a greater height, than was occupied at the effective date of adoption or amendment of this *Ordinance*.
- B)** Except in the case of gravel extraction operations, existing holes may be worked and enlarged on the land which constituted the lot or parcel on which operations were conducted at the time of becoming nonconforming. However, no new holes shall be established unless a Special Use Permit is obtained pursuant to the procedures of Article 9 and the applicable standards of Article 9.12.M.
- C)** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Article, nor to any other lot or parcel, unless reestablished in conformance with the requirements of this *Ordinance*.

Section 13.4 Nonconforming Structures

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

- A)** No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the District in which it is located, provided that all such changes are also in conformance with the requirements of the District in which it is located. Furthermore, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use and which existed at the time for adoption or amendment of this Article, but no such use shall be extended to occupy any land outside such building.
- B)** Should such structure be destroyed by any means it shall not be reconstructed except in conformity with the provisions of this *Ordinance*, unless it is impractical to do so, in which case it shall be rebuilt on not more than the building footprint at the time of destruction.
- C)** Should such structure be moved for any reason for any distance whatever on the same or a different lot or parcel, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
- D)** Any structure, or structure and land in combination, in which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the District in which such structure is located and the nonconforming use may not thereafter be resumed.

Section 13.5 Change in Nonconforming Uses in Business and Industrial Districts

If no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of the same or more restricted use classification, provided that the Board of Appeals finds and documents that the proposed use is equally or more appropriate to the District than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions in accord with the purpose and intent of this Article. Where a nonconforming use of a structure or land is changed to a more restrictive use classification, it shall not thereafter be changed to a less restricted use classification.

Section 13.6 Repairs and Maintenance

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage of this *Ordinance* or an amendment to it shall not be increased. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

Section 13.7 Change of Tenancy or Ownership

A nonconforming building, structure, use or lot may be sold or a tenant may change with the nonconforming use right intact, provided that the physical dimensions of the nonconforming lot or the use of the nonconforming structure or lot do not result in a change contrary to the requirements of this Article.

Section 13.8 District Changes

Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District of another classification, the provisions of this Section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

Section 13.9 Hardship Cases

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alterations, or enlargements may be granted only with a finding by the Board of Appeals that approval will not have an adverse effect on surrounding property and that it will be the minimum necessary to relieve the hardship.

Section 13.10 Illegal Nonconforming Uses and Lots

- A) Nonconforming uses of structures or land existing at the effective date of this *Ordinance* that were established without zoning approval or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this *Ordinance* shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.
- B) Lots or parcels which are substandard in area, width or depth and were established after the effective date of this *Ordinance*, [REDACTED] are illegal lots of record and are not entitled to the status and rights accorded legally established nonconforming lots.

Section 13.11 Nonconforming Use Discontinued

In the event that any nonconforming use of land or use of a structure is occupied at any time during the nonconforming status by a conforming use, the nonconforming status shall discontinue. Any subsequent use shall conform to the uses permitted in the District in which the premises are located. Vacancy of the property alone does not discontinue nonconforming status.

Section 13.12 Elimination of Nonconforming Uses

Property owners are strongly encouraged to make changes to their property over time, which bring it into conformance with this *Ordinance*. The City may eliminate any and all nonconforming uses it deems necessary to advance the public health and safety interests of the citizens of the City by whatever means are provided by law in such cases.

Article 14 Administration

Section 14.1 Introduction

This Article sets forth the provisions and the requirements for submittal, review and approval of applications under this *Ordinance* and for addressing complaints, suspending and revoking permits. These provisions are intended to clearly describe administrative duties and responsibilities, permit procedures and conditions to improve citizen and property owner understanding and to ensure efficiency in the administration of the *Ordinance*.

Section 14.2 Individual and Organizational Procedures and Duties

The provisions of this *Ordinance* shall be administered by the City Council, the City Planning Commission, City Zoning Administrator, the Zoning Board of Appeals, and the City Attorney in accordance with the *Michigan Zoning Enabling Act, Public Act 110 of 2006*, and the delegation of responsibility assigned by this *Ordinance*.

A) City Council

The City Council shall have the primary responsibility for supervision of the administration and enforcement of the *Ordinance*. In order to carry out this responsibility, the City Council may adopt and file rules, guidelines, and forms to assist the Zoning Administrator and the City Planning Commission in administering and enforcing this *Ordinance*. Until such rules or guidelines are adopted, any existing rules, guidelines, the *Zoning Ordinance*, and the *Michigan Zoning Enabling Act, Public Act 110 of 2006* shall guide the administration of this *Ordinance*.

1) Provisions pertaining to City Council Procedures

A majority vote of the entire membership of the City Council is required to adopt a proposed Ordinance or Ordinance amendment.

2) Provisions pertaining to City Council Duties

This Section shall not be construed to diminish the City Council's authority and duties imposed by other laws or regulations.

The City Council *shall* perform the following duties in relation to this *Ordinance*:

- (a) Shall consider and vote upon the adoption of a zoning ordinance (with or without amendments) or proposed amendments to the zoning text and zoning map.
- (b) Grant a hearing on a proposed Ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the City Council.
- (c) Set the amount of fees for zoning permits.
- (d) Appoint members to the Planning Commission and establish their rate of compensation.
- (e) Establish the terms of employment and rate of compensation for the Zoning Administrator.

The City Council *may* perform the following duties in relation to this *Ordinance*:

- (f) Hold additional public hearings.
- (g) Refer suggested *Ordinance* changes back to the Planning Commission for further information or discussion.

- (h) Determine compensation for members of the Planning Commission.
- (i) Approve the engagement of the services of a planning expert to assist the Planning Commission and pay for those services.

B) Planning Commission

1) Provisions pertaining to Planning Commission Membership

The Commission shall consist of five (5) members appointed by the City Council.

(a) Qualifications

- (i) Shall be a qualified elector of the City of Bessemer, except two nonqualified elector(s) may be member(s) of the commission;
- (ii) Shall meet the conditions provided for each individual member in this section of this *Ordinance*, except the geographical location of the individual's residency may be considered optional.
- (iii) One of the Planning Commission members shall be an Ex officio member, who shall also be a member of the City Council, or the City Manager, or a person designated by the City Manager, or the Mayor.
- (iv) Within twelve (12) months after an individual's first appointment and before reappointment, members shall attend Planning Commission training.

(b) Representation

- (i) The membership shall be representative of the important segments of the community (two or more interests may be combined into one seat), such as the economic, governmental, educational, and social development of City of Bessemer, as follows:
 - 1. Agriculture;
 - 2. Natural resources;
 - 3. Recreation;
 - 4. Education;
 - 5. Public health;
 - 6. Government;
 - 7. Transportation;
 - 8. Industry;
 - 9. Commerce;
 - 10. Renewable energy and energy conservation;
- (ii) The membership shall also be representative of the entire geography of the City of Bessemer to the extent practicable, and as a secondary consideration to the representation of the major interests.
- (iii) A member of the City Council, City Manager, person designated by the City Manager, or Mayor shall not be chair of the Planning Commission.
- (iv) Not more than one-third (1/3) of the total membership of the Commission shall consist of, collectively, a member of the City Council, City Manager, person designated by the Manager, or Mayor.

- (v) The Commission, in its Bylaws, may name “liaisons” to the Commission. The purpose of liaisons is to provide certain City of Bessemer officials ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum, liaisons shall include:
 1. City Manager
 2. City Attorney
 3. Public Safety Officials

(c) Appointment and Terms

- (i) The City Council shall appoint members to the Planning Commission by a majority vote for a three-year term of office.
- (ii) When first appointed, a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of one-third of all commission members will expire each year.
- (iii) In January of each year, the City Clerk shall determine which members’ terms of office shall expire and the City Council will make the appropriate appointments. A member shall hold office until his or her successor is appointed.
- (iv) If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.
- (v) The term of the Ex Officio Member shall coincide with their elected term of office or the term of office of the elected official who appointed them.

(d) Removal from Office

The City Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office. The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the City Council.

2) Provisions pertaining to Planning Commission Procedures

(a) Compensation: Compensation of Planning Commission members will be at the discretion of the City Council.

(b) Meetings

- (i) The Commission shall meet at least once every month and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission. All questions which shall arise at their meetings shall be determined by a majority vote of the Planning Commission members. The affirmative vote of two-thirds of the total number of seats for the Commission, regardless of vacancies or absences, shall be necessary for the adoption, or recommendation for adoption, of any plan/ordinance or amendment to a plan/ordinance.
- (ii) Member(s) shall not be absent for more than three (3) consecutive regular meetings unless excused by the Chairperson. The Chair of the Planning Commission shall notify the City Council of any non-compliance of the above attendance criteria of a Planning Commission member by letter, recommending removal of said member from the Planning Commission.

- (iii) Under extenuating circumstances such as a serious or chronic health condition, or family illness, the Planning Commission may, by motion and simple majority vote, defer the action specified above. Said member is exempt from voting privileges in the action.
- (iv) The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, as amended. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.
- (v) A writing prepared, owned, used, in the possession of, or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as amended.

(c) **Staff**

Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

3) Provisions pertaining to Planning Commission Duties

This Section shall not be construed to diminish the Planning Commission's authority and duties imposed by the Michigan Planning Enabling Act, Public Act 33 of 2008 by other laws or regulations.

The Planning Commission *shall* perform the following duties:

- (a) Adopt Bylaws for the transaction of business including the election of officers and rules of procedure consistent with the Michigan Planning Enabling Act, *Public Act 33 of 2008*.
- (b) Elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. The term of office of each officer shall be one year with the opportunity for reelection as specified in the By-Laws.
- (c) Keep a public record of its resolutions, transactions, findings, and determinations.
- (d) Make an annual written report to the City Council concerning its operations and the status of planning activities, including recommendations regarding actions by the City Council related to planning and development.
- (e) Prepare forms, rules, procedures, and guidelines for the proper administration and enforcement of the *Ordinance* which are to be forwarded to the City Council for action prior to implementation.
- (f) Conduct public hearings on matters requiring a public hearing, or which in the Planning Commission's discretion warrant a public hearing, prior to action.

- (g) Shall make and approve a master plan as a guide for development within the City, or areas outside the City boundaries that in the Planning Commission's judgment are related to the planning of the City as provided for in the *Michigan Planning Enabling Act, Public Act 33 of 2008*.
- (h) Make a comprehensive review and recommend changes to the Master Plan and/or Zoning Ordinance as deemed necessary but at least once every five (5) years.
- (i) Annually prepare a capital improvements program of public structures and improvements subject to approval by the City Council.
- (j) Review and take appropriate action on all proposed public improvements.
- (k) Review and take appropriate action on all applications for zoning text change, rezoning, conditional rezoning, special land use permits, subdivision plats, and PUD permits.
- (l) Review and advise the City Council on all applications for amendments to the *Ordinance* and on any amendments proposed by the Planning Commission.
- (m) Advise and make recommendations to the City Council concerning future amendments, changes, additions, or departures from the *Ordinance*.
- (n) If the commission has adopted a master plan, the planning commission shall review and make recommendations on plats before action by the City Council under section 112 of the *Land Division Act, 1967 PS 288, MCL 560.105*, as amended.

The Planning Commission may perform the following duties:

- (o) May prepare and adopt functional plans or subplans for portions of the community.
- (p) After preparing the annual report, may prepare a detailed Planning Commission budget and submit the budget to the City Council for approval or disapproval.
- (q) May appoint advisory committees whose members are not members of the Planning Commission.
- (r) May recommend to the City Council provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the *Land Division Act, 1967 PS 288, MCL 560.105*, as amended.
- (s) May engage the services of a planning expert subject to approval by the City Council.

C) Zoning Administrator

1) Provisions pertaining to Zoning Administrator Employment

The City Council shall employ a Zoning Administrator (who may be the City Manager) to act as its officer to effect the proper and consistent administration and enforcement of this *Ordinance*. The terms of employment and rate of compensation shall be established by the City Council.

2) Provisions pertaining to Zoning Administrator Procedures

- (a) **Training:** Each Zoning Administrator shall successfully complete training on the roles and responsibilities of the office and how to perform all basic tasks within twelve (12) months of appointment as Zoning Administrator.
- (b) **Relief from Personal Responsibility:** The Zoning Administrator, officer or employee charged with the enforcement of this Ordinance, while lawfully acting for the City, shall not thereby render himself or herself liable

personally, and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his or her official duties. Any suit instituted against the Zoning Administrator, or any officer or employee acting on behalf of the office of the Zoning Administrator, because of a lawful act performed by the employee in the lawful discharge of his or her duties and under the provisions of the Ordinance shall be defended by the City Attorney, or other legal representative of the City, until the final termination of the proceedings. In no case shall the Zoning Administrator or any of his or her subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Ordinance; and the Zoning Administrator, any officer or employee acting on behalf of the Zoning Administrator acting in good faith and without malice, shall be free from liability for lawful acts performed under any of its provisions or by reason of any act or omission in the lawful performance of his or her official duties in connection herewith.

3) Provisions pertaining to Zoning Administrator Duties

It shall be the responsibility of the Zoning Administrator and his or her employees to be thoroughly versed in the provisions of this *Ordinance* and to enforce the provisions of this *Ordinance*. The Zoning Administrator or his or her deputized agents shall have the power of a police officer, whose jurisdiction is the enforcement of this *Ordinance*. Acting in this capacity, the Zoning Administrator shall, among other responsibilities be empowered to perform the following duties:

- (a) **Attend Meetings:** The Zoning Administrator shall attend Planning Commission, Zoning Board of Appeals, and such other meetings related to administration of this Ordinance as necessary or when requested.
- (b) **Assist citizens:** Help citizens determine what zoning forms and procedures apply to proposed zoning requests and land use changes, and aid them in completing required permit application forms. Help citizens with an alternate procedure if the request is not in compliance.
- (c) **Review Applications:** Receive and review all permit application forms to determine level of completion and level of compliance with the provisions of the Ordinance.
- (d) **Issue Permits:** For permits requiring only administrative approval, the Zoning Administrator shall be authorized to issue the appropriate Zoning Permits provided the request complies with all applicable provisions of this Ordinance. The issuance of permits includes the authority to impose any condition authorized by this Ordinance. For permits requiring Planning Commission approval, the Zoning Administrator will refer all complete applications to that body for review.
- (e) **File Applications:** The Zoning Administrator shall maintain files of all applications for zoning approval and for all Certificates of Zoning Compliance and shall keep records of all permit approvals and denials. Such files and

records shall be open to public inspection. Copies shall be furnished upon request at a cost established by the City Council.

- (f) **Inspections:** The Zoning Administrator, or authorized deputy, shall make as many inspections of buildings or premises as necessary in order to properly carry out the enforcement of this Ordinance or any permit, approval, or condition of a permit or approval, or order under this Ordinance. At a minimum the property shall be inspected upon staking for any building, and prior to occupancy.
- (g) **Non-Conforming Uses:** Identify, monitor, and control changes in nonconforming uses.
- (h) **Enforce the Zoning Ordinance:** The Zoning Administrator shall be the principal Ordinance enforcement officer. He/she shall ensure conformance with issued permits, investigate alleged Ordinance violations, including the conditions of permits or approvals, issue tickets and violation notices, appear in court or other jurisdictional proceedings, and undertake such other enforcement activities as may be delegated by the City Council or City Planning Commission. Other individuals may be hired for this purpose, or the task may be delegated to others who work under the supervision of the Zoning Administrator. Once a case is shifted to the City Attorney or other legal representative retained for such purpose, the Zoning Administrator and City Attorney or other legal representative shall share enforcement responsibility.
- (i) **Investigate Violations:** The Zoning Administrator shall issue violation notices and appearance summons, and work with the City Attorney to seek the issuance of warrants for the arrest of alleged violators, or to enforce appropriate civil action for violation.
- (j) **Record of Complaints:** Keep a record of every complaint of a violation of any of the provisions of this Ordinance as a public record.
- (k) **Report to City Council:** On behalf of the Planning Commission, the Zoning Administrator shall report to the City Council periodically; and once a year, shall summarize for the period since the last previous report, the number of requests for zoning approval or enforcement, including the number of requests approved, approved with conditions, and denied, by type of request, including, zoning text changes, rezonings, conditional rezonings, zoning permits, conditional land use permits, special land use permits, PUD permits, all minor design modifications, administrative waivers, all complaints of violations, all interpretations made, and appeals and variances granted by the Zoning Board of Appeals. The Zoning Administrator shall include any recommendations regarding zoning changes or proposed amendments which would improve the content and/or enforcement of the Zoning Ordinance.
- (l) **Prepare Record of Decisions:** The Zoning Administrator shall establish notebooks or other records for listing each decision, waiver, interpretation, or enforcement action made under this Ordinance. This record shall be organized for easy reference by date and decision to help ensure consistency of future decisions.
- (m) **Prepare Forms, Manuals and Guidelines:** The Zoning Administrator with the assistance of the Planning Commission shall periodically prepare or update forms, procedure manuals, and guidelines for the smooth administration of the Zoning Ordinance. All such forms, manuals and

guidelines shall be reviewed and approved by the Planning Commission and approved by the City Council. A form, procedure or guideline may be implemented by the Zoning Administrator for not more than sixty (60) days after being established without Planning Commission or City Council approval.

D) Building Inspector

It is possible for the Building Inspector and Zoning Administrator functions to be performed by one person. If, however, the duties are separated, the following practices shall be followed.

- 1) The City Building Inspector shall coordinate all building permit issuance and inspections with the City Zoning Administrator.
- 2) No building permit shall be issued without first a determination by the Zoning Administrator that the use is permitted in the District in which the property is located and that the dimensional standards of the Ordinance are met.
- 3) The Building Inspector shall be cross-trained to assist with zoning inspections and may be deputized by the Zoning Administrator to assist with zoning administration after proper training.
- 4) All building permits shall indicate by the signature of the Zoning Administrator that required zoning conformance has been verified. If such verification is not present, the building permit shall not be issued and no construction activity may commence unless a separate zoning permit has been issued which signifies zoning compliance.

E) Zoning Board of Appeals

The Zoning Board of Appeals (also known as the Board of Appeals) shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.

1) Provisions Pertaining to Membership

(a) Membership

- (i) The Board of Zoning Appeals for the City of Bessemer shall be composed of the five (5) elected members of the City Council as duly elected or appointed.
- (ii) The Chair of the Planning Commission or designee shall serve as an alternate member of the Zoning Board of Appeals. The alternate member may take part in all deliberations of the Board, but shall not have a vote unless a regular member is unable to vote because of absence or a conflict of interest.
- (iii) Within twelve (12) months after the start of an individual's first term of office and duty as a member of the Zoning Board of Appeals, members shall attend a training program on their roles and responsibilities.

(b) Terms

The term of the members of the Zoning Board of Appeals shall coincide with their elected term of office.

2) Provisions Pertaining to Procedures

- (a) **Officers:** The Board of Appeals shall select a Chairman and Vice-Chairman from within their membership.
- (b) **Alternate members:** An alternate member may be called to serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Board of Appeals has the same voting rights as a regular member.
- (c) **Attendance:** Since regular attendance is required for optimal function of the Board of Appeals, members of the Board are appointed subject to the following attendance criteria:
 - (i) Member(s) shall be expected to notify the chairperson or his/her designee of his/her expected absence prior to a meeting.
 - (ii) Member(s), unless excused by the chairperson, shall not be absent for more than two (2) consecutive meetings, irrespective of calendar year.
 - (iii) The Board of Appeals Secretary shall be responsible to report the noncompliance of attendance criteria of any Board of Appeals member to the Chairperson.
 - (iv) The Chairperson of the Board of Appeals shall notify the entire Board in writing of any non-compliance with attendance criteria, including recommended action.
 - (v) Under extenuating circumstances, such as a serious or chronic health condition, or family illness, the Board of Appeals may, by motion and majority vote, defer the action specified above. Said member is exempt from voting privileges in the action.
- (d) **Meetings:** Meetings of the Board of Appeals shall be held at the call of the Chairperson and at other times as the Board in its rules of procedure may specify. There shall be a fixed place for each meeting, and all meetings shall be open to the public.
- (e) **Voting:**
 - (i) All members of the Board of Appeals present at a meeting shall vote on every matter unless a member of the Board has a conflict of interest. A member of the Board of Appeals shall abstain from a vote in which the member has a conflict of interest, and the member shall state the nature of the conflict of interest prior to participating in a hearing on the matter.
 - (ii) The concurring vote of a majority of all the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant on a matter upon which they are required to pass under the Zoning Ordinance, or to grant a variance in the Zoning Ordinance.
- (f) A Zoning Board of Appeals shall not conduct business unless a majority of the regular members are present.
- (g) A member of the Zoning Board of Appeals who is also a member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning

Commission. However, the member may consider and vote on other unrelated matters involving the same property.

(h) **Keeping of Records:**

(i) Minutes of all meetings shall be recorded and shall contain the grounds of every determination made by the Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Board for every case together with the votes of the members and final disposition of each case. Such minutes shall be filed in the Office of the Zoning Administrator, and shall be available to the public. The written record of proceedings shall be contained in a file with the following information:

1. The application (for a permit, variance, interpretation, exception).
2. Any reports, plans, surveys, or photos.
3. Notice of Public Hearing to affected parties in newspaper.
4. Letter from Zoning Administrator granting or denying the application or referring it to the Board of Appeals and all other relevant records related to the case.
5. Affidavit of publication of Notice of Hearing.
6. Record of testimony heard and evidence presented.
7. A copy of the zoning Article(s) and Section(s) in question.
8. Briefs, correspondence or other communications made to or from the Board of Appeals, including any from the City Attorney or other attorneys.
9. Statement of facts found by Board of its knowledge regarding the request including any information gained from personal inspection.
10. Decision of the Board as specifically related to the Findings of Fact. Said findings of fact shall include, but are not limited to the following information:
 - a. How the application of this Ordinance creates unnecessary hardship or practical difficulty in the use of petitioner's property.
 - b. Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
 - c. Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this *Ordinance*. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.
 - d. Finding that the practical difficulty was not created by the appellant and is related only to property that is owned or occupied by the appellant.

- e. A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.
 - f. The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a Special Land Use Permit is necessary.
 - g. Findings on whether the proposed development complies with the requirements, standards or procedures given in the *Zoning Ordinance* or an interpretation of the disputed *Ordinance* provisions, if applicable.
 - h. Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.
 - i. The possible precedents or affects which might result from the approval or denial of the appeal.
 - j. Findings on the impact if the appeal is approved, on the ability of the City or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.
11. A copy of any other correspondence to the appellant regarding the request.

(ii) At its discretion, the Board of Appeals may file its decision relative to a particular property with the Register of Deeds to run as a permanent record with the property which was the subject of the decision by the Board of Appeals.

(i) Removal from Office and Conflict of Interest

- (i) Members of the Board of Appeals shall be removable by the City Council for nonfeasance, including nonperformance of duty, or misfeasance, including misconduct in office, or for malfeasance upon written charges and after public hearing.
- (ii) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute malfeasance in office. A conflict of interest may include, but is not limited to considering property or adjoining property a Board of Appeals member owns or has a legal or financial interest in, or considering a request by a party with whom a Board member has close ties, such a family member, relative or close friend.

3) Scope of Powers

The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all the powers of the office or body from whom the appeal was taken, but no more. The Board of Appeals may issue or direct the issuance of a permit if, following a review of the facts, the relevant Ordinance requirements, and the prior decision of the Zoning Administrator or Planning Commission, the Board of Appeals concludes the Ordinance requirements were not properly applied. The Board of Appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this Ordinance may be equitably achieved in order that

there shall be uniform interpretation and flexibility in the enforcement of this Ordinance or to fulfill any other responsibilities bestowed upon the Board of Appeals by this Ordinance. At the same time, the Board of Appeals shall be aware that this responsibility does not extend to creating regulations, only to applying regulations, which is a narrow quasi-judicial responsibility, and not a legislative one. The power to adopt land use regulations rests solely with the City Council. For example, the Board of Appeals shall not have the power to alter or change the zoning district classification of any property or to authorize any use of land not expressly permitted in the district, nor to make any change in the terms or intent of this Ordinance; these powers are reserved to the City Council.

4) Provisions Pertaining to Duties

The Zoning Board of Appeals shall perform the following duties:

- (a) Adopt rules or procedure or Bylaws to govern its procedures on such matters as officers, voting, conduct of meetings, and related matters as it may consider necessary or advisable.
- (b) Choose a Chairperson, and in his or her absence, an Acting Chairperson who may administer oaths and compel the attendance of witnesses.
- (c) Maintain a record of its proceedings which shall be filed in the office of the City Clerk.
- (d) Hear and decide on matters referred to the Board of Appeals or upon which the Board of Appeals has been given authority under this Ordinance.
- (e) Hear and decide appeals from and review any administrative order, requirement, decision, or determination made by the Zoning Administrator or Planning Commission in enforcing this Ordinance.
- (f) Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
- (g) The Board of Appeals shall have the power to make "Lot of Record" determinations in accordance with procedures detailed under the section "Specific Appeals Procedures".
- (h) Review Site Plan Review appeals per procedures detailed in the section "Specific Appeals Procedures".
- (i) The Board of Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for essential services, in any permitted district to a greater height or of larger or smaller area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service. The Board of Appeals may also impose setbacks, specify the location or character of fences, buffering or landscaping requirements as a condition of approval pursuant to standards in this Ordinance as may be reasonably necessary to protect abutting property from the potential nuisance effects of such essential services.

- (j) The Board of Appeals may retain legal counsel for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the City Council.

F) Secretary

There shall be a Secretary on the Planning Commission and Zoning Board of Appeals for the purposes of preparing a public record of minutes, resolutions, transactions, findings and determinations. The Secretary may perform other duties related to the conduct of the Planning Commission or Board of Appeals business as may be required from time to time by the officers of the Planning Commission or Board of Appeals, provided the Secretary of the respective Commission and Board is solely responsible for the accuracy of such duties, and all documents prepared by the recording secretary shall be signed by the official secretary of the Planning Commission or official secretary of the Board of Appeals. The Secretary shall be a member of the Planning Commission or Zoning Board of Appeals unless the City Council authorizes funds to hire a recording secretary, if the task is not delegated to a City employee. The City Clerk shall maintain one official copy of a current Zoning Ordinance and Zoning District Map.

Section 14.3 Permit, Review and Approval Procedures

A) General Application and Review Provisions

The general provisions of this section shall apply to all applications for development approval and procedures under this *Ordinance*, unless otherwise stated. Additional procedures specific to review of site plans are found in section 14.5, procedures specific to Conditional and Special Land Use applications are found in Article 9, and procedures specific to Planned Unit Developments are found in Article 10. Procedures related to zoning Text Changes, Rezoning and Conditional Rezoning are found in Section 14.8.D. Procedures related to Variances, Appeals and *Ordinance* Interpretations are found in Section 14.6.

- 1) Authority to File Applications:** Applications shall be submitted to the Zoning Administrator by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.
 - (a) **Applicant is Not Owner:** If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted.
 - (b) **Applicant is Not Sole Owner:** If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted.
- 2) Application Submission Schedule:** The schedule for the submission of applications shall be established by the Zoning Administrator and made available to the public.
- 3) Application Contents:** Applications required under this *Ordinance* shall be submitted on a form approved by the Planning Commission and City Council except as noted in Section 14.2.C.3.m and made available to the public.
- 4) Simultaneous Processing of Applications:** Whenever two or more forms of review and approval are required under this *Ordinance* (e.g., a Special Land Use Permit and a Variance), the applications for those development approvals may, at the option of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.

5) Fees:

- (a) **Determination of Fees:** The City may charge reasonable fees sufficient to cover the costs of administration of this *Ordinance*. The City Council may from time to time adopt by resolution a fee schedule to accompany all applications submitted under this *Ordinance*. Fees shall be based on actual direct costs of inspection and supervision or consultation with qualified professionals (where reasonably necessary), resulting from the enforcement of this *Ordinance*, including the enforcement of conditions of a permit or approval, and may include the cost of filing approvals with other entities, such as with the Zoning Administrator. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including publishing the newspaper notice and any map, sending required notices to property owners and renters, photocopying, staff time, Planning Commission, City Council and/or Zoning Board of Appeals meeting time, mileage and any costs associated with reviews by qualified professional planners, engineers, scientists, and/or other qualified professionals. The fee schedule and any amendments shall be available at the City Clerk's office following adoption by the City Council.
- (b) **Fees to be Paid:** No application shall be processed until the established fee has been paid and a receipt obtained from the Office of the Zoning Administrator; except that the City Council in the resolution establishing zoning fees, may exempt City projects or the projects of other governmental agencies from all or part of the fees. The Office of Zoning Administrator shall keep accurate records of all fees. Such records are public records open for public inspection.
- (c) **Additional Costs and Fees for Professional Reviews:**
- (i) If the Planning Commission, Zoning Board of Appeals, or Zoning Administrator determines that the basic zoning fees will not cover the actual costs of application review or appeal, or that the participation of a qualified professional engineer, planner, attorney or other qualified professional is necessary, then the applicant shall deposit with the City Treasurer additional fees as determined by the Zoning Administrator to equal the estimated amount of additional costs. The additional fees shall be held in escrow in the applicant's name and shall be used solely to pay for additional costs. Failure of the applicant to make any escrow deposit required under this *Ordinance* shall render the application incomplete or the appeal procedurally deficient, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following the final action on the application or the final decision on the appeal. Any actual costs incurred by the City in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal. Failure of the

applicant to make timely payment of any balance due will entitle the City to place a lien on the subject property for the unpaid balance.

(ii) Professional review shall include a report indicating the extent of conformance or nonconformance with this *Ordinance* and identifying any problems which may create a threat to public health, safety or the general welfare or to the quality of the air, water or natural resources of the City. Mitigation measures, alterations or alternatives to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review and a copy of the statement of expenses for the professional services rendered.

(d) **Refund of Fees:** Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment shall be refunded to the applicant, subject to a ten (10) percent administrative fee.

6) Pre-Application Conference:

(a) **General Overview:** Except for PUDs (Article 10, Section 10.1) a pre-application conference is optional prior to submission of any application for development approval under this *Ordinance*. The purpose of a pre-application conference is to familiarize the applicant and the City staff with the applicable provisions of this *Ordinance* required to permit the proposed development, and to inform the applicant about requirements for the preparation of the application.

(b) **Initiation of Pre-Application Conference:** Any potential applicant may request a pre-application conference with the Zoning Administrator. Along with the request for the pre-application conference, the applicant may provide to the Zoning Administrator a description of the proposed development, the type of development approval sought, the location of the proposed project, and any other appropriate supporting documents such a concept plan, maps, drawings, models, and any other information the Zoning Administrator deems necessary for the pre-application conference.

(c) **Meeting:** The Zoning Administrator shall schedule a pre-application conference after receipt of a request for a pre-application conference and any appropriate submission materials. At the pre-application conference the applicant, the Zoning Administrator, and any other City staff and regional, state, federal or adjacent local government representatives the Zoning Administrator deems appropriate to attend the pre-application conference, shall discuss the proposed development, and based upon the information provided by the applicant, identify what *Ordinance* provisions generally apply to the proposed development.

7) Determination of Sufficiency:

(a) **Application Must Be Complete:** All applications for a Zoning Permit, Temporary Zoning Permit, Certificate of Zoning Compliance, Special Land Use Permit, Planned Unit Development Permit, Condominium Project Permit, Subdivision Plat, Variance, Appeal, Text Change, Rezoning, or Conditional Rezoning or other authorization requested under this *Ordinance* must be complete before the permit issuing authority or approving body or official is required to consider the application.

- (b) **Determination of Sufficiency:** Within fourteen (14) calendar days following receipt of the application, the Zoning Administrator shall determine if the application is complete, meets all relevant threshold requirements and includes data in sufficient detail to evaluate the application to determine whether it complies with the requirements of this *Ordinance*. An application not reviewed for sufficiency within fourteen (14) calendar days, shall be considered complete and shall be processed as such.
 - (c) **Determined Insufficient:** If the Zoning Administrator determines the application is not sufficient, written notice shall be provided to the applicant specifying the application's deficiencies. If the applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn. When the application is determined sufficient, it shall be reviewed pursuant to the procedures and standards of this Article.
- 8) Preparation of Staff Report:** After an application is determined sufficient, and as appropriate, the Zoning Administrator shall refer the application to the appropriate official or approval body, and direct the applicant to contact any other review agencies for comment. The Zoning Administrator shall review the application and where a site plan, Special Land Use, Condominium Project, PUD, Variance, *Ordinance* Interpretation, Text Change, Rezoning, or Conditional Rezoning is involved, prepare a Staff Report. Where a Staff Report is required, it shall be made available to the public five (5) calendar days before the first scheduled public hearing on the application. The Staff Report shall state whether the application complies with all appropriate standards of this *Ordinance*. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal. A Staff Report shall also be prepared on requests for rezoning or a text change. Staff reports may be prepared by a consultant to the City where authorized by the City Council.
- 9) Scheduling of Public Hearing:** When an application for development approval is subject to a public hearing (see Section 14.4.A, Timing of Notice, for when a public hearing is required), the Zoning Administrator shall ensure that the public hearing(s) on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the decision-making or advisory body reviewing the application. The public hearing(s) shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements of this *Ordinance* to be satisfied.
- 10) Decision on Permits:** The bodies and officials responsible for review of permit applications under this *Ordinance* shall approve all applications that conform as submitted with the requirements of this *Ordinance*; shall approve with conditions all applications that would conform if certain conditions, authorized by this *Ordinance* were met; and shall deny all applications that do not conform with this *Ordinance* and would not likely conform even if mitigating conditions were imposed as a condition of approval.

11) Expiration of Permits:

- (a) Zoning, Conditional Land Use, Special Land Use, Planned Unit Development or Condominium Project Permits shall expire automatically, if, within one (1) year after the issuance of such permits, significant actual construction has not commenced or use has not commenced where no actual construction is required. Significant means more than one-third of the estimated expense of the development.
- (b) The permit-issuing authority may extend a permit for a period of up to six (6) months from the date when a permit would otherwise expire if it concludes that:
 - (i) The permit recipient has proceeded with due diligence and in good faith, and
 - (ii) Conditions have not changed so substantially as to warrant a new application. One successive extension may be granted for a period of up to six (6) months upon the same findings. All extensions may be granted without resort to the formal application and review processes. Fees required for an extension shall be according to the City fee schedule.
- (c) Multi-phase PUDs shall conform with the requirements of Article 10.

B) Zoning Permits:

The following provisions shall apply in the issuance of any Zoning Permit in addition to any other requirements for a particular use contained in this *Ordinance*:

1) Commencement:

- (a) No clearing, grading, excavation or filling of land for a building or structure shall be commenced; no erection, addition to, alteration of, or moving of any building or structure shall be undertaken, nor shall any land be changed to a use of a different use type, use category, or use class under this *Ordinance*, nor to any different use group under the *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq.*, except in accordance with and pursuant to one of the following permits or approvals:
 - (i) A Zoning Permit or a Certificate of Zoning Compliance has been secured from the Zoning Administrator.
 - (ii) A major or minor Conditional or Special Land Use Permit has been approved in compliance with the provisions of Article 9 of this *Ordinance*.
 - (iii) A PUD Permit has been approved in compliance with the provisions of Article 10 of this *Ordinance*.
 - (iv) A Condominium Project Permit has been approved in compliance with the provisions of Article 5, Section 5.4.G of this *Ordinance*.
 - (v) A platted Subdivision has been approved in compliance with the provisions of Article 5 of this *Ordinance*.
 - (vi) Except upon a written order of the Zoning Board of Appeals, no Zoning Permit shall be issued for any building, structure or use of land that would be in violation of any of the provisions of this *Ordinance*. Such order shall not be final until the minutes of the ZBA meeting at which the decision was made have been approved by the ZBA.
- (b) The above provision does not apply to bona fide forest management, logging or agricultural activities in which no permanent or temporary building are involved.

2) Application for Zoning Permit:

- (a) All applications for a Zoning Permit shall require an accurate scale map showing the following, unless waived by the Zoning Administrator:
 - (i) The location, shape, area, dimensions, and legal descriptions of the parcel, location of easements and centerline of road.
 - (ii) The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered, or moved on the parcel.
 - (iii) All existing and proposed uses of buildings, structures and land.
 - (iv) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
 - (v) The yard, open space, driveway or access by easement, and parking space dimensions.
 - (vi) The proposed plan and specific off-street parking and unloading spaces, if applicable.
 - (vii) Any wetlands or flood plains, critical sand dunes or high risk erosion areas, lakes, streams or other water resources which may be on the property.
 - (viii) Any change to the ground contour of the parcel involved.
 - (ix) Any other information deemed necessary by the Zoning Administrator to properly administer this *Ordinance*.
 - (x) A list of any permits that will be required for the development or use from federal, state, county or local agencies.
- (b) Land uses requiring site plan review per Section 14.5, shall submit a site plan in place of the information required in (a), above, and all development of the site shall be in accordance with an approved site plan.
- (c) A copy of the deed or proof of equitable title shall be required with any application for a Zoning Permit for any new principal or accessory structure on any non-platted parcel in order to assure compliance with dimensional requirements of this *Ordinance*, to protect easements from encroachment, and to assure conformance with the *Land Division Act, Public Act 288 of 1967, as amended*. The Zoning Administrator may examine electronic copies of recorded deeds to meet this requirement.

- 3) Affidavit of Compliance:** Each application form for a Conditional or Special Land Use Permit, Condominium Project, Planned Unit Development Permit, Conditional Rezoning or other development requiring a site plan for which a Zoning Permit is required, shall contain a signed and notarized affidavit stating that the applicant understands, and agrees to comply with the following laws when applicable to the lot, tract or parcel in question. The applicant shall further affirm that said lot, tract or parcel is not currently, and that the proposed use or construction will not be, in violation of the following laws. The Affidavit of Compliance shall be deemed part of and a condition to the permit or approval.

- (a) The *Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101 et seq., or the Condominium Act, Public Act 591 of 1978 as amended, being MCL 559.101 et seq.*
- (b) The District Health Department Sanitary Code.
- (c) The Flood Plain regulations of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 31, as amended.*
- (d) *Michigan Public Health Code, Public Act 368 of 1978, as amended, being MCL 333.12751, et seq.*
- (e) Farmland and Open Space Preservation provisions of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 361, as amended, being MCL 399.201, et seq.*
- (f) Wetlands Protection provisions of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 303, Section 324.30301 et. seq., as amended.*
- (g) Inland Lakes and Streams provisions of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 301, Section 324.30141, et. seq., as amended.*
- (h) "Miss Dig Law", *Act 53, as amended.*
- (i) *Airport Zoning Act, Public Act 23 of 1950, as amended, being MCL 259.431, et seq.*
- (j) *Stille-DeRossett-Hale Single State Construction Code Act, Public Act 230 of 1972, as amended, being MCL 125.1501, et seq., and all of its associated codes related to building, plumbing, electrical, etc.*
- (k) Michigan Department of Environmental Quality rules for Land Divisions, as amended.
- (l) The High Risk Erosion provisions of the *Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended, being MCL 324.32305, et seq.*
- (m) Any Michigan Department of Transportation driveway or access management regulations under *Public Act 200 of 1969, as amended, being MCL 247.321.*
- (n) All other State, Federal or local laws, rules, or regulations known to be applicable to the proposed building, structure or use of the property.

4) Withholding Permit:

- (a) The Zoning Administrator may withhold any Zoning, Temporary Zoning, Conditional Land Use, Special Land Use, Condominium Project, or PUD permits, or a Certificate of Zoning Compliance pending verification that an applicant has received required city, county, state or federal permits, including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, flood plain, culvert, or driveway permits. Final permit approval of the requested development activity will be conditioned upon the receipt of any other necessary government approvals, and the City approval body can direct the Zoning Administrator not to issue the permit until those other permits have been obtained and copies filed with the Zoning Administrator.
- (b) The Zoning Administrator may refuse to issue a Zoning Permit to a person who is responsible for an unresolved violation of this *Ordinance* at the requested location, or another location within the jurisdiction of this

Ordinance, until such time as the violation is satisfactorily corrected where such other unresolved violation poses reasonably similar risks.

- 5) **Previous Approvals:** Nothing in the *Ordinance* shall require changes in the plans, construction, or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which shall have been actively pursued within ninety (90) days after the effective date of this *Ordinance*; and the entire building shall be completed as authorized within two (2) years after the date of approval of the application, and provided that the construction was lawfully completed in accordance with the *Ordinance*, permit and permit conditions.
- 6) **Inspections:** The Zoning Administrator shall inspect sites on which new permanent buildings will be erected prior to issuance of a Zoning Permit and at such other time as is necessary to ensure conformance with this *Ordinance* and the conditions of any permit or approval.

C) Temporary Zoning Permits

Temporary Zoning Permits for temporary buildings, structures and uses shall conform with the following requirements:

- 1) **Application:** Temporary Zoning Permits for those uses specifically authorized in Section 5.2.F may be approved, modified, conditioned, or denied by the Zoning Administrator based on the standards established in 3) Conditions of Approval below, and subject to such conditions as are reasonably necessary to minimize adverse impacts on abutting property, and protect the public health, safety and general welfare. The Zoning Administrator may refer the application for a Temporary Zoning Permit to the Planning Commission for a decision. The Planning Commission shall apply the procedures and standards in this Section, the same as the Zoning Administrator.
- 2) **Permits:** A written temporary Zoning Permit shall be issued for all temporary buildings, structures and uses that comply with this *Ordinance* and shall contain the following information:
 - (a) The applicant's name.
 - (b) The location and effective dates of all permitted temporary buildings, structures or uses.
 - (c) Conditions specified by which the permit was issued, such as:
 - (i) Use and placement of signs.
 - (ii) Provision for security and safety measures.
 - (iii) Control of nuisance factors.
 - (iv) Elements of a performance guarantee.
 - (v) Signature of the Zoning Administrator on the permit.
- 3) **Conditions of Approval:** A permit for a proposed temporary use shall be issued by the Zoning Administrator only if each of the following criteria is met:
 - (a) The proposed use is clearly of a temporary nature.
 - (b) The temporary use shall not endanger the public health, safety or welfare of the City, or adjacent residents.

- (c) Structures of temporary uses shall be provided, if required, with safe, sanitary and effective systems for water supply and disposal of wastes, approved by the Health Department.
 - (d) The proposed temporary use shall meet all lot, yard, setback and other requirements of this *Ordinance*.
 - (e) The proposed temporary use is not a major Special Land Use of the respective zoning district.
 - (f) The nature and intensity of the temporary use and the size and placement of any temporary building or structure shall be planned so that the temporary use, building or structure will be compatible with existing development on abutting property.
 - (g) Except for a garage sale, the temporary use shall not be located within an accessory building or structure.
 - (h) The parcel shall be of sufficient size to adequately accommodate the temporary use, building or structure.
 - (i) The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or structure.
 - (j) Off-street parking areas are of adequate size for the particular temporary use, building or structure, are safely located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
 - (k) Signs shall conform to the provisions of this *Ordinance*.
 - (l) Any lighting or noise shall be directed and controlled so as to not create a nuisance to neighboring property owners.
 - (m) All the criteria specific to a particular temporary use are met.
 - (n) The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this *Ordinance* and other applicable federal, state, or local laws, regulations, ordinances or codes.
- 4) Renewable Temporary Zoning Permits:** Temporary Zoning Permits which are renewable may be renewed in the same manner as issuance of the original permit, except the application for renewal shall be filed at least fifteen (15) days prior to the expiration date of the current permit, and applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit. Fees may be assessed in accordance with the City Fee Schedule.
- 5) Performance Guarantee for a Temporary Use:** The Zoning Administrator may require a performance guarantee in the form of cash, check or savings certificate or irrevocable bank letter of credit be deposited with the City Treasurer in an amount equal to the estimated cost of removing any temporary structure for which a Temporary Zoning Permit is authorized under this Section for use in the event it is not removed by an applicant at the end of an authorized period. Prior to the issuance of a temporary permit, the applicant shall sign an affidavit holding the City harmless against any claim for damages if the City were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned to the applicant when all the terms and conditions of the temporary Zoning Permit have been met the temporary use or structure has been removed by the applicant.

- 6) **Permit Revocation:** A Temporary Zoning Permit may be revoked at any time for any of the following reasons:
 - (a) Nonconformance with the requirements of this Section and/or a permit issued thereunder;
 - (b) Evidence that the Temporary Zoning Permit was obtained by misrepresentation or fraud;
 - (c) That one (1) or more of the conditions of the Temporary Zoning Permit have not been met; and
 - (d) That the temporary use is in violation of any statute, ordinance, law, or regulation.
 - (e) The Temporary Zoning Permit has expired by its terms or the provisions of the *Ordinance*.
- 7) **Cessation of Temporary Use Upon Revocation:** Upon expiration or revocation of a Temporary Zoning Permit for a temporary use, building or structure, the temporary use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. Any use or structure established under a temporary use permit shall not give rise to any vested rights of use or property except for a limited lawful use during the term of and in accordance with the Temporary Zoning Permit.
- 8) **Appeal:** An appeal of a decision by the Zoning Administrator relative to approval or denial of a Temporary Zoning Permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to the conditions outlined in this *Ordinance*.

D) Certificate of Zoning Compliance

- 1) **Certificate of Zoning Compliance Required:** No land or building for which a Conditional Land Use Permit, Special Land Use Permit, PUD Permit, Condominium Project Permit, Conditional Rezoning or site plan approval is required shall be occupied or used until a Certificate of Zoning Compliance is issued by the Zoning Administrator stating that the building and its intended use complies with the provisions of this *Ordinance* and the permit and its conditions.
- 2) **Notification for Inspection Prior to Occupancy:** The holder of every Conditional Land Use Permit, Special Land Use Permit, PUD Permit, Condominium Project Permit, or other use for which major site plan approval was granted, shall notify the Zoning Administrator within 24 hours after completion of the work authorized by such permit for a final inspection and issuance of a Certificate of Zoning Compliance.
- 3) **Certificates for Existing Buildings:** Certificates of Zoning Compliance may be issued upon request for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, such uses of land are in conformity with the provisions of this *Ordinance*. Where the certificate is issued for building, or use not in conformity with this *Ordinance*, the certificate shall specify the degree of nonconformity including but not limited to use type, use intensity, structures, and dimensions.

4) Certificates for New or Changed Uses:

- (a) Application for Certificates of Zoning Compliance shall be in writing to the Zoning Administrator on a forms furnished for that purpose, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this *Ordinance* or any permit or permit condition issued or approved under this *Ordinance*.
- (b) If such certificate is refused for cause, the applicant therefore shall be mailed a notice of such refusal and cause thereof, within the aforesaid five (5) day period.
- (c) Except upon a written order of the Zoning Board of Appeals, a Certificate of Zoning Compliance shall not be issued for any building, structure or use of land that would be in violation of any of the provisions of this *Ordinance* or any permit or condition issued or approved under this *Ordinance*.

E) Zoning Approval Runs with the Land and Status of Prior Uses:

The approval to engage in any land use activity or to construct a building or structure that has received a Zoning Permit, Certificate of Zoning Compliance, Conditional Land Use Permit, Special Land Use Permit, PUD Permit, Condominium Project Permit or other permit issued under the authority of this *Ordinance*, or any Variance granted by the Zoning Board of Appeals, runs with the land, and not with the owner, just like a nonconforming use right. Thus, any person who builds or uses land based on a valid permit or approval granted under the terms of this *Ordinance*, and later dies, should rest assured that the rights, limitations and conditions granted in that permit automatically transfer to the new owner(s) of the land, provided there were no violations applicable to the land that were unresolved by the previous owner prior to his/her death. By the same token, any person may sell property to another person, who will enjoy the same rights, privileges and restrictions as the seller, provided that the seller, prior to the sale, used the property in conformance with a lawful permit and the land use was not in violation of the *Ordinance* prior to the sale.

F) Conditional Approvals and Recording Conditions with Register of Deeds

- 1) Recording Conditions with the Register of Deeds: At the direction of the body or official making the final decision to approve or approve with conditions a Planned Unit Development, Conditional Land Use, Special Land Use, Variance or other discretionary approval authorized by this *Ordinance*, or as otherwise may be specified by this *Ordinance*, or at the discretion of the Zoning Administrator, an approval or approval with conditions may be recorded with the County Register of Deeds. The following requirements shall be met with each recording: (a) The applicant shall record an affidavit which has received the approval of the City Attorney containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final City approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the City. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County, and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these documents have been

recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.

- (b) A copy of any agreement between joint users of parking areas shall be filed with the application for a Zoning Permit and recorded with the Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility by each party and clearly spell out maintenance responsibilities. A copy of all recorded documents shall be presented to the Zoning Administrator.
- (c) All documents to be recorded with the County Register of Deeds at the initiative of the City, shall be first reviewed and approved as to form and content by the City Attorney or other legal representative of the City retained for that purpose.

G) Performance Guarantees and Performance Bonding for Compliance

- 1) When Performance Guarantee May be Required:** In authorizing any Zoning Permit, Temporary Zoning Permit, Conditional Land Use Permit, Special Land Use Permit, Planned Unit Development Permit, Condominium Project, platted Subdivision, Site Plan approval, Conditional Rezoning or Variance, the body or official which approves the respective request, as designated by this *Ordinance*, may require that a performance guarantee be furnished: (1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; and (2) to provide sufficient resources for the City to complete required improvements or conditions in the event the permit holder does not; or (3) to insure the discontinuance of a temporary use by a stipulated time.
- 2) Improvements Covered:** Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The term "improvements" should not be construed to mean the project itself, but rather those features associated with the project which are deemed necessary to protect the health, safety and welfare of the City of Bessemer's resources and future users or inhabitants of the proposed project. The term —improvementsll does not include improvements for which a performance guarantee has been deposited pursuant to the *Land Division Act, Public Act 288 of 1967, as amended*. The performance guarantee shall meet the following requirements:
 - (a) **Form:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the City Treasurer, which names the property owner as the obligor and the City as the obligee.

- (b) **Time when Required:** The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the City shall deposit the funds in an interest bearing account in a financial institution with which the City regularly conducts business.
 - (c) **Amount and Type:** The amount and type of the performance guarantee shall be determined by the body or official making the decision to approve the request, or if they have not done so, by the Zoning Administrator. The amount of the performance guarantee should be sufficient to cover the estimated cost of the improvements or conditions. The performance guarantee shall be reasonable, appropriate, and commensurate with the scope of the project. Additional guidelines for establishing the amount of a performance guarantee may be prescribed by resolution of the City Council.
- 3) **Return of Performance Guarantee:** The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, 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 proportion to the work completed on the applicable improvement or condition and may be written as an element of the conditions surrounding the approval of the project.
- 4) **Withholding and Partial Withholding of Performance Guarantee:** As required improvements are completed, or 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 shall transmit recommendation to the Planning Commission or City Council indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.
 - (a) The Planning Commission shall approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
 - (b) Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the City may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee. Any unused balance remaining would be returned to the applicant; any excess expense would be recorded as a lien on the property.
- 5) **Record of Performance Guarantees:** A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

Section 14.4 Notice and Hearing Procedures

A) Public Notice

- 1) **Public Notification:** All applications for development approval requiring public hearings shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.
 - (a) **Content:** All notices for public hearings, including those by publication in a newspaper or mail shall:
 - (i) Identify the name, address, and telephone number of the applicant or the applicant's agent.
 - (ii) Describe the nature, scope, and purpose of the application or proposal.
 - (iii) Identify the property that is the subject of the request, including a listing of all existing street addresses within the property, or if there is no street address the nearest cross street (street addresses are not required to be listed for any group of eleven (11) or more adjacent properties that are proposed for rezoning).
 - (iv) Indicate the date, time, and place of the public hearing(s).
 - (v) Include a statement that the public may appear at the public hearing in person or by counsel, be heard, and submit evidence and written comments with respect to the application.
 - (vi) Include a statement describing when and where written comments will be received prior to the public hearing.
 - (vii) Add information concerning how handicapped access will be accommodated if the meeting facility is not handicap accessible.
 - (b) **Notice Requirements:** When the provisions of this *Ordinance* require notice, the Zoning Administrator shall be responsible for preparing the content of the notice and implementing as follows:
 - (i) Publish the notice in a newspaper of general circulation in the City not less than fifteen (15) days before the date of the hearing.
 - (ii) Personally deliver, or deposit notice during normal business hours for delivery with the United States postal service or other public or private delivery service, not less than fifteen (15) days before the date of the hearing, to the following parties (except this provision does not apply to rezoning of any group of eleven (11) or more adjacent properties):
 - a. All owners of the property that is the subject of the request.
 - b. All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject of the request.
 - c. Occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to

more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, 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.

- d. Each electric, gas, and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the City Clerk for the purpose of receiving the notice of public hearing.
- e. For appeals of administrative decisions, requests for *Ordinance* interpretation, and variance requests to the Zoning Board of Appeals, if the request does not involve a specific parcel of property, notice need only be published as provided in (i) above and given to the person making the request as provided in (ii) above.
 - (iii) Notice by mail/affidavit: Notice shall be deemed mailed by its deposit during normal business hours for delivery with the United States postal service, or other public or private delivery service, by first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed.
- (d) **Timing of Notice:** Unless otherwise provided in the *Michigan Zoning Enabling Act, PA 110 of 2006*, or this *Ordinance*, notice shall be provided not less than fifteen (15) days before the hearing.
- (e) Once the Zoning Administrator has received a complete application for a Zoning Text Change, Rezoning, Conditional Rezoning, Conditional Land Use Request, Special Land Use Request, Planned Unit Development, Condominium Project, Subdivision Plat, Variance, or other request pursuant to this *Ordinance* or a petition to the Zoning Board of Appeals, the Zoning Administrator shall mail a copy of the petition or application within five (5) days after receipt.

2) **Registration to Receive Notice by Mail:**

The City Clerk shall provide copies of all applications for development approval to the Zoning Administrator, who will provide notice to organizations that have submitted requests for written notice. Fees may be assessed in accordance with *P.A. 267 of 1967*, as amended for the provision of this notice. To be eligible for registration, the requesting party must provide the information in the form required by the City Clerk to ensure notification can be made. All persons that have been registered must reregister annually to remain registered and continue to receive notification pursuant to this Section.

3) **Deferral of Review of Application:**

- (a) **Submission of Request:** Any request for a deferral of a public hearing until a later date shall be submitted in writing to the Zoning Administrator.
- (b) **Zoning Administrator Review:** The Zoning Administrator shall approve a request for deferral if it has been submitted prior to the time of notice of a public hearing. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the Zoning

Administrator. The decision-making body may defer consideration at a public hearing on its own motion at any time.

4) Withdrawal of Application:

- (a) **Submission of Application:** Any request for a withdrawal of an application shall be submitted in writing to the Zoning Administrator.
- (b) **Prior to Notice of Public Hearing:** The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to the time of notice of a public hearing.
- (c) **Withdrawal:** The Planning Commission may allow an applicant to withdraw an application at the request of the applicant at the public hearing.

5) Notification of Decision: Notification of a decision on an application for development approval shall be provided by the Zoning Administrator to the applicant by mail within fourteen (14) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Zoning Administrator, during normal business hours.

6) Reconsideration of Applications:

- (a) **General:** Whenever any application for development approval is disapproved, a similar application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body pursuant to the requirements of part (b) "Waiver of Time Limit" below. Only one request for Waiver of Time Limit may be submitted by the applicant during the one-year period.
- (b) **Waiver of Time Limit:** The Waiver of Time Limit shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:
 - (i) **Substantial Change in Circumstances:** There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or
 - (ii) **New or additional information:** New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
 - (iii) **New application materially different:** A new application is proposed to be submitted that is materially different from the prior application; or
 - (iv) **Material mistake of fact:** The final decision on the application was based on a material mistake or omission of fact that if known, would likely have resulted in a different determination.

7) Examination and Copying of Application/Other Documents: At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report, and materials submitted in support of or in opposition to an application in the office of the Zoning Administrator, subject to

recognized exceptions under the Freedom of Information Act or other state or federal law. Copies of such materials shall be made available at a reasonable cost.

B) Public Hearings

1) Public Hearing Procedures: All public hearings including but not limited to amendments to the text of this *Ordinance* and Zoning Map on a rezoning; Conditional Rezoning; Planned Unit Development Permits; Condominium Project Permits, Conditional Land Use Permits; Special Land Use Permits; and Variances, *Ordinance* Interpretations and Appeals, held pursuant to this *Ordinance* shall comply with the following procedures.

(a) Conduct of Public Hearing

- (i) **Burden of Proof or Persuasion:** The burden of demonstrating that an application complies with applicable review and approval standards of this *Ordinance* is on the applicant, not the City.
- (ii) **Rights of All Persons:** Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- (iii) **Exclusion of Testimony:** The Planning Commission, the Zoning Board of Appeals, or the Bessemer City Council may place reasonable and equitable limitations on the presentation of evidence and arguments including, as they believe necessary in a particular instance, excluding testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
- (iv) **Offers of Testimony:** In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence in writing for the record. Such offer shall be made at the public hearing and promptly provided.
- (v) **Continuance of Public Hearing**
 - a. **General:** The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place and may keep the public presentation portion of the public hearing open to take additional testimony up to the point a final decision is made. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
 - b. **Notice:** A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within thirty-six (36) hours, and the date, time and place of the continued hearing is announced at the time of the continuance and there is continued compliance with the *Open Meetings Act (P.A. 267 of 1976, as amended, Section 15.265(5))*.

(b) General Procedures and Findings at Public Hearing

- (i) **Time:** The body conducting the hearing shall act in accord with any time limits established in this *Ordinance*. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the City and the City, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate).
- (ii) **Form of Decisions:** The form of all decisions shall include at least the following elements:
 - a. Summary of information: A summary of the relevant information presented before the decision-making body.
 - b. Summary of evidence in record.
 - c. Statement of findings: A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.
 - d. Recommendation or decision: A motion that includes approval, approval with specified conditions or disapproval (whichever is appropriate based on the findings above).
 - e. A decision is final upon approval of the minutes of the body conducting the hearing at the next regularly scheduled meeting or at a special meeting of the decision-making body and as signified by the signature of the chairperson.

Section 14.5 Site Plan Review Procedures

A) Authorization: *Section 502 of the Michigan Zoning Enabling Act, P.A. 110 of 2006* permits a city to require the submittal, review, and approval of a site plan detailing what is proposed on a property, in order to ensure conformance with this *Ordinance* and the applicable regulations of other government agencies, prior to granting zoning approval. Site plan review is a very important tool to ensure that the public health, safety and welfare of the community is protected as land is developed or redeveloped.

B) Purpose and Intent:

It is the purpose of this section to require site plan review for certain buildings, structures, and uses that can be reasonably expected to have a significant impact on the air, water, and other natural resources, traffic patterns, the character of development and existing land uses in the area, or the capacity of public infrastructure and services. The requirements contained in this section are intended to reduce the hazards to life and property due to fire, flooding, soil erosion, poor surface water drainage, inadequate private sewage disposal systems, pollution, dust, fumes, noise, vibrations, noxious odors and other hazards; and to promote and facilitate the adequate provision of a system of roads, streets and parking, sewage

disposal, drainage, public education, recreation and other public improvements, and to promote the harmonious relationship of land uses through proper design.

C) Site Plan Review Committee:

The Planning Commission shall serve as the Site Plan Review Committee.

D) Jurisdiction:

1) Major Site Plans Requiring Site Plan Review according to specifications in the Ordinance:

- (a) All platted Subdivisions and Condominium Projects;
- (b) All Special Land Uses;
- (c) All Planned Unit Developments;
- (d) All Conditional Rezoning requests;
- (e) All expansions or enlargements to nonconforming uses or nonconforming structures that results in a need for ten (10) or more additional parking spaces, per the standards of this *Ordinance*;
- (f) All ponds or lakes greater than five (5) acres;
- (g) All other site plans for new land uses, expansions, or changes of use of existing land uses requiring:
 - (i) More than ten (10) new parking spaces or;
 - (ii) A principal structure of more than five thousand (5,000) square feet or;
 - (iii) More than two (2) acres in affected area for nonresidential land uses;
- (h) All other site plans are classified as minor site plans unless the Zoning Administrator determines that the proposed project may have a significant impact on air, water, and other natural resources, traffic patterns or future development in the vicinity, in which case the site plan shall be processed as a major site plan.

2) Minor Site Plans Requiring Site Plan Review according to specifications in the Ordinance:

- (a) All residential developments requiring a Zoning Permit other than individual single-family homes, duplexes, and accessory buildings associated with them, unless located within seventy-five (75) feet of the ordinary high water mark or the shoreline of an inland lake, stream or river;
- (b) Any use permitted by right with conditions, which is specified as requiring site plan review in this *Ordinance*;
- (c) Ponds up to five (5) acres in size, and those located within five-hundred (500) feet of a lake, river, stream, or open City drain;
- (d) Any other land use requests referred to the Planning Commission by the Zoning Administrator.

3) Minor Site Plans Not Requiring Site Plan Review:

- (a) Any use permitted by right with conditions may be approved by the Zoning Administrator unless otherwise specified in this *Ordinance*, or unless referred to the Planning Commission by the Zoning Administrator.
- (b) All nonresidential developments requiring a Zoning Permit, unless referred to the Planning Commission by the Zoning Administrator;

E) Site Plan Review Procedures

- 1) Application:** The owner or designated agent shall file an application and appropriate site plan with the Zoning Administrator on a special form designated for that purpose and as adopted or periodically updated by the Planning

Commission. The owner and/or applicant shall include his/her full name, address, telephone number, fax number, e-mail address and his/her signature on the application. A complete application will include the required fee.

- 2) **Sufficiency:** The Zoning Administrator shall make a determination of whether an application is complete within fourteen (14) calendar days of submittal of the application. An application that does not fully comply with the submittal requirements of this *Ordinance* (see Table 14-5-1) in the opinion of the Zoning Administrator, shall be returned to the applicant.

3) **Processing:**

(a) **No Site Plan Review:** An application for a minor site plan not requiring site plan review, which is determined to be complete by the Zoning Administrator, shall be processed in a timely fashion by the Zoning Administrator. The Zoning Administrator shall take action to approve, approve with conditions, or deny the site plan, except where the final decision is made by the Planning Commission or City Council. In addition to those presented in Section 14.5.D.3, the Zoning Administrator shall review and approve the following site plans without their submission to the Planning Commission; except that where the applicant, the Planning Commission, or the Zoning Administrator so requests; then the site plan shall be reviewed by the Planning Commission before final action by the Zoning Administrator:

- (i) Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Ordinance.
- (ii) Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this Ordinance.
- (iii) Accessory storage buildings in all Zoning Districts.
- (iv) Amendments to approved site plans (see Section 14.5.K).
- (v) Final site plans.
- (vi) Any other site plan review not delegated for review by the Planning Commission.

Processing Variances: If it is evident that in order for a site plan to be approved, one or more variances must be obtained, the Zoning Administrator shall so inform the applicant and explain the procedural steps and implications of initiating a variance request immediately following action by the Planning Commission. The applicant shall make the decision as to when or whether to proceed with a variance request.

- (b) **Required Site Plan Review:** An application for a major or minor site plan requiring site plan review, which is determined to be complete by the Zoning Administrator, shall be scheduled for review by the Planning Commission. The Planning Commission shall meet and action shall be taken on all site plans submitted for review unless withdrawn by the applicant. The Planning Commission shall approve, deny or approve with conditions site plans for Special Land Uses (see Article 9), PUDs (see Article 10) and Condominium

Projects (see Section 5.4.G) as part of the review and approval process for those uses.

- 4) Site Plan Requirements:** Each application for Site Plan Review shall include twelve (12) copies of the site plan, and shall include all of the information as presented in Table 14-5-1 unless specific waivers are granted by the Zoning Administrator for the number of copies or information requirements as shown in Table 14-5-1. Site Plans shall be prepared by a licensed Surveyor, Professional Engineer, Architect or Landscape Architect, as defined in Table 14-5-1, Site Plan Requirements. Waivers of information requirements may be granted upon a written finding that no good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived; that public health, safety, and general welfare will not be unnecessarily compromised by a waiver; and that the purpose and intent of the site plan review requirements specifically and the *Ordinance* generally will still be achieved. All waivers shall be recorded in a log maintained by the Zoning Administrator listing the applicant, application number, the standard requested to be waived, and the decision of the Zoning Administrator.

14-5-1 Site Plan Requirements, Page 1

Required Elements for Site Plan Completeness	Required Elements (X) and those that may be waived (in comments) by Zoning Administrator		
	Major Site Plans	Minor Site Plans	Rural Cluster Development
A scale drawing at no smaller than 1" = 50' (1" = 20' for land under five (5) acres) with the scale proportional to the size of the project showing maximum detail on one (1) or more sheets of paper measuring not more than twenty-four (24) by thirty-six (36) inches may be submitted.	X	Scale may be changed	
Property dimensions, total acreage of the site, legal description of the property, plat name, lot numbers, property lines including angles, dimensions, and reference to a section corner, quarter corner, or point on a recorded plat, as well as existing or proposed deed restrictions or previously zoning approval limiting the property and in the case of a condominium development, the proposed master deed.	X	X	X
All existing natural features including vegetation, streams, lakes, ponds, etc. on site and within five-hundred (500) feet. The location of stands of trees and individual trees, apart from the stands of trees having a caliper of twelve (12) inches or greater, four feet above existing grade, with an indication as to which will be retained and which will be removed or altered by earth changes. Also, all other significant vegetation to be retained and the location of all proposed landscaping, buffer strips, greenbelts, berms, fences or walls shall be shown.	X		X
Existing and proposed public rights-of-way and/or private easements.	X	X	X
Water courses and water bodies including surface drainage ways.	X	X	X
Locations, width, and name of abutting streets and proposed streets, drives, curb cuts, accel/decel/pass lanes, sidewalks, bike paths, trails, and easements serving the development, and location and dimensions of all roads and driveways within 200 feet of the parcel.	X	X	X
Location, shape, and building footprint of proposed buildings and intended uses thereof, as well as building dimensions, distances between buildings, floor area, finished floor elevation, building height and lot coverage.	X	Finished floor elevation may be waived	X
Location, dimensions and design of off-street parking areas, including type of surface materials, dimensions of maneuvering lanes and service lanes, off-street loading spaces, and other service areas within the development. Include number of required and provided parking and handicapped spaces, location of handicapped parking ramps, parking lot landscaping (area, opacity at maturity, plant detail), screening details including berms, fences, and walls.	X	X	X
A location map at a smaller scale indicating the relationship of the site to the surrounding land use.	All may be waived.		

14-5-1 Site Plan Requirements, Page 2

Required Elements for Site Plan Completeness	Required Elements (X) and those that may be waived (in comments) by Zoning Administrator		
	Major Site Plans	Minor Site Plans	Rural Cluster Development
Location of water supply and the location and design of wastewater systems and solid waste disposal facilities (including trash receptacles and dumpsters). All utility lines must be indicated along with the location and specifications of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.	X	X	X
Existing and proposed topo/grades of the site with any site retention and detention facilities, and site drainage pattern at a minimum of two (2) foot intervals. Show benchmark location and location of site retained water with calculations. Written documentation prepared by a registered civil engineer indicating that the peak rate of stormwater runoff occurring before development (for a storm with a twenty-five (25) year frequency and twenty-four (24) hour duration.	X	Site drainage pattern at a minimum of two (2) foot intervals may be waived.	X
Proposed location of proposed uses of common open spaces and recreational facilities, including all pedestrian or bicycle trails, if applicable.	X	X	X
Proposed location of accessory buildings and use; size, location, and detail of all signs, including free-standing and handicapped signs; and type and design of on-site lighting.	X	X	X
North arrow, scale, descriptive legend, property address, name and address of applicant, name and address of the licensed professional surveyor, engineer, landscape architect or architect involved in development of the site plan, the professional seal of the preparer, and date prepared or last amended. The property owners and applicants' names, addresses and phone numbers shall also be indicated.	X	Name and address of any professionals involved in the development of the site plan and the professional seal of the preparer can be waived only if no professional was involved in the development of the site plan.	X
Distance of proposed structures from rear, side, and front lot lines (dimensions of yard spaces).	X	X	X
The location of all proposed outside storage, including snow storage, and the manner in which it is to be screened and accessed.	X	X	X

14-5-1 Site Plan Requirements, Page 3

Required Elements for Site Plan Completeness	Required Elements (X) and those that may be waived (in comments) by Zoning Administrator		
	Major Site Plans	Minor Site Plans	Rural Cluster Development
The zoning of the site and of all adjacent property and the location of any building or structure with a base area larger than ten (10) square feet on adjacent property within two hundred (200) feet of the parcel boundary.	X	The location of any structure with a base area larger than 10 sq. ft. on adjacent property within 200 feet of the parcel boundary may be waived.	X
Dimensions and number of proposed lots or condominium units.	X	X	X
Any variances to be requested.	X	X	X
All areas within the 100-year floodplain, regulated wetlands, sand dunes, or high-risk erosion areas on to the site.	X	X	X
A completed Environmental Permits Checklist.	X	X	X
For projects requiring an Impact Assessment pursuant to Section 14.5.E.5, a completed Impact Assessment Work Sheet designed for the purposed and as adopted or periodically updated by the Site Plan Review Committee shall accompany the Site Plan.	X	X	X
Identification of any historic structures of likely archeological locations based on a reasonable review of available information and a description of the procedure to be followed in the event historic or archeological information or artifacts turn up during the development process.	X	X	X
Any other information required by the Zoning Administrator to establish compliance with the Ordinance.	All may be waived.		
All site plans shall comply with the terms of the <i>Soil Erosion and Sedimentation Control Act MCL 324.9109 et seq</i> , and "as built" plans or construction drawings shall be filed with the Planning Commission immediately after construction is completed that demonstrates compliance with this Act.	X	All may be waived.	X
Stormwater drainage plans addressing a 100-year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related temporary as well as permanent management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as in existing built-up community areas with small lots, the Planning Commission may permit controlled exception to the 100-year storm base for good and sufficient reasons.	X	All may be waived.	X

5) Impact Assessment Submittal Requirements: With each application for a major site plan, and for all PUD, Subdivision plat, and Condominium Project applications, a written impact assessment shall be submitted which includes the following information:

- (a) A written description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.
- (b) Existing and proposed future types of uses and other man-made facilities.
- (c) The number of residents, workers, visitors, or patrons and vehicular and pedestrian traffic.
- (d) Phasing of the project including ultimate development proposals.
- (e) Natural features which will be retained, removed, and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife, and water. The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.
- (f) The method to be used to serve the development with water and sanitary sewer facilities.
- (g) The method to be used to control drainage on the site and from the site.
- (h) If public sewers are not available to the site, the applicant shall submit a current approval from the District Health Department or the Department of Environmental Quality indicating approval of plans for sewage treatment.
- (i) The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.
- (j) An indication of how the proposed use conforms with existing and potential development patterns and any adverse effects.
- (k) Description of measures to control soil erosion, sedimentation and stormwater runoff during grading and construction operations and until a permanent ground cover is established.
- (l) Type, direction and intensity of outside lighting.
- (m) General description of existing and proposed deed restrictions, if any.
- (n) Name(s) and address(es) of person(s) responsible for preparation of the impact statement.
- (o) The "environmental provisions" of Article 5 shall be addressed when applicable.

6) Site Plan Review Fee: A fee shall be charged to the applicant for site plan review based on a schedule developed by the Planning Commission and approved by the City Council.

7) As Built Drawings: "As built" plans or construction drawings that demonstrate compliance with this Act shall be filed with the Zoning Administrator immediately after construction is completed.

F) Standards for Site Plan Review Approval

1) General Site Plan Review Standards: In reviewing a major or a minor Site Plan, the Planning Commission shall consider the following standards, as applicable.

Additional standards for uses by right with conditions (Article 9), Special Land Uses (Article 9), Condominium Projects (Article 5.4.G) and PUDs (Article 10) also apply and shall be reviewed as part of the Site Plan Review process. The Zoning Administrator shall prepare a checklist of the following standards to ensure each is reviewed and compliance is determined prior to approval.

- (a) 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) Ingress and egress to the property and proposed structures thereon shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe or emergency.
- (c) Every structure or dwelling unit shall have access to a public or approved private street, walkway, or other areas dedicated to common use.
- (d) Appropriate measures shall be taken to ensure that dewatering on a site will not adversely affect neighboring properties or the City storm drainage system.
- (e) Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create puddles in paved areas.
- (f) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and, where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- (g) That any adverse effects of the proposed development and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping.
- (h) That existing stands of trees and large individual trees will be preserved to the extent feasible, especially along property boundaries and any lot line shared with a public road.
- (i) Off-street parking and loading areas where required, shall be satisfactory in size, shape and design and not present noise, glare, odor or other nuisance effects on adjoining properties and properties in the proposed development above a level enjoyed by existing similar uses in the area, or in that zone.
- (j) The type, dimensions and character of open spaces, landscaping, screening and buffering shall enhance the design, character, use and value of the property and abutting lands and waters. Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties.
- (k) Signs, if any, and their proposed size, shape, height and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures and uses of adjoining properties.
- (l) Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are

screened from view from the street or abutting properties when not in use. Each garbage storage and recycling facility shall have access to a source of water for cleaning and shall be kept clean and in a well maintained state.

- (m) The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water with special attention to the following:
- (i) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
 - (ii) Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
 - (iii) General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
 - (iv) State and federal rules for record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 - (v) Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the Michigan Department of Environmental Quality.
 - (vi) Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.
 - (vii) No hazardous substances shall be stored in designated wellhead protection areas.
- (n) Stormwater drainage plans addressing a 100 year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related temporary as well as permanent management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as in existing built-up community areas with small lots, the Planning Commission may permit controlled exceptions to the 100 year storm base for good and sufficient reasons.

All storm water drainage plans shall be approved and sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive this requirement, defer the requirement, or request a fully engineered storm drainage plan. After completion of construction, an "as built" drawing and plan of the development, sealed by a Registered Professional Civil Engineer, shall be filed with the Planning Commission showing erosion control plans, the standards of this *Ordinance*, and any conditions of permit approval.

- (o) Historic structures and historic or archeological artifacts will be properly respected and preserved.
- (p) On site pathways, bicycle paths, and snowmobile trails shall minimize negative impacts on other users of the site and adjoining property and shall connect with abutting trails or pathways whenever feasible. New uses shall not impede the use of existing off site trails.

2) Other Regulations: Before granting approval of any application, the Zoning Administrator and Planning Commission shall be reasonably sure that the proposed development fully complies with all the following, as are relevant and may condition approval of the site plan on conformance with any of the following:

- (a) All applicable State laws administered by the Michigan Department of Transportation, Department of Natural Resources and the Environment, and/or Department of Agriculture;
- (b) County and local ordinances;
- (c) The adopted published rules, standards or policies of the City of Bessemer Planning Commission;
- (d) The published rules, standards or policies of the Gogebic County Drain Commissioner;
- (e) The published rules, standards or policies of the Gogebic County Board of County Road Commissioners;
- (f) The published rules, standards or policies of the District Health Department;
- (g) The fire safety and emergency vehicle access requirements of the Michigan Building Code and/or any local Fire Code having jurisdiction;
- (h) Any approval shall include the filing of copies of any permits required under any laws described in Section 14.3.B.3, the compliance of which shall be made a condition of the approval of a site plan.

G) Individual Recommendations

It shall be conclusively presumed that a member of the Planning Commission has no objections to an applicant's site plan as submitted when a member fails to either submit written comments or voice his or her concerns. Such recommendations shall be made in terms of each member's respective area of expertise and shall include reference to laws, ordinances, standards, rules and policies supporting the recommendation. A form may be developed by the Planning Commission to facilitate timely, instructive responses.

H) Site Plan Approval

A site plan shall be approved if it contains the information required by the *Zoning Ordinance* and is in compliance with the standards required in the *Zoning Ordinance*, and with other applicable ordinances, and state and federal statutes.

- 1)** If any Planning Commission member demonstrates there is a lack of compliance of a proposed site plan with the rules, standards, or ordinances applicable to that site plan, that site plan shall not be approved until compliance is acknowledged. Appeals by applicants to local, state, or federal agencies other than appeals of the decisions of the Zoning Administrator shall be directed via the legal course of action applicable to those agencies. Any disapproval of a site plan shall be accompanied by the reasons for that disapproval and provided, in writing, to the applicant in a timely fashion.

- 2) An approval of a site plan for a Conditional Land Use, Special Land Use, Condominium Project, Subdivision Plat or Planned Unit Development does not constitute the final approval of an applicable permit. Standards for review and approval of a Conditional Land Use Permit or a Special Land Use Permit are described in Article 9. Standards for review and approval of a Condominium Project and Subdivision Plats are in Section 5.4.G. Standards for review and approval of a PUD are in Article 10. Standards for review and approval of a Conditional Rezoning request are in Section 14.8 Amendments.
- 3) Site plans may be approved with reasonable conditions as provided in Section 14.3.F.

I) Review Period Limitations

The Planning Commission shall act on a complete application within thirty (30) calendar days after its acceptance as a complete application by the Zoning Administrator. This time limitation may be extended only by the mutual consent of the applicant and the Committee chairperson.

J) Appeal to Zoning Board of Appeals

Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision. The Zoning Board of Appeals shall review the decision of the Zoning Administrator to ensure that it is consistent with the standards contained in this *Ordinance* and rules established by agencies responsible for site plan review. The Zoning Board of Appeals shall give written justification for their decision. The Zoning Board of Appeals may not grant a Variance to any element of a site plan unless an application for a Variance has been filed; any such Variance request shall be reviewed relative to the requirements of Section 14.6 "Granting Variances".

K) Amendment to Site Plan

No changes shall be made to an approved site plan prior to, during, or after construction except upon mutual agreement between the applicant and the City and by application to the Zoning Administrator.

L) Conformity to Approved Site Plan

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plan, the permit holder or land owner shall be notified of a violation of this *Ordinance* and if the circumstances warrant, issued a stop work or cease operations order per the requirements of Section 14.7.A.

M) As Built Site Plans

Once a project for which a site plan was approved is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of completion of the project (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new streets and/or large buildings are involved.

N) Performance Guarantees

To ensure compliance with this *Ordinance* and any condition imposed thereunder, the City may require that a cash deposit, certified check, irrevocable bank letter of credit, or other financial instrument acceptable to the City covering the estimated cost of improvements associated with a project (verified by the City Engineer or designee) for which site plan approval is sought be deposited with the Treasurer of the City to ensure faithful completion of the improvements and also be subject to the following:

- 1) Prior to development activity or the issuance of a permit, the performance guarantee shall be deposited prior to the issuance of the building permit authorizing the activity of the project. The City shall return the performance guarantee on deposit upon verification by the City that all work and improvements have been satisfactorily completed. A return of the performance guarantee does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning of the public improvements.
- 2) As used in this Sections, "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting approval, to protect natural resources, or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping and surface drainage.

Section 14.6 Appeals Procedure

A) Provisions Pertaining to the Appeals Procedure

The Board of Appeals shall 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 by any other official in administering or enforcing any provisions of this *Ordinance*. An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the State of Michigan or the City of Bessemer. In addition, a variance in the *Zoning Ordinance* may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54, as amended, and as provided under the Michigan Zoning Enabling Act, 2006 PA 110. The procedure for appealing to the Zoning Board of Appeals, or requesting a variance, ordinance interpretation, or filing any other request is as follows:

1) General Appeals Procedures:

- (a) The appeal shall be taken within such time as prescribed by this *Ordinance* or the Rules of Procedure of the Zoning Board of Appeals.
- (b) A fee, prescribed by the City Council, shall be submitted to the Zoning Administrator at the time of the filing of the application form, before an appeal is processed. Appeal fees shall be sufficient to cover all costs incurred by the City pursuant to the processing of any appeal, including but not limited to the costs of advertisements, investigations, and Zoning Board of Appeals member meeting fees.

- (c) The person, firm, agent, or attorney representing the appellant shall file an appeal by completing and signing the application form provided by the Zoning Administrator. The application shall state the grounds for the appeal and the order or ruling appealed from. When applicable, the legal description of the property involved shall be stated in the notice of appeal.
- (d) All persons not licensed to practice law in the State of Michigan shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
- (e) An application that does not fully comply with the submittal requirements shall be returned to the applicant.
- (f) Upon determining that an application is in compliance, the Zoning Administrator shall transmit the application and all papers constituting the record from which the appeal was taken to the Zoning Board of Appeals Secretary.
- (g) An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies (after the notice of appeal is filed) that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life and property, proceedings may be stayed only by a restraining order issued by the Board of Appeals or a circuit court.
- (h) When a properly executed application form has been filed, and the fee paid, the secretary of the Zoning Board of Appeals, upon consultation with the chairperson for the Zoning Board of Appeals, shall schedule the matter for a public hearing and give notice as follows:
 - (i) If the appeal is not regarding a specific parcel of property, notice of the hearing shall be published in a newspaper of general circulation in Bessemer not less than fifteen (15) days before the date of the hearing.
 - (ii) If the appeal regards a specific piece of property, notice shall be given to the owners of property that is the subject of the request, and also to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request, and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. (Notice shall go to one occupant per structure, or if it is a multi-unit structure, one occupant per unit, unless the structure has over four dwellings units, then notice shall be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance).
 - (iii) Notice shall include the nature of the request, identification of the property that is the subject of the request, listing of all street addresses within the property or other identification, place and time of the hearing, where and when written comments will be received.
 - (iv) When a variance request is made for any property located in a designated High Risk Erosion Area, designated Sand Dune, wetland documented by the DNRE, or within a one-hundred (100) year floodplain, the Michigan Department of Natural Resources and the Environment shall also receive notice.

- (i) Any interested party may appear and be heard at such hearing in person or by agent or attorney. The applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision. If an applicant fails to appear at the hearing, in person or through an agent or attorney, the Board of Appeals shall conduct the hearing and issue its decision based on the information available at the hearing.
- (j) Upon the date for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to obtain additional information, or to cause service of such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing, provided the hearing is continued within thirty-six (36) hours, pursuant to Section 15.265(5) of the Open Meetings Act, Public Act 276 of 1976.
- (k) Once all the necessary information has been received, the Board of Appeals shall return a decision on a case in a timely manner, or if time frames are included within its rules of procedure, then within the time specified in the rules of procedure. The Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The Board of Appeals shall grant no variance or make any determination on an appeal, *Ordinance* interpretation, or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this *Ordinance* have been met.
- (l) No rehearing on an application denied by the Board of Appeals shall be conducted except upon the grounds of newly discovered evidence or a falsehood previously relied upon by the Board of Appeal, which, through the exercise of normal diligence, could not have been discovered before the hearing, as determined by the Zoning Administrator. A rehearing shall be processed in the same manner as the original application and a new fee shall be paid. A request for rehearing shall be made within eight (8) days of the decision of the Board of Appeals.
- (m) No decision of the Zoning Board of Appeals shall be presumed final until after eight (8) days following the meeting at which the decision was made. No Zoning Permit shall be issued by the Zoning Administrator based on a decision of the Board of Appeals before eight (8) days have expired.
- (n) The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Gogebic County Circuit Court within thirty (30) days of the decision. The Circuit Court shall review the record and decision to ensure that the decision meets all of the following requirements:
 - (i) Complies with the constitution and laws of the State.
 - (ii) Is based on proper procedure.
 - (iii) Is supported by competent, material, and substantial evidence on the record.
 - (iv) Represents the reasonable exercise of discretion granted by law to the Board of Appeals.

If the court finds the record of the Zoning Board of Appeals inadequate to make the review required, or finds that additional material evidence exists that with good reason was not presented to the Board of Appeals, the Court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

2) Specific Appeals Procedures:

(a) **Procedures for Interpretations:** The Zoning Board of Appeals shall:

- (i) Determine the precise location of the boundary lines between zoning districts when there is confusion or a dispute concerning the Zoning Map.
- (ii) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.
- (iii) Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this *Ordinance*, by applying the most comparable provisions for other similar uses.
- (iv) When making an interpretation, the Board of Appeals shall carefully consider the definitions in Article 2, the meaning of all the relevant sections in the *Ordinance*, past decisions of the Board of Appeals on similar matters, research and any conclusions by the Zoning Administrator, consultant, City Attorney, or outside attorney hired by the City, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this Ordinance.

(b) **Determination of a Lot of Record:**

- (i) Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this *Ordinance*, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as defined in Article 2 of this *Ordinance*.
- (ii) The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this *Ordinance*. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of the City, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his or her witnesses.

- (iii) Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this *Ordinance*.
- (c) **Granting Variances:** If there are practical difficulties for nonuse variances or unnecessary hardship for use variances in the way of carrying out the strict letter of the Ordinance, as provided in the *Michigan Zoning Enabling Act, 2006 PA 110*, the Board of Appeals may grant a variance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. The following rules shall be applied in the granting of a variance:
 - (i) In granting a variance, the Board of Appeals may impose specific conditions as are reasonably necessary for the furtherance of the intent and spirit of this *Ordinance*. The Board of Appeals shall specify, in writing, such conditions regarding the character, location, and other features which will, in its judgment, ensure the protection of the public interest and abutting properties, provided there is an applicable standard in this *Ordinance* to serve as the basis for such condition. The breach of such condition shall automatically invalidate the permit granted. To ensure compliance with such conditions, the Board of Appeals may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of Section 14.3.G. The Board may also require as a condition of approval that its decision be recorded with the Gogebic County Register of Deeds.
 - (ii) Each variance granted under the provisions of this *Ordinance* shall become null and void unless the construction authorized has been commenced within one (1) year after the hearing date when the variance was granted.
 - (iii) The Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to the dimensional requirements of the Ordinance or to any other nonuse-related standard in the Ordinance, provided the applicant has proven a practical difficulty by demonstrating as follows:
 1. That strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome;
 2. That the problem is due to a unique circumstance of the property;
 3. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to this Ordinance, instead of a variance;
 4. The property problem was not created by the action of the applicant;
 5. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located;
 6. That granting of the variance will not increase the hazard from fire, flood, or similar dangers, or increase traffic congestion;
 7. That the requested variance will relate only to the property under the control of the applicant;

8. That the non-conforming dimensions of other lands, structures, or buildings in the same zoning district shall not be considered grounds for the issuance of a variance;
 9. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located;
 10. That the proposed use of the premises is in accord with this *Ordinance*;
 11. That the variance would do substantial justice to the applicant as well as to other property owners in the district;
 12. That the granting of the variance will ensure that the spirit, intent and purpose of the *Ordinance* is observed, public safety secured, and substantial justice applied;
 13. That the requested variance shall not amend the permitted uses of the zoning district in which it is located.
- (iv) The proper procedure to follow for an individual desiring a use variance is to file an application for amendment of the text of this Ordinance or the Zoning Map pursuant to Section 14.8.D. A use variance shall only be granted under exceptional circumstances where the current zoning district is clearly unreasonable as applied to a specific parcel. The Board of Appeals shall have the authority to grant use variances provided the applicant has proven an unnecessary hardship exists that can only be resolved by grant of a use variance and that:
1. The property in question cannot be put to a reasonable use if permitted to be used only for uses allowed in the district in which it is located;
 2. The plight of the owner is due to unique circumstances peculiar to the property and not to general neighborhood conditions;
 3. The use variance, if granted, would not alter the essential character of the area;
 4. The problem is not created by the appellant.
 5. Two-thirds vote of the members of the Zoning Board of Appeals is necessary to approve a use variance based on unnecessary hardship.
- (d) **Site Plan Review, Special Land Use, and PUD Appeals:**
- (i) Any applicant for Site Plan Review that feels aggrieved by the decision of the Zoning Administrator or Planning Commission may appeal the decision to the Zoning Board of Appeals within twenty-one (21) calendar days of receipt of the decision.
 - (ii) The Zoning Board of Appeals shall review the decision of the Zoning Administrator or Planning Commission to ensure that it is consistent with the standards contained in this *Ordinance* and rules established by agencies responsible for site plan review.
 - (iii) The Zoning Board of Appeals shall give written justification for their decision.
 - (iv) The Zoning Board of Appeals may not grant a variance to any element of a site plan unless an application for a variance has

been filed; any such variance request shall be reviewed relative to the requirements of this Article and the variance standards.

- (v) An applicant for a Special Land Use or Planned Unit Development may not appeal a decision to approve, approve with conditions, or deny the decision thereon to the Board of Appeals. Such an appeal may only be taken to Circuit Court. The determination on the number of permitted lots, dwelling units, or building sites in a PUD pursuant to Article 10 may be appealed to the Zoning Board of Appeals pursuant to the procedures in this Article.

(e) Nonconformity Appeals

Nonconforming buildings or structures may be structurally changed, altered, or enlarged upon appeal in cases of hardship or other extenuating circumstances, and when approval of said appeal will not have an adverse effect on surrounding property, and when consistent with the requirements in Section 13.9, Hardship Cases.

Section 14.7 Complaints, Permit Suspension, Revocation, and Violation Procedures

A) Complaints, Suspension, and Revocation of Permits

- 1) Complaints Regarding Violations:** Whenever the Zoning Administrator becomes aware of or receives a complaint alleging a violation of this *Ordinance*, the Zoning Administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken. Any and all building or land use activities considered possible violations of the provisions of this *Ordinance* observed or communicated to local Law Enforcement or to any City officials shall be reported to the Zoning Administrator.
- 2) Persons Liable:** The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this *Ordinance* may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
- 3) Procedure for Violations:** If the Zoning Administrator becomes aware of or receives a complaint of an alleged violation, the process shall be as follows:
 - (a) A complaint form shall be assigned a number.
 - (b) A preliminary visit shall be made at the site to identify the alleged violation.
 - (c) If a violation is identified, the landowner and/or contractor shall be informed, in writing, of the nature of the violation, informed of the action necessary to correct the violation and the date when the compliance is to be completed. The owner or contractor shall also be informed of their right to appeal the decision of the Zoning Administrator. This action may be taken in person or by certified mail.
 - (d) Where the violation is one of unlawful construction, reconstruction, or removal, a "Stop Work" notice form shall be attached to the site or delivered

to the contractor or owner. The owner or owner's agent shall also be informed of their right to appeal the decision of the Zoning Administrator.

- (e) The site of the alleged violation shall be re-inspected on the date when the owner or contractor was informed compliance was to be completed.
- (f) If compliance has not been completed, and an appeal of the decision of the Zoning Administrator has not been filed, the City Attorney shall be informed to determine further action.
- (g) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this *Ordinance*, if the violation continues, such as if the violation is one of unlawful construction, reconstruction, alteration, removal or usage, or poses a danger to the public health, safety or welfare, then the Zoning Administrator may seek enforcement without prior written notice by requesting the City Attorney to invoke any one of the remedies authorized in this *Ordinance*.

4) Suspension of a Permit: Any permit issued shall become invalid if the authorized work is not initiated within one (1) year of receipt of a permit, or is suspended or abandoned for a period of six (6) months after the time of commencing the work unless the development proposed shall have passed its first building inspection.

5) Permit Revocation:

- (a) A Zoning, Conditional Land Use, Special Land Use, Planned Unit Development, or Condominium Project Permit may be revoked by the permit issuing authority in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or in case of failure or neglect to develop or maintain the property in accordance with the plans submitted, the requirements of this Section, or any additional requirement lawfully imposed by the permit-issuing authority or Zoning Board of Appeals. Upon permit revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.
- (b) Before a Minor Conditional Land Use or Zoning Permit may be revoked, the owner, contractor or alleged violator shall be notified in writing of the reason for such revocation and their right to appeal the decision of the Zoning Administrator to the Zoning Board of Appeals.
- (c) Before a Major Special Land Use Permit, Planned Unit Development or Condominium Project Permit may be revoked, the permit recipient shall be given a ten (10) day advance notice of intent to revoke, along with the alleged reasons for the revocation and the right to obtain an informal hearing on the allegations. If the permit is revoked, the Zoning Administrator shall provide the permittee a written statement of the decision and the reasons therefore.
- (d) No person may continue to make use of land or buildings in the manner authorized by any Zoning, Conditional Land Use, Special Land Use, Planned Unit Development or Condominium Project Permit after such permit has been revoked in accordance with this section.

B) Judicial Review

A person having an interest affected by a decision of the Zoning Board of Appeals and/or any other body, board or official under this *Zoning Ordinance*, and who has otherwise exhausted their administrative remedies under this *Ordinance*, may appeal to the Circuit Court for the County of Gogebic. All such appeals shall be filed with the Gogebic County Clerk, within twenty-one (21) calendar days after the date the written decision is signed by the Zoning Administrator, or chairperson of the body, board or commission that made the final decision in the matter.

Section 14.8 Amendments

A) Purpose

It is the purpose of this Section to establish the procedures and standards for amendment of the text and Zoning Map of this *Ordinance*.

B) Initiation of Amendments

- 1) The regulations and provisions stated in the text of this *Ordinance* and the boundaries of zoning districts shown on the Zoning Map of City of Bessemer may be amended pursuant to the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*.
- 2) Amendments may be initiated by the City Council, the Planning Commission, by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the Zoning Administrator who shall refer it for recommended action to the Planning Commission.

C) Fees

- 1) The City Council shall establish, by resolution, fees for zoning amendment petitions.
- 2) Such fee shall be paid in full at the time of application, and no part of such fee shall be returnable to the petitioner.
- 3) Fees shall not be required for amendments proposed or requested by the City Council or the City Planning Commission.

D) Amendment Procedures

- 1) All petitions for text amendment, rezoning or Zoning Map change shall be submitted and reviewed per the requirements of this Article.
- 2) All petitions for a conditional rezoning shall be reviewed and approved per the requirements of Section 14.8.l.
- 3) The Planning Commission may solicit information and testimony from officials in other public offices including, but not limited to, the following agencies:
 - (a) District Health Department.
 - (b) County Road Commission and/or MDOT as applicable.
 - (c) County Drain Commissioner.
 - (d) Any school district affected.
 - (e) Any State or Federal agency or office with an interest in the proposed change.

- (f) Any firm hired by the City to provide a review or comments on the proposed amendment.
- (g) The City Police Department and the Fire Chief.
- (h) The County Soil Erosion, Sedimentation and Storm Water Control agent
- (i) Any others the City Planning Commission believes should be notified.

E) Public Hearing

- 1) The Planning Commission shall establish a date for and conduct at least one (1) public hearing at a regular or special meeting on each petition for amendment; notice of which shall be given pursuant to the requirements of Section 14.4.A.
- 2) If an individual property or several adjacent properties are proposed for rezoning; notice shall be given pursuant to the requirements of Section 14.4.A.
- 3) The Planning Commission shall conduct the public hearing consistent with the hearing procedures in Section 14.4.B.

F) Findings of Fact Required

- 1) In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full along with its resulting recommendations for the proper disposition of the petition to the City of Bessemer City Council.
- 2) The facts to be expressly considered by the Planning Commission shall include, but shall not be limited to the following:
 - (a) What, if any, identifiable conditions related to the petition have changed which justify the petitioned change in zoning?
 - (b) What, if any, error in judgment, procedure, or administration was made in the original *Ordinance* which justifies the petitioned change in zoning?
 - (c) What are the precedents and the possible effects of precedent which might result from the approval or denial of the petition?
 - (d) What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities and/or programs that might reasonably be required in the future if the petition is approved?
 - (e) Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
 - (f) Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
 - (i) Surface water drainage problems
 - (ii) Waste water disposal problems
 - (iii) Adverse effect on surface or subsurface water quality
 - (iv) The loss of valuable natural resources such as forest, wetland, historic or scenic sites, wildlife, mineral deposits, or valuable agricultural land
 - (g) Does the petitioned zoning change generally comply with the policies and uses proposed for the area in the adopted City of Bessemer Comprehensive Plan? If not, and if the proposed zoning change is reasonable, in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.

- (h) Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
- (i) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- (j) If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located (after considering all of the uses permitted by right, by special permit or as conditional uses)?
- (k) Is another procedure, such as a Variance, Conditional Land Use, Special Land Use, or Planned Unit Development procedure a more appropriate alternative than a rezoning?

G) Planning Commission Recommendations

All findings of fact shall be made in writing and shall be a part of the public records of the meeting of the Planning Commission and the City Council. The Planning Commission shall not forward a recommendation to the City Council unless all of the findings in Section 14.8.F and other factors identified by the *Ordinance* are affirmatively resolved. After the hearing, the Planning Commission shall submit a summary of the comments received at the public hearing its findings of fact and the proposed amendment (including any zoning maps and other related material) to the City Council.

H) Consideration by the City Council

- 1) After receiving the recommendations of the Planning Commission, the City Council, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the petitioned amendment. Such action shall be by a roll call vote. The amendment shall be approved by a majority vote of all of the members of the City Council. The City Council may hold additional public hearings if it considers it necessary. Notice of a public hearing held by the City Council shall be published in a newspaper which circulates in the City. The notice shall be given not less than fifteen (15) days before the hearing.
- 2) Further, it is understood pursuant to the *Michigan Zoning Enabling P.A. 110 of 2006, as amended*, that the City Council shall make no change in the proposed amendment without first referring the petition back to the Planning Commission which shall have thirty (30) days from and after such referral in which to make a further recommendation to the City Council, after which the City Council shall take such action as it determines necessary. In the event that a petition is referred back to the Planning Commission, the City Council shall make specific mention of their objections to the Planning Commissions' findings and recommendations.

I) Conditional Rezoning

- 1) **Intent:** It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the *Michigan*

Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

2) Application and Offer of Conditions:

- (a) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process. A pre-application conference is strongly suggested.
- (b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- (c) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- (d) Any use or development proposed as part of an offer of conditions that would require a Conditional or Special Land Use Permit under the terms of this *Ordinance* may only be commenced if a Conditional or Special Land Use Permit for such use or development is ultimately granted in accordance with the provisions of this *Ordinance*.
- (e) Any use or development proposed as part of an offer of conditions that would require a Variance under the terms of this *Ordinance* may only be commenced if a Variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this *Ordinance*.
- (f) Any use or development proposed as part of an offer of conditions that would require Site Plan approval under the terms of this *Ordinance* may only be commenced if Site Plan approval for such use or development is ultimately granted in accordance with the provisions of this *Ordinance*.
- (g) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

3) Planning Commission Review: The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 14.8.F of this *Ordinance*, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

4) City Council Review:

- (a) After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberations shall include,

but not be limited to, a consideration of the factors for rezoning set forth in Section 14.8.F of this Ordinance. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council may, in accordance with Section 401(3) of the *Michigan Zoning Enabling Act* (MCL.125.3401(3)), refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

- (b) If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the *Ordinance* adopted by the City Council to accomplish the requested rezoning. The Statement of Conditions shall:
 - (i) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.
 - (ii) Contain a legal description of the land to which it pertains.
 - (iii) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - (iv) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - (v) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the County with the Register of Deeds.
 - (vi) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- (c) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The City Clerk and Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
- (d) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the Register of Deeds of the County in which the land is located. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the

recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.

- (e) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

5) Compliance with Conditions:

- (a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning *Ordinance* and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law. See Section 14.9.
- (b) No permit or approval shall be granted under this *Ordinance* for any use or development that is contrary to an applicable Statement of Conditions.

6) Time Period for Establishing Development or Use:

Unless another time period is specified in the *Ordinance* rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within twelve (12) months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if (1) it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or is otherwise inconsistent with sound zoning policy.

7) Reversion of Zoning:

If approved development and/or use of the rezoned land does not occur within the time frame specified under item (6) above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

8) Subsequent Rezoning of Land:

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to item (7) above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

9) Amendment of Conditions:

- (a) During the time period for commencement of an approved development or use specified pursuant to item (6) above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Statement of Conditions.
- (b) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

10) City Right to Rezone:

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this *Ordinance* and the *Michigan Zoning Enabling Act*.

- 11) Failure to Offer Conditions:** The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this *Ordinance*.

J) Notice of Amendment Adoption

- 1) Following the adoption of an amendment by the City of Bessemer City Council and approval by the State of Michigan, one (1) notice of adoption shall be published in a newspaper of general circulation in the County within fifteen (15) days after adoption by the City Council.
- 2) The notice of adoption shall include the following information:
 - (a) A summary of the regulatory effect of the amendment (including the geographic area affected) or the text of the amendment.
 - (b) The effective date of the amendment.
 - (c) The place and time where a copy of the *Ordinance* may be purchased or inspected.

K) Options Upon Denial of Amendment Request

A property owner whose amendment or rezoning request is denied may file an appeal with Circuit Court. If the property owner alleges that the denial of the amendment has the result of leaving the property owner with no reasonable or economically viable use of the property, then the property owner may request consideration of a Hardship PUD per the requirements of Section 10.9, Hardship Planned Unit Development.

L) Resubmittal

No application for a rezoning which has been denied by the City Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Council to be valid.

M) Comprehensive Review of Zoning Ordinance

The Planning Commission shall within two years and at intervals of not more than five (5) years thereafter, examine all the provisions of this *Ordinance* and the location of zoning district boundary lines and shall submit a report to the City Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

Section 14.9 Violations and Penalties

A) Purpose

This Section is adopted to establish provisions for violation of the *Zoning Ordinance*. Authority for these provisions is found in *Section 407 of the Michigan Zoning Enabling Act, P.A. 110 of 2006*, which requires the City Council to establish a method for addressing violations.

B) Inspection of Violation

The Zoning Administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found in violation of this *Ordinance*. The Zoning Administrator shall issue a notice of Zoning Ordinance violation to the owner and occupant of the lot or parcel upon which the zoning violation has occurred. This notice shall include at least the following: 1) Date and location of each violation observed by the Zoning Administrator, 2) Names and addresses of owners and occupants, 3) The specific Section(s) of the Ordinance which has been violated, and 4) the length of time allowed before further prosecution of the violation. All violations shall be corrected within a period of thirty (30) days after the order to correct is issued, or as long as six (6) months, as the Zoning Administrator shall permit. A person not correcting a violation within this period shall be issued a zoning citation remanding the violation to the local district court.

C) Violations & Penalties

Violations of any provisions of this *Ordinance* are declared to be nuisance per se.

- 1) It shall be unlawful for any person to commence operations of any kind that are in violation of the terms of this *Ordinance* and any violations shall be subject to the penalties herein prescribed.
- 2) Unless a violation of this *Ordinance* is specifically designated in Section 14.9.C.3 as a municipal civil infraction, the violation shall be deemed a misdemeanor. Any person deemed guilty of a misdemeanor shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than five hundred dollars (\$500.00), or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate punishable offense. The City Attorney may institute those remedies provided by statute, court rule, and case law to prevent or remove any unlawful erection, construction, maintenance, or use. Damages, costs, and reasonable attorney fees shall be paid to compensate the City for its cost of *Ordinance* enforcement. The imposition of any sentence shall not exempt the offender from compliance with the provision of this *Ordinance*.
- 3) The following violations of this *Ordinance* may be handled as a municipal civil infraction:
 - (a) A violation of the terms of a Zoning Permit issued pursuant to Section 14.3.B.
 - (b) A violation of the terms of a Temporary Zoning Permit issued pursuant to Section 14.3.C.
 - (c) A violation of the terms of a Certificate of Zoning Compliance issued pursuant to Section 14.3.D.
 - (d) A violation of the terms of a Site Plan approved pursuant to, Section 14.5.H.

- (e) A violation of the terms of a Conditional or Special Land Use Permit approved pursuant to Article 9.
- (f) A violation of the terms of a Planned Unit Development Permit approved pursuant to Article 10.
- (g) A violation of the terms of a Condominium Subdivision approved pursuant to Section 5.4.G.
- (h) A violation of any variance, condition or other approval of the Zoning Board of Appeals pursuant to Article 14.6.
- (i) A violation of any sign permit approved pursuant to Section 5.7.
- (j) A violation of Section 5.12.D.2 regarding illegal maintenance of junk on a lot.

D) Civil and Criminal Penalties

- 1) The sanction for any violation of the City of Bessemer Zoning Ordinance which is a municipal civil infraction shall be a civil fine as provided in Section 14.9 plus any costs, damages, expenses and other sanctions.
- 2) The Zoning Administrator, together with deputies of local law enforcement, are the City officials authorized to issue municipal civil infraction violation notices and municipal civil infraction violation citations under this *Ordinance*.
- 3) In addition to enforcing violations as misdemeanors or municipal civil infractions, violations of this *Ordinance* may be enforced by civil action along with any other remedies provided by law. Violations of the *Ordinance* are a nuisance per se, and adjudication of responsibility for a municipal civil infraction violation of this *Ordinance* shall not preclude other civil proceedings to abate such nuisance.
- 4) Each day that a violation exists constitutes a separate offense or infraction.

E) Cumulative Rights and Remedies

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

F) No Permit to Violators

The Zoning Administrator may refuse to issue new Zoning Permits to a person who has failed to correct violations or to any person representing a firm which has failed to correct violations of this *Ordinance* or the Michigan Construction Code Act, Public Act 230 of 1972, or the Land Division Act, Public Act 288 of 1967, as amended.

G) Municipal Civil Infraction

Schedule of Fines:

- 1) A person, corporation, or firm who violates any provision of the *Zoning Ordinance* of the City of Bessemer that is found responsible by the District Court for a municipal civil infraction shall pay a civil fine of not more than \$500, plus costs and other sanctions, for each infraction.
- 2) An initial civil fine of \$500 shall be paid to the City of Bessemer for a municipal civil infraction citation. Repeat offenses shall be subject to increased fines as set forth below. As used in this subsection, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of the section of City of Bessemer Zoning Ordinance committed by a corporation, person, or firm within any twenty-four (24) month period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under those subsections shall be as follows:

- (a) The fine for any offense that is a repeat offense shall be no less than \$140 plus costs and other sanctions.
- (b) The fine for any offense that is a second repeat offense shall be no less than \$500 plus costs and other sanctions.
- (c) The fine for any offense that is a third or subsequent repeat offense shall be no less than \$500 plus costs and other sanctions.