

**ZONING ORDINANCE  
No. 169**

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**City of Harbor Beach  
Huron County, Michigan**

Prepared by:

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January 1998

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**ZONING ORDINANCE  
CITY OF HARBOR BEACH, HURON COUNTY, MICHIGAN**

**TITLE**

An ordinance to regulate the use of land, natural resources and structures; to regulate structures designed for trade, industry, residence or other specified uses; to regulate and limit the height, the area, the size and location of structures hereinafter to be erected or altered; to regulate and determine the area of yards, court, or other open spaces; to control congestion in the streets, to secure safety in case of fire, to prevent the overcrowding of land, to bring about the gradual conformity of the uses of land and buildings and for such purposes to divide the city into districts and zones, to establish a Board of Appeals; to provide for the administration and enforcement of the provisions of this ordinance and to prescribe penalties for the violation thereof.

**PREAMBLE**

Pursuant to the authority conferred by Public Act 207, PA 1921 as amended, of the state of Michigan and for the purpose of promoting and protecting the public health, safety, peace, comforts, convenience and general welfare of the inhabitants of the City of Harbor Beach by protecting and conserving the character and social and economic stability of the residential, commercial, industrial, and other use areas, by securing the most appropriate use of land; preventing over-crowding; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements; and by other means, all in accordance with a comprehensive plan.

**ENACTING CLAUSE**

NOW THEREFORE THE CITY OF HARBOR BEACH ORDAINS:

**ARTICLE I  
TITLE**

**SECTION 100. TITLE.**

This Ordinance shall be known and may be cited as the "City of Harbor Beach Zoning Ordinance No. 169," and will be referred to herein as "this Ordinance."

**ARTICLE II  
CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**SECTION 200. CONSTRUCTION OF LANGUAGE.**

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

1. The particular shall control the general.
2. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural and the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - c. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
9. Terms not herein defined shall have the meaning customarily assigned to them.

**SECTION 201. DEFINITIONS.**

**Accessory Building:** A building or portion of a building subordinate to a main building on the same lot occupied by, or denoted exclusively to, an accessory use.

**Accessory Use, or Accessory:** A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading), located on the same zoning lot as the principal use to which it is related.

When "accessory" is used in this text, it shall have the same meaning as accessory use.

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

1. Swimming pools for the use of the occupants of a residence, or their guests.
2. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
3. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.
4. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
5. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
6. Accessory off-street parking spaces, open or enclosed including garages, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
7. Uses clearly incidental to a main use such as, but not limited to: offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
8. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
9. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
10. Satellite dishes.

**Acreage:** Any tract or parcel of land which has been subdivided or platted.

**Addition:** An extension or increase in floor area or height of a building or structure.

**Adult:** A person having arrived at the legal age of adulthood defined by the laws of the state of Michigan.

**Adult Entertainment Uses:** Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas." Adult entertainment uses shall include, but not be limited to, the following:

- a. **An adult motion picture theater** is an enclosed building with a capacity of fifty (50) or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
- b. **An adult mini-motion picture theater** is an enclosed building with a capacity for less than fifty (50) persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."

- c. **An adult motion picture arcade** is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."
- d. **An adult book store** is a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has as a significant portion of its content or exhibit matter or actions depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" or an establishment with a (substantial) segment or section devoted to the sale or display of such material.
- e. **An adult cabaret** is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe "Specified Sexual Activities" or "Specified Anatomical Areas."
- f. **An adult motel** is a motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
- g. **An adult massage parlor** is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with "Specified Sexual Activities" or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."
- h. **An adult model studio** is any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar education institution.
- i. **An adult sexual encounter center** is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."
  - 1. **Significant Portion** - As used in the above definitions, the phrase "significant portion" shall mean and include:
    - a. Any one or more portions of the display having continuous duration in excess of five (5) minutes; and/or,
    - b. The aggregate of portions of the display having a duration equal to ten (10) percent or more of the display.
    - c. The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten (10) percent or more of the display.
  - 2. **Display** - As used in the above definitions, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures,

video cassettes or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.

3. **"Specified Sexual Activities"**

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

4. **"Specified Anatomical Areas"**

- a. Less than completely and opaquely covered: 1) human genitals, pubic region; 2) buttock; and, 3) female breast below a point immediately above the top of the areola; and,
- b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

- 5. Regulated Uses - Those uses and activities which require licenses, approval or permits by City regulations.

**Adult Foster Care Facility:** A governmental or nongovernmental establishment subject to state licensing procedures as may be required having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include a nursing home, a home for the aged, an alcohol or a substance abuse rehabilitation center, a hospital for the mentally ill, or similar facilities.

**Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days per week, and for two (2) or more consecutive weeks. 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 thirteen (13), but not more than twenty (20) adults who shall be provided foster care.

**Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

**Aged:** An adult whose chronological age is sixty (60) years of age or older, or whose biological age, as determined by a physician, is sixty (60) years of age or older.

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

**Alterations:** Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

**Apartments:** A suite of rooms or a room in a multiple-family building arranged and intended for a place or residence of a single-family or a group of individuals living together as a single housekeeping unit.

**Arcade:** Arcade shall mean any place of business or establishment whose principal use shall be the housing of mechanical or electronic amusement devices. Mechanical amusement devices include any machine, which, upon the insertion of any coin, slug, token, plate or disc, or which, for a fee paid to the operator or owner, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, skillball, mechanical grab machines, television display devices or machines and all games, operations or transactions similar thereto whether operated principally by mechanical means or electrical means or a combination thereof, under whatever name they may be indicated or called.

**Architectural Features:** A prominent or significant part or element of a building, structure, or site including, but not limited to cornices, eaves, gutters, belt cornices, window projections, chimneys, and decorative ornaments.

**Automobile Service/Repair:** The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

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

**Bed and Breakfast Operations:** A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

**Block:** The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

**Boarding House:** A dwelling where meals, or lodging and meals, are provided for compensation and where one (1) or more rooms are occupied by persons by prearrangement for definite periods of not less than one (1) month. A boarding house is to be distinguished from a hotel, motel, bed and breakfast establishment, or a convalescent, nursing, or group home.

**Building:** A structure erected on site, a mobile home or mobile structure, a premanufactured or precut structure, above or below ground, having a roof or walls and built for, or capable of, the shelter or enclosure of persons, animals, chattels, or property of any kind.

**Building Height:** The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. (See Diagram.)

**Building Inspector (Official):** The administrative official designated by the City Council with the responsibilities of administering and enforcing this Ordinance.

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

**Certificate of Occupancy:** A document issued by the City of Harbor Beach or designated agency allowing the occupancy or use of a building and/or land and certifying that the structure or use has been constructed and will be used in compliance with all the applicable municipal codes and ordinances. For purposes of this ordinance, a Certificate of Occupancy and Zoning Certificate shall be considered as one in the same.

**Clinic:** An establishment where human or animal patients are admitted for examinations and treatment by a group of physicians, dentists, veterinarians, myomassologist or similar professionals.

**Club:** Any facility established to provide recreational or social activities for exclusive use of its members, their families, and guests.

**Cul-de-sac:** A street terminating at one end, with a turning radius.

**Convalescent Home:** A facility that provides, on a regular basis, personal care, including dressing and eating and health related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing center provides.

**Day Care Center:** A 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 which 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, or drop in center.

**Development:** The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**Direct Access:** Access not requiring trespass over adjacent property or rights-of-way.

**Display:** As used in connection with Adult Entertainment Use, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes, or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.

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

**Drive-In:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for patrons and food carry-out.

**Dwelling:** A building, or portion thereof, designed for occupancy and exclusively used for human habitation.

**Dwelling, Attached:** A one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.

**Dwelling, Detached:** A dwelling which is not attached to any other dwelling by any

means.

**Dwelling, Multiple-Family:** A building containing three (3) or more dwelling units designed for residential use and conforming in all other respects to the standards set forth for one-family dwellings.

**Dwelling, One-Family:** A building designed exclusively for one (1) family for residential use.

**Dwelling, Semi-Detached:** A one-family dwelling attached to one other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot. The semi-detached dwelling is part of a two-family structure with the dwelling units side-by-side as opposed to one on top of the other.

**Dwelling, Townhouse:** A one-family dwelling in a row of two (2) but no more than four (4) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

**Dwelling, Two-Family:** A structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**Dwelling Unit:** A building, or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

**Dwelling Unit, Efficiency:** A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

**Dwelling Unit, Manufactured:** A dwelling unit which is substantially built, constructed, assembled, and finished off the premises upon which it is intended to be located.

**Dwelling Unit, Site Built:** A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site built dwelling units shall include dwelling units constructed of precut materials and panelized wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

**Earth Berm:** A mound of earth planted with ground cover, grass, trees, or other landscaping material intended to minimize the view of parking areas and reduce noise and dust from adjacent uses and passersby.

**Easement:** A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

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

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or any governmental department or commission of underground or overhead gas, electrical, steam, or water transmission or communication, supply or disposal system, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals

and hydrants and other similar equipment and accessories in connection with, but not including, buildings. For purposes of this Ordinance, essential services shall also be defined to include cable television facilities. (Refer to Section 1903 for the regulation of Wireless Communication Facilities.)

**Excavation:** Premises from which any rock, gravel, sand, topsoil, or earth in excess of fifty (50) cubic yards on any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

**Family:** A single individual doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking, and living together upon the premises or a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bonds distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

**Family Day Care Home:** A private home in which one but less than seven minor children are received for care and supervision for periods of less than twenty-four (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. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

**Fence:** A wall composed of posts carrying boards, rails, pickets, or wire, or to iron structures consisting of a vertical or horizontal bars or of open work.

**Fence, Decorative:** An open or semi-open fence, ornamental in nature, not intended to provide a permanent barrier to passage or for screening. Decorative fencing does not include chain link fencing.

#### **Floor Area:**

**Gross:** The sum of the horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor to ceiling height is less than six feet.

**Residential:** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

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

**Foster Care:** The provision of supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours per day, five (5) or more days per week, and for two (2) or more consecutive weeks of compensation.

**Front Building Face Area:** The facade of the building facing the front line calculated as its width multiplied by the building height.

**Frontage:** The minimum width required in a use district which abuts a public right-of-way or private road.

**Garage, Private:** An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Garage, Service:** Any premises used for the storage or maintenance of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

**Gasoline Filling Station:** A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale or minor accessories and convenience items, but not including any automotive repair.

**Gasoline Service Station:** A place for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

**Governmental Agency:** Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or governmental unit.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building, measured at a distance four (4) feet out from the edge of the building.

**Greenbelt:** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

**Health Care Facility:** A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis and treatment of human disease, pain, injury, deformity or physical condition allowing overnight stay, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, tuberculosis hospital, chronic disease hospital, maternity hospital.

**Health Club (Salon):** A commercial establishment offering products and/or services related to health, including tanning salons, weight reduction centers, massage therapy, weight and exercise training facilities.

**Home for the Aged:** A supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to twenty-one (21) or more unrelated, nontransient, individuals sixty (60) years of age or older. Home for the aged includes a supervised personal care facility for twenty (20) or fewer individuals sixty (60) years of age or older when the facility is operated in conjunction with and as a distinct part of a licensed nursing home.

**Home Occupation:** An accessory use of a dwelling that constitutes either entirely or partly, the livelihood of a person living in the dwelling, said use shall be conducted entirely within the dwelling and carried on by the inhabitants therein and having no external effects.

**Hospital:** See Health Care Facility

**Hotel:** See Overnight Lodging:

**Household:** A household includes all persons who occupy a house, an apartment, a group of rooms, or a single room occupied as separate living quarters.

**Housing for the Elderly:** A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons sixty-two (62) years of age or older, or couples where either spouse is sixty-two (62) years of age or older. This does not include a foster care home, home for the aged, nursing home, or convalescent home.

**Industrial Park:** A planned industrial development on a tract of land containing an internal road network suitable for trucks and employee traffic and adequate utilities, including a sufficient water supply, sanitary and storm sewers, and electric and natural gas lines.

**Junk Yard:** An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including but not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "Junk Yard" includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping, or abandonment of junk.

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

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

**Lot:** A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.

**Lot Area:** The total horizontal area within the lot lines of the lot.

**Lot, Corner:** A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees. (See Diagram.)

**Lot Coverage:** The part or percent of the lot occupied by buildings including accessory buildings.

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

**Lot, Flag:** A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.

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

**Lot Lines:** The lines bounding a lot as defined herein:

- a. **Front Lot Line:** In the case of an interior lot, is that line separating said lot from the streets.
- b. **Rear Lot Line:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- c. **Side Lot Line:** Any lot line other than the front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot of Record:** A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. Whenever an owner has combined two (2) or more lots as contained on any recorded plat into a single building site, or combined two (2) or more lots contained on any recorded plat in the records of the City Assessor or Treasurer, said combination of lots shall be deemed to be a single lot of record for the purposes of this Ordinance.

**Lot, Through:** Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot.

**Lot, Width:** The horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines or in the case of a corner lot, the side lot line and opposite lot line.

**Lot, Zoning:** A single tract of land, which may include one or more lots of record, which conforms with this Ordinance with respect to area, size, dimensions and frontage in the district.

**Main Building:** A building in which is conducted the principal use of the lot upon which it is situated.

**Major Thoroughfare:** An arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, or equivalent term on the Major Thoroughfare Plan to identify those streets comprising the basic structure of the Major Thoroughfare Plan.

**Marginal Access Drive:** A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

**Marina:** A facility for the storing, servicing, fueling, berthing, and securing boats and other watercraft and that may include eating, sleeping, and rental facilities, but in no case shall include major engine or boat repair facilities.

**Master Plan:** The Comprehensive Community Plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

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

**Mini-Warehouse (Self-Storage Facility):** A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials are expressly prohibited.

**Mobile Home:** A detached residential dwelling unit with a body width greater than eight (8) feet, of not less than thirty-five (35) feet in length, and designed for transportation, after fabrication, on streets or highways, on its own wheels, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like. A mobile home shall not be considered a travel trailer, motor home, or any other type of recreational vehicle. In addition, mobile homes which do not conform to the standards for one-family dwellings, of this Ordinance, shall not be used for dwelling purposes within the Township unless located within a mobile home park or a mobile home plat zoned for such uses, or unless used for temporary residence purposes as hereinafter provided.

**Mobile Home Park:** A parcel of land which has been planned and improved for the placement of mobile homes for residential use.

**Motel:** See Overnight Lodging:

**Motorized Home:** A self-propelled motor vehicle which provides the amenities of day-to-day living while used as a means of transportation for recreational or travel purposes.

**Municipality:** The City of Harbor Beach, Michigan.

**Myomassologist (massagist):** Any person who administers to another person for monetary or valuable consideration a massage, alcohol rub, fomentation, bath, electric or magnetic massage procedure, or manipulation of the body or similar procedure.

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

**Nonconforming Lot:** Any lot, outlet, or other parcel of land which does not meet the land area or dimension requirements of this Ordinance.

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

**Nuisance Factors:** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: 1) sound, 2) dust, 3) smoke, 4) odor, 5) glare, 6) fumes, 7) light, 8) vibration, 9) shock waves, 10) heat, 11) electronic or atomic radiation, 12) effluent.

**Nursery, Plant Materials:** 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.

**Nursing Home:** A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1985, as amended, being Sections 36.1 to 36.12 of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

**Occupied:** The word occupied includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

**Offensive:** Any work in connection with an adult entertainment use in which the representations appear, taken as a whole, appeals to the prurient interest and patently depicts or portrays the sexually explicit material in a manner which, taken as a whole, lacks serious literary, artistic, political, or scientific value. In other instances, the term offensive shall mean any annoying, unpleasant, or obnoxious thing or practice, cause, or source of annoyance (see also Nuisance Factors).

**Office:** A place, such as a building, room, or suite, in which services, clerical work, professional duties or the like are carried out.

**Off-Street Parking Facility:** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

**On-Street Parking Space:** A temporary storage area for a motor vehicle which is located within a dedicated right-of-way.

**Open Air Business Use:** An open air business use, as used herein, shall be deemed to include any of the following businesses when said business is not conducted from a wholly enclosed building:

1. Bicycle, trailer, motor vehicle, boats, or home equipment sale or rental services.
2. Outdoor display and sale of garages, swimming pools, and similar uses.
3. Sale of trees, fruits, vegetables, shrubbery, plants, seed, topsoil, humus, fertilizer, trellis, lawn furniture, playground equipment, and other home garden supplies and equipment.

4. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park, or similar recreation uses.

**Open Front Store:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "Open Front Store" shall not include automobile repair or gasoline service stations.

**Overnight Lodging Facility (Hotel/Motel/Motor Inn):** An establishment or building(s) providing a number of bedrooms, baths, etc., and usually food, for the accommodation of travelers or other transient guests.

**Parking Space:** An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

**Planned Commercial or Shopping Center:** A group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

**Planned Unit Development (PUD):** An integrated and coordinated development of various residential land uses, with or without retail stores, service stations, drugstores, personal service offices, and restaurants, but excluding any manufacturing or wholesale activity, and developed in accordance with the conditions as prescribed under provisions of this Ordinance.

**Porch:** A projection on a building or structure containing a floor, which may be either totally enclosed or open.

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

**Private Road:** An area of road used for ingress and egress to serve more than one (1) parcel of property not part of a subdivision created under State Act 288, P.A. 1967, as amended (the State Subdivision Control Act).

**Public Building:** Buildings that are financed largely by public funding and are available for public use, as distinguished from buildings that are government financed, but are intended for private use; e.g., public housing.

**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, transportation or water.

**Recreation Area:** A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

**Recreational Vehicle:** A vehicle which moves one (1) or more persons over the ground, air, water, ice, or snow, and which is either self-propelled or connects to a vehicle which is self-propelled.

**Residential Entranceway Structure:** A building or structure placed at the principle opening(s) that afford entry into a residential development used to identify the project or to regulate access into the development. Such structures shall include, but not limited to, objects of art, gates, guard houses, signs, fencing, and similar barriers and structures.

**Restaurant:**

1. **Standard Restaurant:** A standard restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes the consumption of food on the premises.
2. **Carry-Out Restaurant:** A carry-out restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation encourages the consumption of food off-site or it may permit incidental consumption on the premises.
3. **Drive-In/Drive-Through Restaurant:** Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, includes one (1) or both of the following characteristics:
  - a. Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle, either by a carhop, or by other means which eliminate the need for the customer to exit the motor vehicle.
  - b. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, within the restaurant building, or at other facilities on the premises outside the restaurant building, is permitted.

**Right-of-Way:** A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.

**Room:** For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, stairways, hallways, and storage. Plans presented showing one (1), two (2), or three (3) bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

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

**Sign:** A sign is any announcement, declaration, display, billboard, illustration, and insignia when designed and placed so as to attract general public attention and shall include the use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known and visible to the general public such as are used to show an individual firm, profession, business, or business location, and also any banner, bulbs, or other lighting devices, streamer, pennant, balloon, propeller, flag (other than the official flag of any nation or state) and any similar device of any type or kind whether bearing lettering or not.

**Special Condition Use:** Any use of land listed as a Principal Use Permitted Subject to Special Conditions which, due to its potential effect on adjacent lands, in particular, and the overall City

in general, requires approval by the City Council according to the standards as provided in this Ordinance.

**Story:** That part of a building, except a mezzanine as defined herein, 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. Basements and attics shall not constitute a story unless they qualify as a story by their respective definition.

**Story, Half:** An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet. For the purposes of this Ordinance, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

**Streets:** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. For purposes of this Ordinance, streets shall be defined to also include the term roads. Streets are further classified by the functions they perform.

1. Local (minor) streets: streets primarily designed to provide access to immediately adjacent properties. Through movement may be possible, but is not encouraged by operational controls; it may be impossible in the case of cul-de-sacs. Part of the street width is usually allocated to vehicle parking without restrictions, although special snow emergency parking prohibitions may be necessary. Each abutting property may have a driveway connection to the street.
2. Collector (secondary) streets: streets primarily designed to provide access to abutting land parcels, and also enable moderate quantities of traffic to move expeditiously between local streets and the major street network.
3. Major (primary) streets: streets primarily designed for the efficient movement of through traffic at speeds which are as high as can be reasonably allowed in view of safety considerations and the amount of access also being provided. Capacity is obtained by provision of wide street cross sections and high capacity controls at intersections, or by elimination of intersections by grade separation. Speed results from provision of good horizontal and vertical alignments and removal of potential safety hazards, especially access friction.

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

**Swimming Pool:** Any constructed or portable pool, used for swimming or bathing over 24 inches in depth, or with a surface area exceeding 160 square feet.

**Tavern (Bar, Lounge):** An establishment licensed to sell alcoholic beverages to patrons for consumption on the premises.

**Temporary Use or Temporary Building:** A use or building permitted by the Board of Appeals to exist during a specified period of time.

**Therapeutic Massage:** A method of treating external parts of the body for remedial or hygienic purposes consisting of rubbing, stroking, kneading, adjusting or tapping with the hand or any instrument electric, magnetic or otherwise.

**Transitional Use/Zone:** A use or zoning district that permits uses compatible with uses permitted in two adjacent zones that, without a buffer zone incorporating a less intensive use, could be considered incompatible to each other.

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

**Variance:** Permission to depart from the literal requirements of the Zoning Ordinance.

**Variance, Nonuse:** A departure from the provisions of the Zoning Ordinance relating to setbacks, side yards, frontage requirements, lot size, parking, signage, and other requirements of the applicable zoning district.

**Variance, Use:** A variance granted for a use or structure that is not permitted in the applicable zoning district.

**Wall, Obscuring:** A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

**Wireless Communication Antenna (WCA):** Any antenna used for the transmission or reception of wireless communication signals excluding those used exclusively for dispatch communications by public emergency agencies, ham radio antennas, satellite antennas, those which receive video programming services via multipoint distribution services which are one meter (39 inches) or less in diameter and those which receive television broadcast signals.

**Wireless Communication Facilities (WCF):** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to radio towers, television towers, telephone devices and exchanges, micro-wave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, ham, amateur radio facilities, and satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition.

**Wireless Communication Support Facilities (WCSF):** A monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas.

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

- a. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. In the case of corner lots, front yard shall be deemed to exist along each street frontage.
- b. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- c. **Side Yard:** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

**Zoning Administrator (Inspector):** The administrative official designated by the City Council with the responsibilities of administering and enforcing this Ordinance (see Building Inspector).

**Zoning District:** A zoning district is a portion of the City within which, on a uniform basis, certain uses of land and buildings are permitted and within which contain yard, open spaces, lot area, and other requirements are established by this Ordinance.

**ARTICLE III  
ZONING DISTRICTS AND MAPS**

**SECTION 300. DISTRICTS ESTABLISHED.**

For the purpose of this Ordinance, the City of Harbor Beach is hereby divided into the following districts:

**Residential Districts**

- R-1 One-Family Residential District
- R-2 One-Family Residential District
- RT Two-Family Residential District
- RM-1 Multiple-Family Residential District
- MHP Mobile Home Park District

**Nonresidential Districts**

- OS-1 Office Service District
- B-1 Local Business District
- B-2 General Business District
- B-3 Planned Resort-Waterfront Business District
- CBD Central Business District
- I-1 Light Industrial District
- I-2 General Industrial District

**Special Districts**

- WM Waterfront Marina District
- P-1 Vehicular Parking District

**SECTION 301. DISTRICT BOUNDARIES.**

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

**SECTION 302. DISTRICT BOUNDARIES INTERPRETED.**

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

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.
4. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.

5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Appeals shall interpret the district boundaries.
8. Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public rights-of-way it is intended that such district boundaries do extend to the center of any public right-of-way.

**SECTION 303. ZONING OF VACATED AREAS.**

Whenever any street, alley or other public way, within the City of Harbor Beach shall be vacated, 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.

**SECTION 304. ZONING OF ANNEXED AREAS.**

Wherever any area is annexed to the City of Harbor Beach, one of the following conditions will apply:

1. Land that is zoned previous to annexation shall be classified as being in whichever district of this Ordinance most clearly conforms with the zoning that existed prior to annexation, such classification to be recommended by the Planning Commission to the City Council and the Council shall approve same by resolution.
2. Land not zoned prior to annexation shall be automatically classified as an R-1 through R-2 District until a Zoning Map for said area has been adopted by the City Council. The Planning Commission shall recommend the appropriate zoning districts for such area within three (3) months after the matter is referred to it by the City Council.

**ARTICLE IV  
R-1 THROUGH R-2 ONE-FAMILY  
RESIDENTIAL DISTRICT**

**SECTION 400. INTENT.**

The One-Family Residential Districts are established as districts in which the principal use of land is for one-family dwellings. For the one-family residential districts, in promoting the general purpose of this Ordinance, the specific intent is:

1. To encourage the construction of, and the continued use of the land for one-family dwellings.
2. To prohibit business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of one-family dwellings in the district.
3. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
4. To discourage any land use which would generate traffic on minor or local streets other than normal traffic to serve the residences on those streets.
5. To discourage any use which, because of its character or size, would create requirements and costs for public services, such as fire and police protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for one-family dwellings.

**SECTION 401. PRINCIPAL USES PERMITTED.**

In a One-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. One-family detached dwellings.
2. Publicly owned and operated parks, parkways and recreational facilities.
3. Home occupation in accordance with Section 1809.
4. Bed and breakfast operations in accordance with Section 1810.
5. Accessory buildings and uses, customarily incidental to any of the above permitted uses.

**SECTION 402. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Churches and other facilities normally incidental thereto subject to the following conditions:
  - a. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than fifteen (15) feet.
  - b. Buildings of greater than the maximum height allowed in Article XVII, Schedule of Regulations may be allowed provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
  - c. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
2. Public, parochial, and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
3. Public utility buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity. Further, no building and/or structure shall be located in any required yard.
4. Child and adult day care centers which do not include dormitories provided that for each person so cared for, there shall be provided and maintained a minimum of one hundred fifty (150) square feet of open space. Such space shall have a total minimum area of not less than five thousand (5,000) square feet and shall be fenced and screened from any adjoining lot in any residential district.
5. Private or public camp or recreation grounds for use of persons seeking a temporary location for vacation or recreation purposes, subject to the following conditions:
  - a. Any portable dwelling such as but not limited to travel trailers, motor homes, tents, etc., located in said area shall be seasonal in nature and shall not be used for year-round residence. Spaces shall be rented by the day or week only, and occupants of such space shall remain in the same area not more than thirty (30) days.
  - b. Proper arrangements shall be made for water and sanitation purposes through the City of Harbor Beach.
  - c. There shall be maintained a twenty (20) foot greenbelt providing a year-round obscuring screen at the periphery of the proposed development.
  - d. All uses established under this provision shall be located with direct access to a major thoroughfare and with appropriate frontage thereon to provide for the design of entrances and exits.
  - e. Site Conditions: Condition of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
  - f. Locational Requirements: Parcels being proposed for all uses established under

this provision may be permitted in the One-Family Residential Districts after receiving Planning Commission approval.

- g. No uses permitted under this provision shall be located closer than one hundred (100) feet to the right-of-way line of a major thoroughfare, or thirty-five (35) feet to any property line.
  - h. Each campground site shall have a minimum of twenty-five (25) foot road frontage and a minimum area of one thousand eight hundred (1,800) square feet.
  - i. Recreation campgrounds shall be permitted only on parcels of fifteen (15) acres or more.
  - k. Accessory Uses: Management headquarters, recreational facilities, toilets, showers, coin-operated laundry facilities and other uses and structures customarily incidental to the operation of all uses established under this provision are permitted as accessory uses. In addition, stores, restaurants and other convenience establishments shall be permitted as accessory uses where such uses are not allowed as principal uses, subject to the following conditions.
    - (1) Such establishments and the parking areas primarily related to their operations shall not occupy more than ten (10) percent of the total area or grounds.
    - (2) Such establishments shall be restricted in their use to occupants of the camp or grounds.
    - (3) Such establishments shall present no visible evidence to their commercial character which would attract customers other than occupants of the camp or grounds.
    - (4) All lighting shall be shielded to reduce glare and shall be so arranged as to reflect the light away from abutting or adjacent properties.
  - l. All uses established under this provision shall require site plan review and approval of the City Planning Commission.
6. Golf courses, which may or may not be operated for profit, subject to the following conditions:
- a. The site shall be planned as to provide principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - b. The site shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrians and vehicular traffic safety.
  - c. Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than two hundred (200) feet from any property line abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.

- d. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six (6) feet in height, and entry shall be by means of controlled gate.
7. Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit, all subject to the following conditions:
  - a. Any use permitted herein shall be developed only on sites of at least ten (10) acres in area, and shall not be permitted on any portion of a recorded subdivision plat.
  - b. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - c. No building shall be closer than seventy-five (75) feet to any property line.
8. Home for the Aged (Congregate Care Facility) or Adult Foster Care Facility for more than six (6) adults when the following conditions are met:
  - a. Minimum lot size shall be three (3) acres.
  - b. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - c. No structure shall be located closer than forty (40) feet to any property line.
  - d. The site shall be so developed as to create a land to building ratio on the lot or parcel whereby for each one (1) bed in the facility there shall be provided not less than fifteen hundred (1,500) square feet of open space. The fifteen hundred (1,500) square feet of land area per bed shall provide for landscaped setbacks, off-street parking, service drives, loading space, yard requirements, and space required for accessory uses. The fifteen hundred (1,500) square feet requirement is over and above the building coverage area.
9. Housing for the elderly when the following conditions are met:
  - a. All housing for senior citizens shall be constructed on parcels of at least three (3) acres and may provide for the following:
    - (1) Cottage type one-story dwellings and/or apartment type dwelling units.
    - (2) Common service containing, but not limited to, central dining rooms, recreational rooms, central lounge, and workshops.
  - b. Minimum dwelling unit size shall be three hundred fifty (350) square feet per unit (not including kitchen and sanitary facilities).
  - c. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty-five (25) percent of the total site not including any dedicated public right-of-way.
  - d. Buildings of greater height than the maximum height allowed in Article XVII, Schedule of Regulations may be allowed provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of

building height that exceeds the maximum height allowed.

10. Mortuary establishments, subject to the following conditions:
  - a. Adequate assembly areas shall be provided off-street for vehicles to be used in funeral processions.
  - b. A caretaker's residence may be provided within the main building.
  - c. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - d. A nonresidential use may be provided in a separate building provided it is clearly accessory and incidental to the main use.
  - e. An accessory building provided on site shall not exceed an area greater than 25 percent of the principle building.
  - f. All outdoor lighting shall be provided in accordance with Section 1820.
  - g. For purpose of computing the minimum number of parking spaces in accordance with Section 1804, usable floor area shall be defined to mean those areas used as assembly rooms, parlors and slumber rooms. Measurement of usable floor area shall be measured from the interior face of walls.
  
11. Local municipal administration buildings used predominately for the general conduct of government. Such buildings include, but are not limited to, City municipal building and other headquarters of government where the governing body regularly meets, subject to the following conditions:
  - a. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - b. The minimum lot size required shall be 87,120 square feet (two acres).
  - c. The off-street parking area shall be provided with a continuous and obscuring wall not less than four feet six inches (4'-6") in height measured from the surface of the parking area. This wall shall be provided on all sides when the next zoning district is designated as a residential district.

The Planning Commission may waive the wall requirement and instead, approve a greenbelt planted in accordance with Sections 1815 and 1816, upon a showing that the landscaped screening barrier would effectively obscure the parking area from public view.

The requirement for a screening barrier between off-street parking areas and any abutting residential districts shall not be required when such areas are located more than two hundred (200) feet distant from such abutting residential district.
  - d. Pedestrian sidewalks and walkways shall be provided on the site in accordance with Section 1900, 3, I, and as may be required by the Planning Commission.
  - e. All loading and unloading shall be off-street in the rear yard, and be so designed as to avoid undue interference with public use of off-street parking areas.
  - f. The principal buildings on the site shall be set back from abutting properties



**SECTION 403. REQUIRED CONDITIONS.**

For all nonresidential uses allowed in the residential districts, the setbacks shall equal the height of the main building, or the setbacks required in Section 402 or 1700, whichever is greater.

**SECTION 404. AREA AND BULK REQUIREMENTS.**

See Article XVII, Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and providing minimum yard setback requirements.

**ARTICLE V  
RT TWO-FAMILY RESIDENTIAL DISTRICTS**

**SECTION 500. INTENT.**

The RT, Two-Family Residential Districts are designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares or other uses which would affect residential character. This district also recognizes the existence of older residential areas of the City where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.

**SECTION 501. PRINCIPAL USES PERMITTED.**

In a Two-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance.

1. All uses in the One-Family Residential Districts as permitted and regulated under Section 401. The standards of the Schedule of Regulations applicable to the R-2 One-Family Residential District, shall apply as minimum standards when one-family detached dwellings are erected.
2. Two-family dwellings.
3. Accessory buildings and uses customarily incidental to any of the above permitted uses.

**SECTION 502. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Conditions Uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c.(2) of the City-City Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. All special condition uses for the One-Family Residential Districts as permitted and regulated under Section 402.

**SECTION 503. REQUIRED CONDITIONS**

For all non residential uses allowed in the two family residential district, the setbacks shall equal the height of the main building, or the setbacks required in Section 402 or 1700, whichever is greater.

**SECTION 504. AREA AND BULK REQUIREMENTS.**

See Article XVII, Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted and providing minimum yard setback requirements.

**ARTICLE VI  
RM-1 MULTIPLE-FAMILY  
RESIDENTIAL DISTRICTS**

**SECTION 600. INTENT.**

The RM-1, Multiple-Family Residential Districts are designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as the nonresidential districts and zones of transition between lower density One-Family Districts. The Multiple-Family District is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, one-family community.

**SECTION 601. PRINCIPAL USES PERMITTED.**

In a Multiple-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. All uses in the RT, Two-Family Residential District, permitted and as regulated under Section 501.
2. Multiple-family dwellings.
3. Accessory buildings and uses customarily incidental to any of the above permitted uses.

**SECTION 602. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. All special condition uses in the One-Family Residential Districts as permitted and regulated under Section 402.
2. Convalescent or nursing homes when the following conditions are met:
  - a. The building shall not exceed a building height of two (2) stories.
  - b. The minimum lot size shall be three (3) acres.
  - c. No building shall be closer than forty (40) feet to any property line.
  - d. Principle vehicular access to the site shall be in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - e. There shall be provided on the site, not less than fifteen hundred (1,500) square feet of open space for each bed in the home. The fifteen hundred (1,500) square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirement and accessory uses, but shall not include the area covered by main or accessory buildings.
3. Accessory buildings and uses customarily incident to any of the above permitted uses.

**SECTION 603. REQUIRED CONDITIONS.**

1. The maximum horizontal length of any one building shall be one hundred eighty (180) feet measured along any front, side, rear, or other exterior elevation.
2. The minimum land area required for each dwelling unit in the district shall be in accordance with the following schedule:

<u>DWELLING UNIT TYPE</u>	<u>LAND AREA REQUIRED (SQUARE FEET)</u>
1 and 2 bedroom unit	4,800
3 bedroom unit	6,000
4 or more bedroom unit	7,200

3. Within any yard setback or area between buildings, an area equivalent to seventy (70) percent of any required yard or any required minimum area between buildings must be landscaped and developed as usable open space or recreation area available to the residents of the development, and further, said areas shall be kept free of all vehicular uses.
4. On sites which are four (4) acres or larger in size, the open land area shall include a landscaped greenbelt of a minimum ten (10) foot width, located and continually maintained, along any property boundary adjoining a residential district or fronting on a public road right-of-way.
5. The minimum residential floor area per multiple-family unit shall be in accordance with the following schedule:

<u>UNIT TYPE</u>	<u>MINIMUM FLOOR AREA REQUIRED (SQUARE FEET)</u>
Efficiency	350
One Bedroom	500
Two Bedroom	700
Three Bedroom	900
Four Bedroom	1,100

**SECTION 604. AREA AND BULK REQUIREMENTS.**

See Article XVII, Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

**ARTICLE VII  
MHP, MOBILE HOME PARK DISTRICT**

**SECTION 700. INTENT.**

The purpose of the Mobile Home Park District is to encourage a suitable environment for persons and families that choose to live in a mobile home rather than a site built one-family residence. Development is limited to mobile homes when located in a subdivision designed for that purpose or a mobile home park with recreational facilities and necessary public utility buildings.

The regulations contained within this Article are those approved by the Mobile Home Commission and adopted as part of City's Ordinance. No substantive changes have been made to the approved regulations; however, references to other applicable laws, ordinances, and certain terminology has been updated.

**SECTION 701. PRINCIPAL USES PERMITTED.**

The following uses of land and structures shall be permitted only by right in the MHP, Mobile Home Park District:

1. Mobile home parks subject to the requirements of the Mobile Home Commission Act, Act 96 of the Public Acts of 1987, as amended, and rules of the Mobile Home Commission.
2. Mobile home subdivisions subject to the Subdivision Control Act, Act 288 of the Public Acts of 1967, the Harbor Beach Subdivision Control Ordinance and all other applicable acts, rules, and regulations.
3. Family day care homes.
4. Adult foster care small group homes for six (6) or fewer residents.

**SECTION 702. MOBILE HOME PARK REGULATIONS.**

1. General Requirements
  - a. Each mobile home within a mobile home park shall contain a complete bathroom, kitchen facilities; sleeping accommodations and plumbing and electrical connections. Travel trailers, motor homes and other recreational vehicles shall not be occupied in a mobile home park.
  - b. Mobile home skirting shall be vented. Louvered or similar vents shall be at least a minimum of six hundred (600) square inches per one thousand (1,000) square feet of living space. A minimum of one (1) vent shall be placed at the front and rear of the mobile home and to each exposed side. An access panel of sufficient size to allow full access to utility hookups located beneath the mobile home shall be installed. All skirting shall be manufactured of fire-resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions to include, but not limited to, damage caused by freezing and frost, wind, snow, and rain.
  - c. Storage of dangerous or combustible goods and articles underneath any mobile home or out-of doors at any mobile home site shall be prohibited except in an approved, enclosed, storage facility.

- d. Canopies and awnings may be attached to any mobile home and may be enclosed, subject to mobile home site regulations, herein. When enclosed, such shall be considered a structure and part of the mobile home and building and occupancy permits issued by the Zoning Administrator shall be required.
- e. All garbage and rubbish shall be stored, and transferred in accordance with the procedures outlined in Part 5, Garbage and Rubbish Storage and Disposal, of the Mobile Home Commission Rules. Garbage and trash removal shall be made at least once per week, except during the summer when health conditions may warrant additional pickups. Incineration of garbage or rubbish on the site shall be prohibited.
- f. A commercial sales lot activity is prohibited within a mobile home park except that mobile homes placed on mobile home sites under the "model home" concept may be sold on site by a licensed mobile home dealer or broker. This subsection does not prohibit the sale of a mobile home on site by the mobile home owner.
- g. Entry and exit fees shall be prohibited.
- h. All structures and utilities to be constructed, altered, or repaired in a mobile home park shall comply with all applicable codes of the City, the State of Michigan, the U.S. Department of Housing and Urban Development and the Mobile Home Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall be constructed to the State of Michigan Standards in effect at that time. All structures and improvements to be constructed or made under the City Building Code shall have a building permit issued by the Zoning Administrator. Such structures or improvements shall have a minimum of two inspections prior to a final inspection by the Zoning Enforcement Officer.
- i. A mobile home park shall have a public water and sewer system and/or on-site water and waste water treatment system acceptable by the Michigan Department of Public Health and Michigan Department of Natural Resources.
- j. The site and surrounding area shall be suitable for residential use. It shall not be subject to hazards such as insect or rodent infestation, objectionable smoke, noxious odors, unusual noises, subsidence, or the probability of flooding or erosion. The soil, groundwater level, drainage, rock formation, and topography shall not create hazards to the property or to the health and safety of occupants.
- k. All land in a mobile home park shall comprise a single parcel. Public thoroughfares, except extensions of local and collector streets proposed as part of a mobile home park site plan, shall not bisect or divide a mobile home park to avoid unwarranted public traffic from traveling through the park.
- l. A mobile home park shall not be occupied unless at least twenty-five (25) mobile home sites, or fifty (50) percent of the expected total of mobile home sites, whichever is less, are available for occupancy at the time of opening of the park.
- m. A mobile home park shall not be developed on less than ten (10) acres. Individual sites within the park shall be developed with sites having five thousand, five hundred (5,500) square feet per mobile home unit being served. The 5,500 square feet requirement may be reduced by twenty (20) percent provided that the individual site shall be equal to at least forty-four hundred (4,400) square feet. For each square foot of land gained through the reduction of the site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open

space requirements be less than that required under R125, 1946, Rule 946 of the Michigan Administrative Code.

- n. The minimum setback for a park shall be fifty (50) feet from a public right-of-way.
- o. The mobile home park shall be constructed pursuant to P.A. 96 of 1987, being MCL 125.1101 et seq. and the rules promulgated thereunder.
- p. Landscaping and/or greenbelts shall be in conformance with the provisions of SECTION 1900, SITE PLAN REVIEW. Common laundry, drying yards, trash collection stations, surface mounted transformers, and similar equipment and facilities shall be screened from view by plant materials or by man-made screens. Required landscape strips shall not be included in the calculation of required recreational areas. Parking shall not be permitted in any required buffer area.

## 2. Mobile Home Site Regulations

The Mobile Home Code, as established by the Mobile Home Commission and the Michigan Department of Public Health Rules under the authority of Act 96 of the Public Acts of 1987, regulates mobile home park density, design, construction, licensing, and individual mobile home installation (anchoring) and health aspects. All mobile home parks shall be constructed according to the standards of the Code and the Michigan Department of Public Health Rules, which include specifications for internal road widths, lengths, turning radii, alignment, gradients, construction materials, curbing, parking, utilities, pedestrian circulation, pad size, maintenance, setbacks, screening, and health aspects. Any variance from these established standards granted by the City must be filed with the Michigan Mobile Home Commission, however, the Commission may approve, disapprove, or revoke the variance upon notice and hearing.

## 3. Utilities

Each mobile home shall be suitably connected to sanitary sewer, water and other available utility lines and such connections shall meet the following regulations:

- a. A public water system or water system approved by the Michigan Department of Public Health, and in accordance with Act 399, P.A. 1976, the Safe Drinking Water Act shall be provided within a mobile home park. The water supply shall be adequate for fire fighting purposes.
- b. A public sewer system or waste water treatment system approved by the Michigan Department of Public Health and the Michigan Department of Natural Resources, shall be provided within a mobile home park.
- c. Each mobile home space shall be provided with at least a four (4) inch sanitary sewer connection. The sewer shall be enclosed when not connected to a mobile home and shall be capped so as to prevent any escape of odors.
- d. The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, from accidental bumping, or from creating any type of nuisance or health hazard.

- e. All electrical lines to each mobile home site shall be underground. Separate meters shall be installed for each site. All cable television and telephone lines shall be underground. Above ground lines are not allowed for the connection between the mobile home unit and the individual site utility pedestals.
- f. No individual exterior television antennas shall be permitted within the mobile home park. If central television antenna systems, cable television, or other such services are provided, the distribution system shall be underground and shall be constructed and installed pursuant to state and local codes and ordinances.
- g. An electrical service adequate for one-family residence needs shall be provided for each mobile home space. The installation shall comply with all state electrical regulations.
- h. All fuel oil and liquefied gas supplies shall be installed in a manner consistent with the requirements contained in the General Rules of the Michigan Mobile Home Commission as provided for in Act 96 of the Public Acts of 1987.

#### 4. Access and Parking

- a. All internal streets, driveways, motor vehicle parking spaces and walkways within the park shall be hard surfaced and shall, in the case of a one-way street, be seventeen (17) feet in width with no on-street parking.
- b. All entrances and exits from a mobile home park shall abut a hard surfaced public road (cement and/or bituminous construction). Improvements to said hard surfaced roads, such as acceleration/deceleration lanes, shall be made in accordance with City standards.
- c. Cul-de-sac streets, where proposed, shall have a turnaround with a minimum radius of forty-five (45) feet, in accordance with current City standards, and shall have a maximum length of three hundred (300) feet.
- d. Entrances and exits for a mobile home park from county or state highways shall have written approval of the highway authority having jurisdiction before the final site plan for all or any phase of the mobile home park shall be approved by the Mobile Home Commission.
- e. Where a proposed mobile home development is adjacent to properties that have existing public sidewalks on them and the sidewalk abuts the mobile home park parcel, the developer shall also construct a sidewalk of equal width to act as a connection between, or an extension of the existing public sidewalk(s). Said sidewalk(s) shall be necessary for only those portions of a mobile home park fronting upon a public thoroughfare in accordance with City specifications.

#### 5. Storage Areas

The on-site, outdoor storage of boat trailers, boats, camping units, horse trailers, and similar equipment shall be prohibited. The mobile home park may provide, within the confines of the park, a common outdoor storage area for the storage of the above mentioned equipment. Said storage area shall be surfaced with gravel, asphalt, or similar substances and shall be screened from view with plant materials or man-made screening devices.

**SECTION 703. PROCEDURES AND PERMITS.**

Application for permit to construct a mobile home park shall be submitted to the Michigan Department of Commerce. The Department of Commerce is the agency charged with the licensing of mobile home parks. Preparation of the application, support data, and local agency review of the mobile home park shall conform to the requirements of Act 96 of 1987, as amended.

**SECTION 704. SITE PLAN REVIEW.**

All principal uses listed above are subject further to the requirements and provisions of SECTION 1900, SITE PLAN REVIEW and any other applicable regulations included in this Ordinance.

**SECTION 705. AREA AND SIZE REQUIREMENTS.**

See ARTICLE XVII, SCHEDULE OF REGULATIONS, limiting the height and size of buildings, and the minimum size of lots and yards permitted by land use.

1. See SECTION 1804, OFF-STREET PARKING.
2. See SECTION 1807, OFF-STREET LOADING AND UNLOADING.
3. See SECTION 1814, SIGNS

**ARTICLE VIII  
OS-1 OFFICE DISTRICTS**

**SECTION 800. INTENT.**

The Office Districts are intended to provide locations of the low-intensity, office-type professional and administrative services necessary for the normal conduct of a community's activities. Such districts have the following characteristics: allowable activities take place in attractive buildings in landscaped settings; they generally operate during normal daytime business hours; they produce a minimum amount of traffic; and their use characteristics make them compatible (a transitional use) with adjacent residential uses.

Office Districts are specifically designed to prohibit retail establishments and other business activities that generate heavy traffic or constant visits of the general public. However, a limited range of convenience retail and service businesses is permitted within larger office developments for the benefit of office personnel and visitors, provided that offices remain the predominant use within the district and provided further that the commercial uses are compatible with nearby residential development.

Office Districts are intended to serve as transitions between nonresidential districts and single-family residential districts.

**SECTION 801. PRINCIPAL USES PERMITTED.**

In an Office District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Office-type business related to executive, administrative, or professional occupations including, but not limited to, offices of a lawyer, accountant, insurance/real estate agent, architect, engineer, and similar occupation.
2. Clinics, except veterinary clinics having outdoor runs.
3. Small animal grooming facilities.
4. Medical, dental, and optical laboratories that provide testing services or provide medical or dental devices such as artificial limbs, teeth, eye glasses, etc.
5. Banks, credit unions, savings and loan associations, and similar uses, including those offering drive-through facilities.
6. Barber shops, beauty shops, health salons and therapeutic massage facilities.
7. Private clubs, fraternal organization, or lodge halls.
8. Churches.
9. Pharmacy or apothecary shop.
10. Business service establishments such as typing services, photocopying services; quick-printing establishments, office supply stores, and similar establishments.
11. Publicly owned buildings such as telephone exchange buildings and public utility offices, but not including, storage yards, transformer stations, substations, or gas regulator stations.
12. Other uses similar to the above uses.

13. Accessory structures and uses customarily incidental to the above permitted uses.

**SECTION 802. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-City Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Mortuary establishments when adequate assembly areas are provided off-street for vehicles used in funeral processions. A caretaker's residence may be provided within the main building or mortuary establishments. Principle vehicular access shall be in accordance with provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
2. Residential unit(s) when the following conditions are met:
  - a. The dwelling unit(s) may be provided on any floor other than a floor where grade level access is provided.
  - b. The minimum floor area per unit shall equal three hundred fifty (350) square feet for an efficiency unit, five hundred (500) square feet for a one bedroom unit, seven hundred (700) square feet for a two bedroom unit, nine hundred (900) square feet for a three bedroom unit, and one thousand one hundred (1,100) square feet for units containing four bedrooms.
  - c. Off-street parking shall be provided in accordance with multiple family dwelling parking standards in Section 1804.
3. Any retail business or service establishment permitted in the B-1 Business District as a principal use permitted which will operationally abut an existing B-1 Business District; and any retail business or service establishment permitted in the CBD Business District as a principal use permitted which will operationally abut an existing CBD Business District, subject to the following conditions:
  - a. All businesses or service establishments shall be located within a mixed use structure principally erected for office use. In no instance shall the gross floor area devoted to business or service use exceed fifty (50) percent of the total gross floor area of the structure.
  - b. All retail or service uses established as part of a mixed use development, including all accessory parking, loading space, and site access, shall be functionally separate from the office facilities on the premises and must operationally abut a respective and existing business zone. No business use permitted in an OS-1 District shall operationally abut any residential or portion of an OS-1 District.
  - c. The site shall be so located as to have at least one (1) property line abutting and directly accessible to a major thoroughfare in accordance with the provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.

- d. All business establishments shall be retail or service establishments dealing with the consumers. All goods produced on the premises shall be sold at retail on the premises where produced. Drive-in, drive-through and/or carry-out restaurants are strictly prohibited.
  - e. The outdoor storage or display of goods and materials shall be prohibited.
  - f. The Planning Commission may require the installation of trash storage areas in accordance with Section 1819.
  - g. All business, servicing or processing, except for off street parking or loading, shall be conducted within a completely enclosed building.
  - h. All loading and parking shall be provided off street.
  - i. Undeveloped areas shall be planted with grass, ground cover, shrubbery and/or other suitable plantings specified in Section 1816 except where specific landscape elements such as greenbelts, sidewalks, or screening walls are required.
4. Accessory buildings and uses customarily incidental to any of the above permitted uses.

**SECTION 803. REQUIRED CONDITIONS.**

- 1. No interior display shall be visible from the exterior of an office or business establishment.
- 2. The outdoor storage of goods or material shall be prohibited.
- 3. Warehouse or indoor storage of goods or material, beyond that normally incident to the above permitted uses, shall be prohibited.

**SECTION 804. AREA AND BULK REQUIREMENTS.**

See Article XVII, Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

**ARTICLE IX  
B-1, LOCAL BUSINESS DISTRICT**

**SECTION 900. INTENT.**

The B-1, Local Business District, as herein established, is designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas and to encourage the planned concentration of such activities in locations where analysis of the residential population demonstrates a need for such a facility.

**SECTION 901. PRINCIPAL USES PERMITTED.**

No building or structure, or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. All Uses Permitted as a matter of right in the OS-1 District.
2. Generally recognized retail businesses which supply commodities on the premises, such as but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
3. Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoe and etc.), tailor shops, beauty parlors or barber shops, photographic studios, and self-service laundries and dry cleaners.
4. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
5. Other uses similar to the above uses.
6. Accessory structures and uses customarily incidental to the above permitted uses.

**SECTION 902. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-City Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. All uses subject to special conditions in the OS-1 District, permitted and as regulated under Section 802.
2. Automotive service facilities providing: tire (but not recapping), battery, muffler, undercoating, auto glass, reupholstering, wheel balancing, shock absorbers, wheel alignments, and minor tune-ups only, all subject to the following conditions:
  - a. There shall be no outside display of any parts and/or products.
  - b. Any repair and/or replacement activity shall be conducted within a totally enclosed building.

- c. All new, used and/or discarded parts shall be stored within a completely enclosed building.
  - d. Any such activity shall be located not less than twenty-five (25) feet from a property line.
  - e. The parking of vehicles on site shall be limited to those which may be serviced within a twenty-four (24) hour period.
  - f. There shall be no outside parking and/or storage or any partially dismantled or inoperative vehicles.
  - g. In operations such as automobile reconditioning, but not necessarily limited to such activities, there shall be no releasing of toxic gasses, liquids or materials in any form into the atmosphere, the water or sewer systems of the City, or on, or into the earth and further, no adverse affects shall be created by any activity on adjacent property or development.
3. Vehicle Wash Establishments
- a. Minimum lot size shall be ten thousand (10,000) square feet.
  - b. All washing activities must be carried on within a building.
  - c. Vacuuming activities shall be at least fifty (50) feet distant from any adjoining residential zone.
  - d. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
  - e. Provision shall be made for the drying of the automobiles undercarriage during subfreezing weather prior to entering the public thoroughfare.
  - f. There shall be provided two (2) vehicle stacking spaces for each self-serve wash stall, not containing the vehicle wash or vacuum area.
  - g. There shall be provided fifteen (15) stacking spaces for each automatic wash lane.
  - h. All off-street parking areas and maneuvering lanes shall be drained so as to preclude drainage of water onto adjacent property and public rights-of-way.

**SECTION 903. REQUIRED CONDITIONS.**

- 1. Merchandise may be displayed or stored only within enclosed buildings. The Planning Commission, upon application of the property owner, may modify this requirement to permit, during business hours, limited displays immediately adjacent to the building, upon finding the display is customarily found in connection with the nature of the operation or use.
- 2. The outdoor storage of goods and materials shall be prohibited.
- 3. The warehousing or indoor storage of goods and materials, beyond that normally incidental to the above permitted uses, shall be prohibited.

**SECTION 904. AREA AND BULK REQUIREMENTS.**

See ARTICLE XVII, "SCHEDULE OF REGULATIONS" limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.

**ARTICLE X**  
**B-2, GENERAL BUSINESS DISTRICT**

**SECTION 1000. INTENT.**

The B-2, General Business District is designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the Central Business District and which are oriented to serving the needs of "passer-by" traffic and locations for planned shopping centers. Many of the business types permitted also generate greater volumes of traffic and activities which must be specially considered to minimize adverse effects on adjacent properties.

**SECTION 1001. PRINCIPAL USES PERMITTED.**

In a General Business District, no building or land shall be used and no building shall be erected except for one or more of the following uses unless otherwise provided in this Ordinance:

1. All uses in the B-1, Local Commercial District as permitted and regulated under Section 901.
2. Bowling alley, billiard hall, indoor archery range, indoor tennis courts, indoor skating rink, or similar forms of indoor commercial recreation when located at least one hundred (100) feet from any front, rear or side yard of any residential lot in an adjacent residential district.
3. Plant material nursery and other open air business uses.
4. Automotive service facilities providing: tire (but not recapping), battery, muffler, undercoating, auto glass, reupholstering, wheel balancing, shock absorbers, wheel alignments, and minor motor tune-ups only.
5. Veterinary hospitals and clinics having interior boarding facilities.
6. Boarding house.
7. Other uses similar to the above uses.
8. Accessory structures and uses customarily incidental to the above permitted uses.

**SECTION 1002. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Vehicle dealers with outdoor sales space and/or repair facilities for the sale of new or secondhand automobiles, house trailers, recreational vehicles, or rental trailers and/or automobiles, all subject to the following:
  - a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
  - b. Vehicular access to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets.
  - c. Any servicing of vehicles including major motor repair and refinishing shall be subject

to the following requirements:

- (1) Any such activities shall be clearly incidental to the sale of said vehicles and shall occur within a completely enclosed building.
  - (2) Partially dismantled and/or damaged vehicles shall be stored within an enclosed building.
  - (3) New, used and/or discarded parts and supplies shall be stored within a completely enclosed building.
  - (4) Any such activity shall be located not less than fifty (50) feet from any property line.
  - (5) There shall be no external evidence, beyond the building, by way of dust, odor, or noise of such activities.
- d. All exterior lighting shall be shielded from adjacent residential districts in accordance with Section 1820.
2. Business in the character of a fast food or drive-in restaurant subject to following conditions:
- a. A setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street must be maintained.
  - b. Vehicular access points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
  - c. All exterior lighting shall be shielded from adjacent residential districts in accordance with Section 1820.
  - d. A six (6) foot high completely obscuring wall shall be provided when abutting or adjacent districts are zoned for R, OS-1 or B-1 or CBD Districts. The height of the wall shall be measured from the surface of the ground. Said wall shall further meet the requirements of Article XVIII, General Provisions.
3. Gasoline service station for the sale of gasoline, oil and minor accessories only, and where no repair work is done, other than incidental service as provided for elsewhere in this Article, but not including vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, and such other activities whose external effects could adversely extend beyond the property line, subject to the following conditions:
- a. The curb cuts for access to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from adjacent residential districts. Curb cuts for access shall be limited to one (1) for each street frontage of the site.
  - b. The minimum lot area shall be fifteen thousand (15,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait. Gasoline service stations which are intended solely for the sale of gasoline, oil and minor accessories and have no facilities for repair or servicing or automobiles (including lubricating facilities) may be permitted on lots of ten thousand (10,000) square feet, subject to all other provisions herein required.
  - c. All rest rooms shall be accessible from the interior of the gasoline service station.

- d. Tow trucks (wreckers) and vehicles under repair shall not be permitted in the front yard.
  - e. The parking of vehicles on site shall be limited to those which are to be serviced within a seventy-two (72) hour period.
  - f. A fifteen (15) foot landscaped greenbelt shall be provided along all street frontages and a ten (10) foot landscaped greenbelt shall be provided along all other property lines.
4. Adult entertainment use subject to the following conditions:
- a. No adult entertainment use shall be located within one thousand (1,000) feet of any other adult entertainment use nor within six hundred (600) feet of any of the following uses:
    - (1) All Class "C" establishments licensed by the Michigan Liquor Control Commission.
    - (2) Pool or billiard halls.
    - (3) Coin or token operated amusement centers.
    - (4) Teen centers or dance halls.
    - (5) Ice or roller skating rinks.
    - (6) Pawn shops.
    - (7) Theaters.
    - (8) Any public park.
    - (9) Any church.
    - (10) Any public or private school having a curriculum including kindergarten or any one or more of the grades, one (1) through twelve (12).

Such distance shall be measured along the centerline of the street or streets or address between two fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed uses nearest to the contemplated location of the structure containing the adult entertainment use, and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.
  - b. No adult entertainment use shall be located within six hundred (600) feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.
  - c. All adult entertainment uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.

- d. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window or other opening.
5. Mini-warehouses (self-storage facilities) subject to the following conditions:
- a. The minimum size of the site devoted to such use shall not be less than one (1) acre.
  - b. Building setbacks shall be as follows: Front yard not less than twenty (20) feet; side and rear yard not less than ten (10) feet.
  - c. Building separation between self-storage buildings on the same site shall be fifteen (15) feet, as measured from side-to-side or front to rear, or equal to the building height, whichever is greater.
  - d. The total lot coverage of all structures shall be limited to fifty (50) percent of the total lot area.
  - e. Screening shall be in accordance with Section 1318 "Screenwalls".
  - f. Parking shall be provided in the ratio of one (1) space for each two thousand (2,000) square feet of gross building area. At a minimum, two (2) parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two (2) spaces for the resident manager, and one (1) additional space for each additional employee shall be provided adjacent to the rental office.
  - g. Internal driveway aisles shall be a minimum of twenty-four (24) feet in width.
  - h. All off-street parking areas and driveways shall be hard surfaced and drained in accordance with Section 1805.
  - i. Principal vehicular access to the site shall be in accordance with provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.
  - j. Building height shall not exceed fifteen (15) feet (one (1) story) except that a caretaker or resident manager's unit may be allowed with a building height of two (2) stories (twenty-five (25) feet).
  - k. No single storage building shall exceed five thousand (5,000) square feet.
  - l. All storage on the property shall be kept within an enclosed building.
6. General hospitals, with no maximum height restrictions, when the following conditions are met:
- a. All such hospitals shall be developed only on sites consisting of at least ten (10) acres in area.
  - b. Principle vehicular access to the site shall be in accordance with provisions of Section 1811, Access To A Major Thoroughfare Or Collector Street.

- c. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least one hundred (100) feet for front, rear, and side yards for all two (2) story structures. For each story above two (2), the minimum yard distance shall be increased by at least twenty (20) feet.
  - d. Ambulance and delivery areas shall be obscured from all residential, office and business districts with a six (6) foot high wall integrated with the main structure.
- 7. Plant material nursery for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies shall be subject to the following conditions:
  - a. The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
  - b. All loading and parking shall be provided off-street.
  - c. The storage of any soil, fertilizer or other loose, unpacked materials shall be contained so as to prevent any effects on adjacent uses.
- 8. Overnight lodging facility provided.
  - a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
  - b. Each unit shall contain not less than two hundred fifty (250) square feet of floor area.
  - c. No guest shall establish permanent residence at a motel for more than thirty (30) consecutive days within any calendar year.
- 9. Accessory buildings and uses customarily incidental to any of the above permitted uses.

**SECTION 1003. REQUIRED CONDITIONS**

See Section 903.

**SECTION 1004. AREA AND BULK REQUIREMENTS.**

See Article XVII, Schedule of Regulations limiting the height and bulk of buildings, the minimum size of the lot by permitted land use, and providing minimum yard setback requirements.

**ARTICLE XI**  
**B-3 PLANNED RESORT - WATERFRONT BUSINESS DISTRICTS**

**SECTION 1100. INTENT.**

The B-3 Planned Resort - Waterfront Business Districts are designed to provide a location for diversified business types having an orientation towards tourism, resort, and water related activities when in accord with the goals and objectives of the Future Land Use Plan for the City of Harbor Beach.

**SECTION 1101. PRINCIPAL USES PERMITTED.**

In a Planned Resort - Waterfront Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Restaurants, lounges, clubs, or other places serving food or beverage, except those having the character of a drive-in.
2. Motels, hotels, or resort motels or hotels, subject to the following conditions:
  - a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major or secondary thoroughfare.
  - b. Each unit shall contain not less than two hundred and fifty (250) square feet of floor area.
  - c. No guest shall establish permanent residence for more than thirty (30) consecutive days within any calendar year.
3. Private clubs, fraternal organizations, lodge halls, and convention halls.

**SECTION 1102. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Docking facilities as an accessory use to the Principal Uses Permitted above, subject to the following conditions:
  - a. Docking facilities will only provide tie-up areas for patrons of the above permitted uses.
  - b. Docking facilities shall not provide retail sales or service to any patron or customer such as but not limited to: the sale of fuels, oils, or any related recreation or boating accessories.
  - c. Docking facilities shall be subject to all city and state codes and ordinances.

**SECTION 1103. AREA AND BULK REQUIREMENTS.**

See ARTICLE XVII - SCHEDULE OF REGULATIONS limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

**ARTICLE XII  
CBD CENTRAL BUSINESS DISTRICT**

**SECTION 1200. INTENT.**

The CBD Central Business District is intended to permit those uses which provide for a variety of retail stores and related activities, and for office buildings and service establishments which occupy the prime frontages in the Central Business District; and which serve the consumer population beyond the corporate boundaries of the City. The district regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive related services and nonretail uses which tend to breakup such continuity.

**SECTION 1201. PRINCIPAL USES PERMITTED.**

In a CBD Central Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance:

1. Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, notions, or hardware.
2. Any personal service establishment which performs services on the premises within a completely enclosed building, such as but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.
3. Restaurants and taverns where the patrons are served while seated within a building occupied by such establishment, and wherein said establishment does not extend as an integral part of, or accessory thereto, any service of a drive-in or open front store.
4. Offices and office buildings of an executive, administrative, or professional nature.
5. Banks, with drive-in facilities permitted, when said drive-in facilities are incidental to the principal function.
6. Public and quasi-public buildings such as, but not restricted to:
  - a. Churches
  - b. Municipal offices
  - c. Municipal off-street parking lots
  - d. Libraries
  - e. Museums
  - f. Fraternal organizations
7. Commercial recreation facilities such as: bowling alleys, theaters, and similar uses.
8. Offices and showrooms of plumbers, electricians, decorator or similar trades, of which not more than twenty-five (25) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, furnishing, or refinishing its products or merchandise, and provided that: the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
9. Business schools or private schools operated for profit, examples of private schools

permitted herein include, but are not limited to, the following: dance schools, music and voice schools, and art studios.

10. Newspaper offices and printing plants.
11. Storage facilities when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment.
12. Hotels and motels.
13. Bus passenger stations.
14. Other uses which are similar to the above and subject to the following restrictions:
  - a. All business establishment shall be retail or service establishments dealing directly with consumers. The majority of goods produced on the premises shall be sold at retail from premises where produced.
  - b. All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings, with the exception that limited outdoor (sidewalk) displays may be permitted during normal business hours of operation subject to Planning Commission approval providing that such displays are located adjacent to the business (building) and further providing that pedestrian circulation is not impeded along the sidewalk. In no case shall such an outdoor display area occupy more than 40 percent of the sidewalk measured from the building's face to the curbline of the street.
  - c. Outdoor storage of commodities shall be expressly prohibited.
15. Accessory structures customarily incidental to the above permitted uses.

## **SECTION 1202. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. One, two, and multiple-family residential dwelling units within an existing commercial building subject to the approval of the City Council after a recommendation is received from the Planning Commission and subject to the following conditions:
  - a. It is the intent herein to provide for the conversion of the upper floors of existing commercial buildings and to extend their economic life by permitting the construction of one, two, and multiple-family residential dwellings.
  - b. Dwelling units shall not be located below the second floor.
  - c. Off-street parking shall be provided as required in Section 1804 of this Ordinance.

**SECTION 1203. AREA AND BULK REQUIREMENTS.**

See ARTICLE XVII - SCHEDULE OF REGULATIONS limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.

**ARTICLE XIII**  
**M-I, LIGHT INDUSTRIAL DISTRICT**

**SECTION 1300. INTENT.**

The M-I, Industrial District is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts.

The general goals of this use district include, among others, the following specific purposes:

1. To provide sufficient space, in appropriate locations, to meet the needs of the Municipality's expected future economy for additional manufacturing and related uses.
2. To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
3. To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
4. To protect the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the Municipality's tax revenue.

**SECTION 1301. PRINCIPAL USES PERMITTED.**

In a Light Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building.
  - a. Warehousing and wholesale establishments and trucking facilities.
  - b. The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
  - c. The manufacture, compounding, assembling or treatment of articles of merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell textiles, tobacco, wax, wire, wood, and yarns.
  - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
  - e. Manufacture of musical instruments, toys, novelties and meal or rubber stamps, or other molded rubber products.
  - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radio and phonographs.
  - g. Laboratories - experimental, film, or testing.

- h. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
  - i. Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumer at retail.
  - j. All public utilities, including buildings, necessary structures, storage yards, and other related uses.
2. Warehouse, storage, and transfer and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations.
  3. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies.
  4. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings and uses, including outdoor storage.
  5. Kennels.
  6. Greenhouses.
  7. Trade or industrial schools.
  8. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, lumber yard, building materials outlet, upholsterer, cabinet maker).
  9. Recycling centers.
  10. Auto engine and body repair, and undercoating shops when located in a completely enclosed building.
  11. Other uses similar to the above uses.
  12. Accessory buildings and uses customarily incidental to any of the above permitted uses.

**SECTION 1302. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-City Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the District.
2. Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
3. Mini-warehouses (self-storage facilities) subject to the following conditions:

- a. The minimum size of the site devoted to such use shall not be less than one (1) acre.
  - b. Building setbacks shall be as follows: Front yard not less than twenty (20) feet; side and rear yard not less than ten (10) feet.
  - c. Building separation between self-storage buildings on the same site shall be fifteen (15) feet, as measured from side-to-side or front to rear, or equal to the building height, whichever is greater.
  - d. The total lot coverage of all structures shall be limited to fifty (50) percent of the total lot area.
  - e. Screening in accordance with Section 1817 "Screenwalls".
  - f. Parking shall be provided in the ratio of one (1) space for each two thousand (2,000) square feet of gross building area. At a minimum, two (2) parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two (2) spaces for the resident manager, and one (1) additional space for each additional employee shall be provided adjacent to the rental office.
  - g. Internal driveway aisles shall be a minimum of twenty-four (24) feet in width.
  - h. All off-street parking areas and driveways shall be hard surfaced and drained in accordance with Section 1804.
  - i. Vehicular access from this site shall be directly onto a collector or major thoroughfare in accordance with the provisions of Section 1811, Principle Vehicular Access To A Major Thoroughfare Or Collector Street.
4. Adult entertainment use subject to the following conditions:
- a. No adult entertainment use shall be located within one thousand (1,000) feet of any other adult entertainment use nor within six hundred (600) feet of any of the following uses:
    - (1) All Class "C" establishments licensed by the Michigan Liquor Control Commission.
    - (2) Pool or billiard halls.
    - (3) Coin-operated amusement centers.
    - (4) Teen centers or dance halls.
    - (5) Ice or roller skating rinks.
    - (6) Pawn shops.
    - (7) Theaters.
    - (8) Any public park.
    - (9) Any church.

- (10) Any public or private school having a curriculum including kindergarten or any one or more of the grades, one (1) through twelve (12).

Such distance shall be measured along the centerline of the street or streets or address between two fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed uses nearest to the contemplated location of the structure containing the adult entertainment use, and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.

- b. No adult entertainment use shall be located within six hundred (600) feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.
  - c. All adult entertainment uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
  - d. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window or other opening.
5. Junk yards provided that such junk yard is entirely enclosed within a building or within an eight (8) foot obscuring wall and provided further that one (1) property line abuts a railroad right-of-way. Junk yards located within one thousand (1,000) feet of the nearest edge of the right-of-way of any interstate or state primary or secondary highway, shall further be subject to any and all provisions of Act 219 of 1966, as amended, Control of Junk Yards Adjacent to Highways. There shall be no burning on the site and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
  6. Accessory buildings and uses customarily incidental to any of the above permitted uses.

### **SECTION 1303. REQUIRED CONDITIONS.**

1. Facilities for open storage of materials or equipment shall be totally obscured by a wall on those sides abutting R-1 through R-2, RT, RM-1, OS-1, B-1, B-2, and B-3 and CBD Districts, and on any front yard abutting a public thoroughfare except as otherwise provided in Section 1817. In the M Districts, the extent of such a wall may be determined by the Planning Commission on the basis of usage. Such a wall shall not be less than four feet six inches (4'-6") in height and may, depending upon land usage, be required to be eight (8) feet in height, and shall be subject further to the requirements of Article XVIII, General Provisions. The height shall be determined in the same manner as the wall height is above set forth.
2. All activities and uses within the District shall conform to the following performance standards.
  - a. Smoke

A person or industry shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour which is of such density as to obscure an observer's view to a degree equal to or greater than the level of smoke previously described.

b. Open Fires

A person or industry shall not burn any combustible refuse in any open outdoor fire within the District.

c. Noxious Gases

Noxious or malodorous gases shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produces a public nuisance or hazard on any adjoining lot or property, or which could be detrimental to human, plant, or animal life.

d. Air Contaminants

A person or industry shall not discharge from any source whatsoever such quantities of air contaminants or other material, including fly-ash, dust, vapor, or other air pollutants, which could cause injury or harm to health, animals, vegetation, or other property, or which can cause excessive soiling. Dust, dirt, smoke, or fly-ash shall not be in excess of 0.3 grams per cubic foot of flue gas at stack temperature of five hundred (500) degrees Fahrenheit and not to exceed fifty (50) percent excess air.

e. Glare and Heat

Any operation or activity producing glare shall be so conducted that direct and indirect illumination from the source of light shall not cause illumination in excess of one-half (0.5) of one (1) foot candle when measured at any adjoining residence or business district boundary line. Flickering or intense source of light shall be so controlled as not to cause a nuisance across any lot lines.

If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.

f. Noise

The measurable noise emanating from the premises and as measured at the street or property line, may not exceed sixty five (65) decibels as measured on the "C" scale of a sound level meter constructed and calibrated in conformance to the requirements of the American Standards Association. Objectionable noise, due to intermittence, beat frequency or shrillness, shall be muffled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for safety and other public purposes are exempt from this standard.

g. Vibration

Vibrations from industrial operations and vehicular traffic in this district must be controlled to the extent that they cannot be felt past any property line.

h. Radio Transmission

For electronic equipment required in an industrial operation, the equipment shall be so shielded that its operation will not interfere with radio, television, or other electronic equipment.

i. Storage of Flammable Materials

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

j. Radioactive Materials

No activity shall emit dangerous radioactivity at any point, or unreasonable electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

k. Water Pollution

Pollution of water shall be subject to such requirements and regulations as are established by the Michigan State Department of Health, the Michigan Water Resources Commission, the Huron County Health Department, and the U.S. Environmental Protection Agency. Such requirements and regulations shall apply in all cases except when they are less stringent than the following standards in which case the following standards shall apply:

- (1) No wastes shall be discharged in the public sewer system which is dangerous to the public health and safety.
- (2) Acidity or alkalinity shall be neutralized to a pH of 7.0 as a daily average on a volumetric basis, with a maximum temporary variation of pH 5.0 to 10.0.
- (3) Wastes shall contain no cyanides and no halogens and shall contain not more than 10 ppm of the following gases: hydrogen sulfite, sulfur dioxide, and nitrous oxide.
- (4) Wastes shall not contain any insoluble substance in excess of 10,000 ppm or exceeding a daily average of 500 ppm or fail to pass a No. 8 Standard Sieve, or have a dimension greater than one-half ( $\frac{1}{2}$ ) inch.
- (5) Wastes shall not have chlorine demand greater than 15 ppm.
- (6) Wastes shall not contain phenols in excess of .005 ppm.
- (7) Wastes shall not contain any grease or oil or any oil substance in excess of 100 ppm or exceed a daily average of 25 ppm.

**SECTION 1304. AREA AND BULK REQUIREMENTS.**

See Article XVII, Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

**ARTICLE XIV**  
**M-2, GENERAL INDUSTRIAL DISTRICT**

**SECTION 1400. INTENT.**

The M-2, General Industrial District is designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The M-2 District is so structured as to permit the manufacturing, processing, and compounding of semi-finished or finished products from raw materials as well as from previously prepared material.

**SECTION 1401. PRINCIPAL USES PERMITTED.**

No building or structure, or park thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

1. Heating and electrical power generating plants.
2. Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.
3. Blast furnace, steel furnace, or rolling mill.
4. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of paris.
5. Petroleum or other inflammable liquids, production, refining, or storage.
6. Smelting of copper, iron, or zinc ore.
7. Establishments containing punch presses over twenty (20) ton rated capacity, drop hammers, and automatic screw machines.
8. Other uses similar to the above uses.
9. Accessory buildings and uses customarily incidental to the above permitted uses.

**SECTION 1402. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Junk Yards
  - a. Minimum lot size shall be ten (10) acres.
  - b. The setback from the front property line to the area upon which junk materials are stored shall be not less than one hundred (100) feet and shall be provided with a minimum twenty (20) foot wide greenbelt buffer.

- c. Junk yards shall be screened from the roadway and from any adjoining property by an obscuring fence eight (8) feet in height. No storage shall be permitted above this height. Said fence shall be kept uniformly painted, neat in appearance, and shall not have any signs or symbols painted on it. A solid masonry wall at least eight (8) feet in height, shall be required when adjacent to a street or highway.
- d. All activities and materials shall be kept within the enclosed area formed by the obscuring fence. Material shall not be stacked or piled above the plane established by the top of the obscuring fence.
- e. All structures, off street parking and fencing and used material storage yards shall be set back not less than one hundred (100) feet from any street or highway right-of-way.
- f. All roads, driveways, and parking lots used by the general public shall be paved. All active areas of operation within the junk yard shall be constructed and maintained in such a manner so as to limit for adjoining lots, parcels, and public roads, the nuisance caused by wind-borne dust and to insure permanent access by emergency vehicles.
- g. The site shall be drained in such a way so as to prohibit the off-site collection of surface fluids (i.e., used oil, etc.) associated with junk yard operations. Such surface drainage shall also be subject to such requirements and regulations as are established by the Michigan Department of Health, the Michigan Water Resources Commission, the Huron County Health Department, the Huron County Drain Commissioner, and the U.S. Environmental Protection Agency.
- h. All fluids contained in junk vehicles and equipment shall be drained prior to their storage on site. All fluids shall be drained and disposed of in accordance with such requirements and regulations as are established by the Michigan Department of Health, the Michigan Water Resources Commission, the Huron County Health Department, the Huron County Drain Commissioner, and the U.S. Environmental Protection Agency.

**Section 1403. Required Conditions.**

- 1. All activities and uses within the District shall conform to, and demonstrate compliance with at the time of site plan review, subject to the performance standards as described in Section 1303; however, whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

- 2. **Outdoor Storage**

All outdoor storage of building, contracting, or plumbing materials, sand, gravel, stone, lumber, equipment, and other supplies, shall be located within an area not closer than one hundred fifty (150) feet from any street right-of-way line. The storage of lumber, coal, or other combustible material shall not be less than twenty (20) feet from any interior lot line, and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets, and on all sides which abut any residential or commercial district, by a wall or fence with a minimum height of six (6) feet, and all stored materials shall not be piled to a height extending beyond the height of the wall.

3. Industrial parks shall be subject to the following conditions:
- a. Permitted uses shall include all uses permitted by right within this district.
  - b. The minimum required land area for an industrial park shall be ten (10) contiguous acres.
  - c. The development of an industrial park shall be in accordance to an overall plan for development of the park, which plan shall be approved by the City Planning Commission.
  - d. The developer shall provide within the industrial park, a sanitary sewage system which shall be of sufficient size and design to collect all sewage from structures within the industrial park, which system shall connect with City system and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the state of Michigan, the Huron County Health Department, the Huron County Drain Commissioner, and the City of Harbor Beach.
  - e. The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will in the opinion of the City collect, carry off, and dispose of surface water runoff within and draining into the industrial park, and any adjoining contributory and shall be so constructed as to conform with the statutes, ordinances, and regulations of the state of Michigan, the Huron County Health Department, the Huron County Drain Commissioner, and the City of Harbor Beach.
  - f. Connection to a public water supply system shall be required.
    - i) The developer shall provide a usable fire hydrant within five hundred (500) feet of each structure.
    - ii) Water systems shall conform to the statutes, ordinances, and regulations of the state of Michigan, the Huron County Health Department, the Huron County Drain Commissioner, and the City of Harbor Beach.
  - g. All industrial parks shall have direct access to a paved state or county primary street.
  - h. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.

All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
  - i. No part of any parking access road and/or service area may be located closer than twenty-five (25) feet of any property line.
  - j. Any industrial park adjoining any residential development or zoned residential property shall be provided with a buffer of at least twenty (20) feet which buffer shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes. A landscaped planting area shall also be provided along all street frontage which shall not be less than ten (10) feet in width.

**SECTION 1404. AREA AND BULK REQUIREMENTS.**

See Article XVII, "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

**ARTICLE XV  
WM WATERFRONT MARINA DISTRICT**

**SECTION 1500. INTENT.**

The WM Waterfront Marina District is designed to accommodate recreational and commercial boating along with those activities and services related to harbor and waterway improvements, thereby facilitating navigation and providing safe and economical waterfront recreational development.

**SECTION 1501. PRINCIPAL USES PERMITTED.**

In a WM Waterfront Marina District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Municipal or private development of either the berthing, protection, or servicing and storage of recreational and commercial boats, yachts, cruisers, inboards, outboards, and sailboats.
2. Municipal or private beaches and recreational areas.
3. Other uses similar to the above uses.
4. Accessory structures and uses including private launching ramps customarily incidental to the above permitted uses.

**SECTION 1502. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c. (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the Planning Commission and City Council as specified in Section 1902, "Review and Approval of Conditional Uses," and Section 1900, "Site Plan Review," of this Zoning Ordinance.

1. Engine and hull repair shops.
  - a. Repairs shall be conducted within completely enclosed buildings.
  - b. Any outdoor storage area shall be enclosed with a continuous wall or fence, six (6) feet in height in order to completely obscure such areas from view from beyond the property boundaries.
2. Boat fuel stations.
  - a. Such facilities shall be located two hundred (200) feet distant from any abutting residential property.
  - b. Fuel stations shall be completely accessible by land based fire fighting equipment.
3. Commissary facilities for the provision of food, beverages, and the like to be stored aboard boats.
  - a. Such facilities shall be designed to only service users of marina facilities.
4. Retail businesses which supply commodities for persons using the facilities of the district such as: sale of boats, engines and accessories, fishing equipment, and other similar items.

5. Restaurant, lounge, or clubs subject to the conditions for such facilities as permitted in this Ordinance.
6. Hotels or other such facilities to provide temporary homeport accommodations subject to the conditions for such facilities permitted in this Ordinance.
7. Winter storage.
  - a. Outdoor storage areas shall be fully enclosed by a six (6) foot high wall or fence.
8. Public launching ramps.
9. Dredging and sheet pile equipment when used solely by a marina in its normal marina activities, such equipment, when not actively used, shall be concealed from adjacent districts.

**SECTION 1503. REQUIRED CONDITIONS.**

1. All dredging, construction, and/or development shall be subject to the requirements of all subject codes and ordinances of the City of Harbor Beach and the state of Michigan.
2. The flushing or discharge of boat toilets, discarding of waste or refuse from boats in marinas is prohibited. Facilities shall be provided at the marina for disposal of refuse from boat holding tanks in a sanitary manner. Each marina shall provide suitable, safe, and sanitary toilet and refuse facilities within buildings designed for this purpose. No less than one (1) toilet shall be provided for each fifty (50) boat spaces or less within not more than one thousand (1,000) feet of walking distance of each boat space. Refuse and garbage containers shall be provided and kept in clean and sanitary condition for the use of boat owners within not more than one hundred and fifty (150) feet of walking distance of each boat space. All such facilities shall be subject to the approval of the Huron County Health Department.
3. Public launchings permitted in any marina having a public launching ramp, shall be limited as follows: The number of public launchings permitted shall be limited to the number of parking spaces available to the general public for the parking of vehicles and boat carriers in any such marina, and likewise the number of public launchings shall be limited in direct proportion to the available harbor spaces in any such marina as hereinafter required, whichever number of parking spaces or harbor spaces is the smaller.  
  
 Harbor Accommodations: Any marina having a public launching ramp shall provide harbor space or spaces directly connected with such marina, capable of accommodating as many boats as there are parking spaces for vehicles and boat carriers on the lands of such marina. The foregoing requirements as to harbor space is to assure protection to boats launched at such public ramp from the turbulent waters caused by storms or high winds. Before any use shall be made of the public launching ramp, a site plan for such ramp and attendant facilities shall be submitted to the Planning Commission to determine if all provisions of this section have been complied with.
4. All lighting for external illumination of the parking area, buildings, grounds, or waters, shall be directed away from and shall be shielded from adjacent residential districts.

**SECTION 1504. AREA AND BULK REQUIREMENTS.**

See ARTICLE XVII - SCHEDULE OF REGULATIONS limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

**ARTICLE XVI**  
**P-1 VEHICULAR PARKING DISTRICTS**

**SECTION 1600. INTENT.**

The P-1 Vehicular Parking Districts are intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities and can serve as a transitional use between residential and non-residential uses.

**SECTION 1601. PRINCIPAL USES PERMITTED.**

Premises in such districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are hereinafter provided.

**SECTION 1602. REQUIRED CONDITIONS.**

1. The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions.
2. Such parking lots shall be contiguous to an RM-1, or nonresidential district. Parking areas may be approved when adjacent to said districts, or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 District and above listed districts.
3. Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one (1) day and shall not be used as an off-street loading area.
4. No commercial repair work or service of any kind, or sale of display thereof, shall be conducted in such parking area.
5. No signs of any kind, other than signs designating entrances, exits, and conditions of use, shall be maintained on such parking area.
6. No building other than those for shelter or attendants shall be erected upon the premises and they shall not exceed fifteen (15) feet in height.
7. Applications for P-1 District rezoning shall be made by submitting a dimensional layout of the area requested showing the intended parking plans in accordance with Sections 1804 and 1805.

**SECTION 1603. MINIMUM DISTANCES AND SETBACKS.**

1. Side and Rear Yards - Where the P-1 District is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, the required wall shall be located along said lot line.
2. Front Yards - Where the P-1 District is contiguous to a residentially zoned district which has a common frontage in the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential

setback for said residential district, or a minimum of twenty-five (25) feet, or whichever is the greater. The required wall shall be located on this minimum setback line unless, under unusual circumstances, the Planning Commission finds that no good purpose would be served. The land between said setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees, or lawn and shall be maintained in a healthy, growing condition, neat and orderly in appearance.

**SECTION 1604.        PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE.**

P-1 Vehicular Parking Districts shall be developed and maintained in accordance with the requirements of Article XVIII - General Provisions.

**ARTICLE XVII  
SCHEDULE OF REGULATIONS**

**SECTION 1700. SCHEDULE LIMITING HEIGHT, BULK, DENSITY, AND AREA BY ZONING DISTRICT.**

Zoning District		Minimum Zoning Lot Size Per Unit		Maximum Height of Structures		Minimum Yard Setback (Per Lot in Feet)			Maximum % of Lot Area Covered (By All Buildings)	Minimum Floor Area Per Unit (Sq. Ft.)
		Area in Square Feet	Width in Feet	In Stories	In Feet	Front	Each Side	Rear		
R-1	One-Family Residential	10,000(a)	80(a)	2	25	30(b)	8 & 12 (b,c)	35(b)	30%	960
R-2	One-Family Residential	7,200(a)	60(a)	2	25	25(b)	6 & 10 (b,c)	35(b)	30%	800
RT	Two-Family Residential	8,000	40	2	25	25(b)	6 & 10 (b,c)	35(b)	30%	750
RM-1	Multiple-Family Residential	(d)	(d)	2.5	30	50 (e,f,h)	30 (e,f,i)	30 (e,f,i)	30%	1 BR - 550 2 BR - 750 3 BR - 950 4 BR - 1,150
OS-1	Office Service				30	25(j)	15(n)	20(l)		
B-1	Local Business				30	25(j)	(k,n)	20(l)		
B-2	General Business				30	30 (j,m)	(k,n)	20(l)		
B-3	Planned Resort - Waterfront Business				30	25(j)	(k,n)	20(l)		
CBD	Central Business District			no maximum		None	(k)	(l)		
M-1	Light Industrial				40	40(o)	20 (m,n)	(p,q)		
M-2	General Industrial				60	60(o)	30 (m,n)	(p,q)		
WM	Waterfront Marina			2	30	(j,p)	(j,p)	(j,p)		
MHP	Mobile Home Park	10 acres	300	2	25	(r)	(r)	(r)	(r)	(r)

See NOTES on following pages.

**SECTION 1701. NOTES TO SCHEDULE OF REGULATIONS.**

- (a) Section 1702 Lot Size Averaging  
 Section 1703 Cross-District Averaging  
 Section 1704 Single-family Cluster Housing Option  
 Section 1705 Residential Open Space Plan  
 Section 1706 Zero Lot Line Developments  
 Section 1707 Planned Unit Developments  
 Section 1708 Hazardous Materials Overlay Zone

- (b) For all uses permitted other than single-family residential, the setback shall equal the height of the main building or the setback required in Section 402.

For all lots of record having less than sixty (60) feet of lot width, the minimum required side yards shall be five (5) feet and eight (8) feet.

- (c) In the case of a rear yard abutting a side yard, the side yard setback abutting a street shall not be less than the minimum front yard setback of the district in which located and all regulations applicable to a front yard shall apply.
- (d) In an RM-1 Multiple-Family District, the total number of rooms (not including kitchen, dining, and sanitary facilities) shall not be more than the area of the parcel, in square feet, divided by eighteen hundred (1,800). All units shall have at least one (1) living room and one (1) bedroom, except that not more than ten (10) percent of the units may be of an efficiency apartment type. For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

Efficiency	=	1 room	Plans presented showing 1, 2, or 3
One Bedroom	=	2 rooms	bedroom units and including a "den,"
Two Bedroom	=	3 rooms	"library," or other extra room shall count
Three Bedroom	=	4 rooms	such extra room as a bedroom for the
Four Bedroom	=	5 rooms	purpose of computing density.

The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.

- (e) In all RM-1 Multiple Family Residential Districts, the minimum distance between any two (2) buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than thirty (30) feet. Parking may be permitted within a required side or rear yard but shall not cover more than thirty (30) percent of the area of any required yard, or any minimum distance between buildings. The formula regulating the required minimum distance between two buildings in all RM Districts is as follows:

$$S = \frac{L_A + L_B + 2\left(\frac{H_A + H_B}{6}\right)}{6} \quad \text{where}$$

S = Required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.

LA = Total length of building A.

The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.

LB = Total length of building B.

The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, the lines drawn perpendicular to building B will intersect any wall of building A.

H<sup>A</sup> = Height of building A.

The height of building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

$H_B$  = Height of building B.

The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

- (f) Along those property lines which abut a single residential district, the minimum required yard shall be determined by the following formula:

$$Y = \frac{L + 2H}{3}$$

Along those property lines which abut a district zoned for other than single-family residential, the minimum required yard shall be determined by the following formula:

$$Y = \frac{L + 2H}{6}$$

Y = required yard.

L = the total length of a line which, when viewed directly from above, is parallel to the lot line and intersects any part of the building.

H = height of the building.

Where a lot line abuts a street, one-half (1/2) the width of the right-of-way of said street may be considered as a yard setback; but in no instance, including the above, shall any yard from building line to property line be less than forty (40) feet.

- (g) Parking may be provided in the front yard provided that for each parking space located within the entire front yard, one hundred (100) square feet of grassed or naturally landscaped area shall be provided. The purpose of the requirement is to aid in environmental balance by providing a natural area for vegetation and water absorption. A minimum setback of twenty-five (25) feet shall be provided and measured from the existing street right-of-way lines.
- (h) The distance from the front lot line to the nearest point of a principal building shall not be less than fifty (50) feet except that where an entire block frontage is developed at one time, under single ownership or control, then the minimum setback may be reduced to forty (40) feet provided that the average setback for all structures shall not be less than forty-five (45) feet.
- (i) Interior courts shall contain a minimum of five hundred (500) square feet with a minimum horizontal dimension of twenty (20) feet.
- (j) Off-street parking shall be permitted to occupy a portion of the required front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of ten (10) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line as indicated on the Major Thoroughfare Plan.
- (k) No side yards are required along the interior side lot lines of the District, except as otherwise specified in the Building Code, provided that if walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than ten (10) feet shall be provided.
- On a corner lot which has a common rear lot line within a residential district, there shall be provided a setback of twenty (20) feet on the side or residential street. Where a lot borders

on a residential district or a street, there shall be provided a setback of not less than ten (10) feet on the side bordering the residential district or street.

- (l) Loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from the off-street parking requirements; except in the instance of "O-1" Districts loading space shall be provided in the ratio of five (5) square feet per front foot of building. Where an alley exists or is provided at the rear of buildings the rear building setback and loading requirements may be computed from the center of said alley.
- (m) No building shall be closer than thirty (30) feet to any adjacent residential district or to any major thoroughfare.
- (n) Off-street parking shall be permitted in a required side yard setback.
- (o) Off-street parking for visitors, over and above the number of spaces required under Section 1804 may be permitted within the required front yard provided that such off-street parking is not located within twenty (20) feet of the front lot line.
- (p) No building shall be located closer than fifty (50) feet or the height of the building, whichever is the greater to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (q) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six (6) feet high, or with a chain link type fence and a greenbelt planting so as to obscure all view from any adjacent residential, office, or business district or from a public street.
- (r) See Article VII, Mobile Home Park District.

## **SECTION 1702. LOT SIZE AVERAGING.**

Lot size averaging may be permitted by the Planning Commission, upon application from the Proprietor, if it determines that it will provide a better relationship of lots to the topography, vegetation or other natural or man-made features. Lot size averaging is the allowance for variation in lot area and width in a development, but with the average lot area meeting the minimum area as required in Article XVII for that particular One-Family Residential District.

The Planning Commission must convene a public hearing held in accordance with Section 4a of Public Act 207 of 1921, as amended, as part of its review, study, and approval of an area for lot size averaging.

In the case where lot size averaging is permitted:

1. The number of lots shall not exceed the number allowed for the zoning district in which the development is located.
2. Reduction of lot area or width below the minimum required for the zoning district may be permitted for not more than one-third (1/3) of the total number of lots in the development.
3. No lot shall have an area or width greater than ten (10) percent below that area or width required in Section 1700.
4. All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

### **SECTION 1703. CROSS-DISTRICT AVERAGING.**

When two or more zoning districts are involved within the boundaries of one parcel of land which is under consideration for development of one-family residential use pursuant to Act 288 of 1967, as amended, known as Subdivision Control Act of 1967, the Planning Commission, upon application from the proprietor, may grant a variation from the minimum requirements of the several zoning districts so involved, so as to provide cross-district lot size and density averaging within the boundaries for such parcel of land.

The Planning Commission must convene a public hearing held in accordance with Section 4a of Public Act 207 of 1921, as amended, as part of its review, study, and approval of an area for cross-district averaging.

If this variation in development is approved, the following conditions shall be met:

1. The relocation of lot lines shall generally conform with the existing topography, vegetation, and other natural or man-made features.
2. The total number of lots in any such development shall not exceed the sum of the total number of such lots in each separate zoning district which comprise the whole of the parcel of land involved.
3. That no individual lot in any such zoning district comprising the whole of such parcel, shall have an area or width which shall be less than the minimum required for the higher density zoning district.
4. All computations showing the total number of lots permitted and average lot size allowed resulting from this technique shall be indicated on the print of the preliminary plat.

### **SECTION 1704. SINGLE-FAMILY CLUSTER HOUSING OPTION.**

1. The intent of this Section is to permit the development of single-family residential patterns which, through design innovation, will introduce flexibility so as to provide for a more appropriate development in situations where the normal subdivision approach would otherwise be restrictive owing to the presence of environmentally sensitive lands on the site, or the configuration of the site.
2. The Planning Commission may approve the clustering and/or attaching of single-family dwelling units on parcels of land two (2) acres or more in size, under single ownership and control. In approving an area for the cluster housing option, the Planning Commission shall find at least one of the following to exist:
  - a. The parcel to be developed has frontage on a major or secondary thoroughfare and is generally parallel to said thoroughfare and is of shallow depth as measured from the thoroughfare.
  - b. The parcel has frontage on a major or secondary thoroughfare and is of a narrow width as measured along the thoroughfare which makes platting difficult.
  - c. The parcel is shaped in such a way that it contains angles which would make a normal subdivision difficult to achieve and has frontage on a major or secondary thoroughfare.

- d. A substantial part of the parcel's perimeter is bordered by a major thoroughfare which would result in a substantial proportion of the lots of the development abutting the major thoroughfare.
- e. The parcel contains a floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable. Soil test borings, floodplain maps or other documented evidence must be submitted to the Planning Commission in order to substantiate the parcel's qualification for cluster development under this subsection.
- f. The parcel contains natural assets which could be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, unusual topographic features, or other natural assets which, in the opinion of the Planning Commission, should be preserved. Requests for qualification under these conditions must be supported by documented evidence which indicates that the natural assets would qualify the parcel under this option.
- g. The parcel contains natural land forms which are so arranged that the change of elevation within the site includes slopes in excess of ten (10) percent between these elevations. These elevation changes and slopes shall appear as the typical features of the site rather than the exceptional or infrequent features of the site.
- h. The topography is such that achieving road grades of less than five (5) percent would be impossible unless the site were mass graded. The providing of single-family clusters will, in the opinion of the Planning Commission, allow a greater preservation of the natural setting.

The Planning Commission must convene a public hearing held in accordance with Section 4a of Public Act 207 of 1921, as amended, as part of its review, study, and approval of an area for the cluster housing option.

- 3. In areas meeting the above criteria, the minimum yard setbacks, heights, and minimum lot sizes per unit as required by the Section 1700, may be waived and the attaching of dwelling units may be accomplished subject to the following:
  - a. The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the single-family residential district in which the cluster is to be constructed.
  - b. The attaching of single-family dwelling units, one to another, when said homes are attached by means of one or more of the following:
    - (1) Through a common party wall which does not have over fifty (50) percent of its area in common with an abutting dwelling wall.
    - (2) By means of an architectural wall detail which does not form interior room space.
    - (3) Through a common party wall in only the garage portion of an abutting structure.
  - c. The maximum number of units attached in the above described manner shall not exceed four (4).
  - d. In a single-family cluster housing development, the dwelling unit density shall be no greater than if the total land area (inclusive of buildable and unbuildable areas) were

to be developed in the minimum square foot lot areas as required for each single-family district under the Section 1700.

R-1 Residential District 3.5 d.u./acre

R-2 Residential District 4.8 d.u./acre

4. Yard requirements shall be provided as follows:
  - a. Spacing between any grouping of four (4) or less one-family units and another grouping of such structures shall be equal to at least ten (10) feet, measured between the nearest point of the two groupings. A grouping may include a single, freestanding unit.
  - b. All such groupings shall be so situated as to have one side of the building abutting onto a common open space.
  - c. Any side of a building adjacent to a private service drive or private lane shall not be nearer to said drive or lane than twenty (20) feet.
  - d. Any side of a building adjacent to a public right-of-way shall not be nearer to said public right-of-way than thirty (30) feet.
  - e. This nature of development, when abutting a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this Section, shall cause all dwelling units facing such subdivision to relate through its front or entrance facade and shall treat said side of the grouping as a front yard.
  - f. No building shall be located closer than thirty (30) feet to the outer perimeter (property line) of the site.
5. The maximum height of buildings shall be thirty-five (35) feet. In computing the height of an individual unit in a cluster on a slope in excess of ten (10) percent and when the unit is constructed on posts, the first ten (10) feet of the height of the posts shall not be computed. Application of the definition of "Building Height" shall apply over and above this ten (10) feet of post height.
6. In reviewing the plans and approving the application of this Section to a particular site, the Planning Commission shall require the following:
  - a. A landscaped berm, at least three (3) feet high, shall be provided along the entire property line abutting the major thoroughfare. This berm may be included within a required side or rear yard. The Planning Commission shall find that the slopes on said berms are gentle enough so as not to erode when planted in grass; and they shall review the design of the berm as it relates to street intersections, finding that the horizontal view of oncoming traffic is not obscured.
7. In submitting a proposed layout under this Section, the sponsor of the development shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two (2) foot contour intervals, main floor grade elevations relative to the existing topography, all computation relative to acreage and density, details relative to the proposed berm, and any other details which will assist in reviewing the proposed plan.
8. Site plans submitted under this option shall be accompanied by information regarding the following:

- a. The proposed manner of holding title to open land.
  - b. The proposed method of regulating the use of open land.
  - c. The proposed method of maintenance of property and financing thereof.
  - d. Preservation of the natural features under which the proposal qualified.
9. All land not intended to be conveyed to individual dwelling unit owners shall be set aside for the use of all occupants of the development. All such lands shall be protected by restrictions or covenants running with the land and must be approved by the City Attorney to assure the following:
- a. That title to the open space is held in common by the owners of all dwelling units in the detached single family cluster development.
  - b. A permanent organization for maintenance and management of all such areas shall be assured by legal documents prior to the issuance of the building permit.

**SECTION 1705. RESIDENTIAL OPEN SPACE PLAN.**

1. The intent of the Residential Open Space Plan is to promote the following objectives:
- a. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills, and similar natural assets.
  - b. Encourage developers to use a more creative approach in the development of residential areas.
  - c. Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.
  - d. Encourage the provision of open space within reasonable distance to all building sites, lot development and to further encourage the development of recreational facilities.
2. Modifications to the standards as outlined in Section 1700, may be made in the R-1 through R-2 One-Family Residential Districts when the following conditions are met:
- a. The building site area in all One-Family Residential Districts, which are served by a public sanitary sewer system, may be reduced up to ten (10) percent. In the R-1 District, this reduction may be accomplished in part by reducing widths up to eight (8) feet. In the R-2, this reduction may be accomplished in part by reducing widths up to six (6) feet. These area reductions shall be permitted, provided that the dwelling unit density shall be no greater than if the land area to be built upon were developed in the minimum square foot lot areas as required for each One-Family District under Section 1700, Schedule of Regulations. All calculations shall be predicated upon the One-Family Districts having the following net densities:  
R-1 equals 3.5 dwelling units per acre R-2 equals 4.8 dwelling units per acre.
  - b. Rear yards may be reduced to thirty (30) feet when such building sites border on land dedicated for park, recreation, and/or open space purposes, provided that the width of said dedicated land shall not be less than one hundred (100) feet measured at the point at which it abuts the rear yard of the adjacent residential dwelling building site.
  - c. Under the provisions of item (2a) above of this Section, for each square foot of land

gained within a residential development through the reduction of size below the minimum requirements as outlined in Section 1700, at least equal amounts of land shall be dedicated to the common use of the owners of the residential development in a manner approved by the City Planning Commission, in the case where land shall be dedicated to the public, in a manner approved by City Council.

- d. The area to be dedicated for residential open space purposes shall in no instance be less than one (1) acre and shall be provided and distributed in a location and shape approved by the Planning Commission.
  - e. The land area necessary to meet the minimum open space requirements of this Section shall not include bodies of water, swamps or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a floodplain.
  - f. This plan, for reduced building site sizes, shall be permitted only if it is mutually agreeable to the City Council and the subdivider or developer where land shall be dedicated to the common use of the lot owners. The plan for reduced sizes shall be subject to the approval of the City Council in instances where land is proposed to be dedicated to the public.
  - g. This plan, for reduced building site sizes, shall be started within one (1) year after having received final approval and must be completed within three (3) years. Failure to start within this period shall void all previous approval.
  - h. Under this planned unit approach, the developer or subdivider shall dedicate the total park area (see item (2a) above) at the time of filing of the final plat on all or any portion of the plat, or in the case of single-family detached developments, at the time of final site plan approval.
3. The Planning Commission must convene a public hearing held in accordance with Section 4a of Public Act 207 of 1921, as amended, as part of its review, study, and approval of an area proposed for the residential open space plan. Said notice of the public hearing shall:
- a. Describe the nature of the residential open space request.
  - b. Indicate the property which is the subject of the residential open space request.
  - c. State when and where the request will be considered by the Planning Commission.
  - d. Indicate when and where written comments will be received concerning the request.

## **SECTION 1706. ZERO LOT LINE DEVELOPMENTS.**

- 1. The intent of the zero lot line concept is to:
  - a. Promote the more efficient use of land, as compared to traditional single-family development, thereby making housing more affordable to a segment of the community.
  - b. Design dwellings that integrate and relate internal and external living areas resulting

in more pleasant and enjoyable living facilities.

- c. Permitting the outdoor space to be grouped and utilized to its maximum benefit by placing the dwelling unit against one of the property lines.
2. The Planning Commission must convene a public hearing held in accordance with Section 4a of Public Act 207 of 1921, as amended, as part of its review, study, and approval of an area proposed for zero lot line development.
  3. A zero lot line is restricted for one-family developments only in the R-2 District.
  4. The Planning Commission may approve an application for a zero lot line development which complies with the following development parameters:
    - a. Uses permitted are restricted to detached one-family dwellings on individually platted lots, including every accessory use customarily incidental therewith.
    - b. The minimum lot area shall be five thousand (5,000) square feet. The minimum lot width required shall be sixty (60) feet.
    - c. Each dwelling unit shall only be placed on one interior side property line with a zero (0) setback as to abut the adjoining unit, and the dwelling unit setback on the other interior side property line shall be a minimum of sixteen (16) feet. Patios, fences, walks, trellis, garden features, and similar elements shall be permitted within the setback area provided, however, no structure, with the exception of fences and walks, shall be placed within required easements.

A minimum twenty-five (25) foot front yard and twenty-five (25) foot rear yard setback shall be provided. The minimum side yard setback on the street side of a corner lot, or adjacent to any nonresidential district, shall be twenty (20) feet.
    - d. The total lot coverage permitted for all buildings on the site shall not exceed thirty (30) percent of the lot area.
    - e. Every part of a required setback shall be maintained as an open space, with no principal or accessory structure occupying any portion, except that overhead projections from the building face (such as soffits) and projection of architectural features (such as bay windows or awnings) may project not more than three (3) feet into such space.
    - f. The maximum building height shall not exceed two (2) stories and twenty-five (25) feet in height.
    - g. The wall of the dwellings located on the zero lot line shall have no windows, doors, air conditioning units, or any other type of openings, provided, however, that atriums or courts shall be permitted on the zero lot line side when the court or atrium is enclosed by three (3) walls of the dwelling unit and a solid wall of at least eight (8) feet in height is provided on the zero lot line. Said wall shall be constructed of the same material as exterior walls of the unit.
    - h. A minimum of two (2) off-street parking spaces, excluding the private garage or carport, shall be required for each dwelling unit.

- i. All dwellings constructed on a zero lot line must be provided with a firewall as set forth by local Ordinance.

## **SECTION 1707. PLANNED UNIT DEVELOPMENT.**

### **1. Intent**

The PUD provision is intended to:

- a. Allow flexibility of design on relative large-scale parcels, which would not ordinarily be possible under conventional Zoning Ordinance Regulations;
- b. Achieve economies of design relating to vehicular and pedestrian circulation, utility extensions, dwelling unit location, etc.;
- c. Encourage the preservation of desirable natural features including woodlots, streams, floodplains, and major open spaces; and,
- d. Allow a mix of land uses based on an approved comprehensive plan on a single site, including a variety of housing types and commercial facilities and both open space and recreational uses.

### **2. Qualifying Criteria**

- a. The provision of this section shall apply only to a tract of land of 10 or more acres, which directly abut a major thoroughfare, and which tract is under single ownership and control, and for which an application for PUD designation is made as hereafter provided.
- b. Notwithstanding the provisions of paragraph 2 (a), the minimum PUD area may be waived by City Council based upon recommendation from the Planning Commission. Council shall consider a waiver when the parcel in question has unique characteristics such as but not limited to significant topographic change, significant trees or wooded areas, wetlands or poor soil conditions on portions of the property, water courses or utility easements crossing the property, unusual shape or proportions, and isolation from other undeveloped or developable lands. In such case, the applicant shall submit information to the Council to support the request for a waiver of the minimum PUD size requirements.

### **3. Standards and Criteria for Development**

#### **a. General**

All uses, structures, and properties shall comply with all other regulations and requirements of the City Zoning Ordinance, except as provided in this Section.

#### **b. Utilities**

- (1) The PUD provision may be employed only when municipal sanitary sewers and water mains are provided to all segments of the proposed development, constructed and designed in accordance with the City Engineering and Design Standards.

- (2) Each site shall be provided with adequate storm drainage, including necessary storm sewers, catch basins, manholes, culverts, bridges, and other appurtenances. Open drainage courses, including retention ponds, may be permitted by the Council upon recommendation by the City engineering consultant.
- (3) Electrical, telephone, and cable television lines shall be underground.

c. Circulation and Access

- (1) Each lot, principal building and principal use within the PUD shall have vehicular access from a street, constructed and designed in accordance with the City Engineering and Design Standards.
- (2) The Council, upon Planning Commission recommendation, may permit certain lots, principal buildings or principal uses to maintain vehicular access solely to a private street, provided that such street is constructed in accordance with the City Engineering and Design Standards and the continued maintenance of such private streets as common areas is provided for in accordance with the provisions of paragraph 12 of this Section.
- (3) Each lot or principal building shall have pedestrian access from a public or private sidewalk which shall be physically separated from streets and that provides for the necessary safe and convenient movement of pedestrians.
- (4) A residential structure shall not have direct access to a major thoroughfare.
- (5) The street layout shall provide for the continuation of collector streets in the adjoining developments or of the proper projection of streets when adjoining property is undeveloped.

d. Permitted Uses

- (1) The PUD shall provide for a mixture of land uses; however, industrial uses and mobile home parks are expressly prohibited.
- (2) The PUD may provide for a variety of permanent housing types, including single-family homes, townhouses, apartments and cluster housing units.
- (3) The overall residential unit type mix may include a maximum of thirty (30) percent multiple-family units.
- (4) Commercial uses permitted in the B-1, B-2, and B-3 Districts, together with other uses deemed consistent by the Planning Commission with the overall plan, may occupy no more than forty (40) percent of the gross site area. Planned commercial or shopping centers shall have frontage on a major thoroughfare.
- (5) Each PUD shall provide a minimum of twenty (20) percent of the gross project area as common open space, which space shall be readily accessible and available to occupants of those dwelling units for whose use the open space is intended. All common open spaces shall be of a size, configuration, function and in a location satisfactory to the Planning Commission.

Development phases shall be so designed as to provide a proportional amount of open space in each phase.

e. Density

- (1) The maximum permitted residential density for PUD shall be determined based upon the following average land areas per each type and size of dwelling unit:

Single-family detached unit ..... 6,000 sq. ft. Single-family attached unit .....  
10,000 sq. ft. One and two bedroom unit apartment . 3,600 sq. ft. Three  
bedroom unit apartment ..... 5,000 sq. ft.

Four or more bedroom unit apartment 7,200 sq. ft.

Plans presented showing apartments which include a den, library, or other extra room shall count such extra room as a bedroom for purpose of computing density.

- (2) The area used for computing residential density shall be the total site area dedicated to residential use exclusive of any proposed or existing dedicated public right-of-way of either interior or bounding roads, and unbuildable areas except as provided by paragraph e, 5 below.
- (3) The maximum lot coverage of all uses in the PUD including accessory buildings shall not exceed 25 percent.
- (4) Lot coverage for residential structures shall be based upon the gross acreage designated for residential development. Lot coverage for nonresidential uses shall be based upon land areas including acreage for private drives, parking and loading areas, landscaped areas, and similar sites, but not including acreage in existing public street right-of-way.
- (5) The horizontal surface area of lakes, streams, ponds (natural, man-made, or stormwater retention) wetlands, woodlands, and similar areas may be included in the acreage used for calculating residential density only if 50 percent of the frontage of such areas are part of lands devoted to parks and common open space used for and accessible by residents of the PUD.

f. Building Height, Setbacks, and Use Separation Requirements

- (1) The maximum building height permitted in the PUD shall be three (3) stories or forty (40) feet.
- (2) A yard setback fifty (50) feet wide shall be provided along the perimeter of the PUD fronting on a street. Such area shall include a landscaped greenbelt of a minimum ten (10) foot width, located and continually maintained along the property boundary.
- (3) A thirty-five (35) foot wide setback shall be provided along the perimeter of the PUD not fronting upon a public street. Such area shall be designed and landscaped as a buffer strip; parking lots and driveways shall not be permitted in such yard, except that drives may cross such yard.
- (4) A transition strip of at least fifty (50) feet wide shall be required on any

commercial or office site when adjacent to a residential area, park, or similar use area. Such strips shall be heavily planted with trees, shrubs, ground covers, and similar materials.

- (5) The distance between any residential building and nonresidential building shall be not less than one hundred fifty (150) feet.
- (6) One-family residential development shall maintain 30, 10, and 35 front, side, and rear yard setbacks, respectively. Multiple-family residential developments shall maintain a minimum yard setback of fifty (50) feet on all sides. Nonresidential developments shall provide a front, side, and rear yard setback of 60, 15, and 20 feet, respectively.

g. Residential Floor Area Requirements

- (1) The minimum livable floor area requirement for single-family developments shall be one thousand two hundred (1,200) square feet per unit.
- (2) The minimum livable floor area per multiple-family or townhouse unit shall be in accordance with the following schedule:

<u>UNIT TYPE</u>	<u>MINIMUM FLOOR AREA REQUIRED (SQUARE FEET)</u>
One Bedroom	500
Two Bedroom	700
Three Bedroom	900
Four Bedroom	1,100

h. Signs

- (1) Residential signs shall be governed by the provisions of Section 1814,5 for accessory signs in residential districts.
- (2) Office signs shall be governed by the provisions of Section 1814,6 for accessory signs in the non-residential districts.
- (3) Commercial signs shall be governed by the provisions of Section 1814,6 for accessory signs in the B-1, B-2, and B-3 Districts subject to the following:
  - (i) One freestanding sign for each front lot line shall be permitted for planned commercial or shopping centers on a parcel containing a minimum of three (3) acres or more where the building does not cover the full area of the property.
  - (ii) Monument signs may be substituted for an equal number of freestanding signs and may be increased in size by twenty (20) percent, provided they do not exceed six (6) feet in height. For purpose of this section, a monument sign shall be considered a sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.

i. Landscaping

- (1) All portions of the lot or parcel area not covered by buildings, pavings, or other impervious surface shall be landscaped and permanently maintained by

the property owner, tenant, or organization responsible for maintaining common areas as provided in Section 1707,12.

j. Phasing

- (1) Development within a PUD may be phased as delineated on an approved plan.
- (2) A minimum of twenty-five (25) percent of the total number of single-family units in any PUD must be constructed and ready for sale prior to the construction of any multiple-family or commercial portions of the project, except that site grading, roadway construction, and trunk utility installation relating to multiple-family and commercial portions of the project may be undertaken concurrent with single-family developments and open space uses, either public or private, may be constructed and operated concurrent with single-family development.
- (3) The time span for completion of the entire development and the commencement date for each section thereof may be modified from time-to-time by the Council upon a showing of good cause by the land owner, in accordance with Section 1707, 9.

4. General Development Plan (GDP) Requirements

a. Procedure for Petition and General Development Plan Approvals; Public Hearing Requirements

- (1) Application for PUD district classification shall be for an amendment to the City Zoning Map and approval of a General Development Plan (GDP). An application for a PUD district classification for a parcel of land may be made by the owner(s) of record or by any person(s) acting on behalf of the owner(s) of record of the subject parcel. The applicant shall have a substantial interest in the subject property prior to filing for a PUD district classification; said filing shall be in the name of and signed by all owners. The applicant shall provide evidence of full ownership of all land in a PUD, such as legal title or execution of a binding sales agreement, prior to approval of the petition and GDP by the Council.
- (2) The application shall be filed with the City Clerk who shall transmit the petition and the GDP to the appropriate reviewing agents (planner, engineer, building official). The application must be filed at least three (3) weeks prior to the Planning Commission meeting at which it is first to be considered. Processing fees shall be paid to the City; no transmittals shall be made unless the required fees have been paid in full.
- (3) Upon receipt of the petition and GDP from the City Clerk, the Planning Commission shall undertake a study of the same and shall complete said study within ninety (90) days of receipt by the Planning Commission. The Planning Commission shall advise the applicant of any recommended changes in the GDP as are needed to conform to the regulations and standards identified above.
- (4) The Planning Commission shall, at the meeting at which receives the petition and GDP from the Clerk, establish a public hearing on the petition and plan. The hearing shall be held within thirty-one (31) days of the date received by

the Planning Commission. One (1) notice that a request for PUD approval has been received shall be published in a newspaper of general circulation in the City and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet, except that the notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered.

If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

The notice shall:

- (a) Describe the nature of the request.
  - (b) Indicate the property which is the subject of the request.
  - (c) State when and where the request will be considered.
  - (d) Indicate when and where written comments will be received concerning the request.
- (5) At the public hearing the applicant shall present evidence regarding the following characteristics of the proposed development:
- (a) general character and substance;
  - (b) objectives and purpose to be served;
  - (c) compliance with regulations and standards;
  - (d) scale and scope of development proposed;
  - (e) development schedule;
  - (f) demonstration that the proposed PUD represents a recognizable and substantial benefit to the residents and users of the PUD and to the City which would not be feasible or likely occur without the PUD being developed;
  - (g) demonstration that there would be no significant or material adverse effect by the PUD on the Master Plan for Future Land Use;
  - (h) a showing that there would be no unreasonable impacts by the PUD on public utilities, facilities or services, on surrounding properties, or on the natural environment;
  - (i) a showing that there would be no unreasonable negative economic

impact on surrounding property values or for City as a whole;

- (j) evidence that the basic integrity of required open space, and existing woodlands and wetlands on site are substantially preserved; and,
- (k) status of single ownership or control of PUD such that there is a single person or entity hearing responsibility for completing the PUD in conformity with the approved plan.

To this end, factual evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, reports, models, and other tangible materials, and in the form of testimony by experts such as lawyers, architects, engineers, landscape architects, realtors, professional community planners, and economists as will clearly state for the record the full nature and extent of the proposal. Tangible materials shall be submitted in sufficient quantity for review by the Planning Commission and other local officials.

- (6) At the public hearing or within a reasonable time following the public hearing, the Planning Commission shall make its final consideration of the request, and shall recommend to the Council denial, approval, or approval with conditions, of the request. The Planning Commission shall state its conclusions on the PUD request, the basis for its recommendations, its recommendations, and any conditions relating to an affirmative recommendation. As an amendment to the Zoning Ordinance is necessary to permit the proposed PUD, the Planning Commission shall also make a recommendation on the proposed zoning amendment. The public hearing held pursuant to this subsection shall also be regarded as fulfilling the public hearing requirement for the proposed zoning map amendment.
- (7) The Council shall be provided with the Planning Commission's recommendation, a summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the PUD request. Within a reasonable time of the action of the Planning Commission, the Council shall deny, approve or approve with conditions, the request.
- (8) If the petition and GDP are approved by the Council, the applicant shall review the petition and plan in their approved form. The applicant and all owner(s) of record or the legal representative of the owner(s) of record of all property included within the PUD shall then sign an agreement that the approved petition and GDP and the conditions of approval, shall be binding upon the applicant and owner(s) of record and upon their heirs, successors, and assigns. The petition and plan shall not be officially approved nor may the applicant submit a site plan or plat, where applicable, until said agreement has been signed as required herein and has been received by the Clerk.
- (9) Within three (3) days of the official approval of the petition and the GDP by the Council, the Clerk shall attest the PUD district designation for the property in question on the zoning map.
- (10) The approved GDP and signed agreement shall be recorded by the petitioner with the Huron County Register of Deeds within thirty (30) days of the date of approval of the petition and the GDP. The petitioner shall immediately provide a certified copy of the recorded documents to the City Clerk.
- (11) The Council may enforce any or all provisions of the approved plan and agreement, and conditions of approval, against the petitioners, owners,

successors, assigns, or agents.

- b. (1) A GDP for a PUD shall contain all the information required for a site plan as set forth in Section 1900 of the City Zoning Ordinance and the following information:
- (a) density of use for each use area of the site;
  - (b) location, size, and uses of common open space and recreation areas;
  - (c) general description of the organization to be established to own and maintain common open space;
  - (d) general description of covenants, grants, easements, or other restrictions to be imposed upon land or buildings, including easements for public utilities, by-laws, and articles of incorporation for any homeowners' association or cooperative association;
  - (e) description of applicant's intentions regarding selling or leasing of all or portions of land in the PUD and of dwelling units;
  - (f) description of all proposed nonresidential uses, including types of stores and offices;
  - (g) general landscape concept showing woodlands and vegetation to be preserved or added, topography, and similar features;
  - (h) recognition of existing wetlands;
  - (i) delineation of areas to be subdivided;
  - (j) average initial sales prices of dwelling units for sale and/or average initial rents of rental dwelling units;
  - (k) location and area of each development phase; and,
  - (l) general description of proposed water, sanitary sewer, and storm drainage system.

c. Standards for Petition and General Development Plan Review

The Planning Commission's recommendation to Council shall include its determination as to whether the petition and plan meet the following standards:

- (1) The proposed development shall generally conform to the Master Plan for Future Land Use or any part thereof, or represents land use policy which, in the Planning Commission's opinion, is a logical and acceptable change in the Master Plan for Future Land Use.
- (2) The proposed development shall conform to the intent and to all regulations and standards for a PUD established above.
- (3) The proposed development shall be adequately served by public facilities and

services such as: highways, streets, police and fire protection, drainage courses, water and sanitary sewer facilities; refuse disposal, or that the persons or agencies responsible for the proposed development shall be able to provide in a manner acceptable to the Council, any such facilities and services.

- (4) The common open space, any other common properties, individual properties, and all other elements of the PUD are so planned that they will achieve a unified open and recreation area system with open space and all other elements in appropriate locations, suitably related to each other, the site, and the surrounding land.
- (5) The applicant shall have made provision, satisfactory to the Council, to assure that those areas shown on the plan for use by the public or by occupants of the development will be or have been irrevocably committed for that purpose. Provision, satisfactory to the Council, shall have been made to provide for the financing of any improvements shown on the plan for open space area, and common use areas which are to be included within the development, and that maintenance of such improvements is assured by a means satisfactory to the Council.
- (6) The location of the proposed uses, layout of the site, and its relation to streets giving access to it, shall be such that traffic to, from, and within the site and assembly of persons in connection therewith, will not be hazardous or inconvenient to the project or the general vicinity. In applying this standard, the Planning Commission shall consider, among other things, convenient routes for pedestrian traffic, particularly of children, relationship of the proposed project to major thoroughfares and street intersections, and the general character and intensity of the existing and potential development of the general vicinity.
- (7) The mix of housing unit types and densities, and the mix of residential and nonresidential uses shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.
- (8) Where applicable, the Planning Commission shall determine that noise, odor, light, or other external effects from any source whatsoever, which is connected with the proposed use, will not adversely affect adjacent and neighboring lands and uses.

d. Effect of Approval of Petition and General Development Plan

Approval of the petition and GDP by the Council shall have the following effects.

- (1) Approval shall confer a right to the applicant, for a period of three (3) years from the date of approval, that existing zoning regulations as they apply to the land included in the petition, and the plan, shall remain unchanged, provided that required subsequent planning and/or construction are diligently pursued in accordance with the approved plan within this time period.
- (2) Approval of the GDP shall indicate the Council's and Planning Commission's acceptance of uses, building location of layout of streets, dwelling unit count and type, floor areas, densities, and all other elements of the plan.

- (3) Approval of a GDP shall authorize the applicant to file an application for site plan approval for all or any phase of the development shown on the approved GDP. Site plans shall not be required of any area which is to be platted for single-family detached residential use. Such approval shall also authorize construction to begin on site improvements such as streets and drives, parking lots, grading, installation of utilities, and building foundations. Grading, tree removal, and other changes in the existing topography and natural features shall be limited to the minimum required to permit construction as authorized in this subsection. Engineering plans and specifications shall be approved, and performance guarantees may be provided as required by Section 1900, 7 of the City Zoning Ordinance before such construction may commence.
- (4) Approval of a GDP by the Council shall authorize the applicant to file a preliminary plat for tentative approval in accordance with the Subdivision Control Act (Act 288, P.A. 1967, as amended), and the City Subdivision Control Ordinance, as amended, for all or parts of the areas included within the PUD which are to be platted.
- (5) No deviations for the GDP approved by the City Council shall be permitted except as provided in this Section.

5. Site Plan Requirements

A site plan shall be submitted for approval for each unplatted phase of development as delineated on the approved General Development Plan. The site plan shall be submitted and reviewed, and shall meet all provisions of Section 1900 of the City Zoning Ordinance. In addition to these provisions, the site plan shall conform to the approved GDP. The Planning Commission shall transmit the approved final site plan to the Council for its information.

6. Subdivision Plats

Plats in a PUD shall conform to Act 288, P.A. 1967, as amended, and the City of Harbor Beach Subdivision Regulations Ordinance, as amended, the regulations of the PUD district, and the approved General Development Plan.

7. Amendment and Revisions

- a. A developer may request an amendment to an approved GDP or an approved site plan. Any amendment to an approved site plan which results in a major change in the approved GDP as defined in this section, shall require an amendment to the approved GDP. All amendments shall follow the procedures and conditions herein required for original submittal and review, in full.
- b. A request for amendment shall be made in writing to the Planning Commission and shall clearly state the reasons therefor. Such reasons may be based upon such consideration as changing social or economic conditions, potential improvements in layout or design features, unforeseen difficulties, or reasons mutually affecting the interests of the City and developer, such as technical causes, site conditions, state or federal projects and installations, and statutory revisions. The Planning Commission, upon finding such reasons and requests reasonable and valid, shall so notify the applicant in writing. Following payment of the appropriate fee as required for original submittal, the developer shall submit the required information to the Planning Commission for review. If the approved GDP is to be amended, the Planning Commission shall immediately notify the Council.

- c. Modifications to be considered major changes, for which amendment is required, shall include one or more of the following:
  - (1) change in concept of the development;
  - (2) change in use or character of the development;
  - (3) change in type of dwelling units as identified on the General Development Plan;
  - (4) change in the number of dwelling units;
  - (5) change in nonresidential floor area of over ten (10) percent;
  - (6) change in lot coverage of entire PUD of more the five (5) percent;
  - (7) rearrangement of lots, blocks, and building tracts;
  - (8) change in the character or function of any street;
  - (9) reduction in land area set aside for common open space or the relocation of such area(s); or,
  - (10) increase in building height.
  
- d. A developer may request Planning Commission approval of modifications which constitute minor changes, as defined in this section, in an approved GDP or in an approved site plan. The Planning Commission shall notify the Council and any other applicable agency of its approval of such minor changes. The revised drawings as approved shall each be signed by the applicant and the owner(s) of record or the legal representative(s) of said owner(s).
  
- e. Modifications to be considered minor changes, for which approved plans may be revised rather than amended, shall include, among other similar modifications, the following:
  - (1) a change in residential floor area;
  - (2) a change in nonresidential floor area of ten (10) percent or less;
  - (3) minor variations in layout which do not constitute major changes; and/or,
  - (4) a change in lot coverage the entire PUD of five (5) percent or less.
  
- f. The Planning Commission shall have the authority to determine whether a requested change is major or minor, in accordance with this section. The burden shall be on the applicant to show the reasons for any requested change owing to changed physical or economic factors, or consumer demand.

8. Expiration of Plan Approvals

- a. A GDP shall expire eighteen (18) months after approval by the Council unless a site plan or plat for the first phase of the project, or a site plan and/or plat for the entire property in the PUD if development is not to occur in phases, is submitted to the

Planning Commission for review and approval.

- b. All phases shall have received approval of the Planning Commission or Council within three (3) years from the date Council approved the GDP.
- c. Expiration of an approved GDP as set forth and failure to obtain approval of final site plans and final plats as provided shall authorize the Council to revoke the right to develop under the GDP, after a hearing, unless the developer has requested, and the Council has approved an extension of time. Where the plan has been revoked, the Council may require that a new plan be filed and reviewed in accordance with the requirements for the original application. Said expiration shall also authorize the Council to initiate a zoning amendment to place the subject property into one or more zoning districts deemed by the Council to be appropriate. Expiration of an approved plan shall be duly noted on the official Zoning Map. The Zoning Administrator shall notify the City of the expiration of an approved GDP.
- d. Development shall be completed within two (2) years of the date of approval of a site plan. If said development is not so completed, the Planning Commission shall not review or approve site plans for any subsequent phases of the PUD unless the developer has requested and the Planning Commission has approved an extension of time.
- e. If an approved GDP or an approved site plan has expired as set forth in this section, no permits for any development or use of the property included in the PUD shall be issued until the applicable requirements of this section has been met.

9. Extension of Time Limits

Time limits set forth in this section may be extended upon showing by the developer that changed physical or economic factors, or consumer demand require a time extension, and by written agreement, between the applicant and the Council, in the case of the GDP and between the applicant and the Planning Commission, in the case of site plans.

10. Modifications During Construction

All site improvements and building construction shall conform to all approved plans required in this section which authorizes such improvements and construction, and to all approved engineering and architectural plans related thereto. If the applicant or developer makes any changes in the improvements and buildings during construction in relation to such approved plans he shall do so at his own risk, without assurance that the Council, Planning Commission, or City Official, whichever is applicable, will approve such changes. Where field changes are necessary, the applicant or developer shall, if reasonably possible, first obtain approval from the appropriate body or official. If such prior approval cannot be obtained, and the changes are made, the applicant shall immediately notify the appropriate body or official of such changes and shall, as soon thereafter as is reasonable, submit as-built drawings of all such changes. The Zoning Administrator or consulting engineer, whichever is applicable, may require the applicant to correct any change made in the field without prior approval so as to conform to the approved plans.

11. Violations

- a. A GDP or site plan approved under the provisions of this section shall have the full force of the Zoning Ordinance. Any violation of such approved plan shall be grounds

for the Council to order that all construction be stopped, and to order that building permits and certificates of occupancy be withheld until the violation is removed or adequate guarantee of such removal is provided to the Council.

- b. Violations of any plan approved under this section, or failure to comply with any requirements of this section, including any agreements and conditions attached to any approved plan, shall be considered a violation of this Ordinance.

## 12. Miscellaneous Provisions

- a. Legal instruments setting forth a plan or manner of permanent care and maintenance of common areas and facilities shall be submitted to the City Attorney for review as to legal form and effect, and to the City Council or Planning Commission, whichever is applicable, for review, as to the suitability of such areas and facilities for the proposed use. Said legal instrument shall become a part of the approved plat or final site plan, whichever is applicable.
- b. Where Property Owners (Homeowners) Associations (POA) are to be used to maintain and preserve common areas and facilities, the developer shall file a declaration of covenants and restrictions that will govern the POA(s), same to be filed with the GDP application. The provisions shall include, but shall not be limited to the following:
  - (1) A POA shall be established before any homes in the PUD are sold or leased.
  - (2) Membership in the POA shall be mandatory for each buyer and for any successive buyer and shall be so specified in the covenants.
  - (3) Restrictions shall be permanent.
  - (4) The POA shall be made responsible for liability insurance, local taxes, and maintenance of common areas and facilities.
  - (5) Property owners shall pay their pro rated share of the costs and it shall be so specified in the covenants. Assessments levied by the POA can become a lien on the property.
  - (6) A POA shall have authority to adjust the assessment to meet changed needs.
  - (7) The Council shall review the proposed by-laws and articles of incorporation of any POA prior to approval of the GDP.
- c. The permanence and integrity of common open space may be secured by conveyance of development rights of such areas to a public agency if accepted by said public agency. Such rights shall not include those needed to improve the common open space areas in accordance with an approved GDP or approved site plan.
- d. Common areas and facilities may be deeded to a trustee who shall be responsible for the collection and disbursement of funds, and who shall account to the individual owners as to the use of their monies. If a trustee is utilized, the trustee shall employ a professional manager. The trustee may be a homeowners' association, a trust company, or similar organization.
- e. Easements shall be given to each individual owner for the use of such areas and facilities.

## SECTION 1708. HAZARDOUS SUBSTANCES OVERLAY ZONE

### 1. Intent

The intent of the Hazardous Substance Overlay Zone is to provide supplemental development regulations in designated areas so as to permanently protect the City of Harbor Beach's drinking water source from long-term contamination originating from the improper use, storage or generation of hazardous substances or polluting materials. Due to the vulnerability of ground water aquifers to contamination, the need for public health protection, and the significant public investment in the municipal water supply system, these regulations contain protective measures which apply to certain areas of the community.

### 2. Scope

The provisions of the Hazardous Substances Overlay Zone shall apply to all nonresidential uses and facilities, including private and public facilities, which use, store or generate hazardous substances in a quantity greater than 100 kilograms per month (25 gallons or 220 pounds), and which shall be subject to site plan review under the provisions of this Zoning Ordinance.

### 3. Definitions

- a. **AQUIFER:** A geologic formation, group of formations or part of a formation capable of storing and yielding a significant amount of groundwater to wells or springs.
- b. **DEVELOPMENT:** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
- c. **ENVIRONMENTAL CONTAMINATION:** The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment, or to the public health, safety, or welfare.
- d. **FACILITY:** Any building, structure, or installation from which there may be a discharge of hazardous substances.
- e. **HAZARDOUS SUBSTANCE:** A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767; "hazardous waste" as defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, being Sections 299.501 to 299.551 of the Michigan Compiled Laws; "petroleum" as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, being Sections 299.831 to 299.850 of the Michigan Compiled Laws.
- f. **Polluting Material(s):** Any hazardous substance as so defined that can cause pollution to groundwater sources and/or become injurious to the public health, safety, or welfare of the general public or to the environment.
- g. **PRIMARY CONTAINMENT FACILITY:** A tank, pit, container, pipe, or vessel of first containment of a hazardous substance.
- h. **SECONDARY CONTAINMENT FACILITY:** A second tank, catchment, pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of

sufficient thickness, density and composition to prevent the discharge to land, groundwater, or surface waters, of any pollutant which may emanate from said storage container or containers.

#### 4. **Hazardous Substance Protection Standards**

- a. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, and street slopes.
- b. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or water course, and shall not significantly increase flooding or the potential for environmental contamination of surface or groundwater, on-site or off-site.
- c. General purpose floor drains shall be connected to a public sewer system or an on-site holding tank in accordance with state, county, and City requirements, unless a groundwater discharge permit or permit exclusion has been obtained from the Michigan Department of Natural Resources.
- d. Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges of hazardous substances to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
- e. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No releases to groundwater, including direct and indirect releases shall be allowed without applicable groundwater discharge permit or permit exclusion from the Michigan Department of Natural Resources.
- f. In determining conformance with the standards in this zoning ordinance, the City shall take into consideration the publication titled "Small Business Guide to Secondary Containment", Clinton River Watershed Council, 1991, and other applicable references.

#### 5. **Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials**

- a. Primary containment of hazardous substances shall be product-tight.
- b. Secondary containment of hazardous substances shall be provided for all facilities. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of five (5) gallons or less packaged for retail use shall be exempt from this item.
- c. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the operator to recover any released substance, including an allowance for the expected accumulation of precipitation.
- d. Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system,

groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained to applicable requirements of Act 245 (Michigan Water Resources Commission Act of 1929, as amended).

- e. Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled, used and stored, shall be designed and constructed to prevent unpermitted discharge or runoff to floor drains, rivers, lakes, wetlands, soils or groundwater.

#### **6. Underground Storage Tanks for Hazardous Substances and Polluting Materials**

- a. Existing and new underground storage tank systems as defined under the Underground Storage Tank Regulatory Act, Act No. 423 of P.A. of 1984 shall be registered with the authorized State agency in accordance with applicable requirements of the U.S. Environmental Protection Agency (E.P.A.) and the Michigan Department of Natural Resources.
- b. Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Natural Resources. Applicable leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records shall be required to be retained and available for review by State or City officials for a period of five (5) years for tank tightness and for a two (2) year period for retention and all other monitoring or test results.
- c. Out-of-service and/or abandoned underground storage tanks shall be emptied and permanently closed in accordance with the requirements of the Michigan Department of Natural Resource Environmental Response Division and the City of Harbor Beach.

#### **7. Well Abandonment**

Out of service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health Well Construction Unit.

#### **8. Site(s) with Contaminated Soils and/or Groundwater**

- a. Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- b. Development shall be prohibited on a site of environmental contamination unless information is available indicating that the development will not exacerbate the contamination or impede its remediation.

#### **9. Construction Standards**

- a. The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, hauling hazardous substances in proximity to water bodies or wetlands may be improper.
- b. Hazardous substances and polluting materials stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage of quantities greater than 100

kilograms (25 gallons or 220 pounds) shall have secondary containment.

- c. If the contractor will be storing or handling hazardous substances or polluting materials that require a manufacturer's material safety data sheet, the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.
- d. Upon completion of construction, all hazardous substances and polluting materials, including containment systems no longer used or not needed in the operation of the facility, shall be removed from the construction site by the responsible contractor and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable State and Federal Regulations.

#### 10. **Maintenance**

In areas where hazardous substances or polluting materials are handled structural integrity of the building must be maintained to avoid inadvertent discharge of hazardous substances to soils and groundwater. Cracks and holes in floors, foundations and walls that could cause hazardous substances to be released, shall be repaired in areas where hazardous substances are handled or stored.

#### 11. **Development Review Requirements**

The following development review requirements are in addition to the development requirements found under Section 1900; Site Plan Review:

- a. Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, loading/unloading, recycling and use or disposal of hazardous substances or polluting materials.
- b. Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated stormwater or wash water, and all similar uses.
- c. Specify location of exterior drains, dry wells, catch basins, retention/detention areas, pumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
- d. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.
- e. Submit a list (Hazardous Substances Reporting Form for Site Plan Review) of the types and quantities of hazardous substances and polluting materials which will be used, stored, or generated on-site including chemicals, hazardous substances/materials, petroleum products, hazardous wastes and other polluting materials. The list shall include common name (trade name) of materials, chemical name (components), form (liquid, pressurized liquid, solid, gas, pressurized gas, etc.), maximum quantity on hand at any one time, and type of storage containers (aboveground tank, underground tank, drums, cylinders, metal container, wooden or composition container, portable tank). Material Safety Data supplied to the Fire Department and to employees by an employer may also be submitted for site plan review purposes.

- f. Submit any State/County Environmental Permits necessary for the storage of and/or discharge of hazardous substances or polluting materials.

12. **Exemptions and Waivers**

The transportation of any hazardous substance or polluting material shall be exempt from the provisions of this Ordinance provided the transporting motor vehicle or rail car is in continuous transit, or that it is transporting substances to or from a properly licensed for solid or hazardous waste treatment, storage, or disposal facility.

**ARTICLE XVIII  
GENERAL PROVISIONS**

**SECTION 1800. CONFLICTING REGULATIONS.**

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

**SECTION 1801. BUILDING REGULATIONS.**

1. Scope

No building or structure, or part thereof, shall hereafter be erected, constructed, used, reconstructed, altered or maintained, and no lot or land, or part thereof, shall hereafter be used or maintained and no new use made of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

2. Unlawful Building

In case any building, or part thereof, is used, erected, occupied or altered contrary to law or the provisions of this Ordinance, such building shall be deemed an unlawful structure and a nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this Ordinance. Public expenditures toward abating such nuisance shall become a lien upon the land.

3. Temporary Building

No temporary building shall be erected unless a valid building permit exists for a permanent building or a new use of land on the same site. Any temporary building shall be removed from the site within thirty (30) days of issuance of a certificate of occupancy. The approval of a temporary building may not exceed one (1) year; however, the Zoning Board of Appeals may grant multiple extensions up to six (6) months each for good cause shown, when the approval is due to expire.

4. Building Occupancy

No basement shall be used or occupied as a dwelling unit unless it complies with the Building Code.

5. Frontage on a Street

No building shall be erected on a lot unless said lot fronts no less than eighty (80) percent its full width, as required by Section 1700, upon a public or private street. Mobile home parks, multi-family developments, or commercial, office, or industrial centers need not front each such structure within the development upon publicly dedicated streets provided that adequate interior vehicular circulation and access can be assured in a site plan submitted for approval to the City.

6. One Lot, One Building

In all single family districts, only one (1) principal building shall be placed on a single lot of record, except as provided by Section 1801,5 above.

## **SECTION 1802. NONCONFORMING USES AND BUILDINGS**

### **1. Intent**

It is the intent of this Section to provide for the regulation of legally nonconforming structures, lots of record, uses and signs, and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this Ordinance that those nonconformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction.

The zoning regulations established by this Ordinance are designed to guide the future use of land by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes of which such regulations are established, and thus the gradual elimination of such nonconformities is generally desirable. The regulations of this Section permit such nonconformities to continue without specific limitation of time but are intended to restrict further investments which would make them more permanent.

### **2. Authority to Continue**

Except as otherwise provided in this Section, any nonconforming lot, use, sign, or structure lawfully existing on the effective date of this Ordinance or subsequent amendment thereto may be continued so long as it remains otherwise lawful. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structure and land in combination.

All nonconformities shall be encouraged to convert to conformity wherever possible and shall be required to convert to conforming status as required by this Section.

### **3. Minor Nonconforming Uses or Structures**

A minor nonconforming use or structure is considered to be any commercial or industrial use or structure located within a nonresidential district, or any residential use or structure located within a residential district (i.e., multiple-family dwellings in a single-family residential district, etc.).

#### **a. Termination by Damage or Destruction**

In the event that any minor nonconforming structure or use is destroyed by any means to the extent of more than fifty (50) percent of the cost of replacement of such structure or use, as determined by the Zoning Administrator, said structure or use shall not be rebuilt, restored, or reoccupied for any purpose unless it shall thereafter conform to all regulations of this Ordinance. When such a nonconforming structure or use is damaged or destroyed to the extent of fifty (50) percent or less of the replacement cost, no repairs or rebuilding shall be permitted except in conformity with Section 1802, 2 above and other applicable regulations of this Ordinance.

#### **b. Changing Nonconformity**

If no structural alterations are made, any minor nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification.

#### **c. Discontinuance**

When a minor nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for six (6) consecutive months, or for eighteen (18) months during any three (3) year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

d. Establishment of Conforming Use

Any structure, or structure and land in combination, in or on 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.

e. Enlarging a Minor Nonconformity

A minor nonconforming use may be expanded or enlarged as follows:

- (1) A minor nonconforming structure may be enlarged by a maximum of twenty (20) percent of the total existing structure size at the time of adopting this Ordinance. Such expansion shall meet all other requirements of the Ordinance.
- (2) Nothing in this Section shall be deemed to prevent an extension for the exclusive purpose of providing required off-street parking or loading spaces in conformance with other applicable provisions and involving no structural alteration or enlargement of such structure.
- (3) Nothing in this Section shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this section prohibiting the repair or restoration of partially damaged or destroyed structures or signs.
- (4) No nonconforming use or structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
- (5) Notwithstanding any other provision of this Section to the contrary, no use, structure, or sign which is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance.

4. Major Nonconforming Uses or Structures

A major nonconforming use or structure is considered to be any nonresidential use or structure in a residential district, industrial use in a commercial/business district, or any residential use in a nonresidential district.

a. Termination by Damage or Destruction

In the event a nonconforming structure or use is destroyed by any means to the extent of more than fifty (50) percent of the cost of replacement of such structure or use as determined by the Zoning Administrator, same shall not be rebuilt, restored, or reoccupied for any use unless it shall thereafter conform to all regulations of this Ordinance. When such a nonconforming structure or use is damaged or destroyed to the extent of fifty (50) percent or less of the replacement cost, no repairs or rebuilding shall be permitted except in conformity with Section 1802, 2 above and other applicable regulations of this Ordinance.

b. Changing Nonconforming Uses

No structure or use shall be changed unless the new structure or use conforms to the regulations for the district in which such structure or use is located.

c. Discontinuance of Use

When a major nonconforming use of a structure or structures and land in combination, is discontinued or ceases to exist for six (6) consecutive months, or for eighteen (18) months during any three year period, the structure, or structures and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

d. Enlarging a Major Nonconforming Use

- (1) No major nonconforming use or structure shall be enlarged upon, expanded, or extended, including extension of hours of operation. Normal maintenance and incidental repair of a major nonconforming use shall be permitted, provided that this does not violate any other section of this Ordinance.
- (2) A major nonconforming residence may construct an accessory building in accordance with Section 1803, Accessory Buildings.
- (3) Nothing in this Section shall be deemed to prevent an extension for the exclusive purpose of providing required off-street parking or loading spaces in accordance with other applicable provisions, and involving no structural alteration or enlargement of such structure.
- (4) No major nonconforming use or structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
- (5) Notwithstanding any other provision of this Section to the contrary, no use, structure, or sign which is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of the Ordinance.

5. Nonconforming Lots

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of

adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area, or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirements variances may be requested of the Board of Appeals.

6. Nonconforming Site Requirements

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 lot area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

a. Expansion

No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

b. Termination

Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement costs, exclusive of the foundation, it shall be reconstructed in the absence of a prior variance only in conformity with the provisions of this Ordinance and with the requirements of the prevailing structural building codes.

c. Relocation

Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

7. Conditional Use Interpretation

Any conditional use as provided for in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

**SECTION 1803. ACCESSORY BUILDINGS AND STRUCTURES.**

Accessory buildings or structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
2. Accessory buildings and structures shall not be erected in any side yard nor in any front yard.
3. An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard.

4. No detached accessory building shall be located closer than three (3) feet to any side or rear lot line. No detached accessory building shall be located closer than ten (10) feet to any main building except for garages upon meeting the following conditions.
  - (a) The foundation shall not be less than the minimum required by local Building Code for frost protection (42 inches); and,
  - (b) On Those portions of garages located within five feet of the main building, a fire separation of not less than 1 hour fire resistance rating shall be provided on the garage building side.

In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

5. No detached accessory building in R-1 through R-2, RT, RM-1, OS-1, B-1, and CBD Districts shall exceed one (1) story or fifteen (15) feet in height.

Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structure in said districts.

6. When an accessory building is located on a corner lot, the lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot.
7. Household animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical system components that could or are likely to produce noise, odors, and other nuisances, shall not be located adjacent to an adjoining property owner's sleeping area where windows and/or doors on the adjacent property would be exposed to the nuisance.
8. Decks or patios shall be subject to the following regulations:
  - a. Where a deck is structurally attached to a main building it shall be subject to and must conform to all regulations of this Ordinance applicable to the main building. A maximum four (4) foot wide walkway to a deck may occupy a portion of the required side yard setback.
  - b. Decks shall not be erected in any minimum side or front yard setback except that an open deck without a roof or sunscreen may project into a required front yard setback a distance not exceeding ten (10) feet. A deck may not occupy more than twenty-five (25%) percent of a required rear yard.
  - c. A permit shall be required for construction of all decks. Concrete or wood patios constructed on grade and not intended for enclosure or a structure shall not be required to secure a permit.

#### **SECTION 1804. OFF-STREET PARKING REQUIREMENTS.**

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

1. Off-street parking spaces may be located within a rear yard or within a nonrequired side yard unless otherwise provided in this Ordinance. Off-street parking shall not be permitted within a front yard nor with a required side yard setback unless otherwise provided in this Ordinance.
2. Off-street parking shall be on the same lot of the building it is intended to serve, except as may be otherwise provided for by this Ordinance.
3. Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveways, garage, or combination thereof and shall be located on the premises they are intended to serve, and also subject to the provisions of Section 1803, Accessory Buildings and Structures for garages.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.
5. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
6. The joint use of parking facilities by two or more uses is recommended whenever such use is practicable and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction can be satisfied.

In computing capacities of any joint use, the total space requirements is the sum of the individual requirements that will occur at the same time. If peak space requirements for individual uses occur at distinctly different times from the peak requirement for other joint uses, the maximum capacity required for joint use will be less than the sum of total individual space requirements.

A copy of an agreement between joint users shall be filed prior to the occupancy of the building by the new occupant and recorded with the Register of Deeds of Huron County. The agreement shall include guarantee for continued use of the parking facility for each party to joint use.

7. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.
8. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.
9. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the Planning Commission considers is similar in type.
10. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half ( $\frac{1}{2}$ ) shall be disregarded and fractions over one-half ( $\frac{1}{2}$ ) shall require one (1) parking space.
11. For the purpose of computing the number of parking spaces required, the definition of Usable Floor Area shall govern, and be defined as that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation. Measurement of usable floor area shall be the sum of the horizontal areas of

the several floors of the building, measured from the interior faces of the exterior walls.

12. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

**a. RESIDENTIAL**

- (1) **Residential, detached or attached, one-family and two family structures.** Two (2) spaces for each dwelling unit.
- (2) **Residential, multiple-family.** Two (2) plus one-quarter ( $\frac{1}{4}$ ) per bedroom.
- (3) **Housing for the elderly.** One (1) space for each three (3) dwelling units and one (1) for each employee. Should units revert to general occupancy, two (2) spaces plus one-quarter ( $\frac{1}{4}$ ) per bedroom.
- (4) **Mobile home park.** Two (2) for each mobile home site and one (1) space for each employee of the mobile home park.

**b. INSTITUTIONAL**

- (1) **Churches or Temples.** One (1) space for each four (4) seats or eight (8) feet of pews in the main unit of worship, provided that the number may be reduced proportionately one (1) space for each one (1) available on-street parking space within three-hundred (300) feet of the facility except in residential areas.
- (2) **Hospitals.** One (1) space for each two (2) beds, plus one (1) space for each doctor assigned to staff and one (1) space for each two (2) employees in the largest working shift other than doctors.
- (3) **Convalescent or nursing home.** One (1) space for each six (6) beds, plus one (1) space for each employee in the largest working shift, plus one (1) space for each staff member and visiting doctor.
- (4) **Elementary and junior high schools.** One (1) for each one (1) teacher, employee, and administrator, in addition to the requirements of the auditorium.
- (5) **Senior high school.** One (1) space for each teacher, employee, or administrator and one (1) space for each three (3) students, in addition to the requirements of the auditorium.
- (6) **Private clubs or lodge halls.** One (1) space for each fifty (50) sq. ft. of assembly area.
- (7) **Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses.** One (1) for each two (2) member families or individuals plus spaces required for each accessory use such as a restaurant or bar.
- (8) **Golf courses open to the general public, except miniature or "Par 3" courses.** Four (4) spaces for each green, plus (50) percent of the requirements for any other accessory use such as a restaurant or bar, plus one (1) space for each employee.

- (9) **Fraternity or sorority.** Two (2) spaces for each bedroom, plus one (1) space for each five (5) active members.
- (10) **Stadium, sports arena, or similar place of outdoor assembly.** One (1) for each three (3) seats or six (6) feet of benches.
- (11) **Theaters and auditoriums.** One (1) space for each three (3) seats plus one (1) space for each two (2) employees in the largest working shift
- (12) **Nursery school, day nurseries or child care center.** Two (2) spaces, plus one (1) space for each employee on the maximum shift plus a paved unobstructed pick-up space with an adequate stacking area; and one (1) space for each six (6) students.
- (13) **Library.** One (1) space for each one hundred fifty (150) sq.ft. of floor area devoted for public use, plus one (1) space for each employee in the largest working shift.

**c. BUSINESS AND COMMERCIAL**

- (1) **Planned commercial or shopping center.** One (1) space for each 150 sq.ft. of usable floor area for the first 15,000 sq.ft., plus one (1) space for each 200 sq.ft. of usable floor area for the next 15,001 sq.ft. to 150,000 sq.ft. of usable floor area, plus one (1) space for each 250 sq.ft. for that area in excess of 150,000 sq.ft. of usable floor area.
- (2) **Autowash (automatic).** One (1) space for each one (1) employee. In addition, reservoir parking spaces equal in number to 5 times the maximum capacity of the autowash. Maximum capacity of the autowash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
- (3) **Autowash (self-service or coin operated).** Five (5) stacking spaces for each washing bay.
- (4) **Beauty parlor or barber shop.** Three (3) spaces for each of the first two (2) beauty or barber chairs, and 1½ spaces for each additional chair.
- (5) **Bowling alleys.** Four and one-half (4½) spaces for each lane, plus one (1) space for each employee in the largest working shift, plus 50 percent of the spaces otherwise required for accessory uses (e.g. bars, restaurants, game rooms, etc.)
- (6) **Dance halls and assembly halls.** Thirty (30) spaces for each 1,000 sq.ft. of usable floor area.
- (7) **Skating rinks.** One (1) space for each two (2) seats or six (6) feet of benches or one (1) space for each 150 sq.ft. of skating area, whichever is greater.
- (8) **Pool or billiard parlors.** Two (2) spaces per table plus one (1) space for each three (3) seats and one (1) space for each employee in the largest working shift.
- (9) **Establishment for sale and consumption on the premises of beverages, food, or refreshments.** One (1) space for each three (3) seats for the first (150 seats, plus one (1) space for each two (2) seats over 150 seats, plus one (1) space for each two (2) employees in the largest working shift.

- (10) **Furniture and appliance, household equipment, repair shops, showroom or a plumber, decorator, electrical, or similar trade, shoe repair and other similar uses.** One (1) space for each 1,000 sq.ft. of usable floor area plus one (1) space for each employee in the largest working shift and one (1) space for each company vehicle.
- (11) **Gasoline service station - full service.** Two (2) spaces for each lubrication stall, rack, or bay; and one (1) space for each employee in the largest working shift.
- (12) **Gasoline service station - self-service.** One (1) space for each 150 sq.ft. of usable floor area in the cashier's and office area and in any convenience retail area. In no instance shall any required parking or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
- (13) **Quick oil change facility.** Three (3) stacking spaces for each oil change bay or rack plus one (1) space for each employee in the largest working shift.
- (14) **Laundromats and coin operated dry cleaners.** One (1) space for each two (2) washing and dry-cleaning machines.
- (15) **Miniature or "Par-3" golf courses.** Three (3) spaces for each hole plus one (1) space for each employee in the largest working shift.
- (16) **Mortuary establishments.** One (1) space for each 50 sq.ft. of slumber or viewing rooms, plus one (1) space for each employee and each mortuary vehicle.
- (17) **Motel, hotel, or other commercial lodge.** Ninth tenths (0.9) space for each room to be rented, plus one (1) space for each employee, plus parking figured separately at 75 percent of the requirement for banquet rooms, meeting rooms, restaurants and lounges/bars.
- (18) **Motor vehicle sales and service establishments.** One (1) space for each 250 sq.ft. of enclosed floor space for a sales room, plus one (1) space for each 2,500 sq.ft. of open sales/display area, plus two (2) spaces for each auto service stall in the service room, plus one (1) space for each employee in the largest working shift.
- (19) **Retail stores except as otherwise specified herein.** One (1) space for each 150 sq.ft. of usable floor area for buildings with 25,000 sq.ft. or less; one (1) space for each 200 sq.ft. of usable floor area for buildings between 25,001 and 50,000 sq.ft.; one (1) space for each 300 sq.ft. of usable floor area for buildings with 50,001 sq.ft. or more.
- (20) **Establishments offering carry-out service, being establishments primarily serving customers over a counter or through a window, i.e., food carry-out, dry cleaner pick-up, meat markets, bakers, shoe repair, etc.** One (1) space for each 30 sq.ft. of usable floor area devoted to customer assembly and/or waiting area. Parking needs devoted to areas for the consumption of food on the premises shall be computed separately for such seating areas (see item 9 under Business and Commercial Uses).
- (21) **Drive-in/through restaurant.** One (1) parking space for each employee in the largest working shift; one (1) for each two (2) seats provided; and one (1) for each thirty (30) square feet of usable floor area devoted to customer waiting area.

- (22) **Mini-warehouse facility.** At a minimum, two (2) parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two (2) spaces for the resident manager, and one (1) additional space for each additional employee in the largest working shift shall be provided adjacent to the rental office.

**d. OFFICES**

- (1) **Banks.** One (1) space for each 200 sq.ft. of usable floor area, plus eight (8) stacking spaces for the first drive-in window and six (6) stacking spaces for each additional window.
- (2) **Business offices or professional offices except as otherwise specified.** One (1) space for each 250 sq.ft. of usable floor area.
- (3) **Professional offices of doctors, dentists or similar professions.** Two (2) spaces each examination or treatment room or dental chair, plus one (1) space for each doctor, dentist, and other employees in the largest working shift.
- (4) **Real estate offices.** One (1) space for each 100 sq.ft. of usable floor area.

**e. INDUSTRIAL**

- (1) **Industrial or research establishments, and related accessory offices.** Three (3) spaces plus one (1) space for every employee in the largest working shift or three (3) spaces plus one (1) space for every 550 sq.ft. of usable floor area, whichever is greater.
- (2) **Warehouses and wholesale establishments and related accessory offices.** Three (3) spaces plus one (1) space for every one (1) employee in the largest working shift, or three (3) spaces for every 1,700 sq.ft. of usable floor area, whichever is greater. Space on site shall also be provided for all construction workers during periods of plant construction.

13. Each parking lot that services a building entrance, except single or two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by above grade signs as reserved for physically handicapped persons.

14. Parking Set Aside (Landbanking) Provision (A Special Conditional Use): An applicant, in lieu of providing all of a project's required off-street parking, may request, as a Special Conditional Use, a provision to set aside or landbank up to twenty (20) percent of a project's required off-street parking for projects having (50) or more required parking spaces providing that the area required for said parking is left as open space. Said open space shall be capable of being developed into the required off-street parking if so deemed necessary by the Planning Commission and/or the City Zoning Administrator based on complaints or observed parking problems due to a shortage of available parking spaces anytime during the life of the conditional use permit. Should a set aside area be required to be developed for required off-street parking, the conditional use permit shall become null and void.

The City Council shall have the authority to approve a conditional use permit upon receipt of a recommendation from the Planning Commission subject to all the requirements in Section 1902; Review and Approval Conditional Uses. Should a conditional use permit be granted for a parking set aside area, the permit shall be conditioned that should the open space provided under this set aside provision ever be deemed necessary to revert to the required

off-street parking spaces by the Planning Commission and/or the City Zoning Administrator, the applicant and/or the current property owner shall fulfill the requirement for the number of off-street parking spaces as originally required. The required off-street parking spaces shall be developed and contain the balance of off-street parking spaces required for the project.

15. Each parking lot that services a building entrance, except single or two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by the above grade signs and painted pavement as reserved for physically handicapped persons.

<u>TOTAL SPACES IN PARKING LOT</u>	<u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20 plus 1 for each 100 over 1,000

Parking spaces for the physically handicapped shall have a minimum of 96 width inches (8') with an adjacent access aisle of 60 inches (5') minimum. Parking must be located on the shortest possible route from parking facilities to an accessible building entrance. Parking spaces must meet all other applicable requirements as set forth in the Building Code.

**SECTION 1805. OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION, AND MAINTENANCE.**

Whenever the off-street parking requirements in Section 1804, above require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations.

1. No parking lot shall be constructed unless and until a permit therefore is issued by the Zoning Administrator. Applications for a permit shall be submitted to the Building Department in such form as may be determined by the Zoning Administrator and shall be accompanied with two (2) sets of site plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the City Engineer. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.

2. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

PARKING PATTERN	MANEUVERING LANE WIDTH		PARKING STALL WIDTH	PARKING STALL DEPTH (90° MEASURE)	TOTAL DEPTH OF ONE TIER OF SPACE PLUS MANEUVERING LANE	TOTAL DEPTH OF TWO TIERS OF SPACES PLUS MANEUVERING LANE
	(2-WAY MOVEMENT)	(1-WAY MOVEMENT)				
0° (parallel parking)	24'	12'	8.0'	22'	20'	40'
45°	23'	12'	9.5'	13'	25'	49'
60°	24'	16'	9.5'	16'	32'	56'
90° *	24'	N/A	10'	18'	43'	60'

3. All maneuvering lane widths shall permit one-way traffic movement, except that the 90° pattern shall permit two-way movement.
4. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
5. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be permitted to traverse land zoned for single family residential use.
6. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
7. An obscuring wall shall be provided on rear and side property lines of the off-street parking area abutting or adjacent to a residential district. The obscuring wall shall not be less than four feet six inches (4'-6") in height measured from the surface of the parking area. In instances where an obscuring wall is required on a corner lot the wall height shall be reduced to two (2) feet in accordance with Section 1315.

All land between the required obscuring wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

The Planning Commission, upon application by the property owner of the off-street parking area, may waive or modify the wall requirement by approving either an earth berm or evergreen screen in its place. The Planning Commission may also waive the wall requirement if in specific cases where cause can be shown that no good purpose would be served by compliance with the requirements of this Section.

8. All lighting used to illuminate any off-street parking area shall be installed in accordance with Section 1820, Exterior Lighting.

9. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.
10. Parking aisles shall not exceed three hundred (300) feet without a break in circulation.
11. Except for those serving single and two-family dwellings, all parking lots shall be provided with wheel stops or bumper guards so located that no part of parked vehicles will extend beyond the property line or into required landscaped areas or pedestrian ways.
12. No parking lot shall have more than one (1) attendant shelter building. All shelter buildings shall conform to setback requirements for structures in the district in which it is located.
13. Off street parking areas shall be landscaped in accordance with Section 1815, 3, b, Parking Lot Landscaping.

#### **SECTION 1806. OFF-SITE PARKING FACILITIES.**

Required parking for a development may be located off-site under certain circumstances. Requests for off-site parking must meet the following requirements:

1. Residential Uses

Parking facilities accessory to dwelling units shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings (such as churches) may be located on a lot adjacent to or directly across a street or alley from the lot occupied by the use served; but in no case at a distance in excess of three hundred (300) feet from such zoning lot.

2. Nonresidential Uses

Parking facilities accessory to nonresidential uses may be located on other than the same zoning lot as the use served (off-site). All required parking spaces shall be within three hundred (300) feet of such zoning lot. No parking spaces accessory to a use in a business or industrial district shall be located in a residential district, unless authorized by the Planning Commission.

3. Agreement Required

A written agreement shall be drawn to the satisfaction of the City Attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to serve.

#### **SECTION 1807. OFF-STREET LOADING AND UNLOADING.**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

**TOTAL FLOOR AREA OFF-STREET LOADING  
OF THE BUILDING                      SPACE REQUIREMENTS**

Office Use	0 - 10,000 square feet	One (1) usable loading space 8' x 22' or 9' x 18'
	10,001 - 50,000 square feet	One (1) usable loading space 10' x 50' in area
	Over 50,000	Two (2) usable loading spaces 10' x 50' in area
Commercial and Industrial Uses	0 - 1,400 square feet	One (1) usable loading space 10' x 25' in area
	1,401 - 20,000 square feet	One (1) usable loading space 10' x 50' in area
	20,001 - 50,000 square feet	Two (2) usable loading spaces, each 10' x 50' in area
	Over 50,000 square feet	Three (3) usable loading spaces plus one (1) space for each 50,000 square feet in excess of 50,000 square feet each 10' x 50' in area

1. All loading spaces shall be in addition to the off-street parking area access drive, and maneuvering lane requirements.
2. Off-street loading space shall have a clearance of fourteen (14) feet in height.
3. Off-street loading space may be completely enclosed within a building, or may occupy a portion of the site outside of the building, provided that where any portion of a loading space is open to public view, said space shall be screened in accordance with Section 1817, Screening Walls.
4. All loading and unloading in an industrial district shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least fifty (50) feet.

**SECTION 1808. RECREATIONAL VEHICLE STORAGE.**

1. The open parking or storage of trailers, boats or similar vehicles not owned by the property owner or tenant of the City on lands not specifically designated for such parking and storage shall be permitted for a period of up to twenty-four (24) hours. However, a travel trailer may be parked in the rear yard of a single-family lot for a period of up to four (4) weeks provided a permit has first been secured from the Zoning Administrator.
2. Residents of the City may store their own trailer, boats, and similar vehicles on their own property for an indefinite period of time, provided the vehicles are in operable condition and shall be stored in the rear yard only. Such vehicles shall be subject to applicable provisions concerning Accessory Buildings as set forth in Section 1803.

3. A travel trailer parked or stored on a residential lot shall not be connected to sanitary facilities and shall not be occupied.

### **SECTION 1809. HOME OCCUPATIONS.**

1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the dwelling unit, (not counting areas of unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches) shall be used for purposes of the home occupation.
2. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation excluding permitted signage as set forth in Section 1814, 5, b.
3. The outdoor storage of goods and materials shall be prohibited. No interior display shall be visible from the exterior of a dwelling unit used for purposes of a home occupation.
4. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.

### **SECTION 1810. BED AND BREAKFAST OPERATIONS.**

A private residence that contains six (6) or fewer sleeping rooms and that offers sleeping accommodations to transient tenants in five (5) or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, serves breakfast at no extra cost to its transient tenants, does not involve the employment of persons other than the occupants of the residence, and has a properly operating smoke detector in every sleeping room and a properly operating fire extinguisher on every floor.

A Bed and Breakfast establishment shall be operated in compliance with applicable state laws, except in instances in which provisions of this ordinance are more strict, in which case this ordinance shall prevail. For the purpose of this definition, a transient tenant shall mean a person who rents a room in a Bed and Breakfast establishment for few than fourteen (14) consecutive days. Bed and Breakfast establishments shall operate only in certain residential districts as provided in this ordinance.

Bed and Breakfast establishments as a subordinate use to single-family dwelling units and subject to all of the following conditions:

1. Such facility shall be located in either an R-1 or R-2 district and be located on and have direct access to a state trunkline, as identified by the subject property's address, or on a major street (as shown on the City's Act 51 street system map).
2. Such facility shall not be located within 500 feet, as measured from the nearest property lines, or either another such facility or an existing non-conforming business use.
3. Off-street parking is provided in a manner than complies with Section 1804 and 1805 of this ordinance. One (1) off-street parking space for the operator plus one (1) additional space per room to be rented shall be provided.

4. No residential structure shall be removed in order to allow for a Bed and Breakfast use nor shall such structure be removed in order to provide for parking for such a use. Further, it is the City's intent to not encourage yards to be destroyed, landscaping removed or the integrity of the neighborhood altered in order to provide adequate parking.
5. There shall be ample open space other than that required to accommodate the required off-street parking. Natural screening by use of plant material or other screening by use of fencing is required to screen parking areas from adjoining residential properties.
6. Each Bed and Breakfast operator shall keep a list of the names of all persons staying at the Bed and Breakfast operation. The guest register shall be available for inspection by City officials at any time.
7. Not more than one (1) sign shall be permitted for such a facility. The sign shall comply with other sections of this ordinance, except that the following conditions shall prevail:
  - a. Sign may be either a wall or ground sign.
  - b. Sign face shall be one-sided and shall have a surface area of not more than six (6) square feet.
  - c. If the sign is illuminated, the source of illumination shall be a single light bulb of not greater than 75 watts, which shall be located not more than eighteen (18) inches from the sign face. The source of illumination shall not be visible from the street or neighboring properties.
  - d. If the sign is a wall sign, it shall be mounted directly on the principal building. If the sign is a ground sign, it shall be located not more than twelve (12) feet from the principal building.
  - e. The distance measured between the face of a ground sign and the ground shall not be less than eighteen (18) inches nor greater than thirty (30) inches.
  - f. Sign face shall be parallel to the property's front lot line and shall not obscure vehicle vision from intersection streets, alleys, or private drives.
  - g. Sign shall have unobscured visibility from a reasonable approach distance along the adjacent major street or trunkline. Such visibility shall be affirmed in the site plan review.
8. Bed and Breakfast establishment shall be operated in compliance with all applicable codes, ordinances and laws of the City, County and State.
9. A Bed and Breakfast establishment shall be considered to have ceased operation when active rental operation of the facility has lapsed for more than twelve (12) months.

**SECTION 1811. ACCESS TO A MAJOR THOROUGHFARE OR COLLECTOR STREET.**

For uses making reference to this Section, vehicular access shall be provided only to an existing or planned major thoroughfare, service drive, or collector street. Provided, however, that access driveways may be permitted to other than a major thoroughfare, or collector street where such access is provided to a street where the property directly across the street between the driveway and the major thoroughfare, service drive, or collector street is zoned for multiple-family use or any nonresidential uses, is developed with permanent uses other than single-family residences or is an

area which, in the opinion of the Planning Commission, will be used for other than single-family purposes in the future. This exception shall apply only if the Planning Commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

**SECTION 1812. RESIDENTIAL ENTRANCEWAY.**

In all Residential Districts, so called entranceway structures including but not limited to walls, columns, and gates marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 1813 provided that such entranceway structures shall comply to all codes of the Municipality, and shall be approved by the Building Department and a permit issued.

**SECTION 1813. CORNER CLEARANCE.**

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

**SECTION 1814. SIGNS.**

1. Intent

The City finds that signs and other visual outdoor advertising tends to promote commerce and are related to the health, safety, and/or general welfare of the residents of the City, and that the preservation of the existing character of the community requires regulation of signs and of other visual outdoor advertising. The City finds that failure to regulate the size, location, and construction of signs and other outdoor advertising may have an adverse effect upon the promotion of business and commerce in the City, may lead to poor identification of businesses, may have an adverse effect upon the existing aesthetic character of the City, and may cause deterioration of business and residential areas of the community. Therefore, the purpose of this section and the subsections thereunder is to permit such signs and visual outdoor advertising as will not, by reason of their size, location, or manner of display, endanger public health and/or safety; confuse or mislead traffic; or obstruct vision necessary for traffic and pedestrian safety; and further, to regulate signs and other visual outdoor advertising in such a way as to prevent the placement of signs, and such other visual outdoor advertising in a manner that will conceal or obscure other signs and other visual outdoor advertising on adjacent businesses; to keep the number of signs and sign messages at a minimum level reasonably necessary to identify a business and its products; to keep signs within a reasonable scale with respect to the buildings to which they relate; and further, to prevent off-premise signs from conflicting with business, residential and public land uses, and to prohibit signs and other visual outdoor advertising which will have an adverse effect upon the existing aesthetic character of not only the zoning district in which they are located, but also upon the overall existing aesthetic character of the City.

2. General Conditions

Except as otherwise provided, the following conditions shall apply in all districts:

- a. Prior to the erection or structural alteration of a sign, a building permit shall be secured from the Zoning Administrator. A scale drawing of the outside dimensions of the sign or the total area encompassed by a line around all lettering or symbols shall

be presented to the Zoning Administrator so that he may ensure that the provisions of this Ordinance are met. Evidence shall also be presented to the effect that the sign will be securely attached to the building or supporting structure and will not present a hazard. For freestanding signs, a site development plan of the intended location of the sign and a scale drawing of the total sign structure shall also be presented to the Zoning Administrator.

- b. Illumination of signs shall be so shaded and shielded as not to interfere with the vision of persons on adjacent roadways or neighboring properties.
- c. No sign, except those maintained by the City, County, State, or Federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement.

### 3. Measurement of Sign Area

The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all the display area of the sign and including all of the elements of the matter displayed. An area so created shall include all solid surfaces, as well as all openings. Structural members not bearing copy or display material shall not be included in computation of sign area. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back, parallel to one another, and less than twenty-four (24) inches apart, the area of the sign shall be the area of one (1) face. Where a sign has two (2) or more faces, that portion of the sign structure connecting the sign faces shall not be used for display purposes. Signs painted on a wall are also regulated by the provisions of this Ordinance.

### 4. Sign (Definitions): Is a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity, person, institution, organization, or business. Signs include, but are not limited to, figures, devices, pennants, emblems and pictures. Any of the above which is not placed out of doors, when placed near inside the surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey information to motorists and pedestrians, shall also be considered as a sign. Signs shall include the following types:

- a. **ABANDONED SIGN:** A sign which advertises a bona fide business, lessor, owner, product or activity no longer conducted or available upon the premises where such sign is displayed.
- b. **ACCESSORY SIGN:** A sign which is accessory to the main or principal use of the premises.
- c. **ANIMATED SIGN:** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- d. **BANNER:** Any sign printed or displayed upon cloth or other flexible material, with or without frames. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
- e. **BEACON:** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

- f. **BUILDING MARKER:** Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- g. **BULLETIN BOARD/ANNOUNCEMENT SIGN:** A sign related to a public school, parochial school, private school, public park or recreation facility, church or other religious institution, which identifies activities or events to take place involving the patrons of such specific use.
- h. **CANOPY SIGN:** Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
- i. **CHANGEABLE COPY SIGN:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Ordinance.
- j. **FLASHING SIGN:** An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.
- k. **FREESTANDING SIGN/GROUND SIGN:** A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.
- l. **IDENTIFICATION SIGN:** A sign stating the name or description of the use of the premises on which the sign is located.
- m. **INCIDENTAL SIGN:** A sign, generally informational, that has a purpose secondary to the use of the zoning lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.
- n. **ILLUMINATED SIGN:** Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- o. **MARQUEE:** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- p. **MARQUEE SIGN:** Any sign attached to, in any manner, or made a part of a marquee.
- q. **MONUMENT SIGN:** A sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.
- r. **NONACCESSORY SIGN:** A sign which is not accessory to the main or principal use of the premises.

- s. NONCONFORMING SIGN: Any sign that does not conform to the requirements of this Ordinance.
- t. PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- u. PORTABLE SIGN: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to a- or t-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- v. PROJECTING SIGN: A sign other than a wall sign suspended from or supported by a building or structure and projecting therefrom, including marquee signs.
- w. REAL ESTATE SIGN: A sign placed upon a property advertising that particular property for sale, rent, or lease.
- x. RESIDENTIAL SIGN: Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the Zoning Ordinance.
- y. RESIDENTIAL DEVELOPMENT SIGN: A sign placed on the premises of a subdivision, or other real estate development site, to identify a proposed start of development, the participants of such development (such as owner, contractor, architect, leasing agent, etc.), and relative date of availability.
- z. ROOF SIGN: Any sign erected and constructed wholly on and over the roof of a building supported by the roof structure.
- aa. SWINGING SIGN: Signs which are designed or constructed to move or pivot as a result of wind pressure for the purpose of attracting attention.
- bb. SUSPENDED SIGN: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- cc. TEMPORARY SIGN: Any sign that is used only temporarily and is not permanently mounted.
- dd. WALL SIGN: A sign erected or fastened against the wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of such wall and not extending more than fourteen (14) inches beyond the surface of the portion of the building wall on which erected or fastened.

## 5. Permitted Signs in the Residential Districts

- a. One (1) sign advertising the sale or lease of the lot or building not exceeding six (6) square feet in area on any one (1) lot. Such sign not to be placed in the public right-of-way, and shall be removed within twenty-four (24) hours of closing.

- b. One (1) unlighted sign announcing a home occupation, bed and breakfast establishment or professional service, not-to-exceed three (3) square feet in area. The sign shall be attached flat against the front wall of the building.
- c. One (1) freestanding sign advertising a recorded subdivision or development not-to-exceed twenty (20) square feet in area and four (4) feet in height and placed no closer to any street right-of-way than one-third (1/3) the minimum authorized front yard depth. Such sign shall be removed within one (1) year after the sale of ninety (90) percent of all lots or units within said subdivision or development.
- d. Residential development signs indicating only the name of the development and the management/developer thereof, subject to the following:
  - (1) The residential development signs shall be monument signs. For purpose of this section, a monument sign shall be defined as a sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.
  - (2) There shall not be more than two (2) residential development signs for each major point of vehicular access to development.
  - (3) Residential development signs at any location shall not exceed fifty (50) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of one hundred (100) square feet for the combined surface of all sign faces.
  - (4) Residential development signs shall not project higher than six (6) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher.
  - (5) Residential development signs may be located in any required yard but shall not extend over any lot line or within ten (10) feet of any point of any public right-of-way. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Administrator. A residential development sign(s), proposed to be located within a public right-of-way, shall specifically be subject to review and approval of the City Council.
- e. Two (2) wall or two (2) freestanding signs or combination thereof identifying a park, school, church, public building, other authorized use, or a lawful nonconforming use, each not-to-exceed thirty-two (32) square feet and be placed no closer to the street right-of-way line than one-third (1/3) the minimum authorized front yard depth. Freestanding signs shall not exceed four (4) feet in height. In addition, wall signs may not project above the roof or parapet line and may not project more than one (1) foot beyond the face of the wall of the building. Wall signs shall be attached to, and be parallel to, the wall of the building.
- f. One (1) unlighted nameplate, identifying the name of the occupant, not-to-exceed three (3) square feet in area. The nameplate shall be attached flat against the front wall of the building.

## 6. Permitted Signs in the Nonresidential Districts

Signs shall be limited to one (1) flat wall sign and one (1) freestanding sign on the premises of a business establishment or composite of businesses under a single ownership by an individual, firm or corporation, subject to the following conditions:

### a. Wall Signs

- (1) Flat wall signs may not project above the roof or parapet line and may not project more than one (1) foot beyond the face of the wall of the building. Wall signs shall be attached to, and be parallel to, the wall of the building.
- (2) Wall signs shall be limited in number to one (1) wall sign per wall providing such a sign faces a public right-of-way or off-street parking area. The maximum size of any such sign shall not exceed ten (10) percent of the building facade where so provided.
- (3) In the instance of several tenants utilizing a common public entranceway, a common wall sign shall be permitted provided any such sign shall not exceed two (2) square feet in area for each tenant listed, or one hundred (100) square feet in area for all tenants listed, whichever is more restrictive. No occupant shall be listed on more than one (1) such sign per side of building having an individual means of access.

### b. Freestanding Signs

- (1) A maximum of one (1) freestanding sign shall be permitted per use. Signs may be freestanding or ground supported anywhere back of the property line provided, however, that such signs shall not be placed closer than fifty (50) feet to any residential district, or closer than three (3) feet from a front property and/or right-of-way line or to adjacent nonresidential properties. Monument signs may be substituted for an equal number of freestanding signs. In such cases, monument signs may be increased in area by twenty (20) percent providing that such signs do not exceed eight (8) feet in height.
- (2) The allowable height for such signs shall not be over twenty (20) feet.
- (3) The maximum sign area shall be fifty (50) square feet.
- (4) Freestanding signs shall have two (2) sides or less.
- (5) Lots having frontage on 2 major thoroughfares or collector streets shall be permitted a second freestanding sign.
- (6) Freestanding signs shall be prohibited in the CBD District.

### c. Freestanding Signs for Shopping Centers

- (1) One (1) freestanding identification sign stating the name of a business center and major tenants therein may be erected for a shopping center, office park, industrial park, or other integrated group of stores, commercial buildings, office buildings, or industrial buildings, providing that such centers have multiple tenants and/or uses, and further provided that the site contains a minimum of three (3) acres of land. Such freestanding signs shall not be

permitted for individual tenants located in an approved business center development.

- (2) The allowable height for such signs shall not be over twenty-five (25) feet.
- (3) The maximum sign area shall be one hundred fifty (150) square feet per side.
- (4) Freestanding signs shall have two (2) sides or less.
- (5) Business centers having frontage on two major thoroughfares or collector streets shall be permitted on a second freestanding sign.

## 7. Other Permitted Signs

- a. Highway signs erected by the U.S. Government, State of Michigan, Huron County, or the City of Harbor Beach.
- b. Governmental use signs erected by governmental agencies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, other public space, or for governmental buildings.
- c. Directional signs in conjunction with drives or off-street parking areas, provided any such sign does not exceed four (4) square feet in area, is limited to traffic control functions, does not obstruct traffic vision, and does not contain any advertising copy or logos.
- d. Historic signs designating sites recognized by the State Historical Commission as Centennial Farms or Historical Landmarks.
- e. Placards posted to control or prohibit hunting and/or trespassing within the City.
- f. Essential service signs denoting utility lines, railroad lines, hazards, and precautions.
- g. Memorial signs or tablets which are either: (1) cut into the face of a masonry surface; or (2) constructed of bronze or other incombustible material when located flat on the face of a building.

## 8. Temporary Signs

- a. Nonilluminated temporary signs promoting political parties, candidates, or proposals so long as such signs are removed within three (3) days after the completion of election activities. Signs in place beyond three (3) days are declared to be a nuisance. Signs in residential areas shall not exceed six (6) square feet. Signs in nonresidential districts shall not exceed thirty-two (32) square feet.
- b. Special decorative displays or signs used for holidays, public announcements or promotion of civic welfare or charitable purposes when not used for a commercial purpose when authorized by the City Zoning Administrator. In considering such authorization, the City shall consider the following standards:
  - (1) The size, character, and nature of the display or sign shall consider the proposed site of display for proper scale and relationship with the site and adjoining properties.

- (2) The duration or time period during which the display or sign will be utilized shall coincide with the purpose for which it was approved.
  - (3) The purpose(s) for which the sign display is to be erected.
  - (4) The arrangements made for the removal of the sign or display after the termination of its usefulness.
  - (5) The effect of the proposed sign or display on light and air circulation for lots which are both adjoining and in the surrounding neighborhood of the proposed sign or display.
  - (6) Whether or not the sign or display will constitute a traffic hazard.
- c. Construction signs showing names of building contractors, professional firms, and lending institutions on sites under construction not-to-exceed twenty (20) square feet in area and four (4) feet in height and not located nearer than ten (10) feet to a public right-of-way. The sign shall be confined to the site of the construction, construction shed, or trailer and shall be removed within fourteen (14) days of the beginning of the use of the project.
  - d. Illuminated portable signs for up to four (4) special events per year, such as grand openings, fair and festivals, and announcements of new products, service or management, and including the event period provided the following conditions are met:
    - (1) They do not exceed twenty (20) square feet in area on any side.
    - (2) They are not located closer than ten (10) feet to a street right-of-way.
    - (3) No portable sign shall exceed ten (10) feet in height.
    - (4) No portable sign shall be located in such a manner as to interfere with vehicular or pedestrian traffic flow or visibility.
    - (5) Portable signs shall be limited to fourteen (14) days per event period.
    - (6) Prior to the establishment of a portable sign, an application for a permit shall be filed, accompanied by any requisite processing fees which may be established by City Council resolution, with the City Zoning Administrator.

## 9. Prohibited Signs

- a. Canopy and awning signs, except such signs may be allowed provided they do not project over a public right-of-way and are at a minimum of eight (8) feet above ground level.
- b. Inflatable signs.
- c. Signs which incorporate, in any manner or are illuminated by, any flashing or moving lights other than for the conveyance of noncommercial information which requires periodic change, such as temperature, stock averages, time, and date.

- d. Exterior banners, pennants, spinners, balloons and streamers, other than a sign permitted as a temporary sign.
- e. Exterior string lights used in the connection with a commercial premise, other than holiday decorations.
- f. Any sign which is structurally or electrically unsafe.
- g. Signs displaying moving or animated parts or images.
- h. Benches with signs and/or advertising attached.

10. Nonconforming Signs

Nonconforming signs shall not:

- a. Be re-established after the activity, business, or use to which it relates has been discontinued for ninety (90) days or longer.
- b. Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign in a way which releases its nonconforming status.
- c. Be re-established after damage or destruction, if the estimated expense of reconstruction exceeds fifty (50) percent of the replacement cost as determined by the Zoning Administrator.

11. Nonaccessory Signs

- a. Nonaccessory signs are permitted in the M Districts.
- b. Nonaccessory signs shall be regulated as follows:
  - 1) They shall be located a minimum of two hundred (200) feet from adjacent residentially zoned property;
  - 2) They shall be located a minimum of one thousand (1,000) feet from other nonaccessory signs on the same side of the right-of-way;
  - 3) They shall have the same setbacks as other principal structures in the zone in which they are situated;
  - 4) They shall not exceed three hundred (300) square feet in area;
  - 5) They shall not exceed forty-five (45) feet in height; and
  - 6) They shall be freestanding ground signs. No sign shall be erected on the roof of any building, nor have any one (1) sign above another.

## **SECTION 1815. LANDSCAPING.**

### **1. Intent**

Landscaping, greenbelts, and screening are necessary for the protection and enhancement of the environment and for the continued vitality of all land uses in the City. Landscaping and greenbelts are capable of enhancing the visual environment, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual disruption related to intensive uses. The purpose of this section is to set minimum standards for the protection and enhancement of the environment through requirements for the design and use of landscaping, greenbelts, and screening.

### **2. Scope of Application**

The requirements set forth in this section shall apply to all uses, lots, sites, and parcels which are developed or expanded following the effective date of this Ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this section. Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance bond has been posted in accordance with the provisions set forth in Section 1900, 7.

In cases where the use of an existing building changes and requires administrative or commission site plan review, all of the standards set forth herein shall be met.

The requirements of this section are minimum requirements, and nothing herein shall preclude a developer and the City from agreeing to more additional plantings.

### **3. Landscaping Design Standards**

Except as otherwise specified in the general requirements for each Zoning District, all landscaping shall conform to the following standards:

#### **a. General Landscaping**

All portions of the lot or parcel area not covered by buildings, paving, or other impervious surfaces, shall be landscaped with vegetative ground cover and other ornamental materials as required below, except where specific landscape elements, such as a greenbelt, berm, or screening are required:

- (1) All portions of the landscaped area shall be planted with grass, ground cover, shrubbery, or other suitable plant material, except that paved patios, terraces, sidewalks and similar site features may be incorporated with Planning Commission approval.
- (2) A mixture of evergreen and deciduous trees shall be planted at the rate of one (1) tree for each 1,000 square feet or portion thereof of landscaped open-space area.
- (3) On sites which are two (2) acres or larger in size, the landscaped area shall include a greenbelt of a minimum ten (10) foot width, located and continually maintained along a public right-of-way.

- (4) Planning Commission may reduce or waive the requirements outlined herein provided that any such adjustment is in keeping with the intent of the Ordinance, and more specifically, with the intent of Section 1816, 1.
- (5) The total landscaped area shall be the basis for determining the required number of trees or shrubs, irrespective of the portion which is devoted to patios, terraces, sidewalks, or other site features.

b. Parking lot landscaping.

Off-street parking areas shall be landscaped as follows:

1. In off-street parking areas containing twenty (20) or more parking spaces, an area equal to at least five (5) percent of the total parking area shall be used for interior landscaping. Whenever possible, parking lot landscaping shall be arranged to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area, through the even distribution of the landscape effort across the total off-street parking area, rather than to concentrate all effort in one location.
2. Parking lot landscaping shall be in units not less than five (5) feet in any single dimension and not less than one hundred fifty (150) square feet in any single island area. Not more than two (2) landscaped units of one hundred fifty (150) square feet may be combined in plans designed to meet the minimum requirements.
3. The landscape plan shall designate the sizes, quantities, and types of plant material to be used in parking lot landscaping.
4. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
5. A minimum of one (1) deciduous tree shall be planted in each landscaped unit.

c. Greenbelt Buffer

Where required, greenbelts and greenbelt buffers shall conform to the following standards:

- (1) A required greenbelt or greenbelt buffer may be interrupted only to provide for roads or driveways for vehicular or pedestrian access.
- (2) Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except that paving may be used in areas of intensive pedestrian circulation.
- (3) A minimum of one (1) deciduous tree or evergreen tree shall be planted for each thirty (30) lineal feet or portion thereof of required greenbelt length.
- (4) Two (2) shrubs shall be required for each fifteen (15) linear feet of greenbelt area.

- (5) For the purpose of determining required plant material, required greenbelt area length shall be measured along the lot lines adjacent to the greenbelt area inclusive of all driveways.

d. Berms

Where required, earth berms or landscaped berms shall conform to the following standards:

- (1) The berm shall be at least three (3) feet above the grade elevation, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal, and shall provide a two (2) foot minimum crest. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm.
- (2) The berm area shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.
- (3) A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) linear feet or portion of required berm.
- (4) Eight (8) shrubs per tree may be planted as substitute for trees (see item "3" above).
- (5) For the purpose of determining required plant material, required berm length shall be measured along the length of the berm.
- (6) Planning Commission may reduce or waive the requirements outlined herein provided that any such adjustment is in keeping with the intent of the Ordinance, and more specifically, with the intent of Section 1816,1.

e. Evergreen Screening

- (1) Where required, evergreen screening shall consist of closely-spaced plantings which form a visual barrier that is at least eight (8) feet above ground level within five (5) years of planting.
- (2) Planning Commission may reduce or waive the requirements outlined herein provided that any such adjustment is in keeping with the intent of the Ordinance, and more specifically, with the intent of Section 1816,1.

f. Landscaping of Rights-of-Way and Other Adjacent Public Open-Space Areas

Public rights-of-way and other public open-space areas adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable ground cover and maintained by the owner of the adjacent property as if they were part of required landscaped areas and greenbelts.

g. Regulations Pertaining to Landscaping Areas Used for Sight Distance

When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility. Shrubs located in the triangular area shall not be permitted to grow to a height of more than two (2) feet

above the pavement grade at the edge of the pavement. Portions of required berms located within sight distance triangular areas shall also not exceed a height of two (2) feet above the pavement grade at the edge of the pavement. Trees may be maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of eight (8) feet above the roadway surface. Landscaping, except grass or ground cover, shall not be located closer than three (3) feet from the edge of a driveway.

The triangular areas referred to above are:

- (1) The area formed at the corner intersection of a public right-of-way and a driveway, two (2) sides of the triangle area being ten (10) feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides.
- (2) The area formed at a corner intersection of two (2) public rights-of-way lines, the two (2) sides of the triangular area being twenty-five (25) feet in length measured along the abutting public rights-of-way lines and the third side being a line connecting these two (2) sides.

h. Maintenance of Landscaping

- (1) All required landscape areas shall be planted and maintained with living plant materials. All landscaping which is located more than fifty (50) feet from a building site shall have an irrigation (water sprinkler) system installed to assist in maintaining plant materials in a healthy condition.
- (2) Upon completion of the installation of the landscaping, the owner shall implement a seasonal maintenance program to replace all diseased, dead or damaged plants, replenish mulch, control weeds, fertilize and prune all plant materials. Failure to maintain required landscaped areas, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this Ordinance.

i. Existing Plant Material

In instances where healthy plant material exists on a site prior to its development, the Planning Commission may adjust the application of the above standards to allow credit for such plant material if such an adjustment is in keeping with, and will preserve the intent of this Ordinance, more specifically Section 1816,1. All such material "to be saved" shall be so indicated on the landscape plan.

All existing plant materials must first be verified by the Zoning Administrator, prior to issuance of a Building Permit, to determine the health and desirability of such materials. The property owner of applicant may enlist the services of a registered landscape architect or registered forester to verify existing plant materials and may submit a site plan and/or report. The Planning Commission may require the above information when deemed necessary.

If such existing plant material is labeled "to be saved" on site plans, protective techniques, such as (but not limited to) fencing placed at the drip-line around the perimeter of the plant material, shall be installed. No vehicle or other construction

equipment shall be parked or stored within the drip-line of any plant material intended to be saved.

In the event that healthy trees labeled "to be saved" on the approved site plan are destroyed or damaged, as determined by the Zoning Administrator, said trees shall be replaced with trees of comparable type, prior to issuance of a Certificate of Occupancy.

**SECTION 1816. PLANT MATERIALS.**

Whenever in this Ordinance planting is required, it shall be planted within six (6) months from the date of completion of the building or improvement, and shall thereafter be reasonably maintained with permanent plant materials. Plastic and other nonorganic, nonliving plant materials shall be prohibited from use and shall not be in compliance with the spirit and intent of this Ordinance.

- 1. Plant Material Spacing
  - a. Trees shall not be planted closer than four (4) feet from the fence line or property line and shrubs shall not be planted closer than two (2) feet from the fence or property line.

2.	Suggested Plant Materials	Minimum Size
----	---------------------------	--------------

- |    |                 |  |
|----|-----------------|--|
| a. | Deciduous Trees | Two (2) inch Caliper and ten (10) feet in height |
|----|-----------------|--|

- (1) Oaks
- (2) Hard Maple
- (3) Hackberry
- (4) Birch
- (5) Planetree (Sycamore)
- (6) Ginkgo (male)
- (7) Beech
- (8) Sweet-Gum
- (9) Honeylocust
- (10) Hop Hornbeam
- (11) Linden
- (12) Bradford Pear

- |    |                  |  |
|----|------------------|--|
| b. | Ornamental Trees | One and a half (1½) inch caliper and five (5) feet in height |
|----|------------------|--|

- (1) Flowering Crab
- (2) Russian Olive
- (3) Mountain Ash
- (4) Dogwood
- (5) Redbud
- (6) Rose of Sharon
- (7) Hornbeam
- (8) Hawthorn
- (9) Magnolia

- c. Evergreen Trees Five (5) feet in height
  - (1) Hemlock
  - (2) Fir
  - (3) Pine
  - (4) Spruce
  - (5) Douglas-Fir
  
- d. Narrow Upright Evergreens Four (4) feet in height
  - (1) Column Honoki Cypress
  - (2) Blue Columnar Chinese Juniper
  - (3) Pyramidal Red-Cedar
  - (4) Irish Yew
  - (5) Douglas Arborvitae
  - (6) Columnar Giant Arborvitae
  
- e. Ornamental Shrubs Twenty-four (24) inches in height or width
  - (1) Honeysuckle
  - (2) Viburnum
  - (3) Mock-Orange
  - (4) Forsythia
  - (5) Lilac
  - (6) Cottoneaster
  - (7) Hazelnut
  - (8) Euonymus
  - (9) Privet
  - (10) Buckthorn
  - (11) Sumac
  
- f. Evergreen Shrubs Twenty-four (24) inch in height or width
  - (1) Globe Arborvitae
  - (2) Dwarf Mugo Pine
  - (3) Andorra Juniper
  - (4) Broadmoor Juniper
  - (5) Tamarix Juniper
  
- 3. Trees Not Permitted
  - a. Box Elder
  - b. Soft Maples (Red-Silver)
  - c. Slippery Elms
  - d. Poplars
  - e. Willows
  - f. Horse Chestnut (nut bearing)
  - g. Tree of Heaven
  - h. Catalpa
  - i. Ginkgo (female)
  - j. Basswood
  - k. Chinese Elm
  - l. Cottonwood

4. Existing Plant Materials

In instances where healthy plant material exists on a site prior to its development, the Planning Commission may adjust the application of the above standards to allow credit for such plant material if such an adjustment is in keeping with, and will preserve, the intent of this section.

All existing plant materials must first be verified by the Zoning Administrator, prior to issuance of a Building Permit, to determine the health and desirability of such materials. The property owner or applicant may enlist the services of a registered landscape architect or registered forester to verify existing plant materials and may submit a site plan and/or report. The Planning Commission may require the above information where they deem necessary.

If such existing plant material is labeled "To Be Saved" on site plans, protective techniques, such as (but not limited to) fencing placed at the drip-line around the perimeter of the plant material, shall be installed. No vehicle or other construction equipment shall be parked or stored within the drip-line of any plant material intended to be saved.

In the event that healthy trees labeled "To Be Saved" on the approved site plan are destroyed or damaged, as determined by the Zoning Administrator, said trees shall be replaced with trees of comparable type, prior to issuance of Certificate of Occupancy.

**SECTION 1817. SCREENING WALLS.**

1. For the Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district, an obscuring wall. The height of the wall shall be constructed and measured from the surface of the parking area or land on the nonresidential side of the wall:

	<u>USE</u>	<u>MINIMUM HEIGHT REQUIREMENTS</u>
a.	Off-street Parking Area	4'-6" high wall (see also Section 1305,7)
b.	B-1, B-2, B-3, CBD and OS-1 Districts	4'-6" high wall
c.	M District	4'-6" high wall
d.	Open Storage Areas and Loading and Unloading Zones	4'-6" to 8'-0" high wall or fence (See also Sections 1103 and 1308)
e.	Trash Receptacles	6'-0" high wall (see also Section 1321)
f.	Utility Buildings, Stations, and Substations	6'-0" high wall or fence

2. In the case of the variable wall height requirement in (d) above, the extent of obscuring wall shall be determined by the Planning Commission on the basis of land usage, provided further that no wall or fence shall be less than the above required minimum, nor greater than the above required maximum height.

3. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with yard setback lines. Upon review of the site plan, the Planning Commission may approve an alternate location for the wall, or may modify the wall requirement by approving either an earth berm or evergreen screen in accordance with Section 1816, 3 (d)(e). The Planning Commission may also waive the wall requirement if in specific cases where cause can be shown that no good purpose would be served by the screening requirement.
4. Required walls shall have no openings for vehicular traffic except as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Zoning Administrator to be durable, weather resistant, and easily maintained.
5. The requirement for an obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than two hundred (200) feet distant from abutting residential district(s).

**SECTION 1818. FENCES.**

All fences located in the City shall conform to the following regulations:

1. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six (6) feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater. Fences shall be constructed from the ground to the permitted heights. Such fences shall be constructed with the finished side (side with no framing material being visible) facing the adjacent property. Fences, including fence posts, shall be constructed with cedar, redwood, or pressure treated material. Dimensional lumber used in fence construction shall have a minimum thickness of ¾ inch, and fence posts shall be 3½ inch by 3½ inch or larger.  
  
Decorative fences shall be permitted in a front yard where they do not exceed two and one half (2-1/2) feet in height and the vertical surface in any five (5) foot section measured from the finished ground grade to the top of the fence has openings of at least fifty (50) percent of the total surface of each five (5) foot section of fence, and that all framing members including posts, horizontal or vertical supports and fencing be considered in the calculation. Decorative fencing does not include chainlink fences.
2. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity, except that barbed wire may be placed on the top of fences in nonresidential districts to enclose utility buildings or stations. Barbed wire cradles shall consist of no more than three strands of wire and shall overhang into the property which it is to protect.
3. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than twenty-five (25) percent of their total area.

**SECTION 1819. OUTDOOR TRASH STORAGE AREAS.**

1. In all OS-1, B-1, B-2, B-3, CBD, M, and WM Districts, there shall be provided an outdoor trash storage area. Any such area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. The requirement for such a trash storage area may be waived by the Planning Commission upon

a finding that it is unnecessary due to the nature of the use, or owing to provisions for indoor trash storage.

2. Any such storage area shall be located in a rear yard and/or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.
3. A screen wall in accordance with Section 1817, Screening Walls of six feet in height shall enclose three sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any such storage area shall be constructed of concrete which complies with local building requirements.
4. In no instance shall any such refuse be visible above the required screening.

**SECTION 1820. EXTERIOR LIGHTING.**

1. All outdoor lighting in all use districts other than residential shall be shielded so the surface of the source of the light shall not be visible from all adjacent residential districts, adjacent residences, and public rights-of-way.
2. All outdoor lighting in all use districts shall be directed and confined to the ground area or building surface. In no case shall the source of light cause illumination in excess of one (1) foot candle when measured, at grade, at any adjoining residential district boundary line.
3. All illumination shall not be of a flashing, moving or intermittent type other than used in connection with a sign for the conveyance of noncommercial information which requires periodic change, such as time, temperature or stock averages.
4. All illumination shall be constant in intensity and color at all times when in use.

**ARTICLE XIX  
REVIEW AND APPROVAL PROCEDURES**

**SECTION 1900. REVIEW AND APPROVAL OF SITE PLANS.**

1. Application

Prior to the establishment of a new use, change of use, addition to an existing use, or the erection of any building in a zoning district, subject to the conditions listed below, a site plan shall be submitted and approved, approved with conditions, or disapproved by the City Planning Commission in accordance with the Ordinance requirements of this Article.

- a. Site Plan reviews are required for all permitted principal uses and structures in all zoning districts (except for the single-family detached and two-family dwellings and their accessory uses) and all conditional approval uses in all zoning districts. Refer to Section 1902, Review and Approval of Conditional Uses.
- b. When the proposed new construction or remodeling constitutes an addition to an existing building, or use, site plan review procedures may be modified, at the discretion of the Zoning Administrator, to provide for an administrative review by the Zoning Administrator in lieu of a more formal review by the City Planning Commission. The Zoning Administrator may conduct an administrative review provided both of the following are true:
  - (1) No variances to the Ordinance are required.
  - (2) The proposed new construction would not increase the total square footage of the building greater than twenty-five (25) percent or one thousand (1,000) square feet, whichever is less.
- c. For those cases requiring site plan review solely as a result of building reoccupancy, site plan review procedures may be modified, at the discretion of the Zoning Administrator, to provide for an administrative review by the Zoning Administrator in lieu of a more formal review by the City Planning Commission. The Zoning Administrator may conduct an administrative review provided all of the following are true:
  - (1) Such use is conducted within a completely enclosed building.
  - (2) Reoccupancy does not create additional parking demands, beyond twenty-five (25) percent of that which exists.
  - (3) Reoccupancy does not substantially alter the character of the site.
- d. Every site plan submitted for review shall be in accordance with the requirements of this Ordinance. Administrative review procedures are not intended to modify any ordinance, regulation or development standard.

2. Copies Required

Every site plan submitted to the Planning Commission shall be in accordance with the requirements of this Ordinance. Eighteen (18) complete copies of all site plans shall be filed with the Zoning Administrator, who shall place the request on the next Planning Commission agenda.

### 3. Information Required

The following information shall be included on the site plan:

- a. A scale of not less than 1" equals 50' if the subject property is less than three (3) acres and 1" equals 100' if three (3) acres or more.
- b. Date, north point and scale.
- c. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties and buildings within fifty (50) feet.
- d. Legal description of parcel.
- e. Existing and proposed topography with contours at two (2) foot intervals, (based on U.S.G.S. datum), extending a minimum of 50' feet beyond site boundaries. This requirement may be waived when no significant grade changes are proposed for existing uses.
- f. An inventory of existing vegetation on the site and an indication of any alterations.
- g. The location and nature of any streams, drains, swamps, marshes, and/or unstable soils.
- h. An indication of basic drainage patterns, existing and proposed, and including any structures, retention basins and fencing which are proposed. The applicant shall contact the Municipality and municipal engineer to determine the adequacy of utility and storm water proposals, slope and sod erosion requirements to determine if any such requirements will adversely affect the site plan.
- i. A schedule of off-street parking requirements and basis for calculation.
- j. A detailed landscaping plan and schedule of plant materials and sizes.
- k. Cross section drawings of any retaining or screen walls, berms, etc.
- l. The location and width of all existing and proposed sidewalks on or bordering the subject site. Where the subject site borders a public right-of-way, a concrete sidewalk five (5) feet in width shall be provided within the public right-of-way one foot from the subjects site's property line.
- m. The location of all existing and proposed structures of the subject property and all existing structures within 50 feet of the subject property. The setbacks to all existing and proposed structures to be retained or constructed on the site shall be indicated; this includes buildings, signs, trash storage areas, walls, fences, berms, parking areas, etc. The height of all proposed structures shall also be indicated.
- n. The location of all existing and proposed drives and parking areas.
- o. The location and right-of-way widths of all abutting streets and alleys.
- p. The names, addresses, and telephone numbers of the architect, planner, designer, engineer or person responsible for the preparation of the site plan.

- q. The names, addresses and telephone numbers, of the owners and developers.
- r. In addition to the above information, the applicant shall submit a supplementary explanation as to the specific type(s) of activities proposed. Such information shall include, but not be limited to:
  - (1) Estimated number of employees.
  - (2) Hours of operation.
  - (3) Any changes anticipated in terms of dust, odor, smoke, fumes, noise, lights, etc.
  - (4) Modifications to vegetative cover, drainage patterns, earth work, problem areas.
  - (5) Any ancillary improvements that the applicant proposes to remedy or prevent problems created by the development.
  - (6) Estimated costs of proposed landscaping berms, walls, acceleration-deceleration lanes, or bypass lanes or any other required site improvement not covered in the Building Permit cost estimates, shall be provided.
- s. Proposed building floor plans and elevations including overall dimensions and building heights shall be submitted.

#### 4. Content of Site Plan File

The site plan(s), all supplementary data, together with minutes of any meeting and/or hearings related to the proposed site plan shall become part of the official site plan file.

#### 5. Standards for Approval

In the process of reviewing the site plan, the Planning Commission shall consider:

- a. Specific development requirements set forth in the Zoning Ordinance.
- b. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.
- c. The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure:
  - (1) Safety and convenience of both vehicular and pedestrian traffic, both within the site and in relation to access streets.
  - (2) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
  - (3) Accessibility afforded to emergency vehicles.

- d. The arrangement of use areas on the site in relation to functional, efficient and compatible arrangements within the site and also to adjacent uses.
- e. The Planning Commission may further require landscaping, fences, screenwalls and retaining walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant. Planning Commission may require a 36" high barrier, guard, or fence at vertical grade changes over 30" in height.
- f. In those instances wherein the Planning Commission finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, the Planning Commission may recommend marginal access drives. For a narrow frontage, which will require a single outlet, the Planning Commission may recommend that money be placed in escrow with the Municipality so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the improvement is physically provided, or monies have been deposited with the Clerk.
- g. The cost estimates, as required in this section shall be reviewed by the appropriate Municipal official (i.e. Zoning Administrator, Engineer or Planner) for their compliance with current cost estimates. These reviews and recommendations shall be forwarded to the Planning Commission for inclusion in any approved site plan.
- h. The Planning Commission may waive site plan information for topography, vegetation, problem soils, landscaping, employment data environmental considerations, etc., when such concerns are obviously not pertinent to the proposed development. The Zoning Official may waive these requirements for plans administratively reviewed (Section 1900, 1 b and c).

## 6. Planning Commission Actions

The Planning Commission, upon reviewing a site plan, shall take one of the following actions:

- a. Approval - If the site plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record such approval and the Chairman shall sign three (3) copies of the site plan filing one in the official site plan file, forwarding one to the Zoning Administrator, and returning one to the applicant.
- b. Disapproval - If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
- c. Conditional Approval - If minor corrections to the site are necessary, which can be clearly noted, then the Planning Commission shall so note such conditions and the Chairman shall sign three (3) site plans as conditionally approved and stating the necessary conditions. One copy shall be retained in the official site plan file, one forwarded to the Zoning Administrator, and one returned to the applicant.
- d. Table - If the site plan is found to be in violation of the requirements or incomplete with respect to necessary information, the Planning Commission may table action on the site plan until ordinance compliance is shown or required additional information is provided.

7. Performance Guarantees

To ensure compliance with the Zoning Ordinance and any condition imposed thereunder, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the City to ensure faithful completion of the improvements and also be subject to the following:

- a. The performance guarantee shall be deposited prior to the issuance of a temporary certificate of occupancy. The City shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. Any partial release of funds shall be less than ten (10) percent which shall be retained by the Municipality until all work has been completed and subsequently inspected and approved by the Zoning Administrator. This does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning of said public improvements.
- b. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended (the state Subdivision Control Act).
- c. As used in this section, "improvements" mean 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 or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage.

8. Period of Completion

An approved site plan shall remain valid for a period of one (1) year from the date of approval. In the event all improvements are not installed, then any such remaining improvements shall be completed no later than July 1 of the following construction season except that the City Council may, at its discretion, upon application by the owner and for cause shown, provide for up to two (2) successive twelve (12) month extensions. Projects under construction may be extended beyond the two (2) twelve (12) month extensions with City Council approval.

**SECTION 1901. REVIEW AND APPROVAL OF CONDOMINIUM DEVELOPMENTS.**

The following regulations shall apply to all condominium developments within the City of Harbor Beach.

1. Initial Information

Concurrently with notice required to be given the City of Harbor Beach pursuant to Section 71 of Pubic Act 59 of 1978, as amended (the Condominium Act), a person, firm or corporation intending to develop a condominium development shall provide the following information:

- a. The name, address, and telephone number of:
  - (1) All persons, firms or corporations with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
  - (2) All engineers, attorneys, architects or registered land surveyors associated with the project.
  - (3) The developer or proprietor of the condominium development.
- b. The legal description of the land on which the condominium development will be developed together with appropriate tax identification numbers.
- c. The acreage content of the land on which the condominium development will be developed.
- d. The purpose of the development (for example, residential, commercial, industrial, etc.).
- e. Approximate number of condominium units to be developed on the subject parcel.
- f. Whether or not a community water system is contemplated.
- g. Whether or not a community sanitary sewer system is contemplated.

2. Information to be Kept Current

The information shall be furnished to the City Zoning Administrator and shall be updated.

3. Site Plans for New Projects

Prior to recording of the Master Deed required by Section 72 of Public Act 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Section 1900 of this Ordinance. In addition, the City shall require appropriate engineering plans and inspections prior to the issuance of any Certifications of Occupancy.

4. Site Plans for Expandable or Convertible Projects

Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval pursuant to Section 1900 of this Ordinance.

5. Master Deed, Restrictive Covenants and "As Built" Survey to be Furnished.

The condominium development developer or proprietor shall furnish the Zoning Administrator with the following: One (1) copy of recorded Master Deed, one (1) copy of all restrictive covenants and two (2) copies of an "as built survey." The "as built survey" shall be reviewed by the City Engineer for compliance with City Ordinances. Fees for this review shall be established by resolution of the City Council.

## 6. Monuments Required

All condominium developments which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection.

- a. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inches in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
- b. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development and at the intersection of alleys with the boundaries of the condominium development; 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. It is not intended nor required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
- c. 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 plans and referenced to the true point.
- d. 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.
- e. All required monuments shall be placed flush with the ground where practicable.
- f. All unit corners and the intersection of all limited common elements and all common elements shall be monumented in the field by iron or steel bars or iron pipe at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.
- g. The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not-to-exceed one (1) year, on the condition that the proprietor deposits with the City cash or a certified check, or irrevocable bank letter of credit to the City of Harbor Beach, whichever the proprietor selects in an amount to be established by Council, by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

## 7. Compliance with Federal, State, and Local Law

All condominium developments shall comply with federal and state statutes and local ordinances.

8. The Zoning Administrator may allow occupancy of the condominium development before all improvements required by this Ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit

without expense to the City.

9. Single-Family Detached Condominiums

- a. Single-family detached condominium project shall be subject to all requirements and standards of the applicable R-1 through R-2, One-Family Residential Districts.
- b. The design of a single-family detached condominium project shall be subject to the design layout standards of the City of Harbor Beach's Subdivision Regulations as may be amended, except as may otherwise be provided by this Ordinance.
- c. The construction of a single-family detached condominium project shall be subject to the engineering design standards of the City of Harbor Beach, as may be amended, except as may otherwise be provided by this ordinance.
- d. Walkways shall be installed in all single-family detached condominium developments. Such walkways shall be a minimum of five (5) feet in width and shall be constructed of concrete four (4) inches thick. In addition, walkways shall be located on both sides of all interior roadways and so located as to provide access to all general common areas.
- e. The natural features and character of the lands shall be preserved wherever practicable. In addition, street trees shall be provided in the ratio of at least one per dwelling unit. All unimproved surface area on the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape material, except that patios, terraces, decks, and similar site features may be allowed.

10. Final Documents to be Provided

After submittal of the condominium plan and by-laws as part of the Master Deed, the proprietor shall furnish to the City a copy of the site plan on a mylar sheet of at least thirteen by sixteen (13 x 16) inches with an image not-to-exceed ten and one-half by fourteen (10-1/2 x 14) inches.

**SECTION 1902. REVIEW AND APPROVAL OF CONDITIONAL USES.**

1. Application

- a. The uses identified as special condition uses are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.
- b. The City Council, as provided herein, shall have the authority to approve conditional use permits, subject to such conditions of design, operation, and appropriate and reasonable safeguards as the City may require for any special condition use included in the various provisions of this Zoning Ordinance.

2. Data Required

- a. Application for any conditional use permit as provided under the provisions of this Ordinance shall be made to the Zoning Administrator by filing an official special condition use permit application form; submitting required data, exhibits, and

information; and depositing the required fee as established by resolution of the City Council, and as may be amended from time-to-time. No portion of such fee shall be reimbursable to the applicant.

- b. An application for a conditional use permit shall contain the following:
  - (1) Applicant's name, address and telephone number.
  - (2) Address and tax description number of the subject parcel.
  - (3) A signed statement that the applicant is the owner of the subject parcel, or is acting as the owner's representative.
  - (4) A certified survey drawing of the subject parcel.
  - (5) A complete site plan containing all of the applicable data outlined in Section 1900, review and approval of site plans.
  - (6) Supporting statements, evidence, data, information and exhibits which address those standards and requirements for assessing special condition use permit applications outlined in Section 1902,4 below.

### 3. Public Hearing Requirements

Upon receipt of an application for a use requiring conditional approval, the Planning Commission shall hold a public hearing, one (1) notice of which shall be published not less than five (5) nor more than fifteen (15) days prior to the public hearing date in a newspaper of general circulation in the City and sent by first class mail to the owners of the property for which special condition approval is being considered, to the owners of record of all real property and to the occupants of all structures located within 300 feet of the boundaries of the property in question. The notice shall:

- a. Describe the nature of the special condition use request.
- b. Adequately describe the property in question.
- c. State the date, time, and place of the public hearing.
- d. Indicate when and where written comments concerning the request will be received.

### 4. Standards for Approval

- a. The Planning Commission shall review the particular circumstances and facts applicable to each proposed special condition use in terms of the following standards and requirements and shall make a determination as to whether the use proposed to be developed on the subject parcel meets the following standards and requirements:
  - (1) Will be harmonious with and in accordance with the general objective of the Future Land Use Plan.

- (2) Will be designed, constructed, operated, maintained, in harmony with existing and intended character of the general vicinity and so that such use will not change the essential character of that area.
  - (3) Will not be hazardous or detrimental to existing or future neighboring uses.
  - (4) Will represent a substantial improvement to property in the immediate vicinity and general benefit to the community as a whole.
  - (5) Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, police and fire protection and refuse disposal; or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
  - (6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.
  - (7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors.
  - (8) Will be consistent with the intent and purposes of this Ordinance.
- b. If the facts regarding the special condition use being reviewed do not establish by a preponderance of the evidence that the standards and requirements set forth in this Zoning Ordinance will be met by the proposed use, the Planning Commission shall not recommend special condition approval to the City Council.

In recommending approval of a special condition use permit to the City Council, the Planning Commission shall recommend imposition of such reasonable conditions of use as it deems necessary to protect the best interests of the City and the general vicinity, to achieve the objectives of this Ordinance and to assure that the general public health, safety, and welfare will not be infringed upon.

The Planning Commission may recommend denial, approval or approval with conditions, on a Request for Special Condition Use Approval. The recommendation on a special condition use shall be incorporated in a statement containing the conclusions relative to the special condition use under consideration which specifies the basis for the decision and any conditions recommended.

- c. Upon holding a public hearing and review of the special condition use request, the Planning Commission shall within thirty (30) days forward to the City Council its finding and recommendation. The finding shall include a record of those conditions which are recommended to be imposed. The City Council, upon receipt of the finding and recommendation, may deny, approve, or approve with conditions, any request for a special condition use approval. Any decision on such a request shall state the findings of fact and specify the conclusions drawn therefrom and any conditions imposed thereon. Any conditions imposed shall remain unchanged except upon the mutual consent of a majority of the City Council and the landowner, and the City Council shall maintain a record of all conditions that are changed. All records of proceedings hereunder shall be kept and made available to the public.

- e. The conditional use review and site plan review may occur concurrently at the discretion of the City Planning Commission.

### **SECTION 1903. WIRELESS COMMUNICATION FACILITIES.**

#### **PURPOSE AND INTENT.**

The general purpose and intent of these regulations is to regulate the establishment of wireless communication support facilities (WCSF) in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within City of Harbor Beach. It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antenna within the City; and
2. Allow and encourage the location of wireless communication support facilities in non-residential zoning districts; and
3. Minimize the adverse effects of such facilities through careful design, siting and screening criteria; and
4. Maximize the use of existing and future wireless communication support facilities and encouraging multiple uses on such facilities; and
5. Protect the character of residential areas throughout the City from the effects of wireless communication facilities; and
6. Promote the public health, safety, and welfare.

#### **A. WIRELESS COMMUNICATION ANTENNA (WCA)**

1. To encourage co-location and to minimize the number of WCSF within the City, WCAs shall be considered a permitted accessory use when placed on or attached to any structure which constitutes a principle use, including existing WCSFs, provided that any WCA shall not extend more than twenty (20) feet above the tallest portion of the structure on or to which it is attached. Provided further that the location of any WCA shall not exceed one hundred (100) feet unless:
  - a. Located on a lawfully existing or approved WCSF; or
  - b. Located on a structure existing prior to the adoption of this regulation; or
  - c. Located on a structure which has received a height variance.
2. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.
3. If a WCA requires an accessory equipment storage structure, it shall not be greater than 15 feet in height and shall meet all zoning requirements.
4. WCAs shall not be allowed on any site used as a single family dwelling unit.

5. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
6. No accessory equipment structure or area shall be allowed in any rights-of-way.
7. The installation of a WCA in any zoning district must be reviewed by the Planning Commission. The Planning Commission shall review all such requests and shall approve such requests that meet the requirements of this section. Such review by the Planning Commission shall be without notice.
8. A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.
9. This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).

## **B. WIRELESS COMMUNICATION SUPPORT FACILITIES (WCSF)**

### **1. General Criteria**

- a. All WCSF shall be constructed in compliance with all applicable construction codes, which include the Electronic Industries Association / Telecommunications Industry Association (EIA /TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
- b. The WCSF shall comply with all applicable Federal Aviation Administration (FAA) requirements.
- c. The WCSF shall not be used for advertising purposes and shall not contain any signage except signage which shall show the identity of the service provider and emergency telephone numbers.
- d. The WCSF may be located on a zoning lot containing other principal uses. The WCSF may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming or grandfathered lot. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
- e. The WCSF shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the WCSF of the accessory equipment structure or storage area, whichever is closer.
- f. The WCSF shall have a landscaped buffer so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way, residential use or residential zoning district. Such landscaped buffer may be placed on the site in a manner which will maximize the aesthetic and environmental benefits while at the same time providing the visual buffer required hereby. Such landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six (6) feet at maturity and conifer trees planted on fifteen (15) foot centers along the approved buffer of a species approved by the Planning Commission unless safety requirements of the principal use requires otherwise (i.e., utility substations).

- g. The construction of the WCSF shall be of monopole design unless it can be demonstrated that such design is not feasible to accommodate the user or co-location.
- h. The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
- i. If co-location is not part of the application then the applicant must demonstrate in the application as to why co-location is not possible.
- j. This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
- k. WCSFs shall have a nonreflective finish.
- l. A minimum of two (2) parking spaces shall be provided on-site and interior to the perimeter barrier. The parking area shall be provided with a permanent durable and dustless surface and shall be so graded and drained as to dispose of all surface water accumulated within such parking area.

## **2. Replacement of Existing WCSF**

An existing WCSF which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional WCAs or otherwise provided that:

- a. The replacement WCSF shall not exceed a total height of 150 feet or, if the existing WCSF has an approved height greater than 150 feet, the replacement WCSF shall not exceed the approved height.
- b. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located so as to maximize compliance with existing minimum yard requirements.
- c. The applicant shall cause the existing WCSF to be removed within ninety days of completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the existing WCSF shall be removed within 180 days of the City's final construction inspection of the replacement WCSF.
- d. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within thirty days of the completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the temporary portable antennae facilities must be removed within 60 days of the City's final construction inspection of the replacement WCSF.
- e. The replacement WCSF shall meet all criteria and requirements in subsection B.1. hereof.
- f. The installation of a replacement WCSF in any zoning district must be reviewed by the Planning Commission. The Planning Commission shall review all such requests and shall approve such requests that meet the requirements of this section. Such review by the Planning Commission shall be without notice.

### **3. Review Criteria for all new WCSFs, except replacement WCSFs**

- a. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WCSF. Information concerning the following factors shall be considered in determining that such need exists:
  - (1) Insufficient structural capacity of existing WCSFs or other suitable structures and infeasibility of reinforcing or replacing an existing WCSF;
  - (2) Unavailability of suitable locations to accommodate system design or engineering on existing WCSFs or other structures;
  - (3) Radio frequency interference or other signal interference problems at existing WCSF or others structures;
  - (4) The cost of using an existing WCSF(s) or other structure exceeds the costs of permitting and constructing a new WCSF;
  - (5) Other factors which demonstrate the reasonable need for the new WCSF.
- b. The applicant must include a statement in the application of its good faith intent to allow the co-location of the WCA of other entities, provided that the cost of modifying the WCSF to accommodate the co-location WCA is borne by the co-locating entity.
- c. The applicant shall send a written notice to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall be provided by the City based on those entities who have requested approval of WCSF in the past, current FCC license holders and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the City at the time the application is filed. If, during a period of thirty days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new WCSF, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.
- d. New WCSFs shall meet the following additional criteria
  - (1) The WCSF shall not exceed 150 feet in height. This provision shall not apply to a WCSF shown necessary for the co-location of a WCA for public safety communication by a governmental agency.
  - (2) All WCSF's over one hundred (100) feet in height shall be designed for co-location.
  - (3) All WCSFs which are located within 250 feet of a lot used for a residential use or a residential zoning district as measured from the base of the WCSF shall be a Special Conditions Use Approval subject to Section 1902 (Review and Approval of Conditional Uses) of this Ordinance.
  - (4) The WCSF shall meet all criteria and requirements of subsection B.1.

- (5) The installation of a WCSF must be reviewed by the Planning Commission. The Planning Commission shall review all such WCSFs and shall approve such WCSFs that meet the requirements of this section. Such review by the Planning Commission shall be without notice.

e. Application Requirements for New WCSFs

- (1) A site plan prepared in accordance with Section 1900 (Review and Approval of Site Plans) shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
- (2) The site plan shall also include a detailed landscaping plan (in accordance with Section 1815,3,C and paragraph B.1.f. above) where the support structure is being placed at a location which is not otherwise developed. The purpose of landscaping is to provide screening for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities which may be unsafe.
- (3) The application shall include a certification by a State of Michigan licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fail, which certification will be utilized, along with other criteria such as applicable regulation for the district in question, in determining the appropriate setback to be required for the structure (WCSF) and other facilities.
- (4) The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in paragraph B.5. below. In this regard, the security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the City's attorney establishing the land in question as security for removal.
- (5) The application shall include a map showing existing and known proposed WCFs within City of Harbor Beach, and further showing existing and known WCFs within areas surrounding the borders of the City in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
- (6) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the WCF is on the premises.

#### 4. Additional Criteria for Special Condition Use Approval and Review

The installation of a WCSF in any zoning district other than a non-residential district shall be subject to the following:

- a. WCSFs shall also meet all criteria and requirements of subsections (B)1 and 3 of this section.

- b. WCSFs shall be located on lots or parcels of not less than two acres.
- c. WCSFs shall be accessory uses and shall be located on property owned and used by:
  - (1) federal, state or local government entities
  - (2) schools, colleges and universities
  - (3) utility companies
  - (4) cemeteries
  - (5) golf courses and associated facilities (public and private)
- d. If the WCSF is not entirely surrounded by commercial or industrial uses, a written justification of the need for this site showing why other sites are not reasonable.
- e. WCSFs proposed to be located on a historic landmark or in a designated historic district may be denied if the WCSF would create an adverse impact on the historic character of the historic landmark or district.
- f. The Planning Commission may require a visual / line of site analysis to enable the City to assess impacts. Such analysis may require the applicant to provide visualization of the WCSF on-site which may include graphic representations or other acceptable methods to demonstrate the visualization.

## **5. Removal Abandoned WCSFs**

Any WCSF which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where a WCSF is abandoned but not removed or demolished as required hereby, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the WCF or the City may place a lien on the property to cover costs for the removal of the WCF. A lien on the property shall be superior to all other liens except taxes.

## **6. Variances and Appeals**

Variances from this section may be requested from the Zoning Board of Appeals. Requests for additional height to any permitted or previously approved WCSF may be granted by the Planning Commission to provide for co-location of additional WCSF so long as such additional height does not exceed 30 feet. Appeals of a Planning Commission decision shall be taken to the Zoning Board of Appeals.

**ARTICLE XX  
BOARD OF APPEALS**

**SECTION 2000. PURPOSE.**

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public is secured, and that justice be done, there is hereby established a Zoning Board of Appeals (ZBA).

**SECTION 2001. CREATION AND MEMBERSHIP.**

The ZBA shall perform its duties and exercise its powers as provided in Section 5 of Act 207 of the Public Acts of 1921, as amended. The ZBA shall consist of seven (7) members, nominated by and with the consent of the City Council.

1. The first member of the ZBA shall be a member of the Planning Commission.
2. The remaining six (6) members shall be residents of the City of Harbor Beach and shall be a qualified and registered elector of the City on such day and throughout his tenure of office.
3. An employee or contractor of the City may not serve as a member of the ZBA.
4. Term of appointments shall be as follows: three (3) members appointed for a period of one (1) year; two (2) members appointed for a period of two (2) years; and two (2) members appointed for a period of three (3) years, respectively. Thereafter, each member is to hold office for a full three (3) year term.
5. Any appointive vacancies in the ZBA shall be filled by the City Council for the remainder of the unexpired term.
6. The City Council shall also appoint two (2) alternate members to the ZBA. Appointments shall be as follows: One (1) alternate member shall be appointed for a period of two (2) years and the second alternate shall be appointed for a period of three (3) years; thereafter, each alternate member shall hold office for a full three (3) year term. Any vacancies in the alternative membership of the Board shall be filled by appointment by the City Council for the remainder of the unexpired term. The alternate members shall:
  - a. Sit as regular members of the ZBA in the absence of a regular member if a regular member is absent from, or unable to, attend two (2) or more consecutive meetings of the ZBA, or for a period of more than thirty (30) consecutive days.
  - b. Be called to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest, or due to an immediate, unnotified absence of a regular member. The alternate member having been appointed shall serve in the case until a final decision has been made.

Alternate members shall have the same voting rights as a regular member of the ZBA. Whenever possible, these two (2) alternates should be provided the opportunity to rotate as members of the ZBA.

**SECTION 2002.        REMOVAL.**

Appointed members may be removed for nonperformance of duty or misconduct in office by the City Council only after consideration of written charges and a public hearing. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.

**SECTION 2003.        MEETINGS.**

1.     The Board of Appeals shall annually elect its own chairperson and vice chairperson.
2.     All meetings of the Board of Appeals shall be held at the call of the chairman and at such times as such Board may determine.
3.     All hearings conducted by the ZBA shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member in question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions in the office of the City Clerk, and shall be a public record.
4.     The ZBA shall not conduct business unless a majority (4) of the members are present.
  - a.     The concurring vote of a majority (4) of the members of the ZBA shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance.
  - b.     A concurring vote of 2/3 (5) of the Board members shall be necessary in order to grant a variance from uses of land permitted by this ordinance.
5.     The ZBA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers, files, and other evidence pertinent to the matters before it.

**SECTION 2004.        APPEAL AND NOTICE REQUIREMENTS.**

1.     An appeal may be taken to the ZBA by any person, firm or corporation, or by any officer, department, board, or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken within such time as shall be prescribed by the ZBA by general rule, by filing with the Zoning Administrator and with the ZBA, a Notice of Appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board, all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after notice of appeal has been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed, otherwise than by a restraining order which may be granted by a court of record.
2.     The Board shall select a reasonable time and place for the hearing of the appeal and give due notice of the appeal to the parties, and to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single- and two-family dwellings within 300 feet, the notice to be delivered personally, or by mail, addressed to the respective owners and tenants at the address given in the last assessment role. The ZBA shall decide

the appeal within a reasonable time. If the tenants name is unknown, the term occupant may be used. Public notice of the time, date, and place of the hearing shall also be given in the manner required by Act 267 of the Public Acts of 1976, and by insertion in a newspaper of general circulation in the City of Harbor Beach 15 days prior to said hearing date. Such notice shall contain the address, if available, and the location of the property for which the ruling of the ZBA is sought, as well as a brief description of the nature of the appeal. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney. Written comments submitted to the chairperson shall become part of the Public Record.

3. No appeal of special conditions shall be taken to the ZBA from a decision of the Planning Commission and City Council in connection with a special condition use.
4. No appeal shall be taken to the ZBA from a decision of the Planning Commission in connection with an approved site plan unless such appeal has first been reviewed by the Planning Commission and a recommendation on the variance is provided by the Planning Commission.

#### **SECTION 2005. JURISDICTION.**

The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision of determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the ZBA shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done. Nothing herein contained shall be construed to give or grant to the Zoning Board of Appeals the authority to make changes in the Zoning Ordinance or the Zoning Map, such power and authority being reserved to the City Council in the manner herein provided by law.

#### **SECTION 2006. POWERS AND DUTIES.**

The ZBA shall have the following specified powers and duties:

1. Administrative Review

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

2. Interpretation

To hear and decide in accordance with the provisions of this Ordinance:

- a. Appeals for the interpretation of the provisions of the Ordinance.
- b. Requests to determine the precise location of the boundary lines between the zoning districts as they are displayed on the Zoning Map, when there is dissatisfaction with the decision on such subject.
3. Variances; Dimensional, Use
  - a. Dimensional

The ZBA shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off-street parking and loading space, and sign regulations, and other similar requirements as specified in the Ordinance. To obtain a variance, the applicant must show "practical difficulty," by demonstrating:

1. Whether strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render the conformity unnecessarily burdensome;
2. Whether a variance would do substantial justice to the applicant, as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;
3. Whether the plight of the owner is due to the unique circumstances of the property; and
4. Whether the problem is self-created.

b. Use

A grant by the Board of Zoning Appeals for the permission to use property for a use not otherwise permitted in the zoning district in which the property is located. In making a decision on a use variance request, the Board of Zoning Appeals must insure that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

The Board of Zoning Appeals, in granting such use variances, shall require the petitioner to show that a hardship exists by demonstrating all four of the following circumstances exist:

1. That the property cannot be used for any of the uses permitted in the district in which it is located. This means that none of the uses (by right of special use permit) allow a reasonable economic return on the use of the property.
2. That the plight of the property owner is due to unique circumstances peculiar to the property (i.e. odd shape or a natural feature like a stream or wetland) and is not due to general neighborhood conditions.
3. That the proposed use would not alter the essential character of the area.
4. That the problem was not self-created.

4. Approval of Temporary Buildings and Uses.

The ZBA shall have the power to grant permits authorizing temporary building or land uses for:

- a. Seasonal sales of produce, firewood or Christmas trees, and similar uses; under the following conditions:

- (1) Zoning Districts Where Permitted

Temporary uses shall be restricted to nonresidential zoning districts.

(2) Application and Submittal Requirement

The application for a temporary use permit shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- (i) The shape, location, and dimensions of the lot, including the shape, size, and location of all buildings or other structures already on the lot, off-street parking layout, and the location of any designated fire lanes.
- (ii) The materials to be utilized in and the shape, size, and location of all buildings and structures to be erected or moved onto the lot, including all tents, tables, stands, or display racks.
- (iii) The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, loss of off-street parking spaces, if any, as well as the anticipated flow of pedestrian traffic upon lot sidewalks.

(3) Time Limitations

- (i) A temporary use permit for the sale of Christmas trees shall by its terms be effective for no longer than thirty (30) days. No more than one (1) temporary use permit for the sale of Christmas trees shall be issued for any given location within a single calendar year.
- (ii) A temporary use permit for a vegetable, fruit or produce stand or for the sale of firewood or similar use shall, by its terms, be effective for no longer than three (3) months. No more than one (1) temporary use permit for such uses shall be issued for any given location within a single calendar year.

b. The temporary location of a premanufactured building or sales trailer in new subdivisions for periods not-to-exceed six (6) months provided:

- (1) The use shall be only for offices for the specific purpose of selling lots or new homes to be erected in the subdivision.
- (2) All applicable building height, bulk, and area requirements of the district are met.
- (3) The structure shall be removed from the subdivision upon completion of the first permanently built model home intended for display, but in no case shall the premanufactured dwelling remain beyond the time limitation specified above.

c. Location of temporary buildings and uses for periods not-to-exceed two (2) years in undeveloped sections of the City, with the granting of twelve (12) month extensions being permissible, provided the conditions set forth in Section 2006.6 are met. In no instance shall a permit be extended when the property surrounding the temporary

use has developed during the life of the temporary permit.

- d. Uses which do not require the erection of any capital improvement of a structural nature, not otherwise permitted in any district (such as art fairs, carnivals, and civic festival events), not-to-exceed twelve (12) months, provided the conditions set forth in Section 2007,4, below, are met.

In classifying uses as not requiring capital improvement, the Zoning Board of Appeals shall determine that they are either demountable structures related to the permitted use of land; recreation developments, such as, but not limited to: golf driving range and outdoor archery courts; or structures which do not require foundations, heating systems, or sanitary connections.

## 5. Standards for Approval for Temporary Uses

A temporary use permit shall only be granted if the ZBA determines that the proposed use, including the erection of any temporary building or structure, will:

- a. Provide adequate light and ventilation between buildings and structures.
- b. Provide adequate automobile and pedestrian traffic flow and provide adequate off-street parking.
- c. Provide adequate lot access for fire protection purposes.
- d. Not adversely affect the stability and integrity of the zoning plan prescribed by this Ordinance or otherwise interfere with the protection of public health, safety, and general welfare.
- e. Not be incompatible with or otherwise adversely affect the physical character of the community.
- f. When the proposed temporary use is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which the temporary special use is to be located, including all requirements pertaining to lot size, height, setback, open space ratio, maximum percentage of covered lot area, and off-street parking.
- g. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
- h. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this Ordinance. Further, the Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.

## **SECTION 2007. ATTACHMENT OF CONDITIONS.**

The ZBA may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use, or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
4. The conditions imposed with shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

## **SECTION 2008. FEES.**

The City Council may from time-to-time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for Zoning Board of Appeals proceedings. At the time an application is filed, said fee shall be paid to the City.

## **SECTION 2009. REHEARING.**

1. The ZBA is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to vitiate or materially affect the reason which produced and supported it, and no vested rights have intervened.
2. The decision of the ZBA shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to circuit court.

## **SECTION 2010. INVALIDATION OF VARIANCE**

1. No order of the Board permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
2. No order of the Board permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a Building Permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

**ARTICLE XXI  
GENERAL EXCEPTIONS**

**SECTION 2100. AREA, HEIGHT, AND USE EXCEPTIONS.**

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

**SECTION 2101. ESSENTIAL SERVICES.**

Essential services serving the City of Harbor Beach shall be permitted as authorized and regulated by law and other ordinances of the Municipality.

**SECTION 2102. VOTING PLACE.**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a Municipal or other public election.

**SECTION 2103. HEIGHT LIMIT.**

The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, television or radio antennae for personal use; provided, however, that the City Council may specify a height limit for any such structure when such structure requires authorization as a conditional use.

**SECTION 2104. LOT AREA.**

Any lot existing and of record on the effective date of this Ordinance may be used for any principal use permitted in the district which such lot is located, other than conditional uses for which special lot area requirements are specified in this Ordinance, whether or not such lot complies with the lot area and width requirements of this Ordinance. Such use may be made provided that all requirements other than lot area and width prescribed in this Ordinance are complied with and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit. (See also Section 1802, 5, Nonconforming Lots.)

**SECTION 2105. YARD REGULATIONS.**

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

**SECTION 2106. PORCHES.**

An open, unenclosed, and uncovered porch or paved terrace may project into a required front yard setback for a distance not exceeding ten (10) feet, but this shall not be interpreted to include or permit fixed canopies.

**SECTION 2107. PROJECTIONS INTO YARDS.**

Architectural features, not including vertical projections, may extend or project into a required side yard not more than three (3) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet.

**SECTION 2108. ACCESS THROUGH YARDS.**

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine (9) inches above the grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yard.

#### **SECTION 2109. CANOPIES AND AWNINGS.**

Canopies and awnings offering partial protection from the weather, but not fully enclosed, and which extend into a public right-of-way or required yard setback, may be considered for approval subject to obtaining a permit and the following conditions:

1. Canopies and awnings extending into a public right-of-way are subject to the following requirements:
  - a. Such approval shall only be granted by the City Council following Planning Commission recommendation.
  - b. Any such structure shall not extend closer than twenty-four (24) inches to any vehicular parking space or moving vehicle lane.
  - c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.
  - d. Any such structure shall not conflict with any existing or proposed: landscape features, traffic control device, adjacent properties and signs and pedestrian movements.
  - e. The height, location, materials, construction and signage involved in any such structure shall specifically be subject to review and approval by the City Council.
  - f. The structure shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.
  - g. The City of Harbor Beach, its officials, employees and any of its representatives shall be guaranteed full protection against any liability or damages resulting from the construction and existence of any such structure. The nature of such protection and its continuous effect shall be subject to City Council determination.
  
2. Canopies and awnings extending into a required yard setback are subject to the following conditions:
  - a. Review and approval by Zoning Administrator.
  - b. Any such structure shall not extend closer than the height of the structure to any property line adjacent to a residential district.
  - c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.

- d. Any such structure shall not conflict with any existing or potential development on adjacent property.
- e. The height, location, materials, construction and signage involved in any such structure shall specifically be subject to review and approval.
- f. The structure shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.

**ARTICLE XXII  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 2200. ENFORCEMENT.**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of his department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

**SECTION 2201. DUTIES OF ZONING ADMINISTRATOR.**

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

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

The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

**SECTION 2202. PLOT PLAN.**

The Zoning Administrator shall require that all applications for Building Permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

1. The actual shape, location, and dimensions of the lot.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
3. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

**SECTION 2203. PERMITS.**

The following shall apply in the issuance of any permit:

1. Permits Not to be Issued

No Building Permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance as evidenced by a site permit issued by the City of Harbor Beach.

2. Permits for New Use of Land

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

3. Permits for New Use of Buildings

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

4. Permits Required

- a. No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a Building Permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City of Harbor Beach Building Code, Housing Law, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.
- b. No signs, parking lots, swimming pools or canopy/awnings shall be hereafter constructed altered, erected or enlarged until a permit(s) has been secured from the Building Department.

**SECTION 2204. FINAL INSPECTION.**

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building structure or part thereof, shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

**SECTION 2205. FEES.**

Fees for inspection and the issuance of permits or copies thereof required or issued under the provisions of this Ordinance may be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the City Council and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance.

**ARTICLE XXIII  
PLANNING COMMISSION**

**SECTION 2300. CREATION.**

The Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, and shall perform the zoning duties of said Commission as provided in the statute in connection with the amendment of this Ordinance.

**SECTION 2301. APPROVAL.**

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

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.

**ARTICLE XXIV  
CHANGES AND AMENDMENTS**

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

**ARTICLE XXV  
REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance adopted by the City of Harbor Beach, known as Ordinance No. 96 and all amendments thereto, are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**ARTICLE XXVI  
INTERPRETATION**

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

**ARTICLE XXVII  
VESTED RIGHT**

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

**ARTICLE XXVIII  
ENFORCEMENT, PENALTIES AND OTHER REMEDIES**

**SECTION 2800. VIOLATIONS.**

Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than One Hundred (\$100) Dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not-to-exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the cost of such prosecution.

**SECTION 2801. PUBLIC NUISANCE PER SE.**

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

**SECTION 2802. FINES; IMPRISONMENT.**

The owner of any building, structure or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

**SECTION 2803. EACH DAY A SEPARATE OFFENSE.**

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

**SECTION 2804. RIGHTS AND REMEDIES ARE CUMULATIVE.**

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

**ARTICLE XXIX  
SEVERANCE CLAUSE**

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

**ARTICLE XXX  
EFFECTIVE DATE**

Public hearing having been held hereon, the provisions of this Ordinance are hereby given immediate effect upon its publication, pursuant to the provisions of Section 4, of the Public Acts of 1921, as amended.

Date of Public Hearing:

Date of Ordinance Adoption:

Published and Effective On: