

CITY OF IMLAY CITY

ZONING ORDINANCE

ORDINANCE NO. 6.1

CITY OF IMLAY CITY

LAPEER COUNTY, MICHIGAN

November, 2000

with compiled Amendments through

July 16, 2013

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Article 1

Purpose

Section 1.1 Short Title

This ordinance shall be known and may be cited as the "Imlay City Zoning Ordinance" and may hereinafter be referred to as "this ordinance."

Section 1.2 Purpose

This Zoning Ordinance is based on the adopted Imlay City Master Plan and any similar plans addressing future development patterns and development goals. This ordinance is intended to implement the Imlay City Master Plan by regulating the use of land, buildings and structures to promote the public health, safety and general welfare by accomplishing the following:

- A. establishing zoning districts and uniform regulations applicable to each district governing the use of the land, and dimensions for building and site development with such minimum regulations as are deemed necessary to carry out the provisions of this ordinance;
- B. accommodating and promoting land uses which are compatible with the city's character and conserve the property values and long term stability of prime farmlands, residential neighborhoods, commercial districts, industrial areas;
- C. encouraging use of the lands and natural resources in accordance with their character and capability, thus preserving the sensitive and important environmental features in the city, such as wetlands, lakes, prime farmland, topography, open space, mature vegetation and wildlife habitat. The ordinance acknowledges the importance of these features on the long term economic climate of all uses in the city and the overall quality of life for city residents;
- D. limiting or prohibiting improper use of land;
- E. reducing hazards to life and property;
- F. promoting safe conditions for motorists, pedestrians and bicyclists by maintaining an acceptable level of service along streets and at driveways within the city;
- G. providing property owners with reasonable, though not always direct, access to property;

H. facilitating adequate and cost effective infrastructure systems, and protecting the substantial public interest in those systems, including: transportation, sewage disposal, safe and adequate water supply, education and recreational facilities;

I. establishing controls over potential conflicting land uses and uses which may need special regulations as Special Land Uses to be compatible with surrounding development patterns and zoning;

J. promoting the gradual elimination of uses, buildings and structures which do not conform with the regulations and standards of this ordinance;

K. providing for administering this ordinance, including resolving conflicts with other ordinances, collection of fees, procedures for petitions, hearings and appeals; and to provide for any other matters authorized by the Michigan Zoning Enabling Act, (Public Act 110 of 2006, M.C.L.A. §§ 125.3101 et seq.); and

L. balancing the city's right to compatible and quality development with the property owners' right to a reasonable rate of return on investment.

(Am. Ord. 6.1, passed 12-5-06)

Section 1.3 Conflicting Regulations

A. Where any provision of this ordinance imposes either greater or lesser restrictions, limitations, conditions, standards or requirements upon the use of buildings, structures or land; the height of buildings or structures; lot coverage; lot areas; yards; wetlands, woodlands or other open spaces; or any other use or activity which is regulated by this ordinance, the provision or standard which is more restrictive or limiting shall govern.

B. Except as otherwise be provided in this ordinance, every building and structure erected; every use of any lot, building or structure established; every structural alteration or relocation of an existing building or structure; and every enlargement of, or addition to, an existing use, building or structure occurring after the effective date of this ordinance shall be subject to all regulations of this ordinance which are applicable in the zoning district in which such use, building or structure is located.

C. No setback area or lot existing at the time of adoption of this ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established herein.

D. This ordinance shall not abrogate or annul any easement, bylaw, master deed, deed restriction, covenant or private agreement, except that the regulations or provisions of this ordinance shall govern if determined by the Zoning Board of Appeals to be more restrictive or impose a higher standard.

E. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, any conflicting laws of a more restrictive nature shall supersede the appropriate provisions of this ordinance.

F. Imlay City hereby repeals the previous zoning ordinance and all of its amendments.

Section 1.4 Validity and Severability

This ordinance and the various components, articles, sections, subsections, sentences and phrases are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this ordinance to be unconstitutional or invalid, such ruling shall not affect any other provision of this ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare unconstitutional or invalid the application of any provision of this ordinance to a particular parcel, lot, use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

Section 1.5 Vested Rights

A. Nothing in this ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was begun prior to the enactment of this ordinance, provided construction has lawfully begun, is being diligently carried on, and shall be completed within one (1) year of the effective date of this zoning ordinance. The Zoning Board of Appeals may permit an extension of up to one (1) year.

B. If a lot has an approved site plan or has been approved as a Planned Unit Development within six (6) months of the effective date of this zoning ordinance, such site plan or PUD shall remain valid if construction is begun within one (1) year and completed within two (2) years of the effective date of this zoning ordinance.

C. If the conditions of this ordinance are not met, the standards and provisions of this zoning ordinance shall govern.

Section 1.6 Effective Date

This zoning ordinance is hereby declared and certified to have been duly adopted by the Imlay City, City Commission, Lapeer County, State of Michigan, at a meeting of said City Commission duly called and held on November 21, 2000, and published in the Tri-City Times as required by the City and Village Zoning Act of 1943. This zoning ordinance became effective thirty (30) days from the date of publication.

Adopted: November 21, 2000

Published: November 29, 2000

Effective: December 29, 2000

Amendments to this ordinance adopted prior to July 1, 2006 were adopted pursuant to the City and Village Zoning Act of 1943. Amendments to this ordinance adopted subsequent to July 1, 2006 were adopted pursuant to the Michigan Zoning Enabling Act, (Public Act

Article 2

General Provisions

Section 2.1 Application Procedures in General

The process for application and review by the city for site plan review, Special Land Use approval, Planned Unit Developments (PUDs), amendments to this zoning ordinance and rezonings of land is described in Article 16 Site Plan Review, Article 17 Rezoning And Ordinance Amendments, Article 18 Condominium Development Standards, Article 19 Planned Unit Development, and Article 20, Special Land Uses. Submittal dates, application forms and information of fee requirements are available at the City Clerk's office.

General Exceptions

Section 2.2 Withholding of Approval

The Planning Commission, Zoning Board of Appeals or City Commission may withhold granting of approval of any use, site plan, Special Land Use, PUD plan or other approval required by this ordinance pending approvals which may be required by state or federal agencies or departments.

Section 2.3 Voting Place

The provisions of this ordinance shall not be 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 2.4 Essential Public Services

The erection, construction, alteration or maintenance of essential public services authorized under any franchise in effect within the city shall be permitted subject to regulation as provided in any law in the State of Michigan or in any city ordinance. It is the intention of the zoning ordinance to ensure conformity of all structures and uses to the requirements of this ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation or city ordinance. In absence of such conflict, the standards of the zoning ordinance shall prevail.

Section 2.5 Reserved

Section 2.6 Exceptions to Regulations on Excavation

A. Excavation required for swimming pools is excepted from excavating provisions of this ordinance provided that all necessary permits are obtained and the pool is constructed within six (6) months of the excavation.

B. Excavation and site preparation for building foundations is excepted from the excavating provisions of this ordinance provided that such work is considered incidental to building construction and all necessary permits have been obtained.

Section 2.7 Lots Adjoining Alleys

In calculating the area of a lot that adjoins a dedicated alley or lane, for the purpose of applying lot area requirements of this ordinance one-half (½) the width of such alley abutting the lot shall be considered as part of such lot.

Building and Use Regulations

Section 2.8 Principal Buildings, Structures or Uses

No lot may contain more than one (1) principal building, structure or use, excepting groups of multiple-family dwellings, site condominiums as approved under Article 18 Condominium Standards of this ordinance or retail business buildings or other groups of buildings the Building Official and Zoning Administrator deems to be a principal use collectively.

Section 2.9 Required Area

A. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this ordinance. If already less than the minimum requirements of this ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this ordinance. Lots or yards created after the effective date of this ordinance shall comply with the requirements of this ordinance.

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

Section 2.10 Lot Area Allocation

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

Section 2.11 Projections Into Yards

A. Architectural features and vertical projections may extend or project into a required yard as shown in the Table 2.11.

| Table 2.11 | | | |
|--|-----------|-----------|-----------|
| Schedule of Permitted Projection into Yards | | | |
| Projection | All Yards | Rear Yard | Side Yard |
| Table 2.11 | | | |
| Schedule of Permitted Projection into Yards | | | |
| Projection | All Yards | Rear Yard | Side Yard |
| Air Conditioning Equipment Shelters (also see Section 2.24) | — | x | x |
| Air conditioning units, window mounted (also see section 2.24) | x | — | — |
| Access drives | x | — | — |
| Arbors and trellises | x | — | — |
| Architectural entrance features (a.) | x | — | — |
| Awnings and canopies (also see section 2.20) | x | — | — |
| Bay windows (a.) | x | — | — |
| Decks, open or enclosed (b.) | — | x | x |
| Eaves, overhanging (a.) | x | — | — |
| Fences (also see section 2.19) | x | — | — |
| Flagpoles (also see section 2.22) | x | — | — |
| Gardens | x | — | — |
| Gutters (a.) | x | — | — |
| Hot tubs | — | x | — |
| Landscaping | x | — | — |
| Laundry drying equipment | — | x | x |
| Light standard, ornamental (also see section 2.26) | x | — | — |
| Paved terraces and open porches (b.) | x | — | — |
| Privacy walls (also see section 2.19) | — | x | — |
| Sidewalks, bikepaths and walkways | x | — | — |
| Stairways, open unroofed | x | — | — |
| Steps and stoops | x | — | — |
| Swimming pools (also see Section 2.21) | — | x | — |
| Walls (also see Section 2.19) | x | — | — |
| x = Permitted in any area of yard | | | |

B. Notes. The following notes apply to Table 2.11.

1. Architectural elements attached to and necessary to the integrity of the building or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of this section, provided such projection into a required front or rear yard area is no closer than ten (10) feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the side setback of the lot.
2. Terraces, patios, porches, and decks shall be permitted to encroach upon the minimum front and rear yard area and setback requirements of this section provided they are:
 - a. attached to the main building;
 - b. not covered with a roof;
 - c. elevated no more than thirty (30) inches above the average surrounding final grade;
 - d. not fully enclosed by a wall or fence over five and one-half (5½) feet in height; and
 - e. located no closer than ten (10) feet from a street right-of-way line or rear lot line.

C. Terraces, patios, porches, and decks that are enclosed (covered with a roof), not including steps leading to such structures, shall be attached to and considered part of the main building and shall comply with all regulations applicable to such main buildings.

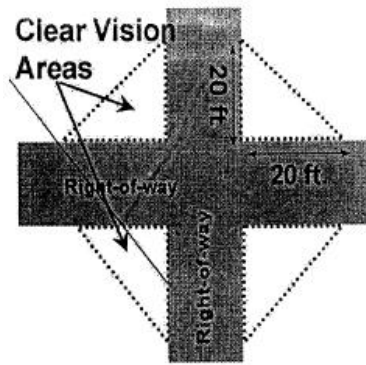
(Am. Ord. passed 12-20-05)

Section 2.12 Intersection Visibility

A. No fence, wall, sign, hedge, screen or any planting shall be erected or maintained to obstruct vision between a height of three (3) feet and eight (8) feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines twenty (20) feet from the point of intersection of the right-of-way lines.

B. The three (3) foot and eight (8) foot height limit shall be measured from the lowest elevation of the segment of the intersecting roads

centerline which lays between the point of the intersection of the other centerline and the extension of the line drawn through the points twenty (20) feet from the intersection of the right-of-way lines.



Section 2.13 Regulations Applicable to Single-family Dwellings Outside Manufactured Housing Communities

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

A. If the dwelling unit is a manufactured home, the manufactured home must either be one of the following:

1. new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the United States Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or

2. used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Official and Zoning Administrator or his designee, to be in excellent condition and safe and fit for residential occupancy.

B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the city, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by city codes, then and in such event such federal or state standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Official and Zoning Administrator.

C. The dwelling unit shall comply with all restrictions and requirements of this ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height requirements of the zoning district in which it is located. If the dwelling unit is a mobile home, the mobile home shall be installed with the wheels removed.

D. The structure shall have a minimum horizontal dimension across any side or rear elevation of twenty-four (24) feet and thirty-four (34) feet across any front elevation.

E. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a mobile home, its foundation and skirting shall fully enclose the chassis, undercarriage and towing mechanism.

F. If the dwelling unit is a mobile home in a manufactured housing community, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured housing communities.

G. A storage area within a building with an area of no less than one hundred twenty (120) square feet shall be provided. This storage area may consist of a basement, closet area, attic or attached garage in a principal building, or in a detached accessory building which is in compliance with all other applicable provisions of this ordinance pertaining to accessory buildings.

H. Permanently attached steps or porch areas at least three (3) feet in width shall be provided in accordance with the City Building Code egress standards where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade. Railings shall be provided in accordance with the City Building Code.

I. The pitch of the main roof of the dwelling unit shall not be less than five (5) feet of rise for each twelve (12) feet of horizontal run and shall have not less than a six (6) inch overhang.

J. The exterior finish of the dwelling unit shall not cause glare or reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.

K. The structure shall be so placed on the lot that the portions nearest the principal street frontage are at least thirty-four (34) feet in dimension parallel to the street.

L. The dwelling unit shall have no less than two (2) exterior doors, with one (1) being in either the rear or the side of the dwelling unit.

M. The dwelling shall not contain any additions of rooms or other areas which are not constructed with similar quality workmanship and materials as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

N. No building which has been wholly or partially erected or assembled on any premises located within or outside the city, shall be moved to or placed upon any other premises in the city without full compliance with the provisions of this ordinance in the same manner as a new building.

Section 2.14 Residential Development Regulations

A. **Intent.** The development standards contained herein are intended to regulate the character of new infill housing development in certain areas of the city which contain traditional and historic exterior design elements. The purpose of these regulations is to promote harmony in neighborhoods between new housing units and the existing buildings by assuring that new construction is of suitable character in terms of site layout, building dimensions, architectural design and building materials.

B. **Procedure.**

1. All building permit applications for new single family and two-family housing development located in platted subdivisions approved prior to the approval of this ordinance must be submitted to the Building Official and Zoning Administrator.

2. The Building Official and Zoning Administrator shall have final approval on any applicable infill housing development. The Building Official and Zoning Administrator may seek input from the Planning Commission if deemed necessary.

C. **Site Design and Architectural Standards.**

1. **Floor Area.** The floor area of any proposed dwelling unit shall be no less than ninety percent (90%) and no more than one-hundred and thirty-five percent (135%) of the average floor area of other single-family or two-family dwelling units within three hundred (300) feet of the subject lot, including dwelling units on both sides of the street of the same block.

2. **Front Yard Setbacks.** The front yard setback of any proposed single family or two-family dwelling unit shall be no less than ninety percent (90%) and no more than one-hundred and thirty-five percent (135%) of the average established front setback of other single family or two-family dwelling units within three hundred (300) feet, on the same side of the street, of the subject lot.

D. **Building Appearance.** Building appearance for new single family and two-family dwelling units shall reflect a continuity of design with surrounding buildings by maintaining the architectural styles, details, building materials and design themes of dwelling units within three hundred (300) feet of the subject lot. Similarity and compatibility with surrounding dwelling units in terms of the following features must be provided in order to meet this requirement:

1. roof and overhang style (e.g. gable, mansard, hip, A-frame, flat);
2. facade appearance (door and window openings);
3. building massing and height;
4. exterior building materials;
5. porches; and
6. garage style and design.

Section 2.15 Illegal Dwellings

For the express purpose of protecting the health, safety, and general welfare of the inhabitants of the city and of reducing hazards to life of property, no basement dwelling, cellar-dwelling, garage-house, or other substandard structure shall hereafter be occupied, erected or moved upon any premises and occupied or used for dwelling purposes.

Section 2.16 Temporary Buildings, Structures and Uses

A. **Temporary Construction Buildings.** Temporary construction buildings, structures and uses may be permitted, subject to the following conditions:

1. Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices and for temporary on-site sanitation, solid waste or fuel facilities, related to construction activity on the same lot.

2. No temporary building or structure shall be used as a dwelling unit.

3. The placement of temporary buildings and structures shall be in conformance with the requirements of Article 16 Site Plan Review. A building permit for such building or structure shall be issued by the Building Official and Zoning Administrator prior to installation.

4. Temporary buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Building Official and Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot.

B. **Temporary Seasonal Uses and Special Events.** Temporary uses and seasonal or special events may be allowed in any district upon issuance of a permit, when meeting the standards listed below and in compliance with paragraph d. of this Article.

1. **Location.** Seasonal sales events may be allowed on any lot with a permitted principal building. Seasonal sales may also be allowed on a vacant lot when providing the minimum setback for buildings, structures and parking required for the appropriate zoning district. In no case shall the setbacks for buildings, structures and parking be less than ten (10) feet.

2. **Property Ownership.** If the petitioner is not the owner of the property, the petitioner shall provide written permission of the owner of the property to allow such an event.

3. **Standards for Carnivals, Circuses, Farmers Markets, Flea Markets and Similar Events.** Special standards for carnivals, circuses, farmers market, flea markets and similar events shall be as follows:

a. Approval for these types of uses shall be by the City Commission. The City Commission shall consider the intensity of the proposed use in relation to adjacent land uses and sufficiency of parking. The City Commission may require site improvements, such as fencing, and restrict hours of operation to help ensure compatibility with surrounding land uses.

b. The applicant shall provide information establishing a reasonable liability insurance coverage is carried, as determined by the city's insurance carrier.

c. The sketch plan for the event shall include a description of traffic flow and parking management to ensure safe and efficient traffic operations without creating unreasonable congestion on city streets.

d. Farmers markets which are to occur on a regular schedule shall be permitted only in commercially zoned districts. The City Commission may extend the time period for the temporary use permit so that a separate permit is not required for each event within any one (1) calendar year, provided the number of dates and a schedule are established at the time of application.

e. A sketch plan (to scale) shall be provided illustrating:

- i) property lines;
- ii) adjacent uses and zoning districts;
- iii) existing and proposed buildings and structures;
- iv) location of any areas for storage such as inventory not being displayed;
- v) fire hydrants;
- vi) layout of parking;
- vii) boundaries of proposed sales areas; and

f. The location and size of any proposed sign (off-premise signs shall also be mapped).

4. **Standards for Christmas Tree Sales.** The sale of Christmas trees shall be conducted in accordance with the following:

a. Maximum duration: 45 days.

b. Operator or sponsor: non-profit entity.

c. Location: shall not be located in or adjacent to any developed residential area except on church, school or park property.

5. **Removal.** All equipment, materials, goods, poles, wires, signs and other items associated with the temporary uses shall be removed from the premises within five (5) days of the end of the event. Following the five-day period, the city shall use the escrow fee to clear such items from the property.

6. **Parking.** One (1) parking space shall be provided for each eight hundred (800) square feet of gross lot area used for the activity (not including storage areas) plus additional parking space for any structure utilized for retail sales computed in accordance with the requirements for retail stores.

7. **Duration.** The length of a temporary use or sales event shall not exceed seven (7) days, that sales of Christmas trees are permitted for up to sixty (60) days.

8. **Review Process.** Except as otherwise noted above for carnivals, circuses, farmers markets and similar events as defined by the Building Official and Zoning Administrator; the Building Official and Zoning Administrator shall review and approve requests for a temporary use or seasonal event. Where appropriate, the Building Official and Zoning Administrator shall consult with the Police Chief and Fire Department official. If the request is denied, the Building Official and Zoning Administrator shall state the reasons for denial in writing and provide a copy to the applicant.

9. **Use Fee.** The applicant shall pay a non-refundable permit fee to the City Clerk. The fee shall be established and modified, from time to time, by the City Commission. The amount of the permit fee may vary depending upon the type of event.

10. **Use Escrow.** The proprietor of the temporary use or seasonal event shall deposit a cash bond or similar type of escrow, in an amount established by the Building Official and Zoning Administrator, prior to the issuance of a permit. The escrow shall be used by the city to pay the cost of returning the property to its state prior to commencement of the event or refunded to the proprietor upon compliance with the requirements of this ordinance and any other applicable ordinances.

11. **Sign Fee and Escrow.** The sign standards provided in Article 24 Signs of this zoning ordinance permits both on- and off-premise signs for temporary uses/seasonal events. A separate non-refundable sign permit fee is required in an amount established, and periodically amended, by the City Commission. The city shall also require an escrow, in an amount established by the Building Official and Zoning Administrator, to cover the cost of removing off-premise signs if not removed by the applicant within one (1) business day following the event. This escrow account shall be in addition to that listed in item 3 above. If the off-premise signs are removed as required, the sign escrow account shall be refunded to the applicant.

(Am. Ord. passed 12-20-05)

Section 2.17 Determination of "Similar Use"

A. This ordinance acknowledges that all potential uses of land cannot be specifically identified in the zoning districts. All applications

for a use not specifically addressed in any zoning district shall be submitted to the Planning Commission for review and decision, based on the following standards:

1. A finding that the proposed use is not listed as a permitted or Special Land Use in any zoning district.
 2. If the use is not addressed in the zoning ordinance, the Planning Commission shall select the use listed in the zoning ordinance which most closely resembles the proposed use using criteria such as potential impact on property values, nature of use, traffic generated, aesthetics, noise, vibration, dust, smoke, odor, glare and other objectionable impacts in terms of health, safety and welfare in the city.
 3. Once a similar use is determined, the proposed use shall comply with any conditional use standards that apply to the similar use.
 4. Where the Planning Commission determines a proposed use is not similar to an use addressed in the zoning ordinance, the applicant may petition for an amendment to the zoning ordinance.
- B. The determination as to whether a proposed use is similar in nature and class to another permitted or Special Land Use within a district should be considered as an expansion of the use regulations, not a variance applying to a particular situation. Any use determined by the Planning Commission to be similar shall thereafter be included in the enumeration of the uses.

Accessory Buildings, Structures and Uses

Section 2.18 Accessory Buildings, Structures and Uses

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure or use which is permitted in the particular zoning district.
- B. An accessory building, structure or use must be in the same zoning district as the principal building, structure or use on a lot.
- C. Where the accessory building, structure or use is structurally attached to a principal building, structure or use, it shall be subject to all the regulations of this ordinance applicable to principal buildings, structures and uses.
- D. No accessory building, structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- E. No accessory building, structure or use may be placed on a lot without a principal building, structure or use.
- F. No accessory building, structure or use shall be erected in any yard with public street right-of-way frontage, including all such sides of a corner lot unless otherwise noted.
- G. No accessory building, structure or use shall be erected in any required yard except a rear yard, except that accessory buildings, structures and uses may be erected in any required side yard when set back a minimum of seventy-five (75) feet from the front lot line.
- H. Accessory buildings, structures or uses shall not be located closer than five (5) feet from any side or rear lot line or one (1) foot from any alley.
- I. No detached accessory building shall be located closer than ten (10) feet to any principal building, structure or use unless otherwise meeting the requirements of the Building Code,
- J. All accessory buildings, structures and uses combined shall cover no more than twenty-five percent (25%) of any rear yard.
- K. No more than two (2) detached accessory buildings shall be permitted on any lot.
- L. The maximum building height of any detached accessory building shall be fourteen (14) feet, measured from the average height between the eaves and the ridge (see Article 29 Definitions, Building Height).

Section 2.19 Fences, Walls and Screens

A. Residential District.

1. **Exemptions.** Lots in any residential zoning district having an area in excess of two (2) acres and at least two-hundred (200) feet of frontage along a public street are not subject to any of the limitations in this section.
2. **Front Yard Fencing.**
 - a. Unless specifically authorized elsewhere in this ordinance no fence, wall or screen located within the front yard or along any road right-of-way or easement in any residential zoning district shall exceed three (3) feet in height, or be in excess of forty-nine (49%) percent solid or impervious.
 - b. Such fence shall be constructed for decorative effect and not intended to enclose animals or persons.
 - c. Fencing may include split-rail, two-rail, wrought iron and other decorative types only.
 - d. Front yard fencing shall not be placed closer than twenty-four (24) inches from the front lot line nor twenty-four (24) inches to either edge of the paved driveway surface.

B. General Requirements. Fences may be located along a property line and shall be subject to the following:

1. Unless specifically authorized elsewhere in this ordinance no fence, wall or screen located within the side yard or rear yard in any zoning district shall exceed a height of six (6) feet.

2. No fence, wall or screen shall be erected within any public right-of-way.
3. No fence, wall, screen or planting material shall be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways.
4. The use of electric current or charge on any fence or part thereof is prohibited, except for low voltage fences in the R-1 and R-2 Residential Districts intended to enclose permitted livestock.
5. A security fence for a permitted commercial or industrial use may exceed the permitted height limit and include a maximum of one (1) additional foot of barbed wire.
6. Electronic fences buried beneath the ground are not regulated by this ordinance.
7. All fences, walls and screens shall comply with the requirements of Article 23 Landscape Standards And Tree Replacement.

Section 2.20 Awnings and Canopies

- A. Awnings and canopies projecting from the facade of a building are permitted to occupy the required setback area provided the awning or canopy is retractable or can be readily disassembled without damage to the building.
- B. For nonresidential developments subject to site plan review, awnings and canopies shall be shown on a site plan for Planning Commission approval.
- C. Permanent canopies such as those covering gasoline pump islands and other drive-through facilities may not exceed into any required setback.
- D. Signs on awnings and canopies shall be subject to the requirements of Article 24 Signs.
- E. All lighting for awnings and canopies shall be shielded so that the light source does not adversely affect driver or pedestrian visibility or affect adjacent property.
- F. No internal illumination shall be permitted.

Section 2.21 Swimming Pools

- A. A swimming pool shall be considered any artificially constructed portable or non-portable, above grade or below grade, device that contains twenty-four (24) inches or more of water, with a surface area of two hundred and fifty (250) square feet or greater, that is intended for swimming, bathing, or relaxation. This definition includes hot tubs, spas and similar devices.
- B. Swimming pools, spas, hot tubs and similar devices two (2) feet or less above grade at any point shall not be located less than four (4) feet from any lot line.
- C. Swimming pools, spas, hot tubs and similar devices in excess of two (2) feet above grade at any point shall not be located less than ten (10) feet from any lot line.
- D. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.
- E. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.
- F. All swimming pools, spas, hot tubs, and similar devices shall be enclosed with a fence or enclosure approved by the Building Official and Zoning Administrator. Such fence or enclosure, including the gates, shall not be less than four (4) feet or greater than six (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children.

Section 2.22 Flagpoles

- A. A maximum of one (1) flagpole in residential districts and three (3) flagpoles in non-residential districts may be permitted in any yard provided they do not exceed the height limitation of the zoning district.
- B. Flagpoles may exceed the height limitation of the district provided they are setback the distance required in Article 15 Schedule of Regulations.
- C. Flags shall not be permitted to extend beyond any property line, into any road right-of-way or into parking or drive areas.
- D. Flags shall not hang from buildings except as otherwise permitted as temporary banners.

Section 2.23 Waste Receptacles and Enclosures

- A. Waste receptacles, including dumpsters and compactors, shall be required in all multiple family and nonresidential developments unless indoor facilities are provided as determined by the Planning Commission.
- B. All waste receptacles must be located within an enclosure meeting the following standards:
 1. Waste receptacles shall have an enclosing lid or cover and be enclosed on three (3) sides with a gate on the fourth side.
 2. The enclosure shall be constructed of brick or decorative masonry block material consistent with the principal building with a maximum height of six (6) feet or at least one (1) foot higher than the waste receptacle and spaced at least three (3) feet from the waste receptacle. Suggested timber materials for the gate include Cedar, No. 2 Cedar rough sawn seasoned, Redwood, No. 2 Common Finish (S4S), Douglas Fir-larch or Southern Pine.

C. Waste receptacle enclosures shall be located in the rear yard or non-required side yard, at least ten (10) feet from any non-residential property line and in no case be less than twenty (20) feet from any residential district. Applicants are encouraged to place the back side of the waste receptacle enclosure against the building, thereby eliminating the need for one (1) side of the enclosure and making it easier to access.

D. Waste receptacle enclosures shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces.

E. The waste receptacle base shall be at least nine (9) feet by six (6) feet, constructed of six (6) inches of reinforced concrete pavement. The base shall extend six (6) feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.

F. No refuse or trash shall be permitted to be stored higher than the waste receptacle enclosure.

Section 2.24 Mechanical Equipment

A. Mechanical equipment and utilities, including but not limited to blowers, ventilating fans, heating, ventilation and air conditioning units (HVAC), water and gas meters, elevator housing, and tanks shall meet the following standards:

1. Such equipment and utilities shall not be located in any front yard and shall be placed not closer than three (3) feet to any lot line in the B-2 Central Business District, and not closer than twelve (12) feet to any lot line in all other districts.

2. All such equipment shall be screened by a solid wall, fence, landscaping and/or architectural feature that is compatible in appearance with the principal building.

B. Roof-mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall occupy no more than fifteen percent (15%) of the total roof area.

C. All roof-mounted mechanical units must be screened so they are not visible from ground level; even if not specifically addressed as part of site plan review.

Section 2.25 Antennas, Towers and Satellite Dish Antennas

Radio or television antennas or towers, including satellite dish antennas and transmission or reception antennas below three hundred (300) watts of output, erected or installed in any zoning district shall comply with the following requirements:

A. An antenna or tower, with the exception of a satellite dish antenna, shall be located only in a side or rear yard. A satellite dish antenna shall be located only in a rear yard.

B. No portion of an antenna, including a satellite dish antenna, shall be located closer than six (6) feet, measured on a horizontal plane, from any side or rear lot line, or placed on any easement.

C. Ground-mounted antennas, including satellite dish antennas, visible from a public street shall be screened from such street by landscaping or a wall and the location approved by the Building Official and Zoning Administrator, which shall require a sketch plan indicating the location of the satellite dish and buildings, paved areas and other appropriate site features within one hundred (100) feet of the proposed location.

D. The height of an antenna, with the exception of a satellite dish antenna, shall not exceed fifty (50) feet above mean grade or ten (10) feet above the peak of the roofline, in any residential zoning district, and shall not exceed one hundred (100) feet above mean grade in any other zoning district.

E. The height of a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed fifteen (15) feet in height at its maximum point above mean grade.

F. Notwithstanding the above, a satellite dish antenna having a diameter of twenty-four (24) inches or less may be attached to the roof of a building, provided that no portion of the satellite dish antenna extends more than thirty-six (36) inches above the highest point of the roof.

G. The diameter of a satellite dish shall not exceed twelve (12) feet.

H. No advertising or identification display shall be placed on any portion of an antenna or tower, including a satellite dish antenna.

I. No more than two (2) antennae, including a maximum of one (1) satellite dish antenna, shall be located on the same lot as a principal building. Antennas are permitted only in connection with, incidental to and on the same lot as a principal building, structure or use.

J. The installation of an antenna, including a satellite dish antenna, shall require issuance of a building permit by the Building Official and Zoning Administrator prior to erection.

Section 2.26 Exterior Lighting

A. **Exterior Lighting.** All exterior lighting including free-standing poles and building mounted, shall be fully shielded and directed downward to prevent off-site glare.

B. **Intensity.** The intensity of light within a site shall not exceed ten (10) footcandles within any site and one (1) footcandle at any property line, except where it abuts a residentially used or zoned site whereby a maximum of 0.5 footcandles is permitted. The only exception is with gas station canopy and automobile dealership lighting, where a maximum of twenty (20) footcandles is permitted within the site but the above standards shall apply to intensity at the property line.

C. **Fixtures.**

1. Metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."

2. The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.

D. **Pole Height.** The maximum height of parking lot light fixtures shall be twenty (20) feet, except that the Planning Commission may permit a maximum height of thirty (30) feet in a B-3, I-1 or I-2 District when the poles are no closer than one hundred fifty (150) feet to a residential district.

E. **Hours of Operation.** Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within commercial, industrial and office zoning districts shall be turned off between 11:00 p.m. and sunrise, except when used for commercial and industrial uses, such as in sales, assembly and repair areas, where such use continues after 11:00 p.m. but only for so long as such use continues.

F. **Window Lighting.** Any light fixtures visible through a window must be shielded to prevent glare at the property line.

G. Luminous Tube and Exposed Bulb Lighting.

1. Luminous tube and exposed bulb florescent lighting is prohibited as an architectural detail on all buildings, e.g. along the roof line and eaves, around windows, etc. The Planning Commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building.

2. Luminous tube and exposed bulb florescent lighting is permitted as part of a sign meeting the requirements of Article 24 Signs of this ordinance.

H. Other Lighting.

1. The internal illumination of building-mounted canopies is prohibited.
2. Indirect illumination of signs, canopies and buildings is permitted provided a maximum 125 watt bulb is utilized and there is no glare.
3. The use of laser light source, search lights or any similar high intensity light for outdoor advertisement or entertainment is prohibited.
4. Lighting shall not be of a flashing, moving or intermittent type.

Section 2.27 Entranceway Structures

In all districts, so called entranceway structures including but not limited to walls, columns, and gates marking entrances to single-family subdivisions, multiple housing projects, office complexes, shopping centers and industrial parks, may be permitted. Such entrance features may be located in a required yard, provided such entranceway structure does not conflict with required corner clearance and sight distance. Such structure shall be approved as part of site plan or subdivision review by the Planning Commission. A permit from the Lapeer County Road Commission or the Michigan Department of Transportation, as appropriate, shall be required if the structure is to be located in the right-of-way.

Section 2.28 Electric Distribution and Service Lines

A. The electric distribution system for new residential developments shall be placed underground in accordance with the rules of the Michigan Public Service Commission (Michigan Administrative Code Rules 460.511 - 460.512.)

B. Electric lines servicing new office, commercial and industrial developments shall be located underground in accordance with the rules of the Michigan Public Service Commission (Michigan Administrative Code Rule 460.513) unless the practical difficulty associated with such action shall result in an undue burden to the customer as determined by the Planning Commission.

Section 2.29 Storage and Repair of Vehicles

A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:

1. Procedures exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within an enclosed building.
2. Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.

B. Parking of commercial vehicles of up to one (1) ton shall be permitted in all districts.

C. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or outdoor parking of semitractor (WB-50 or larger) trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for approved construction on such lot.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.30 Recreational Vehicle Parking and Storing

A. **Generally.** Recreational vehicles and recreational equipment shall be prohibited in any front yard or any yard abutting a public right-of-way unless otherwise permitted in this Article. Recreational vehicles or equipment shall be placed or parked in the rear yard or side yard behind the front building line, within ten (10) feet of a structure, setback a minimum of three (3) feet from any lot line with the exceptions noted below.

B. **Screening.** Recreational vehicles and recreational equipment shall be located in such a manner so that visibility for adjacent properties is minimized.

C. **Time Limits.** Recreational vehicles and recreational equipment may be stored, parked or placed within any front yard or within a public right-of-way whereon street parking is permitted for a period not exceeding seventy-two (72) hours for loading and unloading or in the process of normal maintenance and cleaning.

D. **Condition and Licensing Requirements.** All recreational vehicles and/or recreational equipment stored or parked in any residential district shall be in an operable condition, as determined by the Building Official and Zoning Administrator.

E. **Occupation of Stored Recreational Vehicles.** At no time shall any stored, parked or placed recreational vehicles and/or recreational equipment be occupied or used for living purposes. At no time shall any such recreational vehicle and/or equipment have fixed connections to water, gas or a sanitary sewer. At no time shall any such recreational vehicles and/or equipment have fixed connections to electricity.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.31 Keeping of Animals

A. The keeping of household pets, including dogs, cats, rabbits, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any residential zoning district. However, no more than three (3) dogs or cats, six (6) months of age or older, in any combination, nor more than a total of five (5) animals, shall be kept or housed in or at one (1) dwelling unit.

B. The keeping of animals not normally considered household pets, including, but not limited to, pigs, horses, sheep, cattle, poultry, reptiles, exotic and wild animals, is prohibited in all zoning districts. However, farms, private stables, and commercial stables are permitted in the R-1 and R-2 Residential Districts, in accordance with definitions in Article 29 Definitions.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.32 State Licensed Adult and Child Residential Care Facilities

A. State-licensed adult and child care facilities, as defined in Article 29, Definitions, are allowed only as provided for in the following table. Applicable conditions are listed as footnotes to the table.

| Type of facility (standards applicable to the use) | Zoning District | | | |
|---|------------------|-----------|---------------------|-----|
| | R-1, R-2, RT | RM-1, RMH | OS-1, B-1, B-2, B-3 | I-1 |
| Adult foster care family home (6 or fewer adults) (a, b, c, d,,e) | P | P | NA | NA |
| Adult foster care small group home (12 or fewer adults) (a, b, c, d, e, i) | SLU | SLU | NA | NA |
| Adult foster care large group home (13 to 20 adults) (a, b, c, d, e, i) | NA | SLU | NA | NA |
| Adult foster care congregate facility (more than 20 adults) (a, b, c, d, e, i) | NA | SLU | NA | NA |
| Foster family home (4 or fewer children 24 hours per day) | P | P | NA | NA |
| Foster family group home (5 to 6 children 24 hours per day) (a, b, c, d, e) | SLU | P | NA | NA |
| Family day care home (6 or fewer children less than 24 hrs. per day) (a, b, c, d, e, f, g, h, j) | P | P | NA | NA |
| Group day care home (7 to 12 children less than 24 hours per day) (a, b, c, d, e, f, g, h, I, j) | SLU | SLU | NA | NA |
| Child care center or day care center (more than 6 children less than 24 hours per day) (a, b, c, d, e, f, g, h) | SLU as accessory | SLU | SLU | SLU |
| Child caring institution (a, b, c, d, f, g, h) | NA | SLU | SLU | SLU |

P: Permitted use

SLU: May be allowed upon review and approval of a Special Land Use, in accordance with the general and specific standards for Special Land Uses.

SLU as accessory: May be allowed as an accessory to an approved use, such as a church, school, office or other place of employment, upon review and approval of a Special Land Use.

NA: Not allowed in zoning district.

Footnotes:

- a. The use shall be registered with the City of Imlay City Clerk's Office and shall continually have on file with the city documentation of a valid license as required by the state.
- b. Since the state law preempts in this area, the facility shall be brought into compliance with all State Building and Fire Codes pursuant to State Licensing Rules R400.1831-R400.1835. Documentation of such compliance with state requirements shall be provided.
- c. The site shall comply with the sign provisions of Article 24 Signs.
- d. Off street parking shall be provided for the number of employees on site at any one time.
- e. The building shall have an appearance which is non-intrusive and consistent in color, materials, roof-line and architecture with the single family or multiple family residential district in which it is located, as determined by the Planning Commission.
- f. Documentation of sufficient indoor classroom, crib or play area meeting state requirements shall be provided. Documentation of approved areas, as licensed by the state, shall be provided.
- g. There shall be sufficient outdoor play area to meet state regulations. All required outdoor play areas shall be fenced with a four foot tall fence, provided that no fence shall be located in a front yard.
- h. An on-site drive shall be provided for drop-offs/loading. This drive shall be arranged to allow maneuvers without creating a hazard to traffic flow on the public street.
- i. The lot shall be at least 1,500 feet from another group day care home or similar facility. This may be reduced by the Planning Commission upon a finding by the Planning Commission that the proposed facility will not contribute to an excessive concentration of state licensed residential facilities.
- j. The facility shall operate a maximum of sixteen (16) hours per day.

B. A state-licensed residential adult or child care facility existing prior to the effective date of this ordinance (insert date), that has been operating under a valid state license and is registered with the village no later than sixty (60) days following the effective date of this ordinance (insert date), shall be considered an approved Special Land Use, provided such use conforms with the conditions of this section. Any change in class of the use to a larger care facility shall require approval in accordance with the requirements of this ordinance. Any modification to the use shall require approval following the standards of Article 16 Site Plan Review as applicable.

(Am. Ord. 6.1, passed 11-3-04; Am. Ord. passed 12-20-05; Am. Ord. 6.1, passed 3-17-09)

Section 2.33 Home Occupations

Home occupations are permitted in any single-family residential district with the following conditions:

- A. No person, other than members of the family residing in the dwelling, shall be engaged in the conduct of the home occupation.
- B. The use of the dwelling for the home occupation shall be clearly accessory, incidental and subordinate to its use for residential purposes, and not more than twenty percent (20%) of the floor area of the dwelling shall be used for the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation provided, however, that there may be one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling, the design of which shall be approved by the Building Official and Zoning Administrator. There shall be no other signs either on the building or in the windows of the dwelling.
- D. No outdoor display and/or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.
- E. Traffic generated by the home occupation shall not be greater than would normally be expected in a residential neighborhood, or in any case no more than ten (10) vehicular trips per day.
- F. The home occupation shall be conducted entirely within the confines of the dwelling and shall not take place in a garage or accessory structure.
- G. There shall be no sale of products or service on the premises where the home occupation is located except those that are produced or used in the normal conduct of the home occupation. A retail showroom, sales area, outlet or similar facility is prohibited.
- H. Any necessary parking spaces for vehicles generated by the conduct of the home occupation shall be provided on the site in a normal driveway, but not within any required yard area.
- I. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes or odors detectable to the normal senses off the premises on which the home occupation is located. In addition, no equipment or process shall be used in the home occupation which causes visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.34 Excavations Including Dumping, Filling, Grading and Mining

The construction, maintenance, or existence within the city of any unprotected, unbarricaded, open or dangerous excavations, holes, pits, or wells, or of any excavations, holes or pits which constitute, or are reasonably likely to constitute, a menace to the public health, safety or welfare, is hereby prohibited. This section shall not apply to excavations operated under a Special Land Use Permit issued pursuant to this

ordinance, or the Building Code of the city, where such excavations are barricaded and warning signs posted in such manner as may be approved by the Building Official and Zoning Administrator, nor does this section apply to lakes, streams, or other natural bodies of water, or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of the State of Michigan, Lapeer County, Imlay City, or other governmental agencies.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.35 Street Access

A. Any lot created after the effective date of this ordinance shall have frontage upon a public street right-of-way or legally recorded access easement at least sixty (60) feet in width, unless a private road of lesser width has been approved by the City Commission.

B. A building permit shall not be issued for the construction of any principal building unless said lot has the minimum frontage required on an improved public street or legally recorded access easement at least sixty (60) feet in width, unless a private road of lesser width has been approved by the City Commission.

C. Access driveways located on access easements or on a flag lot, upon which the lots access to a public street consists of a narrow access easement, shall be surfaced with a durable pavement having an asphalt or cement binder and be constructed to the city standards.

D. All street access shall meet the standards of Article 22, Access Management and Driveway Standards.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.36 Performance Standards

No land use otherwise allowed shall be permitted within a zoning district that does not conform to the following standards of use, occupancy, and operation. These performance standards are hereby established as the minimum requirements to be maintained.

A. Smoke.

1. **Generally.** It shall be unlawful for any person to permit the emission of any smoke from any source, excepting smoke from a chimney for a fireplace or wood/coal burning stove in a residential structure, to a density greater than that density described as No. 1 of the Ringelmann Chart; provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to, but not darker than No. 2 of the Ringelmann Chart, for a period, or periods, aggregating four (4) minutes in any thirty (30) minutes.

2. **Method of measurement.** For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this

ordinance, shall be the standard. However, the umbra scope readings of smoke densities may be used when correlated with the Ringelmann's Chart.

B. **Radioactive, Toxic and Hazardous Materials.** Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line. All transportation, including by rail, of radioactive materials, hazardous waste and toxic waste shall be within permissible standards set by the federal government.

C. **Noise.** Operations or activities which exceed the maximum sound intensity levels defined below shall be prohibited. A sound level meter and an octave band analyzer shall be used to measure the intensity and frequency of the sound or noise levels encountered by day and/or by night. Sounds with very short duration, which cannot be accurately measured with a sound level meter, shall be measured by an impact noise analyzer; and the maximum levels below may be exceeded by no more than five (5) decibels. Where questions on noise arise, the current standards recognized by the U.S. Department of Housing and Urban Development shall apply.

Maximum Permitted Sound Intensity Levels in Decibels

| Octave Band | Day | Night |
|-----------------|-----|-------|
| 00 to 74 | 76 | 70 |
| 75 to 149 | 70 | 62 |
| 150 to 299 | 64 | 56 |
| 300 to 599 | 57 | 49 |
| 600 to 1,199 | 51 | 44 |
| 1,200 to 2,399 | 45 | 39 |
| 2,400 to 4,799 | 38 | 33 |
| 4,800 and above | 36 | 31 |

(source: Pre-1960 Octave Bands - American Standard Association, Z24)

D. **Light.** Exterior lighting shall be so installed that the nearest surface of the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to reflect light away from any residential use. In no case shall the intensity of light exceed ten (10) footcandles within any site or one (1) footcandle at any property line.

E. **Glare.** Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be

performed in such a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines.

F. Dust, Dirt and Fly Ash.

1. **Generally.** No person shall operate or cause to be operated, maintain, or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using the process or furnace or combustion device, recognized and approved equipment (such as woodburning fireplaces, coal and wood burning stoves), means, methods, device, or contrivance to reduce the quantity of gas-borne or air-borne solids or fumes emitted into the open air, which is operated in conjunction with the process, furnace or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of carrying medium at a temperature of five hundred (500) degrees Fahrenheit. These standards are not intended to apply to residential uses, such as chimneys for a fireplace or wood/coal burning stove.

2. **Method of measurement:** For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty percent (50 %) at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Building Official and Zoning Administrator may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.

G. **Fire and Explosive Hazards.** The storage, utilization or manufacture of materials, goods, or products ranging from free or active burning to intense burning, as determined by the fire chief, is permitted subject to compliance with these performance standards and all other standards of this ordinance and providing that the following conditions are met:

1. Such materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the building code.

2. All such buildings or structures shall be set back at least forty (40) feet from lot lines and all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by NFPA prevention codes.

3. The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by Act 207 of the Public Acts of 1941, as amended, and the NFPA.

(Am. Ord. 6.1, passed 11-3-04)

Section 2.37 Wind Energy Conversion Systems

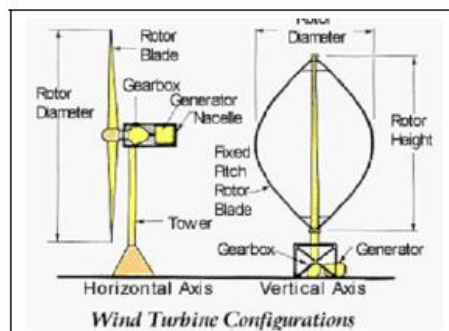
This subsection establishes standards and procedures by which the installation and operation of an On-Site Service WECS shall be governed within the city.

A. Definitions.

1. **Wind energy conversion system (WECS):** A combination of:

- A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
- A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
- The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
- The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
- Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.

2. **Axis:** A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground, or a vertical axis, with a rotor that spins parallel to the ground.



3. **WECS height:** The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position).

4. **On-site service WECS:** A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.

B. **Only on-site service WECS allowed.** A WECS with the primary purpose of providing power to the utility grid or any other use not on the same site is prohibited.

C. **On-site service WECS general requirements:**

1. Except as may otherwise be required by this section, an on-site service WECS shall be allowed as an accessory use in any district, subject to the requirements of this section.

2. The minimum lot area for installation of a WECS shall be 12,000 square feet.

D. **Review requirements:**

1. For any WECS exceeding fifty (50) feet in height, a special land use must be approved by the City Commission, according to Sec. 78-236.

2. Power rating of the WECS turbine shall not be greater than 25 kW.

3. The WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company of any power that is generated beyond the needs of the structures or uses on the property. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.

4. No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.

5. There shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed to the base of the tower or to the nacelle. No sign shall exceed three (3) square feet in area.

6. There shall be no lighting on or directed to the WECS.

7. The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.

8. A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. Emergency shut-off information shall be posted on the tower in an easily viewable location.

9. A WECS shall employ an anti-climbing device or be designed to prevent climbing and other unauthorized access.

10. A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission, or reception antenna for radio, television, or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.

11. The applicant shall provide written evidence that the WECS complies with all applicable federal, state, and county requirements, in addition to city ordinances.

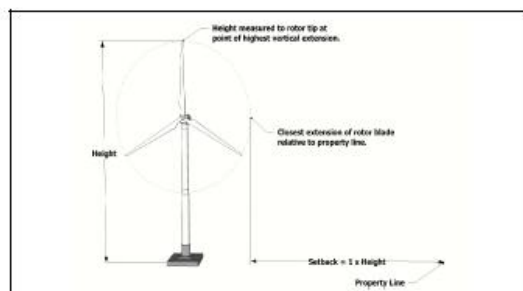
12. All WECS installations shall comply with applicable ANSI (American National Standards Institute), National Electric Code, and National Building Code standards, as adopted by the state and the city.

13. A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for twelve (12) consecutive months.

14. An existing and approved WECS may be repaired and maintained; however, a WECS may only be replaced with a new WECS upon approval of the Zoning Administrator, provided that the new WECS is of the same height, rotor diameter, setback, etc. as the WECS it replaces. For the purposes of this paragraph, a “new or replacement WECS” shall mean all of the WECS, excluding the tower or support structure.

E. **Ground-mounted on-site service WECS:**

1. The WECS shall be located on the property so that it is set back from all property lines a distance equal to the WECS height. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor blade relative to the property line (see graphic). No part of a single WECS (including guy wire anchors) shall be located within or above any required setback.



Ground-Mounted WECS Height and Setback

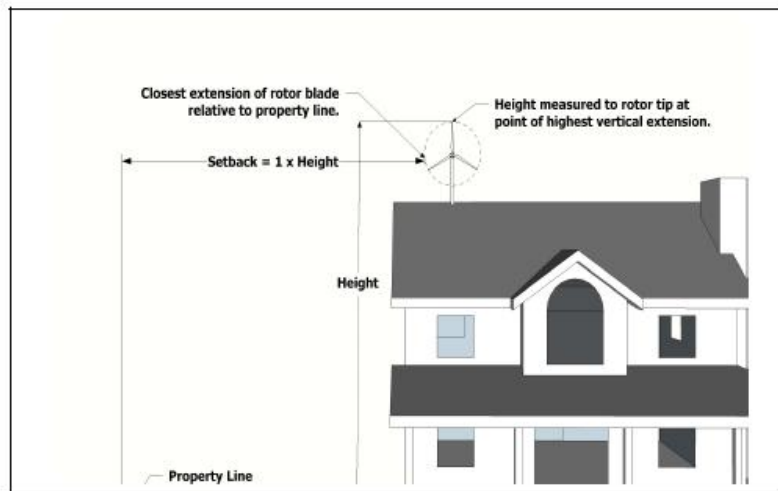
2. The WECS height shall be limited by available setbacks as required in paragraph 1. above; however, no WECS height shall exceed

fifty (50) feet on a property at least 12,000 square feet but less than one (1) acre in area; or seventy-five (75) feet on a property one (1) acre in area or greater. Any WECS over fifty (50) feet high is subject to special land use review according to Article X, regardless of lot size.

3. The minimum rotor blade tip clearance from grade shall be twenty (20) feet.
4. The minimum rotor blade tip clearance from any structure shall be twenty (20) feet.
5. The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed fifty (50) feet.
6. The tower used to support a WECS shall be adequately anchored meeting applicable standards, as certified by an engineer.

F. Building-mounted on-site service WECS:

1. The diameter of the rotor shall not exceed twenty (20) feet.
2. The WECS height shall not exceed the maximum permitted height for principal buildings in the district, plus fifteen (15) feet.



Building-Mounted WECS Height and Setback

3. The WECS shall be mounted so that it is set back from adjoining property lines a distance equal to the combined height of the WECS and the height of the portion of the building on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).

4. A building-mounted WECS shall not be mounted to the vertical face of a gable end or dormer that is visible from the street. To the greatest degree possible, the WECS shall be mounted to the building in the least visible location.

5. The mount and the structure used to support a building-mounted WECS shall meet applicable standards, as certified by an engineer.

G. Discretionary conditions: The Planning Commission, or in the case of a special land use, the City Commission, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair, and removal of any WECS. Such other terms and conditions may include, but are not limited to, the following:

1. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
2. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
3. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this section are met.
4. Requiring a performance bond or letter of credit, in favor of the city, and conditioned upon the timely and faithful performance of all required conditions of the special land use, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

(Am. Ord. 6.1, passed 4-20-10)

Section 2.38 Outdoor wood stoves, outdoor boilers and outdoor wood furnaces.

The installation or use of outdoor wood stoves, outdoor boilers and outdoor wood furnaces within the city is prohibited.

(Am. Ord. 6.1, passed 4-20-10)

Article 3

Zoning Districts And Map

Section 3.1 Purpose and Districts Established

For the purpose of this ordinance, the City of Imlay City is hereby divided into the following districts:

RESIDENTIAL DISTRICTS

R-1 Single-Family Residential District

R-2 Single-Family Residential District

RT Two-Family Residential District

RM-1 Multiple-Family Residential District

RMH Manufactured Housing Community District

NONRESIDENTIAL DISTRICTS

OS-1 Office Service District

B-1 Local Business District

B-2 Central Business District

B-3 General Business District

I-1 Light Industrial District

I-2 General Industrial District

Section 3.2 Interpretation of District Boundaries

A map showing by appropriate means the various districts into which Imlay City is divided shall be entitled "Imlay City Zoning Map." The map shall bear the date adopted or amended and is hereby made a part of this ordinance. The Official Zoning Map shall be maintained on section maps at the Imlay City Offices by the City Clerk or appointed staff. Where uncertainty exists with respect to the boundaries of any of the districts established in this ordinance as shown on the zoning map, the following rules shall be applied:

A. Where district boundaries are indicated as approximately following the center lines of street or highway rights-of-way, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.

B. Where district boundaries are so indicated that they are approximately parallel to the center lines of street or rail rights-of-way, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on the zoning map. The official zoning map on a series of section maps maintained by the city shall be used to determine such dimensions in the case of any multiple interpretations.

C. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.

D. Where the boundary of a district follows, or terminates at, a stream, lake, or other body of water, the boundary line shall be deemed to be at the center line of such feature, or terminated at the limit of the adjacent jurisdiction unless otherwise indicated.

E. Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be the district boundary line.

F. The Zoning Board of Appeals shall make a determination, upon written application or upon its own motion, in those situations where unzoned property may exist, or where, due to the scale, lack of detail, or illegibility of the zoning map there is any uncertainty, contradiction or conflict as to the intended location of any district boundaries shown thereon or interpretation concerning the exact location of district boundary lines.

Section 3.3 Zoning of Annexed Areas

Whenever any area is annexed to the City of Imlay City, one of the following conditions shall apply:

A. Land that is zoned previous to annexation shall be classified as being in whichever district of this ordinance that most closely conforms with the zoning that existed prior to annexation; such classification to be recommended by the Planning Commission to the City Commission and the Commission shall approve same by resolution.

B. Land not zoned prior to annexation shall be automatically classified as an R-1 District until a zoning map for said area has been adopted by the City Commission; the Planning Commission shall recommend the appropriate zoning district for such area within three (3) months after the matter is referred to it by the City Commission.

Section 3.4 Zoning of Vacated Public Rights-of Way

Whenever any street or other public way within the city is vacated, such street, alley or other public way or portion thereof shall automatically be zoned consistent with the zoning of the adjacent property or properties, measured from the centerline.

R-1 And R-2 Single-Family Residential Districts

Section 4.1 Purpose

The R-1 and R-2 Single-Family Residential Districts are intended to be the most restrictive of the residential districts. The purpose is to provide a low-density environment of predominantly single-family dwellings along with other residentially related facilities which serve the residents in the districts.

Section 4.2 Principal Uses Permitted

In the R-1 and R-2 Residential Districts, land, buildings, and other structures shall be used only for one (1) or more of the following specified uses:

- A. single-family detached dwellings (single-family subdivisions shall meet the standards of the City of Imlay City Subdivision Control Ordinance; condominiums and condominium subdivisions shall meet the standards of Article 18, Condominium Development Standards);
- B. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- C. home occupations as an accessory use in accordance with Section 2.34 Home Occupations;
- D. farms;
- E. public and private open space;
- F. essential public services;
- G. accessory buildings, structures, and uses, customarily incidental to any of the above principal uses.

Section 4.3 Special Land Uses

The following uses are considered Special Land Uses within the R-1 and R-2 Residential Districts and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers as accessory uses only;
- B. bed and breakfast inns;
- C. cemeteries;
- D. churches, temples and similar places of worship with a maximum seating capacity in the sanctuary of seven hundred and fifty (750) persons;
- E. colleges, universities and other institutions of higher learning;
- F. golf courses and par three golf courses;
- G. kennels in the R-1 District only;
- H. private non-profit swimming pool clubs;
- I. private or public stables in the R-1 District only;
- J. public and quasi-public institutional buildings, structures and uses including municipal offices, libraries, post offices, museums and similar uses;
- K. public parks and recreation facilities;
- L. schools including public, private and parochial elementary and secondary;
- M. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- N. accessory buildings, structures and uses customarily incidental to any of the above Special Land Uses.

Section 4.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General Provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.

- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 5

RT Two-family Residential District

Section 5.1 Purpose

The RT Two-Family Residential District is intended to be a medium- to high-density residential district that allows two-family dwellings where slightly greater densities are permitted along with other residentially related facilities which serve the residents in the district. 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 dwellings in order to extend the economic life of these structures and allow owners to justify expenditures for rehabilitation.

Section 5.2 Principal Uses Permitted

In the RT Two-Family Residential District land, buildings, and other structures shall be used only for one (1) or more of the following specified uses:

- A. single-family detached dwellings (single-family subdivisions shall meet the standards of the City of Imlay City Subdivision Control Ordinance; condominiums and condominium subdivisions shall meet the standards of Article 18, Condominium Development Standards);
- B. two-family dwellings;
- C. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- D. home occupations as an accessory use in accordance with Section 2.34 Home Occupations;
- E. public and private open space;
- F. essential public services;
- G. accessory buildings, structures and uses, customarily incidental to any of the above principal uses.

Section 5.3 Special Land Uses

The following uses are considered Special Land Uses within the RT Two-Family Residential District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers as accessory uses only;
- B. bed and breakfast inns;
- C. cemeteries;
- D. churches, temples and similar places of worship with a maximum seating capacity in the sanctuary of seven-hundred and fifty (750) persons;
- E. colleges, universities and other institutions of higher learning;
- F. private non-profit swimming pool clubs;
- G. private parks and recreation facilities owned and maintained by homeowner or condominium associations;
- H. public and quasi-public institutional buildings, structures and uses including municipal offices, libraries, post offices, museums and similar uses;
- I. public parks and recreation facilities;
- J. schools including public, private and parochial elementary and secondary;
- K. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- L. accessory buildings, structures and uses customarily incidental to any of the above Special Land Uses.

Section 5.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General Provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.

- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 6

RM-1 Multiple Family Residential District

Section 6.1 Purpose

The RM-1 Multiple-Family Residential District is intended to be the highest density residential district and allow multiple-family dwellings, along with other residentially related facilities which serve the residents in the district. The district will generally serve as a zone of transition between nonresidential districts and lower density single-family and two-family residential districts. The Multiple-Family District is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, single-family community.

Section 6.2 Principal Uses Permitted

In the RM-1 Multiple-Family Residential District, land, buildings, and other structures shall be used only for one (1) or more of the following specified uses:

- A. single-family detached and attached dwellings (single-family subdivisions shall meet the standards of the City of Imlay City Subdivision Control Ordinance; condominiums and condominium subdivisions shall meet the standards of Article 18, Condominium Development Standards);
- B. two-family dwellings;
- C. multiple-family dwellings;
- D. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- E. housing for the elderly not including dependent housing facilities (nursing and convalescent homes);
- F. home occupations as an accessory use in accordance with Section 2.34 Home Occupations;
- G. public and private open space;
- H. essential public services;
- I. accessory buildings, structures and uses, customarily incidental to any of the above principal uses.

Section 6.3 Special Land Uses

The following uses are considered Special Land Uses within the RM-1 Residential District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers;
- B. bed and breakfast inns;
- C. cemeteries;
- D. churches, temples and similar places of worship;
- E. colleges, universities and other institutions of higher learning;
- F. golf courses and par three golf courses;
- G. hospitals, urgent care centers, emergency medical stations, and similar uses;
- H. housing for the elderly, dependent housing facilities (nursing and convalescent homes);
- I. private non-profit swimming pool clubs;
- J. private parks and recreation facilities owned and maintained by homeowner or condominium associations;
- K. public and quasi - public institutional buildings, structures and uses including municipal offices, libraries, post offices, museums and similar uses;
- L. public parks and recreation facilities;
- M. schools including public, private and parochial elementary or secondary;
- N. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential

Care Facilities;

- O. accessory buildings, structures and uses customarily incidental to any of the above Special Land Uses.

Section 6.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General Provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 7

RMH Manufactured Housing Community District

Section 7.1 Purpose

A. The intent of the Manufactured Housing Community District is to provide an affordable housing alternative where placement of such a development would be appropriate and consistent with the general character of the city. The standards required in this district are intended to be consistent with the adopted standards for other types of housing in the City of Imlay City. In addition to the standards of this ordinance, all manufactured housing developments shall comply with Act No. 96 of Public Acts of the State of Michigan of 1987 as amended. However, some standards of this ordinance are more stringent than the typical standards promoted by the Michigan Manufactured Housing Commission. These more stringent standards reflect the overall nature of the City of Imlay City, in contrast with some other areas of Michigan where the universal rules of the Manufactured Housing Commission may be appropriate. These adopted standards are designed to foster and encourage development which compliments and protects the investment on adjacent properties, and promotes preservation of important natural features.

B. Since the characteristics, densities and impacts of a manufactured housing development typically simulate those of multiple-family residential developments, and because they typically are served by private streets and utility systems which intercept the local street and utility systems, manufactured housing developments are not necessarily considered to be completely compatible with other types of single-family neighborhoods. Therefore, manufactured housing developments are intended to serve as a transitional use between residential and nonresidential districts, similar to the manner and fashion in which multiple family districts are to be utilized.

Section 7.2 Principal Uses Permitted

No land or buildings in the RMH District shall be used, erected, altered, or converted, in whole or in part, except for the following purposes by right:

- A. state licensed manufactured housing developments;
- B. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- C. home occupations as accessory uses in accordance with Section 2.34 Home Occupations;
- D. public and private open space;
- E. essential public services;
- F. accessory uses, buildings and structures customarily incidental to any of the above uses.

Section 7.3 Special Land Uses

The following uses are considered Special Land Uses within the RMH Manufactured Housing Community District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers;
- B. churches, temples and similar places of worship;
- C. public and private recreation facilities;
- D. schools, including public, private and parochial; elementary and secondary;
- E. state licensed adult and child residential care facilities in accordance with Section 2.34 State Licensed Adult and Child Residential

Care Facilities;

F. essential public service buildings;

G. accessory buildings, structures, and uses customarily incidental to any of the above Special Land Uses.

Section 7.4 Site Development Standards

Manufactured housing developments shall be subject to the review and approval of a site plan by the Planning Commission. The site plan shall consist of a manufactured housing development preliminary plan, as described in the Section 11, of the Mobile Home Act, Act No. 96 of Public Acts of 1987, as amended. Such review of the site plan is required in order to minimize the possibility of adverse effects upon adjacent property, and furthermore to find proper relationships in the development features as they relate to traffic safety, service roads, driveways, parking areas, accessory buildings and uses, and planned open space.

Section 7.5 Design Standards for Overall Development

A. **Minimum Development Size.** Manufactured housing developments shall be at least fifteen (15) acres in area, excluding adjacent parcels which may be proposed for expansion.

B. **Access.**

1. The main entrance to the development shall have access to a public thoroughfare or shall be connected to a paved collector or arterial road by a hard surfaced road in a permanent easement which shall be recorded by the developers. Sole access to the development via an alley is prohibited.

2. Entranceway structures, including but not limited to, walls, columns and gates, marking the entrance to a manufactured housing development, may be permitted, and may be located in a required yard, except as provided in this section. Such entranceway structures shall be subject to the requirements of Section 2.12 Intersection Visibility, to permit unobstructed access by all emergency equipment, and such allowance for "clear vision" shall otherwise comply with all codes and ordinances of the city and Lapeer County. Sight distance from points of ingress and egress shall be approved by the Lapeer County Road Commission. The structure and roadway location shall also be approved by the city.

C. **Perimeter Setbacks.** Manufactured homes shall be set back at least fifty (50) feet from any public street right-of-way line and thirty (30) feet from any other exterior property line. This setback shall include a minimum twenty (20) foot wide greenbelt, which includes minimum screening, as outlined below.

D. **Landscape.** A landscape and screening plan shall be incorporated in the preliminary plans submitted for site plan review to the City Planning Commission. The plan shall indicate the type and size of landscape planting and screening improvements to be completed in the proposed manufactured housing development. Manufactured housing developments shall be landscaped and screened as follows:

1. **Ground Surfaces.** Exposed ground surfaces in all parts of the manufactured housing development shall be paved or covered with stone or other solid material or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface in all parts of every manufactured housing development shall be graded and equipped to drain all surface water in a safe, efficient manner.

2. **Perimeter Screening.** All manufactured housing development shall be screened from adjacent properties by either a six (6) foot screen wall and/or a densely planted landscaped screen.

a. **Screen Wall Option.** If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back in the manufactured housing development from the property line a sufficient distance to resolve such concerns.

b. **Greenbelt Option.** A greenbelt including landscape screening is the preferred option and shall consist of evergreen trees or shrubs and berming. The trees shall be a minimum of six (6) feet in height, at the time of planting, and which are spaced and/or staggered so they provide a continuous screen at maturity, consistent with standards set forth in 3 below. Slopes for the berm shall not exceed a 4 to 1 slope with a minimum of a two (2) foot flat surface on the top of the berm. Alternative screening devices, subject to prior Planning Commission approval, may be utilized if they conceal the manufactured housing development as effectively as the required landscaping described above and provided the alternative screening is kept in good repair.

3. **Right-of-Way Greenbelt.** A landscaped berm measuring two and one-half (2 ½) to three (3) feet in height shall be constructed along any public road on which the manufactured housing development fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical rise for each four (4) feet horizontal run. Landscaping adjacent to the road shall comply with the following requirements, consistent with landscaping required for other types of development in the City of Imlay City.

| Size | Type | Requirements |
|-----------------|---|---|
| 2 ½"-3" caliper | Deciduous street tree (such as Red or Norway Maple, Linden) | One (1) per forty (40) lineal feet of road frontage |
| 24" | Deciduous or evergreen shrubs | One (1) per three (3) lineal feet of road frontage |
| 6' | Evergreen Trees | One (1) per forty (40) lineal feet of road frontage |

4. **Site Landscaping.** A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured home sites.

5. **Parking Lot Landscaping.** Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.

6. **Perpetual Maintenance.** Dead, damaged, and/or diseased screening shall be replaced, within a reasonable time frame, so as to maintain the approved and/or allowed screening technique originally put in place.

E. **Required Open Recreation Space.** A minimum of two percent (2%) of the development's gross acreage shall be dedicated to well drained, useable open space, provided that a minimum of twenty-five thousand (25,000) square feet of open space shall be provided. Said open space may be developed with appropriate recreational facilities and play equipment. The location, shape and development plan for said recreational area shall be reviewed and approved by the Planning Commission, but in no case shall any required open space area be longer than one and one-half (1.5) times its width. At least half of the open space area shall be graded, developed and sodded to provide recreation for the residents of the manufactured housing development. Open space shall be maintained by the manufactured housing development management, and shall be relatively accessible to all areas of the development.

F. Streets

1. **Street Layout.** Maximum cul-de-sac length shall be one thousand (1,000) feet. A dead end road shall terminate with an adequate turning area which is to be approved by the local fire authorities. A blunt-end road is prohibited. Adequate sight distance shall be provided at all intersections, in accordance with clear vision standards applicable to all areas of the City of Imlay City, and those set forth in Section 2.12 Intersection Visibility.

2. **Street Width.** Streets or drives within the manufactured housing development shall be constructed to in accordance with the general standards set forth by the Manufactured Housing Commission. In addition, two way circulation shall be required, with a minimum width of twenty one (21) feet with no on-street parking, thirty one (31) feet where parallel parking is permitted on one side and forty one (41) feet where parallel parking is permitted on both sides. Streets not permitting parking shall be clearly marked or signed.

3. **Street Names/Signs.** All streets and roads shall be clearly marked with appropriate identification and traffic control signs. For the protection of the public safety, an orderly street name system and numbering system shall be established by the manufactured housing development owner and a plan of this system shall be verified and approved by the City Fire Department. Manufactured home space numbers shall be located uniformly on each space, manufactured home unit or identification marker, throughout the manufactured housing development and street names shall be adequately marked.

4. **Street Geometry.** The alignment and gradient of a street shall be graded for its full width to drain surface water. Specific standard promulgated by the Michigan Department of Environmental Quality (MDEQ) for the Manufactured Housing Commission shall be strictly adhered to.

5. **Street Materials.** All streets and drives shall be constructed with materials suitable for subgrades and hard surface in compliance with the standards of the American Association of State Highway and Transportation Officials, adopted herein by reference. Curbing may be installed on service drives. The development roadways shall be constructed as follows:

- a. Streets shall be crowned with drainage directed to gutters or outside edges.
- b. Centerline drainage shall be prohibited.
- c. Curbing shall be concrete, if used.
- d. If integral valley curbing and gutter or mountable curb and gutter is used, the height of the curb measured from the gutter line shall be between three (3) and five (5) inches.
- e. Crosswalks shall conform to Act No. 8 of the Public Acts of 1973.

G. **Sidewalks.** A five (5) foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing development fronts. Such sidewalk shall be located within the road right of way or easement, beginning one (1) foot inside the right of way or easement line. Additionally, should the developer choose to employ internal sidewalk systems, such sidewalk systems shall conform to the Manufactured Housing Commission standards, as promulgated.

H. **Accessory Buildings and Facilities.** Any accessory buildings and facilities constructed within the manufactured housing development shall be designated and serviced consistent with the following requirements:

1. Accessory buildings and structures, including development management offices and public works facilities, storage building, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by only residents, guests and employees of the manufactured housing development.

2. Site-built buildings within a manufactured housing development shall be constructed in compliance with the City of Imlay City Building Code and shall require all applicable permits. Any addition to a manufactured housing unit that does not comply with the City of Imlay City Building Code. Site plan approval shall be required prior to construction of any on-site building within a manufactured home development, except for storage sheds or garages for individual manufactured homes. Storage sheds and garages shall require a building permit from the city prior to construction.

3. Each manufactured home shall be permitted one (1) storage shed and one (1) garage. The installation of any such shed or garage shall comply with codes and ordinances of the City of Imlay City and shall require a building permit. Storage underneath a manufactured home or unscreened outdoor storage area on any manufactured home site is prohibited. Storage sheds need not be supplied by the owner of the manufactured housing development. A storage shed shall not exceed a floor area greater than one-hundred and forty-four (144) square

feet. A carport or garage shall not exceed five-hundred and seventy-six (576) square feet.

I. **Building Height.** Maximum height of any community accessory buildings and structures shall be thirty (30) feet.

J. **Storage.** If the owner of the manufactured housing development shall permit storage of boats, motorcycles, recreation vehicles, and similar equipment in the manufactured housing development, common areas for the storage of that equipment shall be provided by the owner within the development. Such storage shall be limited to use only by residents of the manufactured housing development. If proposed, the location of such storage areas shall be shown on the preliminary site plan. No part of any such storage area shall be located in a required yard on the perimeter of the manufactured housing development. Such storage area shall be screened from view from existing residences adjacent to the manufactured housing development in accordance with the perimeter screening provisions described above. Manufactured housing development owners who prohibit storage of boats, off-the-road motorcycles, recreation vehicles and similar equipment are not required to construct common areas for storage.

K. **Drainage.** The manufactured housing development shall provide sufficient storm water facilities, independent of sanitary sewers, to prevent flooding of streets, lot or recreation areas. On-site storm water detention facilities, if provided, may be required to be fenced for safety reasons. The street drainage system shall be designed in such a way so as to minimize ponding and icing conditions. All storm water drainage improvements shall be subject to review and approval by the Genesee County Drain Commissioner, the Michigan Department of Environmental Quality, in accordance with MDEQ Manufactured Home Park Standards, pursuant to 1987 P.A. 96, as amended.

L. **Waste Receptacles.** Waste receptacles shall be provided unless curb side pick-up is provided. An on-site recycling station for residents may be provided at a location approved by the Planning Commission and the Michigan Department of Environmental Quality. Adequate screening shall be provided, as required for the placement of outdoor storage areas.

M. **Underground Wiring.** All local distribution lines for franchised utilities (telephones, electric service, cable television) shall be placed entirely underground throughout the manufactured housing development area. Mainlines and perimeter feed lines located on a section or quarter section line may be above ground if they are configured or installed within the State Electrical Code guidelines. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.

N. **Mailbox Clusters.** The United States Postal Service may require that manufactured housing development be served by clusters of mailboxes servicing several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of an manufactured housing development road with a public road.

O. **Swimming Pools**

1. **Definition.** Swimming pool shall mean any permanent, non-portable structure or container located either above or below grade designed to allow holding of water to a depth of greater than twenty four (24) inches, intended for swimming, bathing or relaxation. The definition of swimming pool includes spa, hot tubs and similar devices.

2. **Requirement for Fence.** A fence or similar enclosure shall be erected and maintained around any swimming pool. Such fence or enclosure shall be constructed of durable, weather resistant wood and/or chain link material and shall be approved by the Building Official and Zoning Administrator and the manufactured housing development management.

3. **Setback.** A swimming pool fence shall not be closer than twenty five (25) feet to any occupied dwelling if placed on a residential lot.

4. **Restriction from Front Yard.** Freestanding swimming pools, spas, hot tubs and similar devices shall not be located between any home and roadway.

5. **Surrounding Walk.** All community swimming pools shall be surrounded by a slip resistant walk, at least four (4) feet wide.

6. **Permits.** Permits shall be applied for and issued from the Building Official and Zoning Administrator and State Health Department prior to excavation or construction of any swimming pool requiring a fence as noted in items 1 and 2 above. The application shall be accompanied by a complete set of plans and specifications. A final inspection and approval from the Building Official and Zoning Administrator must be obtained prior to use of the swimming pool.

P. **School Bus Stops.** School bus stops shall be located in an area that is acceptable to the school district and the manufactured housing development developer.

Section 7.6 Design Standards for Individual Lots/Dwelling Units

No manufactured home or mobile home shall be permitted to occupy any site or lot in the manufactured housing development if the home is either longer or wider than would permit compliance with the following requirements:

A. **Site Size.** The manufactured housing development shall be developed with sites averaging 5,500 square feet per manufactured home unit. This 5,500 square feet for any one site may be reduced by up to twenty percent (20%) provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R125.1946, Rule 946 and R125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code.

B. **Setbacks and Spacing.** Each manufactured home site shall have the following yard requirements:

1. **For a Home Sited Parallel to an Internal Road:** fifteen (15) feet from any part of an attached structure of an adjacent home that is used for living purposes if the adjacent home is sited next to a home on the same internal road or an intersecting internal road.

2. **For a Home Not Sited Parallel to an Internal Road:** twenty (20) feet from any part of an attached structure of an adjacent home

that is used for living purposes.

C. **Dwelling Unit Dimensions.** Any side of any manufactured home facing a public right-of-way must be a minimum of thirty (30) feet in width.

Article 8

OS-1 Office-Service District

Section 8.1 Purpose

The OS-1 Office-Service District is intended to concentrate a variety of office uses of a business and professional nature, and personal and professional service activities compatible with office uses. This District is intended to provide a transition between commercial districts and the adjacent residential districts.

Section 8.2 Principal Uses Permitted

In the OS-1 Office-Service District, land, buildings and other structures shall be used for one (1) or more of the following specified uses:

- A. banks, savings and loans, credit unions, and similar financial institutions;
- B. professional offices and clinics of physicians, dentists, psychiatrists, psychologists, chiropractors, optometrists, osteopaths, and similar or allied professions including outpatient services but excluding inpatient services, urgent care centers, emergency medical stations and similar uses;
- C. professional services such as insurance, real estate, legal, financial, engineering, architecture, advertising, clerical, sales, management and similar or allied professions;
- D. offices of non-profit professional, civic, social, fraternal, political and religious organizations;
- E. public and quasi-public institutional buildings, structures and uses including municipal offices, libraries, post offices, museums and similar uses;
- F. public parks, recreation facilities, and open space;
- G. personal service establishments including snack shops, barber and beauty shops, pharmacies, shoe shine and repair, postal service centers, copy centers, twenty-four-hour banking centers/ready tellers and similar establishments compatible with office uses, as determined by the Planning Commission, when located within an office building and occupying no more than twenty-five percent (25%) of the gross floor area of the building;
- H. essential public services;
- I. accessory buildings, structures and uses customarily incidental to any of the above principal uses.

Section 8.3 Special Land Uses

The following uses shall be considered special land uses within the Office-Service District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers;
- B. banking centers including ATM's (automatic teller machines) and twenty-four-hour ready tellers which are separate from a financial institution;
- C. business services such as mailing, copying, data processing and computer centers;
- D. churches, temples and other places of worship;
- E. colleges; universities; business, vocational and technical training facilities;
- F. commercial parking garages/structures and off-street parking lots;
- G. drive-through window facilities for banks or other allowed uses;
- H. funeral homes and mortuary establishments, not including crematoriums;
- I. health clubs and fitness centers;
- J. hospitals, urgent care centers, emergency medical stations, and similar uses;
- K. hotels and motels;
- L. restaurants, excluding drive-through, drive-in and open front window facilities;
- M. schools including public, private and parochial elementary and secondary;
- N. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential

Care Facilities;

- O. studios for art, photography, music, dance and similar uses;
- P. veterinary offices, clinics, and hospitals;
- Q. essential public service buildings;
- R. accessory buildings, structures and uses customarily incidental to the above Special Land Uses.

Section 8.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 9

B-1 Local Business District

Section 9.1 Purpose

The B-1 Local Business District, is intended for the convenience shopping of persons residing in nearby residential areas. The intent of this district is to concentrate businesses that harmonize with the character of the surrounding uses, and to prohibit uses which might create traffic hazards, offensive noises, and late hours of operation.

Section 9.2 Principal Uses Permitted

In the B-1 Local Business District, all uses shall deal directly with consumers; all business, servicing or processing, except for off-street parking and loading, shall be conducted on the premises within a completely enclosed building; and land, buildings and other structures shall be used only for one (1) or more of the following specified uses:

- A. retail food establishments up to twenty thousand (20,000) square feet of gross floor area, which supply groceries, fresh produce, meats, seafood, dairy products, baked goods, confections or similar commodities for consumption off the premises; foodstuffs may be prepared on the premises as an accessory use if sold at retail prices on the premises;
- B. retail businesses up to twenty thousand (20,000) square feet of gross floor area, including sales of drugs, dry goods, clothing, accessories, hardware, toys, jewelry, notions, hobby supplies, sporting goods, pet supplies, home furnishings, stationery, paints, music, books, gifts, and other small personal and household items;
- C. personal and business service establishments, such as small electronics and appliance repair shops, shoe repair, dressmakers, tailors, hair styling and tanning salons, copy centers, postal centers, travel agencies, laundries and dry cleaners, decorating and upholstery shops;
- D. shopping centers up to fifty thousand (50,000) square feet of gross floor area;
- E. convenience stores without gasoline service;
- F. studios for art, photography, music, dance and similar uses;
- G. banks, savings and loans, credit unions, and similar financial institutions;
- H. professional offices and clinics of physicians, dentists, psychiatrists, psychologists, chiropractors, optometrists, osteopaths and similar or allied professions;
- I. professional services, such as insurance, real estate, legal, financial, engineering, architecture, advertising, clerical, sales, management and similar or allied professions;
- J. offices of non-profit professional, civic, social, fraternal, political and religious organizations;
- K. public and quasi - public institutional buildings, structures and uses including municipal offices, libraries, post offices, museums and similar uses;
- L. public parks, recreation facilities, and open space;
- M. essential public services;

N. accessory buildings, structures and uses customarily incidental to the above principal uses.

Section 9.3 Special Land Uses

The following uses are considered Special Land Uses within the B-1 Local Business District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers;
- B. banking centers including ATM's (automatic teller machines) and twenty-four-hour ready tellers which are separate from a financial institution;
- C. bed and breakfast inns;
- D. churches, temples and other places of worship;
- E. drive-through window facilities for banks or other allowed uses;
- F. funeral homes and mortuary establishments, not including crematoriums;
- G. health clubs and fitness centers;
- H. restaurants, excluding drive-through, drive-in and open front window facilities;
- I. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;
- J. urgent care centers, emergency medical stations and similar uses;
- K. veterinary offices, clinics, hospitals and animal grooming establishments;
- L. video rental establishments;
- M. essential public service buildings;
- N. accessory buildings, structures and uses customarily incidental to the above Special Land Uses.

Section 9.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 10

B-2 Central Business District

Section 10.1 Purpose

The B-2 Central Business District is intended to provide for a traditional mixture of small office buildings, speciality retail stores, entertainment, public spaces and related activities that are mutually supporting and serve the needs of both the city and surrounding communities. The intent of these district regulations is to encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian oriented unified setting, with shared parking. The District makes special provisions for vertical zoning, allowing the upper floors to be used as residential dwellings.

Section 10.2 Principal Uses Permitted

In the B-2 Central Business District, all business, servicing or processing, except for off-street parking and loading, shall deal directly with consumers; be conducted on the premises within a completely enclosed building and outdoor storage of commodities shall be expressly prohibited, unless otherwise noted; and land, buildings, and other structures shall be used only for one (1) or more of the following specified uses:

- A. retail food establishments up to fifteen thousand (15,000) square feet which supply groceries, fresh produce, meats, seafood, dairy products, baked goods, confections or similar commodities for consumption off the premises; foodstuffs may be prepared on the premises as an accessory use if sold at retail prices on the premises;

- B. retail businesses up to fifteen thousand (15,000) square feet of gross floor area, including sales of drugs, flowers, liquor, dry goods, clothing, accessories, hardware, toys, jewelry, notions, hobby supplies, office supplies, sporting goods, pet supplies, home furnishings, stationery, paints, music, books, gifts and other small personal and household items;
- C. personal and business service establishments such as, but not limited to, small electronics and appliance repair shops, shoe repair, dressmakers, tailors, hair styling and tanning salons, film processing outlets, copy centers, interior decorators, postal centers, travel agencies, laundries and dry cleaners, decorating and upholstery shops;
- D. shopping centers up to fifteen thousand (15,000) square feet of gross floor area;
- E. convenience stores without gasoline service;
- F. restaurants, including carry-out, delicatessens, fast-food, and standard restaurants, which may include seasonal outdoor seating, but excluding drive-throughs, drive-ins or open-front windows;
- G. studios for art, photography, music, dance and similar uses;
- H. business and vocational schools and similar training facilities;
- I. banks, savings and loans, credit unions, and similar financial institutions (not including drive-through branches);
- J. professional offices and clinics of physicians, dentists, psychiatrists, psychologists, chiropractors, osteopaths, optometrists, and similar or allied professions (not including veterinary establishments);
- K. professional services such as: insurance, real estate, legal, financial, engineering, architecture, advertising, clerical, sales, management, and similar or allied professions;
- L. offices of non-profit professional, civic, social, fraternal, political and religious organizations;
- M. newspaper and publisher's offices;
- N. public and quasi-public institutional buildings, structures and uses;
- O. public parks, recreational facilities, and open space;
- P. residential dwellings above or behind a non-residential use;
- Q. storage on upper levels, provided that no storage shall be allowed on a floor having residential dwellings and that all storage shall be related to a permitted use within the same structure;
- R. essential public services;
- S. accessory buildings, structures and uses customarily incidental to the above principal uses.

(Am. Ord. passed 12-20-05)

Section 10.3 Special Land Uses

The following uses shall be considered special land uses within the B-2 Central Business District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. adult day care centers;
- B. banking centers including ATM's (automatic teller machines) and twenty-four-hour ready tellers which are separate from a financial institution;
- C. banquet, dance, lodge, and union halls, private clubs, and similar places of assembly;
- D. bars, taverns, lounges, brewpubs, and microbreweries (accessory use only);
- E. bed and breakfast inns; boarding, rooming or lodging houses;
- F. body piercing establishment;
- G. churches, temples and other similar places of worship;
- H. commercial parking garages/structures and off-street parking lots;
- I. drive-through window facilities for banks, restaurants or other allowed uses;
- J. funeral homes and mortuary establishments, not including crematoriums;
- K. health clubs and fitness centers;
- L. hotels and motels;
- M. open front restaurant windows and seasonal outdoor seating;
- N. recreation facilities, public or private, indoor or outdoor;
- O. schools, public, private or parochial, elementary or secondary;
- P. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care

Facilities;

- Q. tattoo parlor;
- R. theaters, cinemas, and similar assembly buildings;
- S. accessory buildings, structures and uses customarily incidental to the above Special Land Uses.

(Am. Ord. 6, passed 2-19-02)

Section 10.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 11

B-3 General Business District

Section 11.1 Purpose

The B-3 General Business District is intended to accommodate commercial establishments that serve community-wide shopping and service needs, including motorists using M-53. This district is intended to provide sites for more diversified types which would often be incompatible with the pedestrian movement in the Local Business District or the Central Business District.

Section 11.2 Principal Uses Permitted

In the B-3 General Business District, land, buildings and other structures shall be used for one (1) or more of the following specified uses:

- A. retail food establishments, up to fifty thousand (50,000) square feet, whose principal activity is within a wholly enclosed building which supply groceries, fresh produce, meats, seafood, dairy products, baked goods, confections or similar commodities for consumption off the premises. Foodstuffs may be prepared on the premises as an accessory use if sold at retail prices on the premises;
- B. retail businesses up to fifty thousand (50,000) square feet of gross floor area, including sales of drugs, flowers, liquor, dry goods, clothing, accessories, hardware, toys, jewelry, notions, hobby supplies, sporting goods, pet supplies, home furnishings, stationery, office supplies, paints, appliances, automotive parts, music supplies, books, gifts and other small personal and household items;
- C. personal and business service establishments such as, but not limited to, small electronics and appliance repair shops, shoe repair, dressmakers, tailors, hair styling and tanning salons, film processing outlets, copy centers, interior decorators, postal centers, travel agencies, laundries and dry cleaners, decorating and upholstery shops;
- D. convenience stores without gasoline service;
- E. shopping centers up to fifty thousand (50,000) square feet of gross floor area;
- F. wholesale and discount clubs, outlet stores, home improvement centers, furniture stores and similar establishments up to fifty thousand (50,000) square feet of gross floor area;
- G. video rental establishments;
- H. studios for art, photography, music, dance and similar uses;
- I. business, vocational and technical training schools;
- J. restaurants including carry-out, delicatessens, fast-food, and standard restaurants, which may include seasonal outdoor seating but excluding drive-throughs, drive-ins or open-front windows;
- K. fitness centers and health clubs;
- L. banks, savings and loans, credit unions, and similar financial institutions, not including drive-through facilities;
- M. banking centers including ATM's (automatic teller machines) and twenty-four-hour ready tellers which are separate from a financial institution;
- N. newspaper and publisher's offices, and commercial printers;

O. professional offices and clinics of physicians, dentists, psychiatrists, psychologists, chiropractors, osteopaths, optometrists, and similar or allied professions, (not including veterinary establishments);

P. professional services such as: insurance, real estate, legal, financial, engineering, architecture, advertising, clerical, sales, management, and similar or allied professions;

Q. offices of non-profit professional, civic, social, fraternal, political and religious organizations;

R. public and quasi-public institutional buildings, structures and uses;

S. public parks, recreational facilities and open space;

T. essential public services;

U. accessory buildings, structures and uses customarily incidental to the above Principal Uses.

Section 11.3 Special Land Uses

The following uses shall be considered special land uses within the B-3 General Business District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

A. adult day care centers;

B. amusement parks, carnivals, fairgrounds, fairs and other types of outdoor entertainment facilities;

C. arcades;

D. automobile gasoline station;

E. automobile service establishment (routine maintenance and minor repair);

F. automobile wash, automatic or self-service;

G. automobile or vehicle dealerships;

H. banquet, dance, lodge, and union halls, private clubs, and other similar places of assembly;

I. bars, taverns, lounges, brewpubs, and microbreweries (accessory use only);

J. bed and breakfast inns; boarding, rooming and lodging houses;

K. bus passenger stations and taxicab dispatch facilities;

L. churches, temples and other similar places of worship;

M. colleges, universities, and other institutions of higher learning;

N. commercial parking garages/structures and off-street parking lots;

O. drive-through window facilities for banks, restaurants or other allowed uses;

P. funeral homes and mortuary establishments, not including crematoriums;

Q. golf driving ranges and miniature golf courses;

R. hospitals, urgent care centers and emergency medical stations;

S. hotels, motels, and conference centers;

T. open air businesses including nurseries and garden centers; commercial outdoor display, sales, leasing and storage of items such as recreational vehicles and equipment, swimming pools, playground equipment, mobile homes, farm implements, building supplies, lumber, contractor equipment, and other similar goods;

U. open front restaurant windows and seasonal outdoor seating;

V. recreational facilities, public or private, indoor or outdoor;

W. restaurants and other establishments serving food and/or beverages with drive-throughs or drive-ins;

X. retail businesses, food establishments and shopping centers exceeding fifty thousand (50,000) square feet of gross floor area;

Y. theaters, cinemas, and similar assembly buildings;

Z. veterinary offices, clinics, and hospitals; and animal grooming facilities;

AA. essential public service buildings and storage yards;

BB. accessory buildings, structures and uses customarily incidental to the above Special Land Uses.

Section 11.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

A. General provisions in accordance with Article 2 General Provisions.

- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 12

I-1 Light Industrial District

Section 12.1 Purpose

The I-1 Light Industrial District is intended to primarily accommodate research, wholesale and warehouse activities, and light industrial operations whose external, physical effects are restricted to the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 District is intended for the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semifinished products from previously prepared material. The processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, shall not be permitted.

Section 12.2 Principal Uses Permitted

In the I-1 Light Industrial District, no land or building shall be used and no building shall be erected except for one (1) or more of the following specified uses:

- A. the manufacture, assembly, compounding, processing, packaging or treatment indoors from previously prepared materials, or repair, of such products as, but not limited to: bakery goods, dairy products, candy and other food products; cosmetics, pharmaceuticals, and toiletries; hardware and cutlery; pottery and figurines or other similar ceramic products; metal or rubber stamps, or other small molded rubber products; signs; light sheet metal products, including heating and ventilating equipment or siding; and furniture and fixtures;
- B. the assembly, manufacture, fabrication, processing, packaging, or treatment of products including bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood (excluding planing mills) and yarns;
- C. research, design, pilot, or experimental product development;
- D. business, vocational and technical training schools;
- E. mini- or self-storage warehouses including watchman's quarters;
- F. painting and varnishing shops;
- G. printing, lithography, blueprinting, publishing and similar uses;
- H. professional and corporate offices;
- I. public and quasi-public institutional buildings, structures and uses and public parks;
- J. tool, die, gauge, and machine shops;
- K. warehousing and wholesale establishments, material distribution facilities and freight terminals;
- L. essential public services and public service buildings;
- M. accessory buildings, structures and uses customarily incidental to any of the above Principal Uses.

Section 12.3 Special Land Uses

The following uses shall be considered special land uses within the I-1 Light Industrial District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

- A. airports, landing fields, hangars and similar uses;
- B. the assembly, manufacture, compounding, processing, packaging or treatment from previously prepared materials, or repair, of such products as, but not limited to: food products, excluding bakery goods and candy; and plastics;
- C. automobile body and engine repair stations;
- D. central dry cleaning plants and laundries;
- E. cogeneration plants;
- F. commercial kennels;

G. commercial outdoor sales, leasing, display and storage of the following items:

1. building materials including lumber, sand, stone and similar items;
2. manufactured buildings and dwelling units;
3. swimming pools and playground equipment;
4. contractor's equipment and supplies;
5. truck and trailer rental facilities;
6. agricultural implements;

H. essential public service storage yards;

I. greenhouses;

J. lumber and planing mills;

K. metal plating, buffing and polishing;

L. radio and television studios and stations;

M. recreational facilities, public or private, indoor or outdoor;

N. retail sales of goods assembled, manufactured, compounded, processed, packaged or treated from previously prepared materials, or repaired or stored, on the premises, provided the building floor area devoted to retail sales comprises no more than twenty-five percent (25%) of principal building floor area and the outdoor sales area comprises no more than twenty-five percent (25%) of the minimum required lot area;

O. state licensed adult and child residential care facilities in accordance with Section 2.33 State Licensed Adult and Child Residential Care Facilities;

P. truck stops and service facilities;

Q. wireless towers, including but not limited to: commercial reception facilities, cellular phone towers, and relay transmission towers;

R. accessory fuel services and storage;

S. accessory use or storage of hazardous materials;

T. accessory buildings, structures and uses customarily incidental to the above Special Land Uses.

Section 12.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 13

I-2 General Industrial District

Section 13.1 Purpose

The I-2 General Industrial District is intended to primarily accommodate the 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 I-2 General Industrial 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 13.2 Principal Uses Permitted

In the I-2 General Industrial District, no land or building shall be used and no building shall be erected except for one (1) or more of the following specified uses:

A. the manufacture, assembly, compounding, processing, packaging or treatment indoors from previously prepared materials, or repair, of such products as, but not limited to: bakery goods, dairy products, candy and other food products; cosmetics, pharmaceuticals, and toiletries; hardware and cutlery; pottery and figurines or other similar ceramic products; metal or rubber stamps, or other small molded rubber products; signs; light sheet metal products, including heating and ventilating equipment or siding; and furniture and fixtures;

B. the assembly, manufacture, fabrication, processing, packaging, or treatment of products indoors from previously prepared material including bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, rubber, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood (excluding planing mills) and yarns;

C. automobile body and engine repair stations;

D. business, vocational and technical training schools;

E. central dry cleaning plants and laundries not dealing directly with customers;

F. heating and electric power generating plants;

G. metal plating, buffing and polishing;

H. mini- or self-storage warehouses including watchman's quarters;

I. painting and varnishing shops;

J. printing, lithography, blueprinting, publishing and similar uses;

K. public and semipublic institutional buildings, structures and uses, and public parks;

L. radio and television studios and stations;

M. research, design, pilot, or experimental product development;

N. retail sales of goods assembled, manufactured, compounded, processed, packaged or treated from previously prepared materials, or repaired or stored, on the premises, provided the building floor area devoted to retail sales comprises no more than twenty-five (25 %) percent of principal building floor area and the outdoor sales area comprises no more than twenty-five (25 %) percent of the minimum required lot area;

O. tool, die, gauge, and machine shops;

P. warehousing and wholesale establishments, material distribution facilities, freight terminals;

Q. water filtration and wastewater treatment plants, reservoirs, and sewage treatment facilities;

R. essential public services and public service buildings;

S. accessory buildings, structures and uses customarily incidental to any of the above Principal Uses.

Section 13.3 Special Land Uses

The following uses shall be considered special land uses within the I-2 General Industrial District and may be approved by the Planning Commission subject to the applicable general and specific standards in Article 20 Special Land Uses:

A. adult regulated uses;

B. airports, landing fields, hangars and similar uses;

C. billboards;

D. cogeneration plants;

E. concrete and asphalt batch plants;

F. commercial outdoor sales, leasing, display and storage of the following items:

1. building materials including lumber, sand, stone and similar items;

2. manufactured buildings and dwelling units;

3. swimming pools and playground equipment;

4. contractor's equipment and supplies;

5. truck and trailer rental facilities;

6. agricultural implements;

G. extractive operations (sand, gravel mining, etc.);

H. lumber and planing mills;

I. railroad transfer and storage yards;

J. recreation facilities, public or private, indoor or outdoor;

K. truck stops and service facilities;

- L. wireless towers, including but not limited to: commercial reception facilities, cellular phone towers, and relay transmission towers;
- M. accessory fuel services and storage;
- N. accessory use or storage of hazardous materials;
- O. accessory buildings, structures and uses customarily incidental to the above Special Land Uses.

Section 13.4 Site Development Requirements

All Principal Uses and Special Land Uses are subject to the following site development requirements:

- A. General provisions in accordance with Article 2 General Provisions.
- B. Dimensional requirements in accordance with Article 15 Schedule of Regulations.
- C. Site plan review as may be required in accordance with Article 16 Site Plan Review.
- D. Off-street parking as may be required in accordance with Article 21 Parking and Loading Standards.
- E. Access and driveway standards as may be required in accordance with Article 22 Access Management and Driveway Standards.
- F. Landscaping and tree replacement as may be required in accordance with Article 23 Landscape Standards and Tree Replacement.
- G. Signs as permitted in accordance with the requirements of Article 24 Signs.

Article 14

Fairgrounds Zoning District – FD

Section 14.1 Purpose

The FD, Fairgrounds District is intended to recognize the Eastern Michigan Fairgrounds property, bounded by M-53, Borland Road, and Almont Avenue. The intent of the district is to allow those uses and activities typically associated with a fairground, providing compatibility with nearby uses, and providing an attractive appearance to passersby along abutting roads.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.2 Definitions

- A. **Fairgrounds:** An area wherein buildings, structures and land are used for agricultural related offices, animal shows and judging, carnivals, circuses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, indoor storage, and theaters.
- B. **Flea market:** An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures.
- C. **Charitable events:** Events of public benefit that are organized by or conducted on behalf of non-profit or not-for-profit organizations and foundations such as the American Cancer Society's Relay for Life and Avon's Walk for Breast Cancer.
- D. **Community recreation:** Recreation events and facilities needed to conduct events that are organized for the general public's involvement including, but not limited to, Little League Baseball, Gus Macker 3-on-3 basketball tournaments, equestrian events and competitions, BMX bike races, soccer leagues, softball leagues, and volleyball tournaments.
- E. **Organized camping events:** Camping that is organized and/or conducted on behalf of a recognized organization or body such as the Boy Scouts of America or the Girl Scouts of the USA.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.3 Permitted Uses

- A. Fairgrounds.
- B. Public and private trade shows and events.
- C. Annual agricultural fair.
- D. Shows and markets such as arts and crafts, antiques, collectors, home, flower and garden.
- E. Flea markets.
- F. Antique or classic shows.
- G. Livestock and animal shows and sales.
- H. Auctions.
- I. Carnivals, circuses, festivals.

- J. Charitable events.
- K. Fireworks displays.
- L. Storage located within buildings.
- M. Community recreation.
- N. Organized camping events.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.4 Permitted Accessory Uses

- A. Parking accessory to a permitted use.
- B. Overnight camping accessory to a permitted use.
- C. Temporary outside storage to accommodate permitted uses and only while the permitted use is in active operation. Temporary storage is not permitted within any required yard.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.5 Lot and Yard Regulations

- A. Minimum required lot area – 35 acres
- B. Maximum lot coverage – 35 percent
- C. Minimum required yards, where abutting a lot zoned and used for residential purposes:
 - 1. Front/Rear – 60 feet
 - 2. Side, interior – 30 feet
 - 3. Side, abutting streets – 60 feet
- D. Minimum required yards, where abutting a lot zoned and used for commercial purposes:
 - 1. Front – 30 feet
 - 2. Rear – 20 feet
 - 3. Side, interior – 10 feet
 - 4. Side, abutting streets – 30 feet
- E. Maximum building height – 40 feet
- F. Screening – A minimum four (4) foot tall vegetated screen shall be provided along each property line of the Fairgrounds District that abuts a lot zoned and used for residential purposes. The screen shall consist of upright shrubs and/or evergreen trees that are planted in accordance with Section 23.7 D. This requirement shall be enacted at the first instance when site plan review is applicable.
- G. Street trees – One (1) deciduous canopy tree per 30 linear feet of road frontage, including openings for driveways, paths and easements, shall be planted along any lot line that is adjacent to a street. The Planning Commission may approve the substitution of evergreen trees for up to fifty percent (50%) of the required canopy trees.
 - 1. Ornamental trees may be used to diversify the street tree planting requirements, provided two (2) ornamental trees shall be provided for each one (1) required canopy tree.
 - 2. Up to one-third (1/3) of the required street trees may be planted within the interior of the property.
 - 3. Street trees, including ornamental trees, must be a minimum of two (2) inches in caliper at the time of planting and may be planted in groups or in a row(s). Trees planted in the interior of the property must be a minimum of one and one-quarter (1-1/4) inches in caliper at the time of planting.
 - 4. The street trees shall be located so they ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, clearance from overhead utility lines, adequate separation from underground utilities and accessibility to fire hydrants.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.6 Parking

- A. Roadway surface shall be compacted crushed gravel, milled asphalt, crushed concrete, limestone or other material that shall be compacted to a smooth surface and maintained in a dust free condition.
- B. Public entrances to the grounds shall be paved at least 60 feet from the edge of the nearest public street to prevent mud from being tracked onto City streets. Overflow parking may be permitted on grass areas, provided such areas are regularly maintained to preserve turf integrity and to prevent soil erosion.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.7 General Regulations

- A. The property owner shall cooperate with the city and the Lapeer County Office of Emergency Preparedness to develop an emergency preparedness plan.
- B. All events must provide adequate access to and within the site for emergency vehicles as described in the emergency preparedness plan.
- C. The property owner shall cooperate with the city to provide for adequate security protection of people and property on the site including a plan for weather related emergencies.
- D. The property owner shall comply with all county and state requirements for the protection of water supplies, including the use of cross-connection control devices.
- E. All food service vendors shall be licensed by the County Health Department and/or the state as required by law.
- F. Garbage and trash shall be removed at the end of every event and as needed during the event.
- G. Animal waste shall be removed at the end of each event and as needed during the event. Disposal of animal waste, water used for animal washing, and water used to clean animal facilities shall comply with state Department of Agriculture regulations.
- H. All applicable city ordinances shall be enforced on the property during each event.

(Am. Ord. 6.1, passed 4-20-10)

Section 14.8 Signs

- A. Signs shall be permitted as provided in Article 24.

(Am. Ord. 6.1, passed 4-20-10)

Article 15

Schedule of Regulations

Section 15.1 Limiting Height, Bulk, Density and Area by Zoning District (a)

| Zoning District | Minimum Lot Size Per Dwelling Unit | | Maximum Density (Dwelling Units Per Acre) (d), (e) | Maximum Height of Principal Buildings (f), (g) | | Principal Building Minimum Yard Setback (Per Lot in Feet) (f), (h), (i), (j), (k), (l), (m) | | | | Minimum Floor Area Per Unit (sq. ft.) | Maximum Percentage of Lot Covered (buildings / impervious surface (q)) |
|---|---|------------------------|--|--|---------|---|-----------|-----------|------|---------------------------------------|--|
| | Area in sq. ft. | Width in Feet (b), (c) | | In Stories | In Feet | Front (n), (o), (p) | Sides | | Rear | | |
| | | | | | | | Least One | Total Two | | | |
| R-1 Single-Family Residential (r), (s) | 9,600 | 80 | 4 du/acre | 2 | 25 | 30 | 8 | 20 | 35 | 750 | 25%/50% |
| R-2 Single-Family Residential (r), (s) | 7,500 | 60 | 5 du/acre | 2 | 25 | 25 | 6 | 16 | 35 | 750 | 25%/50% |
| RT Two-Family Residential (r), (s) | 4,000 | 40 | 8 du/acre | 2 | 25 | 25 | 6 | 16 | 35 | 750 | 35%/75% |
| RM-1 Multiple-Family Residential (r), (s) | - | - | (t) | 2.5 | 30 | (u) | (u) | (u) | (u) | (v) | 35%/75% |
| MHD Manufactured Housing Community District | See Article 7 RMH Manufactured Housing Community District | | | | | | | | | | |
| OS-1 Office Service | - | - | | - | 30 | 25 | 15 | 30 | | none | 35%/75% |
| B-1 Local Business | - | - | - | - | 30 | 25 | 10 | 20 | 20 | none | 45%/75% |
| B-2 Central Business | - | - | - | - | 35 | None | 0 | 0 | 5(w) | none | - |
| B-3 General Business | - | - | - | - | 30 | 30 | 10 | 20 | 20 | none | 45%/75% |
| I-1 Light Industrial | - | - | - | - | 40 | 40 | 20 | 40 | 20 | none | 35%/75% |
| I-2 General Industrial | - | - | - | - | 60 | 60 | 30 | 60 | 30 | none | 35%/75% |

(Ord. passed 12-20-05)

Section 15.2 Footnotes to Section 15.1

- (a) Flexible alternatives to the standards of Section 15.1 Limiting Height, Bulk, Density and Area by Zoning District are provided for properties and development projects meeting the criteria of Article 17, Planned Unit Development (PUD) Regulations.
- (b) The maximum ratio of lot depth to lot width shall not exceed a depth of four (4) times the width.
- (c) In residential districts, to ensure lot area is adequate to accommodate homes of similar size, the lot width of corner lots shall be fifteen (15) feet wider than required.
- (d) The maximum density figure shall be used to determine maximum density for multiple-family residential uses, site condominium developments, condominium subdivisions and planned unit developments (PUD's). The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way or private road access easements of either interior or bounding roads. Maximum density shall include up to twenty-five percent (25%) of lakes, rivers, streams, and land defined as wetland.
- (e) Certain types of "housing for the elderly" generate much lower traffic volumes and other impacts than commonly associated with traditional multiple-family developments. Thus, allowable density for housing for the elderly shall be determined by the maximum units per acre permitted within the particular district, calculated using the following:
- | | |
|------------------------------|---------------------------------------|
| Senior apartments | 1 unit = 1 unit of multiple-family |
| Congregate or interim care | 2.5 units = 1 unit of multiple-family |
| Dependent housing facilities | 4.0 units = 1 unit of multiple-family |
- (f) Regulations for accessory buildings are described in Article 2 General Provisions.
- (g) (1) The building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances.
- (2) Schools, churches and other similar institutional buildings may be erected to a height not exceeding forty-eight (48) feet provided the front, side and rear yards shall equal the height of such wall abutting such yard.
- (h) (1) Setbacks shall be measured from public rights-of-way, private road easements and interior driveways.
- (2) Refer to Article 21 Parking and Loading Standards for parking setbacks.
- (i) (1) Setbacks for institutional uses (schools, churches, nursing homes, etc.) in residential districts shall be as follows:
- | | |
|----------|---------|
| Front: | 35 feet |
| Sides: | 30 feet |
| Rear: | 30 feet |
| Parking: | 20 feet |
- (2) Setbacks from property lines (not including public rights-of-way) that are coterminous with residential zoning districts shall be a minimum of one hundred (100) feet.
- These setbacks may be reduced by up to fifty percent (50%) by the Planning Commission upon a finding that the abutting property is used as a permanent non-residential use.
- (j) All required yard areas shall be lawn, ground cover or living landscape plant materials, except for approved access drives, sidewalks, bikepaths, architectural features, ponds, permitted accessory buildings and essential service facilities.
- (k) A thirty-five (35) foot wide greenbelt shall be provided along major thoroughfares or arterial roadways in all residential districts for residential developments. Building setbacks are measured from the interior line of the greenbelt. See Article 23 Landscape Standards and Tree Replacement.
- (l) Refer to Section 2.11 Projections Into Yards.
- (m) Refer to Article 23 Landscape Standards and Tree Replacement for required setback and buffering based on adjacent zoning districts.
- (n) Corner lots and double frontage lots in all zoning districts must provide the required front yard setback on each side of the lot which abuts a public street, private road, or access drive.
- (o) Permitted front setback reductions:
- (1) Where the front yards for existing main buildings in the vicinity of, and in the same zoning districts as a subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of the street and entirely or partially within two hundred (200) feet of the side lot lines of the subject lot, subject to subsections (2) and (3) below.
- (2) The front yard reduction permitted in subsection (1) above shall only be permitted if there are two (2) or more lots occupied by main buildings within the area described in subsection (1) above for computing the average front yard.
- (3) In no case shall the required front yard resulting from the application of subsection (1) and (2) above be less than fifteen (15) feet.
- (p) Refer to Article 23, Landscape Standards and Tree Replacement for front yard landscape requirements.

(q) This area shall include all paved surfaces.

(r) Any residential subdivision, condominium or multiple family development comprising twenty (20) or more lots or dwelling units, either as a single development or as a group of adjacent developments offered by a single proprietor, shall provide an active recreational area which shall contain an area equal in size to fifteen hundred (1,500) square feet for each lot or dwelling unit in the subdivision or condominium project or multiple family development. Said recreational area shall be well drained, graded, seeded or sodded, safe from hazard, accessible to all dwellings, and the location shall be approved by the Planning Commission. Reservation of the recreational area shall be achieved through deed restrictions or dedication to a subdivision homeowner's association.

(s) In those instances where public sewers are not provided, all lot areas per dwelling unit shall be a minimum of twelve thousand (12,000) square feet.

(t) In the 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 twelve hundred (1,200). 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

One Bedroom = 2 rooms

Two Bedroom = 3 rooms

Three Bedroom = 4 rooms

Four Bedroom = 5 rooms

Plans presented showing 1, 2, or 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.

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

(u) For all multiple-family developments the following standards shall apply:

(1) Building and parking lot setbacks along exterior property lines shall be a minimum of thirty (30) feet; fifty (50) feet where the development abuts a single-family residential district.

(2) The minimum distance between any two (2) buildings shall not exceed thirty (30) feet.

(3) Buildings shall be setback at least twenty (20) feet from the nearest edge of any parking lot or aisle. This dimension may include a sidewalk.

(4) No building shall exceed one hundred eighty (180) feet in length.

(5) Parking shall not cover more than thirty (30) percent of the area of any required yard.

(v) Minimum sizes for multiple-family dwelling units:

Efficiency = 450 square feet

1 bedroom units = 550 square feet

2 bedroom units = 750 square feet

3 bedroom units = 950 square feet

Two level units = minimum of 450 square feet on ground level

(w) Except where abutting a residential use or district the minimum setback is 20 feet.

(Am. Ord. passed 12-20-05)

Article 16

Site Plan Review

Section 16.1 Purpose

A. It is the intent of this article to require site plan review approval by the Planning Commission prior to issuance of a building permit for certain buildings, structures, and uses that can be expected to have an impact on natural resources, traffic patterns, adjacent parcels, and the character of future development, and for all special land uses, to ensure that all such buildings, structures, and uses are in conformity with the provisions of this article.

B. It is further the intent of this article to require the eventual upgrade of existing sites that do not conform with current standards of this article and ensure that the arrangement, location, design and materials within a site are consistent with the character of the city and the goals and design guidelines in the City of Imlay City Master Plan.

Section 16.2 Uses Requiring Site Plan Review and Approval by the Planning Commission

| <i>Uses Requiring Site Plan Review and Approval</i> | | | | |
|---|--|--|---|---------------|
| | <i>Use or Activity</i> | <i>Requires Site Plan Review</i> | <i>Sketch Plan Review (Administrative Approval)</i> | <i>Exempt</i> |
| a. | New construction of any non-residential or multiple-family development. | • | | |
| b. | All special land uses in accordance with Article 20 Special Land Uses. | • | | |
| c. | Site condominium developments. | • | | |
| d. | Planned Unit Developments (PUDs) in accordance with Article 19 Planned Unit Development Regulations. | • | | |
| e. | Erection of a tower, antenna, or other communication facility; essential public service buildings and storage yards. | • | | |
| f. | Co-location of a communication antenna upon an existing tower. | | • | |
| g. | Adult and child residential care facilities including day-care centers, foster care homes, family day-care homes and group homes. | In accordance with § 2.32 State Licensed Adult and Child Residential Care Facilities | | |
| h. | Home occupations. | • | | |
| i. | Temporary uses, buildings, structures, and seasonal events, (see § 2.16 Temporary Buildings, Structures and Uses). | | • | |
| j. | An increase in floor area of uses subject to site plan review up to 1,000 square feet or 5% of existing floor area, whichever is less. | | • | |
| k. | Change in use to one permitted in zoning district and requires no significant changes to building footprint, parking, landscaping, lighting, signs, bikepaths or sidewalks. | | • | |
| l. | Improvements to outdoor recreational uses and parks. | | • | |
| m. | Expansion, replacing or alteration of landscaping areas consistent with this article. | | • | |
| n. | Improvements or installation of walls, fences, or lighting. | | • | |
| o. | Alterations to off-street parking layout or installation of pavement or curbing improvements provided total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or Americans with Disabilities Act requirements and the construction plans and lot construction are approved by the appropriate city staff. | | • | |
| p. | Construction or relocation of a waste receptacle or enclosure. | | • | |
| q. | Changes to facade, architectural features or wall signs (elevation plan showing changes and construction materials is required). Changes within the Downtown Development Authority (DDA) must adhere to the requirements set forth by the DDA. | | • | |
| r. | Approved changes to utility systems. | | • | |
| s. | Grading, excavation, filling, soil removal, creation of swimming pool, creation of ponds or tree clearing over 100 square feet. | | • | |
| t. | Grading, excavation, filling, soil removal, creation of ponds, installation of a swimming pool or clearing of trees within an area of less than 100 square feet. | | | • |
| u. | Modifications to non-conforming uses, buildings or sites, including a change to a more conforming situation; modifications to non-conforming single-family dwelling units shall be in accordance with Article 25 <i>Non-Conforming Lots, Uses, Buildings and Structures</i> . | | • | |
| v. | Modifications to upgrade a building to improve barrier free design, comply with Americans with Disabilities Act or other federal, state or county regulations. | | • | |

| | | | | |
|-----|---|---|---|---|
| w. | Construction or erection of permitted accessory buildings and structures accessory to a single- or two-family dwelling unit. | | | • |
| x. | Construction, reconstruction, erection and/or expansion of single-family or two-family dwelling on parcel zoned solely for residential purposes. | | | • |
| y. | Development regulated by the Land Division Act of 1997 (P.A. 112) and the City of Imlay City Subdivision Control Ordinance. | | | • |
| z. | Erection of essential public service local distribution lines. | | | • |
| aa. | Construction, erection or relocation of permitted accessory buildings and structures less than 100 square feet in area accessory to a multiple-family, commercial, office, essential service, municipal, or industrial use. | | | • |
| bb. | Accessory outdoor display of general retail items as determined by the Building Official/Zoning Administrator. | | • | |
| cc. | Internal construction or change in the floor plan for a conforming use that does not increase gross floor area, provided the construction cost over a 12-month period does not exceed 50% of the building SEV or affect parking requirements on a site. | | | • |
| dd. | Construction or erection of signs, antennas, cooling/heating or other mechanical equipment, telephone booth, newspaper boxes, or similar structures which conform to other city standards and where site plan review is not specifically required under other sections of this article. | | | • |
| ee. | Any proposed building or use which does not qualify for sketch plan or exempt from any site plan review. | • | | |

(Ord. 6.1, passed 3-17-09)

Section 16.3 Planned Unit Developments, Site Condominiums, and Condominium Subdivisions

Site plans for planned unit developments, site condominiums and condominium subdivisions shall be subject to the provisions of Article 19 *Planned Unit Development Regulations* and Article 18 *Condominium Development Standards*; in addition, site condominiums and condominium subdivisions shall be subject to the Condominium Act (M.C.L.A. §§ 559.101 *et seq.*).

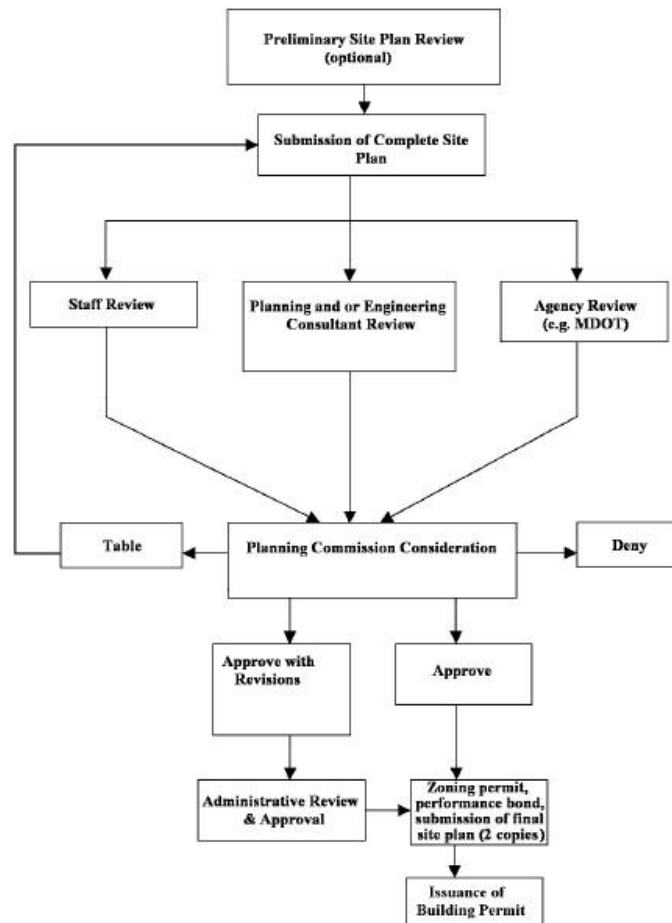
(Ord. 6.1, passed 3-17-09)

Section 16.4 Optional Preliminary Site Plan Review Process

The site plan approval process includes a review, at the option of the applicant, of a preliminary site plan by the Planning Commission. This option is recommended for site plans affecting over five (5) acres, plans affecting locations designated in the City of Imlay City Master Plan as having significant natural features, sites containing floodplain or within the flood hazard zone, sites containing or potentially containing MDEQ designated/regulated wetlands, special land uses and complex commercial developments. The review of a preliminary site plan allows the Planning Commission and city staff to review and comment on the project's compliance with the requirements of this article prior to the preparation of all the required site plan review materials. The process is illustrated in figure 16.4 *Development Approval Process*.

(Ord. 6.1, passed 3-17-09)

Figure 16.4 Development Approval Process



Section 16.5 Site Plan Submittal Requirements

The site plan shall include all the following information, unless the Building Official/Zoning Administrator determines that some of the required information is not reasonably necessary:

A. **Application, Form and Fees.** A completed application form, supplied by the City Clerk or Building Official/Zoning Administrator, and an application fee; or a separate escrow deposit may be required for administrative charges to review the site plan submittal. An application will not be placed on the Planning Commission agenda until the Building Official/Zoning Administrator determines that the application is complete as reviewed by city staff and consultants.

B. **Proof of Ownership.** Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.

C. **Project Schedule.** A narrative indicating the period of time within which the project will be completed.

D. **Copies.** Fifteen (15) copies of the site plan.

E. 1. **Sheet Size.** Sheet size of submitted drawings shall be twenty-four (24) inches by thirty-six (36) inches, with graphics at an engineers scale of one (1) inch equals twenty (20) feet for sites of twenty (20) acres or less; and one (1) inch equals one hundred (100) feet or less (i.e. one (1) inch equals twenty (20) to one hundred (100) feet) for sites over twenty (20) acres.

2. A smaller sheet size may be permitted if the Zoning Administrator determines that it will provide sufficient detail and clarity.

F. **Cover Sheet.** Cover sheet providing:

1. Applicant's name.
2. Name of the development.
3. Preparer's name and professional seal of architect, engineer, surveyor, or landscape architect indicating license in the State of Michigan.
4. Date of preparation and revision dates.
5. North arrow.
6. Property lines and dimensions.
7. Complete and current legal description and size of property in acres.
8. Small location sketch of sufficient size and scale to determine the site's location within the city.

9. Note on each plan sheet stating "Not to Be Used as Construction Drawings."

G. Site Plan. Plan sheet(s) indicating:

1. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site.
2. Lot lines and all structures on the property and within one hundred (100) feet of the site's property lines.
3. Location of any vehicle access points on both sides of the street within one hundred (100) feet of the site along streets where vehicle access to the site is proposed.
4. Existing buildings and any public or private easements, noting those which will remain and which are to be removed.
5. Layout and typical dimensions of proposed lots, footprints and dimensions of proposed buildings and structures; uses with the acreage allotted to each use; for residential developments, the number, type, and density of proposed housing units; if a multi-phase development is proposed, identification of the areas included in each phase.
6. Elevations showing height, materials and colors for all proposed structures, including any residential units, shall be provided and considered part of the approved site plan; the building elevations must show all rooftop mechanical units along with the proposed method of screening.
7. Building footprints, setbacks, typical floor plans and a sketch of any ground mounted equipment to scale along with required screening.
8. Existing and proposed locations of utility services (with sizes), including storm drainage, retention or detention ponds, fire hydrants, and any public or private easements; notes shall be provided clearly indicating which existing services will remain and which will be removed;
9. Locations of all natural, historical, and architectural features; natural features shall include all woodlands, trees (in accordance with Section 23.4 Replacement of Removed Trees), wetlands, lakes, rivers, drainageways, topography, and the like.
10. Location(s) of any MDEQ-regulated wetland, including submission of a wetland delineation by a qualified wetland consultant, and indication of the status of application for an MDEQ wetland permit or copy of permit received including description of any wetland mitigation required; and location of other nonregulated wetland areas over two (2) contiguous acres.
11. Location and method of screening for all waste receptacles including dumpsters and compactors, meeting the requirements of Section 2.23 Waste Receptacles and Enclosures;
12. Location and dimensions of parking lots and spaces, and loading/unloading areas (including vehicle pathway to access loading area), and calculations to meet the requirements of Article 21 Parking And Loading Standards.
13. Details of exterior lighting meeting the requirements of Section 2.26 Exterior Lighting including locations, height, method of shielding; and a photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles);
14. Size, type, and location of proposed identification signs including:
 - a. Location, type, height and method of lighting for identification signs.
 - b. Location and type of any directional or regulatory/traffic control signs, with details for any sign not conforming to the Michigan Manual of Uniform Traffic Control Devices.
15. Details of site circulation and access design, including:
 - a. Dimensions of existing and proposed right-of-way lines, including those abutting the site, and names of abutting public streets.
 - b. Indication of pavement widths and pavement type including internal service and access drives.
 - c. Street horizontal and vertical dimensions, including curve radii.
 - d. Locations and dimensions of access points, including deceleration or passing lanes, distance from adjacent driveways or intersection streets, including those across a street.
 - e. Location of existing sidewalks and location and dimensions for proposed sidewalks and bicycle paths.
 - f. Written verification of access easements or agreements, if applicable.

H. Landscape Plan. A landscape plan in accordance with Article 23 Landscape Standards and Tree Replacement indicating proposed plant locations with common plant name, number, and size in caliper at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade.

I. Grading Plan. A site grading plan for all developments where grading will occur, with existing and proposed topography at a minimum of two-foot contour levels and with topography extending a minimum of fifty (50) feet beyond the site in all directions and a general description of grades within one hundred (100) feet, and further where required to indicate stormwater runoff into an approved drain or detention/retention pond.

J. Stormwater Management Plan. A general description and location of stormwater management system shall be shown on the grading plan, including pre- and post-site development runoff calculations used for determination of stormwater management, and location and design (slope) of any retention/detention ponds. Stormwater outfall structures or basins constructed in an MDEQ-regulated wetland may require an MDEQ wetland permit; and, if constructed below the ordinary high water mark of an inland lake or stream, will require a permit

under the Inland Lakes & Streams Act, Act 346 of the Public Acts of 1972, as amended. Status of all such MDEQ permit applications or copies of permits with attached conditions shall be provided as applicable.

K. **Additional Items.** Any additional graphics or written materials requested by the Planning Commission to assist in determining the compliance with the site plan standards, such as aerial photography, photographs, traffic impacts using trip generation rates recognized by the Institute of Transportation Engineers (ITE) for an average day and peak hour of the affected roadways, and impact on significant natural features and drainage.

L. **Flood Hazard Overlay Zones.** The following information shall be submitted as a part of an application for permission to commence any type of development within the Flood Hazard Area Overlay Zone:

1. The elevation of the ground floor and any basement floors of all structures.
2. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
3. Proof of development permission from appropriate city, state, and federal agencies as required by Article 26 Flood Hazard Area Overlay Zone, including a floodplain permit, approval, or letter of authority from the Michigan Department of Environmental Quality under authority of Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, the Flood Plain Regulatory Authority.
4. Base flood elevation data where the proposed development is subject to Act 288 of the Public Acts of 1967, the Subdivision Control Act, or greater than five (5) acres in size.
5. Additional information which may be reasonably necessary to determine compliance with the provisions of this article.

(Ord. 6.1, passed 3-17-09)

Section 16.6 Standards for Site Plan Approval

Based upon the following standards, the Planning Commission may approve, approve with conditions or deny the site plan:

A. **General.** All elements of the site plan shall be designed to take into account the site's topography, existing historical and architectural features, the size and type of plot, the character of adjoining property and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this article.

B. **Building Design.** The building design shall relate to the surrounding environment in regard to texture, scale, mass, proportion, and color. High standards of construction and quality materials will be incorporated into the new development. In addition to following design guidelines adopted in specific zoning districts, special land use regulations or sub-area plans, the building design shall meet the criteria below:

1. Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details and ornaments such as archways, colonnades, cornices, peaked roof lines or towers. Building walls and roofs over fifty (50) feet in length shall be broken up with varying building lines, windows, gables and/or architectural accents such as pilasters, columns, dormers and awnings.
2. Durable building materials which provide an attractive, quality appearance must be utilized. Earth-toned brick, decorative split faced block or similar quality material should be utilized on all sides visible from a public right-of-way and a complementary material on the remaining sides. The Planning Commission may consider other high quality materials to express the individuality of the building.
3. The Planning Commission may approve alternate material combinations for larger buildings while maintaining the attractiveness of the development.
4. Color selection should be made on the basis of aesthetic unity and to articulate special elements of design. Bright, offensive colors should be avoided, especially as the primary color of the building. Mechanical and service features such as gutters, ductwork, service doors, and the like, that cannot be screened must be of a color that blends in with the color of the building.
5. Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials and rhythm of openings.

C. **Preservation of Significant Natural Features.** Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural features, in particular woodlands, MDEQ-designated/regulated wetlands, and, to a lesser extent, wetlands which are not regulated by the MDEQ.

D. **Landscaping.** The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this article. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers and greenbelts shall be provided and designed in accordance with the provisions of Article 23 Landscape Standards And Tree Replacement.

E. **Streets.** All streets shall be developed in accordance with the City of Imlay City Subdivision Control Ordinance and construction standards.

F. **Access, Driveways and Circulation.** Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided and shall meet the following criteria:

1. Drives, streets, parking and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
2. All driveways shall meet the design and construction standards of the city.

3. Access to the site shall be designed to minimize conflicts with traffic on adjacent streets, particularly left turns into and from the site.

4. For uses having frontage and/or access on a major traffic route, as defined in the City of Imlay City Master Plan, the number, design, and location of access driveways and other provisions for vehicular circulation shall comply with the provisions of Article 22 Access Management And Driveway Standards.

G. Emergency Vehicle Access. All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the City Fire and Police Departments.

H. Sidewalks, Pedestrian and Bicycle Circulation.

1. **Intent.** It is hereby determined that bikepaths and sidewalks promote and provide for the public health, safety and general welfare by achieving the following public purposes:

- a. Bikepaths and sidewalks provide a safer location for travel along roads for bicyclists and pedestrians than the edge of the traveled road.
- b. Bikepaths and sidewalks encourage and promote aerobic exercise.
- c. Bikepaths and sidewalks conserve energy and reduce air pollution by allowing for a convenient means of travel by bicycle or as a pedestrian, rather than utilizing a motor vehicle.
- d. Bikepaths and sidewalks reduce traffic congestion by providing a safe location for bicycles and pedestrians, which results in fewer vehicles on the road.

2. Scope of Application.

- a. Bikepaths shall be required along the entire frontage of any development located along a major road, as identified by Planning Commission, except as provided for under paragraph b, below.
- b. Bikepaths shall be required along the entire frontage of any development located along Cedar Street (M-53).
- c. The Planning Commission may waive the requirement for a bikepath along all or a portion of the site frontage if all practical alternatives to provide a public sidewalk or bikepath system elsewhere on the site have been evaluated.
- d. Sidewalks shall be required along both sides of all internal roads within any residential subdivision, site condominium, and multiple family developments. The Planning Commission may modify this requirement to require only a sidewalk along one (1) side of an internal road if the size and/or density of the development warrants only one (1) sidewalk and another type of pedestrian system is provided by the applicant that meets the intent of this section.
- e. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping areas, fast food/service restaurants and other uses which generate a considerable amount of pedestrian or bicycle traffic.

3. Bikepath and Sidewalk Design. The following construction requirements shall apply to all bikepaths and sidewalks:

- a. All bikepaths shall be at least ten (10) feet wide asphalt and constructed in accordance with the specifications of the American Association of State Highway and Transportation Officials (AASHTO). Bikepaths shall be constructed to meet all requirements of the Michigan Department of Transportation or the Lapeer County Road Commission.
- b. All sidewalks shall be a minimum of five (5) feet wide asphalt and constructed to the specifications AASHTO.
- c. All sidewalks and bikepaths shall be located within the right-of-way.
- d. Where walking trails are being provided within open space areas of residential developments, trails shall be six (6) feet wide crushed aggregate stone, woodchip or asphalt, or wooden boardwalks in areas with sensitive environmental features.
- e. An inclined approach shall be required where sidewalks and bikepaths intersect curbs for barrier free access. Crosswalk pavement markings and signs may be required by the Planning Commission.
- f. Residential subdivisions or site condominiums shall provide pathway or sidewalk connections to adjacent subdivisions or site condominiums.

4. Installation.

- a. A certificate of occupancy shall not be issued until the required bikepath or sidewalk is installed along the road frontage.
- b. A performance guarantee, in lieu of bikepath or sidewalk construction, may be allowed by the Planning Commission in instances where utility or other infrastructure improvements are planned for the site within a two (2) year period. Under these circumstances, the bike path or sidewalk shall be constructed once the utility improvement is complete.

I. Barrier-free Access. The site has been designed to provide barrier-free parking and pedestrian circulation in accordance with Article 21 Off-street Parking and Loading Standards.

J. Parking. The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by Article 21 Parking And Loading Standards. However, where warranted by overlapping or shared parking arrangements, the Planning Commission or City Council may reduce the required number of parking spaces as permitted in Section 21.2 F. Collective Parking and Section 21.2 G. Parking Lot Deferment.

K. Loading and Storage. All loading and unloading areas and outside storage areas shall be screened as determined by the Planning

Commission in accordance with Article 21 Landscape Standards and Tree Replacement.

L. **Soil Erosion Control.** The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the City Engineer.

M. **Utilities.** Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development, where such systems are available.

N. **Stormwater Management.** Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.

O. **Lighting.** Exterior lighting, in accordance with Section 2.26 Exterior Lighting, shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

P. **Noise.** The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts.

Q. **Mechanical Equipment and Utilities.** Mechanical equipment and utilities, roof, building and ground mounted, shall be screened in accordance with the requirements of Section 2.24 Mechanical Equipment.

R. **Waste Receptacles.** Waste receptacles shall be provided as required in Section 2.23 Waste Receptacles and Enclosures.

S. **Signs.** The standards of Article 24 Signs must be met.

T. **Overhead Doors.** Overhead doors should be oriented away from the public right-of-way.

U. **Hazardous Materials or Waste.** For businesses utilizing, storing or handling hazardous material such as automobile service and automobile repair stations, automobile body repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.

V. **Other Agency Reviews.** The applicant has provided documentation of compliance with other appropriate agency review standards, including, but not limited to, the MDEQ, MDOT, Lapeer County Drain Commission, Lapeer County Health Department, and other Federal and State agencies, as applicable.

(Ord. 6.1, passed 3-17-09)

Section 16.7 Site Plans with Multiple Phases

The Planning Commission shall review site plans with multiple phases as a site plan meeting the submission requirements of Section 16.5 Site Plan Submittal Requirements. Any future phases identified on a site plan must be reviewed by the Planning Commission in the form of a site plan submission. The Planning Commission may require that the conceptual layout for future phases and outlots be shown on site plans to ensure proper development of the overall site. When a future phase of development is identified on a site plan, however, the Planning Commission is not bound by any aspect of that portion of the plan until a site plan meeting the requirements of this article have been provided. In addition, any phase of a site plan where construction has not commenced within one (1) year from the date of approval must return to the Planning Commission for a new site plan approval.

(Ord. 6.1, passed 3-17-09)

Section 16.8 Conditions of Site Plan Approval

A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary to ensure that public services and facilities can accommodate the proposed site plan and its activities, to protect significant natural features and the environment, and to ensure compatibility with adjacent land uses. Such conditions shall be considered necessary by the Planning Commission to ensure compliance with the review standards of Section 16.6 Standards for Site Plan Approval, and necessary to meet the intent and purpose of this article.

B. Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property or holder of the site plan.

C. A record of conditions imposed shall be recorded on the site plan and maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with Section 16.11 Deviations from Approved Site Plan.

D. A record of the decision of the Planning Commission, the reason for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

E. The Building Official/Zoning Administrator may require that the applicant revise and resubmit a site plan in compliance with the conditions imposed by the Planning Commission. Should resubmittal be required, all modifications shall be highlighted on the plan in such a manner that the modifications are easily identified. The Building Official/Zoning Administrator shall have authority to approve the site plan.

F. The Building Official/Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission to terminate such approval following a public hearing.

G. Bonding Requirements. The city through its authorized representatives shall require the deposit of a performance bond in the form of cash, certified check, irrevocable letter of credit, or surety bond acceptable to the Building Department, to assure the completion of any public improvements shown on the site plan. The Building Department shall make rebates against such bond, in appropriate amounts, as specified stages of development are completed. Failure of the applicant to complete the stated improvements shall require the forfeit of surety in the amount determined by the Building Department as necessary for the city to complete the improvements.

H. The City Manager and/or Building Official and Zoning Administrator may meet with the applicant prior to site plan review to determine the specific items to be subject to performance guarantee provisions.

(Ord. 6.1, passed 3-17-09)

Section 16.9 Validity of Approved Site Plan

A. Approval of the site plan, including any phase of a multi-phased site plan, is valid for a period of one (1) year. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the site plan shall be null and void.

B. Upon written application filed prior to the termination of the one (1) year review period, the Planning Commission may authorize a single extension of the time limit for approval of a site plan for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the extension period, the length of which shall be determined by the Planning Commission but which shall not exceed one (1) year.

(Ord. 6.1, passed 3-17-09)

Section 16.10 Appeals of Site Plan

A. Any person aggrieved by the decision of the Planning Commission in granting or denial of final site plan approval shall have the right to appeal the decision to the Zoning Board of Appeals (ZBA). The appeal shall be filed with the City Clerk within five (5) business days of the decision of the Planning Commission. The appeal shall state the aggrieved parties' grounds for appeal.

B. The filing of an appeal of a decision of the Planning Commission concerning a site plan shall act to stay any building permit issued for improvements on the property which is the subject of the appeal.

C. On hearing such appeal, the ZBA shall review the record before the Planning Commission and shall determine whether or not there was support on the record for the original decision. The appellant shall not have the right to present new evidence, but shall be bound by the record before the Planning Commission. The ZBA shall approve the site plan if the requirements of this article and other applicable city ordinances are met, and prepare written findings on its decision on the appeal.

D. An appeal of a ZBA decision concerning a site plan shall be to the Circuit Court of Lapeer County.

(Ord. 6.1, passed 3-17-09)

Section 16.11 Deviations from Approved Site Plan

Amendments to the approved site plan may occur only under the following circumstances:

A. An applicant or property owner who has been granted site plan approval shall notify the Building Official/Zoning Administrator of any proposed amendment to such approved site plan.

B. Minor changes may be approved by the City Building Official/Zoning Administrator. The Building Official/Zoning Administrator must provide, in writing to the Planning Commission, documentation that the proposed revision does not alter the basic design, compliance with the standards of this article, nor any specified conditions of the plan as agreed upon by the Planning Commission. In considering such a determination, the Building Official/Zoning Administrator shall consider the following to be a minor change:

1. Change in size of structures, for residential buildings by up to five percent (5%), provided that the overall density of units does not increase.

2. Change in square footage of non-residential buildings by up to five percent (5%) or one thousand (1,000) square feet, whichever is smaller.

3. Alterations to horizontal and/or vertical elevations by up to five percent (5%).

4. Movement of a building or buildings by no more than ten (10) feet.

5. Increase in designated "areas not to be disturbed."

6. Replacement of plantings approved in the site plan landscape plan by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one (1:1) or greater basis, with approval of the Building Official/Zoning Administrator.

7. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, and the like.

8. Changes of building materials to another of higher quality, as determined by the Building Official/Zoning Administrator.

9. Changes in floor plans which do not alter the character of the use.

10. Slight modification of sign placement or reduction of size.

11. Relocation of sidewalks and/or refuse storage stations.

12. Internal rearrangement of parking lot which does not change the number of parking spaces by more than five percent (5%) or alter access locations or design.

13. Changes required or requested by the city for safety reasons.

C. Should the Building Official/Zoning Administrator determine that the requested modification to the approved site plan is not minor, the Planning Commission shall be notified in writing that the site plan has been suspended, and, if construction has initiated, a stop work order shall be issued for the section of the project deemed not to be in compliance. Thereafter, the applicant may revise the site plan and submit to the Building Official/Zoning Administrator for resubmission to the Planning Commission. All modifications must be highlighted in such a manner that the modifications to the approved plan are easily identified.

D. Any deviation from the approved site plan, except as authorized in Section 16.11 Deviations from Approved Site Plan, shall be considered a violation of this article.

(Ord. 6.1, passed 3-17-09)

Section 16.12 Projects Eligible for Sketch Plan Review and Administrative Approval

A. **Intent.** The intent of this section is to permit submittal of sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this article. The intent is to also provide for an administrative review by City staff of Planning Commission approved site plans for compliance with conditions as imposed by the Planning Commission.

B. **Eligibility.** A sketch plan, rather than a complete site plan package, may be submitted for uses or activities identified in Section 16.2 Uses Requiring Site Plan Review.

C. Procedure.

1. **Sketch Plan.** The process for administrative approval of a sketch plan shall involve submittal of the sketch plan and required application form, and fee to the Building Official/Zoning Administrator. The Building Official/Zoning Administrator shall review the sketch plan in accordance with the same standards used by the Planning Commission for a full site plan. The Building Official/Zoning Administrator shall make a report of administrative reviews to the Planning Commission.

a. The minimum contents of a sketch plan submitted for administrative review include:

(1) Cover sheet including:

- i. Completed application form and fee.
- ii. Title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions (month, day, and year).
- iii. Scale and north-point.
- iv. Location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile.
- v. Legal and common description of property including net acreage.
- vi. Identification and seal of registered or licensed architect, engineer, land surveyor, or landscape architect who prepared drawings.
- vii. Zoning classification of petitioner's parcel and all abutting parcels.
- viii. A note on each plan sheet stating "Not to Be Used as Construction Drawings."

(2) **Buildings and Structures.**

- i. Existing and proposed buildings and parking lots with dimensions and setbacks.
- ii. Floor plan indicating existing and proposed uses.
- iii. Building elevations including materials and colors for all sides with proposed changes.

(3) **Parking and Access.**

- i. Existing and proposed parking calculations.
- ii. Existing and proposed driveways.

(4) **Site Data.**

- i. Existing and proposed landscaping illustrated on the plan and described in a plant list.
- ii. Proposed changes to grading and other natural features.
- iii. Existing and proposed lighting and screening.
- iv. Proposed changes to utilities.
- v. Any other items requested by the Building Official/Zoning Administrator to assist in the administrative review.

2. **Planning Commission Approved Site Plan.** If the administrative review consists of a review of an approved site plan with

conditions by the Planning Commission, the complete site plan must be submitted with all revisions highlighted in such a manner that all modifications are easily identified.

3. **Additional Information.** The Building Official/Zoning Administrator retains the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a full site plan is required, the Building Official/Zoning Administrator shall inform the applicant to submit a set of plans in accordance with this article within fourteen (14) days of receipt of the application.

(Ord. 6.1, passed 3-17-09)

Section 16.13 Property Maintenance After Approval

It shall be the responsibility of the owner of the property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. This maintenance requirement includes healthy landscaping, walls, fences, pavement, pavement markings, signs, building exterior, drainage facilities, and all other elements of a site. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this ordinance and shall be subject to the same penalties appropriate for a use violation. With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this ordinance and shall be subject to the same penalties appropriate for a use violation.

(Ord. 6.1, passed 4-5-11)

Section 16.14 Appeals of Final Site Plan

An appeal of a Planning Commission decision concerning a site plan shall be to the Circuit Court of Lapeer County.

(Ord. 6.1, passed 4-5-11)

Section 16.15 Revocation

Approval of a site plan may be revoked by the Planning Commission if construction is not in conformance with the approved plans. In such case, the site plan shall be placed on the agenda of the Planning Commission for consideration and written notice shall be sent to the applicant at least ten (10) days prior to the meeting. The Building Official and Zoning Administrator, applicant and any other interested persons shall be given the opportunity to present information to the Planning Commission and answer questions. If the Planning Commission finds that a violation exists and has not been remedied prior to the hearing, then it shall revoke the approval of the site plan.

(Ord. 6.1, passed 4-5-11)

Article 17

Rezoning and Ordinance Amendments

Section 17.1 Initiation of Rezoning and Zoning Ordinance Text Amendments

The City Commission or the Planning Commission may, from time to time, amend, modify, supplement or revise the zoning district boundaries shown on the Zoning Map (rezoning) or the provisions of this ordinance. An amendment to the zoning district boundaries contained on the Zoning Map (rezoning) may be initiated by the City Commission, the Planning Commission, or by the owner or owners of property which is the subject of the proposed amendment. Amendments to the text of this ordinance may be initiated by the City Commission, the Planning Commission, or by petition of one (1) or more residents or property owners of the city. All proposed amendments to the Zoning Map or the text of this ordinance shall be referred to the Planning Commission for a public hearing and recommendation to the City Commission, prior to consideration thereof by the City Commission.

(Am. Ord. 6.1, passed 4-20-10)

Section 17.2 Application Procedure

A. An amendment to the Zoning Map or text of this ordinance, except those initiated by the City Commission or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the city, including an application fee, which shall be established from time to time by resolution of the City Commission. No application is required to be prepared for amendments initiated by City Commission or Planning Commission.

B. In the case of an amendment to the Zoning Map (rezoning), the following information shall accompany the application form:

1. a legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties;

2. the name, signature and address of the owner of the subject property, a statement of the applicant's interest in the subject property if not the owner in fee simple title, and proof of consent from the property owner;

3. the existing and proposed zoning district designation of the subject property;
4. a site analysis site plan illustrating existing conditions on the site and adjacent properties, such as woodlands, wetlands, soil conditions, steep slopes, drainage patterns, views, existing buildings, any sight distance limitations and relationship to other developed sites and access points in the vicinity;
5. a conceptual plan demonstrating that the site could be developed with representative uses permitted in the requested zoning district meeting requirements for setbacks, wetland buffers access spacing, any requested service drives and other site design factors;
6. a written environmental assessment describing site features and anticipated impacts created by the host of uses permitted in the requested zoning districts; a traffic impact analysis shall be provided if any use permitted in the requested zoning district could generate one hundred (100) or more peak hour directional trips, or one thousand (1,000) or more vehicle trips per day. The traffic study should contrast the daily and peak hour trip generation rates for representative use in the current and requested zoning district. The determination of representative uses shall be made by the Planning Commission with input from city staff and consultants;
7. a written description of how the requested rezoning meets Section 17.4 Criteria for Amendment of the Official Zoning Map (Rezoning) below.

C. In the case of an amendment to the Official Zoning Map, the site must be staked to clearly indicate the location of the requested amendment. Flagged stakes shall be placed at each parcel corner. A sign shall be posted on the property by the applicant indicating that the property is proposed to be rezoned. Such sign shall also indicate the date, time and location of the Planning Commission public hearing where the proposal will be reviewed, as noted in Section 17.3 Rezoning and Amendment Procedure, below.

D. In the case of an amendment to this ordinance, other than an amendment to the Official Zoning Map (rezoning), a general description of the proposed amendment shall accompany the application form.

(Am. Ord. 6.1, passed 4-20-10)

Section 17.3 Rezoning and Amendment Procedure

A. Upon submission of an application for a rezoning or an ordinance amendment, or the initiation of a rezoning or ordinance amendment by the City Commission or the Planning Commission, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice of the public hearing shall be provided in accordance with the requirements of Section 27.9.

B. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the City Commission. In the case of an amendment to the Official Zoning Map (rezoning), the Planning Commission shall consider the criteria contained in Section 17.4, Criteria for Amendment of the Official Zoning Map (Rezoning) below, in making its finding and recommendation.

C. Following receipt of the findings and recommendation of the Planning Commission, the City Commission shall consider the proposed amendment. In the case of an amendment to the text of this ordinance, the City Commission may modify or revise the proposed amendment as recommended by the Planning Commission, prior to enactment. In the case of an amendment to the Official Zoning Map (rezoning), the City Commission shall approve or deny the amendment, based on its consideration of the criteria contained in Section 17.4 Criteria for Amendment of the Official Zoning Map (Rezoning), below.

D. The City Commission shall also grant a public hearing on the proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the City Clerk.

(Am. Ord. 6.1, passed 4-20-10)

Section 17.4 Criteria for Amendment of the Official Zoning Map (Rezoning)

In considering any petition for an amendment to the Official Zoning Map (rezoning), the Planning Commission and City Commission shall consider the following criteria in making its findings, recommendations and decision:

- A. consistency with the goals, policies and Future Land Use Map of the Imlay City Master Plan, including any subarea or corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area;
- B. compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district;
- C. evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning;
- D. the compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values;
- E. the capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the city;
- F. the apparent demand for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate the demand;
- G. where a rezoning is reasonable given the above criteria, a determination the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district; and
- H. the request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has

been provided.

Section 17.5 Protest Petitions

A. An amendment to this ordinance is subject to a properly filled protest petition. If a protest petition is filed, approval of the amendment to this ordinance shall require two-thirds (2/3) vote of the City Commission. The protest petition shall be presented to the City Commission before the final legislative action on the amendment and shall be signed by one (1) or more of the following:

1. The owners of at least twenty percent (20%) of the area of land included in the proposed change; or
2. The owners of at least twenty percent (20%) of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

B. Publicly-owned land shall be excluded in calculating the twenty percent (20%) land area requirement under paragraph A.

(Ord. 6.1, passed 12-5-06)

Section 17.6 Amendments Required to Conform to Court Decree

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the City Commission and published, without necessity of a public hearing or referral thereof to any other Commission or agency.

(Am. Ord. 6.1, passed 12-5-06)

Section 17.7 Zoning Agreement

A. **Zoning Agreement.** An applicant for a rezoning may voluntarily offer a zoning agreement along with an application for rezoning before or following the public hearing for a proposed rezoning. An election to submit a zoning agreement shall be pursuant to the city and Village Zoning Act, specifically Michigan Public Act 207 of 1921, as amended, and this article.

1. The zoning agreement shall be a written agreement executed by the applicant and the city and recorded with the Lapeer County Register of Deeds.
2. The zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.
3. The zoning agreement may not authorize uses or developments of greater intensity or density, or which are not permitted in the proposed zoning district; nor may a zoning agreement permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district.
4. The zoning agreement shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. The zoning agreement may include conditions related to the use and development of the property that are necessary to:
 - a. Serve the intended use of the property such as improvements, extension, widening, or realignment of streets, utilities, or other infrastructure serving the site;
 - b. Minimize the impact of the development on surrounding properties and the city overall; and
 - c. Preserve natural features and open space beyond what is normally required.

B. **Content of Agreement.** In addition to any limitations on use or development of the site, preservation of site features or improvements described above, the zoning agreement shall also include the following:

1. Acknowledgment that the zoning agreement was proposed voluntarily by the applicant.
2. Agreement and understanding that the property shall not be developed or used in any manner that is not consistent with the zoning agreement.
3. Agreement and understanding that the approval of the rezoning and the zoning agreement shall be binding upon and inure to the benefit of the property owner and the city, and also their respective heirs, successors, assigns, receivers or transferees.
4. Agreement and understanding that, if a rezoning with a zoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.
5. Agreement and understanding that no part of the zoning agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
6. A legal description of the land to which the agreement pertains.
7. Any other provisions as are agreed upon by the parties.

C. **Process.** The zoning agreement shall be reviewed concurrently with the petition for rezoning following the process in Sections 17.3 and 17.4 and the following:

1. The zoning agreement may be submitted prior to or following the Planning Commission public hearing. If the agreement is provided following the public hearing it must be reviewed by Planning Commission prior to Planning Commission making its recommendation on the rezoning to the City Commission. The zoning agreement shall be reviewed by the City Attorney to determine that the zoning agreement conforms to the requirements of this section and the City Zoning Act, as amended, and shall confirm that the zoning agreement is in a form

acceptable for recording with the Lapeer County Register of Deeds.

2. Following the public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the City Commission based upon the criteria listed in Section 17.3. In addition, the Planning Commission shall consider whether the proposed zoning agreement:

- a. is consistent with the intent of this article.
- b. bears a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
- c. is necessary to insure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties;
- d. is necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed zoning agreement.
- e. leads to a better development than would have been likely if the property had been rezoned without a zoning agreement, or if the property were left to develop under the existing zoning classification.
- f. is clearly in the public interest.

3. If a zoning agreement has been offered by the applicant and recommended for approval by the Planning Commission, the City Commission may approve the zoning agreement as a condition to the rezoning if it meets all requirements of paragraph 2. above. The zoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Commission to accomplish the requested rezoning.

4. If the rezoning and zoning agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the zoning agreement. The zoning map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a zoning agreement (i.e., "R-1a"). The City Clerk shall maintain a listing of all properties subject to zoning agreements and shall provide copies of the agreements upon request.

5. The approved zoning agreement shall be recorded with the Lapeer County Register of Deeds.

6. Any uses proposed as part of a zoning agreement that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of Article 20 and Article 16.

D. Expiration.

1. Unless extended by the City Commission for good cause, the rezoning and zoning agreement shall expire two (2) years after adoption of the rezoning and zoning agreement, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the city commences within the two (2) year period and proceeds diligently to completion.

2. In the event that substantial construction on the approved development has not commenced within the aforementioned two (2) years, the zoning agreement shall be void and of no effect.

3. Should the zoning agreement become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the city is taken to bring the property into compliance with the zoning agreement, the city may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.

4. Notwithstanding the above, if the property owner applies in writing for an extension of the zoning agreement at least thirty (30) days prior to the expiration date, the City Commission may grant an extension of up to one (1) year. Further extensions may be granted, although the number of previous extensions granted to a particular zoning agreement shall be considered by the City Commission.

E. Reversion of Zoning. If the rezoning and zoning agreement become void as outlined above, then the land shall revert back to its original zoning classification. The reversion process shall be initiated by the City Commission requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests, including the notice and hearing as required by the city and Village Zoning Act and this section.

F. Continuation. Provided that all development and/or use of the property in question is in compliance with the zoning agreement, a use or development authorized there under may continue indefinitely, provided that all terms of the zoning agreement continue to be adhered to.

G. Amendment.

1. During the initial two (2) year period, or during any extension granted by the city as permitted above, the city shall not add to or alter the zoning agreement, even with the landowner's consent.

2. The zoning agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and zoning agreement.

H. Violation of Agreement. Failure to comply with the zoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this section and further use of the property may be subject to legal remedies available to the city.

I. Subsequent Rezoning of Land. Nothing in the zoning agreement, nor any statement or other provision, shall prohibit the city from later rezoning all or any portion of the property that is the subject of the zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this section and the city and Village Zoning Act.

J. Failure to Offer Conditions. The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an

offer of conditions shall not affect the owner's rights under this section.

(Ord. passed 12-20-05)

Section 17.8 Effective Date of Amendments

Amendments to this ordinance become effective within seven (7) days after publication and the notice of adoption must be published within fifteen (15) days from the date of adoption.

(Ord. 6.1, passed 12-5-06)

Article 18

Condominium Development Standards

Section 18.1 Purpose

The intent of this article is to provide regulatory standards for condominiums and condominium subdivisions similar to those required for projects developed under other forms of ownership. This article is not intended to prohibit or treat a proposed or existing condominium project different than a project or development under another form of ownership.

Section 18.2 Definitions

The definitions contained in Article 29 Definitions are intended to make comparison possible between the definitions of the Zoning Ordinance and the Subdivision Regulations (Imlay City Code of Ordinances Chapter 152).

Section 18.3 Application and Authority

The following review process shall apply to all condominium projects within the city:

A. Concurrently with notice required to be given to the city pursuant to Section 71 of P.A. 59 of 1978, as amended (M.C.L.A. § 559.171), a person, firm, corporation or other legal entity intending to develop a condominium project shall file with the City Clerk the following information with respect to the projects:

1. all names, address and telephone numbers of:
 - a. the person, firm, corporation or other legal entity with an ownership interest in the land on which the project will be located together with a statement that the entity is a fee owner or land contract purchaser;
 - b. all engineers, attorneys, architects, and licensed land surveyors, involved in the condominium project; and
 - c. the developer or proprietor of the project;
2. the legal description of the land including tax identification numbers;
3. the total acreage;
4. the intended use;
5. the number of units to be developed; and
6. a copy of the proposed master deed.

B. Condominium projects shall contain all information required by the Condominium Act.

C. The information shall be filed with the Building Official and Zoning Administrator at the time the information is filed with the City Clerk, and shall be kept current.

Section 18.4 Approval of Plans

All condominium plans must be approved by the Planning Commission following the same process identified in Article 16 Site Plan Review. In making determination, the Planning Commission shall consult with the Building Official and Zoning Administrator, city attorney, and the city engineer regarding the adequacy of the master deed, deed restrictions, utility systems, streets, project design and layout and compliance with the Condominium Act.

Section 18.5 Streets and Necessary Easements

A. Condominium projects with streets shall comply with all street requirements found in the Imlay City Code of Ordinances. Projects which connect public streets shall have the project street dedicated to the public.

B. The condominium plan shall include all necessary easements granted to the city and/or constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter called public structures) for the purpose providing public utilities, including, but not limited to, conveyance of sewage, water and stormwater runoff across, through and under the property subject to such easement, and excavating and filling ditches and trenches necessary for the location of such structures.

Section 18.6 Setbacks and Boundaries

The setback requirements for condominium buildings shall be determined as follows:

A. Single-family detached units:

1. **Front yard Setback.** One-half the approved or recorded street right-of-way, plus the current setback for the existing zoning district.
2. **Side yard Setback.** The distance between units shall be twice the zoned minimum of a typical single lot side yard setback. The distance from the unit to the limit of development shall meet the existing zoned minimum.
3. **Rear yard Setback.** The distance between the rear of two (2) units shall be twice the zoned minimum rear yard setback of a typical single lot rear yard setback. The distance from the rear of the unit to the limits of the development shall meet the existing zoned minimum.

B. Multiple-family buildings shall meet the standards of multiple-family development.

C. The relocation of boundaries as defined in Section 148 of the Condominium Act shall conform to all setback requirements of this ordinance of the district in which the project is located, shall be submitted to the Planning Commission for review and approval and these requirements shall be made a part of the bylaws and recorded as part of the master deed.

Section 18.7 Common Elements

After construction of a condominium unit, the undeveloped area of a unit site shall become a common element.

Section 18.8 Encroachment

A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

Section 18.9 Subdivision of Unit Sites

Subdivision of condominium unit sites is permitted with Planning Commission approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on conditions of zoning or site plan approval, and shall be made as part of the bylaws and recorded as part of the master deed.

Section 18.10 Conformance with Subdivision Regulations

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established in the City of Imlay City Subdivision Regulations.

Section 18.11 Water and Waste Water

The condominium project shall comply with and meet all federal, state, county and city standards for a fresh water system and waste water disposal.

Section 18.12 Expansion and Conversion

Prior to expansion or conversion of a condominium project to additional land and new phase must be approved by the Planning Commission.

Section 18.13 Master Deed

The project developer shall furnish the Building Official and Zoning Administrator with one (1) copy of the proposed consolidated master deed, one (1) copy of bylaws and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with the City Code of Ordinances and to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements. Master deeds submitted to the city for review shall not permit contraction of the condominium (whereby co-owners can withdraw from the condominium and responsibility for maintenance of common elements) without re-submittal of the master deed to the city for review and approval. Fees for these reviews shall be established, from time to time, by the City Commission.

Section 18.14 As-Built Plan and Occupancy

Submission of an as built plan of a condominium unit is required prior to occupancy. The Building Official and Zoning Administrator may allow occupancy of the project before all improvements required are installed provided that a bond is submitted to the City Clerk, 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. The amount of the bond shall be determined by the city engineers.

Section 18.15 Final Bylaws, Consolidated Master Deed and Site Plan

Upon approval of the development furnish the city a copy of the bylaws and consolidated master deed. The site plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.

Section 18.16 Compliance with Other Statutes and Ordinances

All condominium projects shall comply with federal, state and local laws, statutes and ordinances.

Section 18.17 Violation and Penalty

Any violation of the terms and conditions of this article shall constitute a misdemeanor punishable, upon conviction, by a sentence of not to exceed ninety (90) days in jail or a fine not to exceed five hundred dollars (\$500.00), or both such fine and imprisonment, in the discretion of

the court.

Article 19

Planned Unit Development (PUD) Regulations

Section 19.1 Purpose

The Planned Unit Development (PUD) Option is intended to permit, with city approval, private or public development which shall be substantially in accord with the goals and objectives of the City Master Plan. It is the intent of this article to offer an alternative to traditional development through the use of Planned Unit Development legislation, as authorized by Section 503 of the Michigan Zoning Enabling Act (Public act 110 2006, M.C.L.A. §§ 125.3101 et seq.), as amended, for the purpose of:

- A. encouraging the use of land in accordance with its character and adaptability;
- B. allowing innovation and greater flexibility in design;
- C. assuring the permanent preservation of open space and natural resources;
- D. providing recreational facilities within a reasonable distance of all residents of the development;
- E. facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- F. ensuring compatibility of design and use between neighboring properties;
- G. minimizing adverse traffic impacts;
- H. providing better housing, employment, and shopping opportunities particularly suited to residents of the city; and,
- I. encouraging the use and improvement of existing sites.

It is further intended that the development will be laid out in a manner which provides complete pedestrian circulation within the development and convenient vehicular access throughout the development, and that the various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.

(Am. Ord. 6.1, passed 12-5-06)

Section 19.2 Scope

The development permitted under this article shall be considered as an option to the development permitted under Article 15 Schedule of Regulations and shall be mutually agreeable to the developer and to the city.

Section 19.3 Eligibility Criteria

To be eligible for PUD consideration, the applicant must present a proposal for development that meets each of the following:

- A. **Minimum Project Size.** The minimum size of a PUD development shall be five (5) acres of contiguous land. The Planning Commission may consider development of a site less than five (5) acres in area as an PUD where redevelopment of an existing developed site is proposed.
- B. **Recognizable Benefits.** A PUD shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the city. The benefits can be provided through site design elements in excess of the requirements of this ordinance, such as high quality architectural design, extensive landscaping, provide transition areas from adjacent land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development. The proposed development shall provide at least one (1) of the following benefits:
 1. **Significant Natural Assets.** The site contains significant natural assets such as woodlands, rolling topography with grades exceeding fifteen percent (15%), significant views, natural drainage ways, water bodies, floodplains, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the city to preserve and which might be negatively impacted by conventional residential development.
 2. **Recreation Facilities.** If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide new recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development.
 3. **Mixed Use.** A site can qualify if the development will provide a complimentary and integrated mixture of uses, residential densities and housing types. A mixed use project shall be considered a project which proposes a combination of single family detached an multiple family housing or a mixture of compatible residential and commercial uses. Such mixture of uses shall be integrated into a cohesive, pedestrian scale neighborhood.
 4. **Integrated Industrial Development.** A site can qualify if the development will provide an integrated combination of industrial uses. An integrated industrial development project proposes a number of industries on one or more parcels of land. Such industries may

front on public roads or may rely on a shared roadway, private drive and other share facilities or services.

C. **Guarantee of Open Space.** The applicant shall guarantee to the satisfaction of the Planning Commission that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the city and the land uses and restrictions continue as approved in the PUD plan.

D. **Cohesive Neighborhood.** Residential or Mixed Use PUD's shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the PUD.

E. **Unified Control.** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.

F. **Density Impact.** The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this ordinance, and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socioeconomic impact resulting from the proposed PUD. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Planning Commission may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the PUD plan to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the PUD.

G. **Public Utilities.** All uses within the PUD project shall be served by public water and sewer.

H. **Master Plan.** The proposed development shall be consistent with and further the implementation of the City Master Plan.

Section 19.4 Permitted Uses

A. **Single-Family Residential.**

1. Detached single-family residential shall be permitted in any PUD.
2. Attached single-family residential shall be permitted in any PUD.

B. **Multiple-Family Residential.** Multiple-family residential shall be permitted in any PUD as follows:

1. where underlying zoning is multiple-family residential, multiple family dwelling units shall be permitted meeting the density and design standards of this ordinance; or
2. where underlying zoning is single-family residential, up to forty percent (40%) of the dwelling units may be multiple family housing, provided the remaining dwelling units (at least sixty percent (60%)) shall be detached single-family residential and provided further that at least an additional ten percent (10%) of the site will be preserved as open space, above the minimum requirement.

C. **Non-residential.** Non-residential uses shall be permitted in a PUD as follows:

1. where the underlying district is zoned for non-residential uses, all industries, commercial business, services, and professional offices listed as a principal permitted use in the underlying zoning district shall be permitted; or
2. where the underlying zoning is residential, a PUD with a gross area of twenty (20) acres or more may incorporate a commercial land use component, provided that all of the following are met:
 - a. the commercial component shall be located on a lot of sufficient size to contain all commercial structures, parking, and landscape buffering; the total area occupied by the commercial land uses may not exceed ten percent (10%) of the gross area of the PUD or six (6) acres, whichever is less;
 - b. all commercial uses shall be compatible with the residential area; the allowable commercial uses within such an area shall be limited to those permitted in the B-1 Local Business District;
 - c. the Planning Commission finds that the architectural design of the structures is compatible with the balance of the PUD and surrounding development;
 - d. all commercial structures are connected to a pedestrian access system servicing the PUD; and
 - e. the Planning Commission making the finding that the overall site layout and the vehicular circulation pattern will not have a detrimental effect on residential streets.

Section 19.5 Dwelling Density

A. **Single-Family Residential.** Where the underlying zoning is single-family residential, the number of dwelling units allowable within a PUD shall be determined through preparation of a parallel plan.

1. The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent

with state, county and city requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size, lot width and setbacks as normally required under Article 15 Schedule of Regulations; public roadway improvements; and the plan shall contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality (MDEQ).

2. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the PUD. The regulatory flexibility of a PUD may be allowed to cluster the dwellings on smaller lots or mix housing types, provided the overall density shall not exceed that determined in the parallel plan.

B. **Multiple-Family Residential.** Where the underlying zoning is multiple-family residential, the density shall be the maximum allowed by the underlying zoning district.

C. **Non-Residential.** Where the underlying zoning is non-residential, residential may be permitted at the density permitted in the RM-1 District. Such density shall be permitted in those portions of the PUD proposed for residential use. Land areas of a PUD proposed for non-residential use shall not be counted towards the maximum allowable density.

D. **Industrial.** Where the underlying zoning is industrial, no residential uses are permitted.

E. **Multiple Underlying Zoning Districts.** Where a PUD is proposed for a land area that includes multiple underlying zoning districts, density shall be determined separately for each respective zoning district then combined for a maximum permitted dwelling unit density for the overall project. Following the determination of density, residential dwelling unit types may be integrated within the overall design for the project and need not be segregated by the underlying zoning districts. The location and distribution of dwellings within the PUD shall be determined through design that meets the intent of this ordinance, preservation of natural features and compatibility with surrounding land uses.

F. **Density Bonus.** A variable density bonus of up to twenty-five percent (25%) may be allowed at the discretion of the Planning Commission, based upon a demonstration by the applicant of design excellence. Projects qualifying for a density bonus shall include at least one of the following elements:

1. a high level of clustered development through smaller lot sizes or attached dwellings were a minimum of forty percent (40%) of the PUD is common open space;
2. inclusion of an integrated mixture of housing types;
3. removal or renovation of blighted buildings or cleanup of site contamination; or
4. other similar elements as determined by the Planning Commission;

Section 19.6 Area and Bulk Regulations

A. **Underlying Regulations.** The height, bulk, and area conditions set forth in Article 15 Schedule of Regulations shall be used as guidelines for the use areas set forth in the PUD Plan.

B. Regulatory Flexibility.

1. To encourage flexibility and creativity consistent with the intent of the PUD regulations, the Planning Commission may permit specific departures from the requirements of the zoning ordinance for yards and lots as a part of the approval process. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.

2. A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this PUD Article. This specification should include ordinance provisions from which deviation are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this ordinance shall be considered.

Section 19.7 Open Space Requirements

A. **Common Open Space.** All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement or a commercial use, shall be set aside as common land for recreation or conservation. Grading in the open space shall be minimal, with the intent to preserve existing topography.

Where appropriate, Planning Commission may require land within an industrial development that is not devoted to vehicle access, vehicle parking, a roadway, an approved land improvement, to be set aside as common land for recreation or conservation. The amount of land required to be set aside for recreation or conservation shall be determined on a case-by-case basis.

B. **Amount of Open Space.** An open space community, whose primary public benefit is the protection of open space, shall maintain a minimum of twenty percent (20%) of the gross area of the site as dedicated open space held in common ownership. Except as noted in Section 19.7.C. Areas Not Considered Open Space, any undeveloped land area, not including golf courses, within the boundaries of the site meeting the open space standards herein may be included as required open space. A minimum of ten percent (10%) of the overall site (fifty percent (50 %) of the minimum required open space) shall be upland area that is accessible to all residents of the PUD.

C. **Areas Not Considered Open Space.** The following land areas are not included as dedicated open space for the purposes of this article:

1. area proposed as single-family residential lots or site condominiums;

2. area proposed to be occupied by multiple-family dwellings, including the minimum required setbacks around buildings;
3. any portion of the project used for commercial, industrial or office purposes;
4. the area of any street right-of-way or private road easement; and
5. any submerged land area of a pond lake river or stream.

D. Location of Open Space. The common open space may either be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development. The open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition.

E. Open Space Corridors. Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the Planning Commission.

F. Protection of Open Space.

1. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as: recorded deed restrictions, covenants that run perpetually with the land, or conservation easements.

(Am. Ord. 6.1, passed 12-5-06)

2. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

a. indicate the proposed allowable use(s) of the dedicated open space; the Planning Commission may require the inclusion of open space restrictions that prohibit the following:

- (1) dumping or storing of any material or refuse;
- (2) activity that may cause risk of soil erosion or threaten any living plan material;
- (3) cutting or removal of live plant material except for removal of dying or diseased vegetation;
- (4) use of motorized off road vehicles;
- (5) cutting, filling or removal of vegetation from wetland areas; and
- (6) use of pesticides, herbicides or fertilizers within or adjacent to wetlands;

b. require that the dedicated open space be maintained by parties who have an ownership interest in the open space; and

c. provide standards for scheduled maintenance of the open space.

3. The dedicated open space shall forever remain open space, subject only to uses approved by the city on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course area, provided that it forever remains outdoor recreation or natural undeveloped land.

G. Allowable Structures. Any structure(s) or building(s) accessory to a recreation use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space area.

Section 19.8 Natural Features

A. Preservation of Natural Features. The development shall be designed to promote the preservation of natural features. Compliance with this requirement shall be determined by the Planning Commission after review of a Site Analysis Plan, prepared by the applicant, that inventories these features.

B. Habitat. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space community plan or other appropriate approach preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

C. Open Space Setback. The Planning Commission may require a minimum of twenty five (25) foot wide undisturbed open space setback from the edge of any, lake, pond, river, stream or wetland; provided that the Planning Commission may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.

Section 19.9 Compatibility with Adjacent Uses

A. Compatibility with Adjacent Uses. The proposed location of uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, solid waste pick-up points, swimming pools, tennis courts and facilities of a similar nature, shall not be located near the boundary of the development or so as to negatively impact the residential use of adjacent lands.

B. Transition Areas. Where the PUD abuts a single-family residential district, the Planning Commission may require a transition area. Grading within the transition area shall be minimal unless needed to provide effective buffering or accommodate drainage. If the grade change adjacent to single-family residential is to be varied by more than three (3) feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings from adjacent residential units are encouraged. The Planning Commissions shall review the proposed transition area to ensure compatibility. The Planning Commission may

require that the transition area consist of one or more of the following:

1. a row of single-family lots or condominium sites similar to adjacent single-family development in terms of density, lot area, lot width, setbacks and building spacing;
2. woodlands, natural features or a landscaped greenbelt sufficient to provide an obscuring effect;
3. open or recreation space; and
4. significant changes in topography which provide an effective buffer.

Section 19.10 Landscaping

The following landscaping requirements shall be met in addition to other landscaping requirements contained in the zoning ordinance, subdivision regulations and other applicable city ordinances:

A. **Street Trees.** Both sides of all internal roads shall be landscaped with street trees. For road frontages of individual lots or condominium sites, a minimum of two (2) canopy trees shall be provided per dwelling. For sections of road that do not abut lots or condominium sites, one canopy trees shall be provided on each side for every forty (40) feet or road. Existing trees to be preserved within five (5) feet of the road right-of-way or easement may be credited towards meeting this requirement.

B. **Frontage Greenbelt.** The open space along the exterior public roads shall be landscaped with a minimum of one (1) evergreen tree or canopy tree for each twenty (20) feet of road frontage. Preservation of existing trees may be credited towards meeting the frontage landscaping requirement.

Section 19.11 Architectural and Site Design Standards

A. **Residential Architecture.** Residential facades shall not be dominated by garages; at least forty percent (40%) of residential units shall have side entry garages or recessed garages where the front of the garage is at least five (5) feet behind the front line of the living portion of the principal dwelling. The intent of encouraging recessed or side entry garages is to enhance the aesthetic appearance of the development and minimize the aesthetic impact resulting from the close clustering of units allowed under these regulations.

B. **Non-Residential Architecture.** Non-residential buildings shall provide distinct and prominent architectural features that create a positive visual landmark. Walls facing the street shall include windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing or other decorative finish materials. Blank walls shall not face the street. Single story buildings shall have pitched roofs. Flat roofs shall be allowed on non-residential two story buildings, provided the roof is enclosed by parapets and a decorative cornice.

Industrial buildings shall utilize high quality architecture and landscaping where the site is visible from any roadway or from an adjacent residential use or residential district. Masonry and glass shall form the primary building materials for those parts of an industrial building visible from any roadway. Metal paneling shall not be utilized as the primary building material on the facades of buildings visible from the internal roadway, any adjoining public roadway or an adjacent residential use or district. Industrial buildings may be allowed to provide less distinct or prominent architectural features, based on their location in relation to other land uses or public areas, including roads and a residential use or residential district.

C. **Site Elements.** Signage, lighting, entryway features, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and cohesive development, consistent with the character of the community, surrounding development, and natural features of the area.

Section 19.12 Parking Lots - Multiple-Family, Mixed Use Project with Commercial or Industrial

A. **Parking Requirement.** The number and dimensions of off-street parking shall be sufficient to meet the minimum required by the ordinances of the city. However, where warranted by overlapping or shared parking arrangements, the Planning Commission or City Commission may reduce the required number of parking spaces by up to twenty percent (20%).

B. **Parking Location.** All parking and loading areas serving non-residential uses shall be to the rear or side of the structure and fully screened from view of any public roadway, except that the Planning Commission may allow up to twenty five percent (25%) of the minimum number of required parking spaces in the front yard. Parking areas serving industrial uses shall generally be to the rear or side of the structure, except that the Planning Commission may allow required parking spaces in the front yard, provided extensive landscaping is used to minimize the visibility of the parking area. All loading areas serving the industrial uses shall be to the rear or side of the structure and fully screened from view of any public roadway or from a residential use or residential district.

C. Parking Lot Screening.

1. All off street parking spaces or loading areas must be screened from view of any public road or pedestrian path, or private road/drive within the project by a street-wall or hedge along the frontage. Street-walls shall be between three (3) feet in height and made of brick or stone.

2. Where a non-residential use or parking lot is adjacent to a residential use or residential district, a six (6) foot tall brick screening wall or solid fence shall be required. The Planning Commission may substitute this requirement for a three (3) foot tall landscape berm with a row of evergreen trees spaced no more than ten (10) feet on-center.

D. **Parking Lot Greenbelt.** Off-street parking lots serving three (3) or more dwelling units shall provide a ten (10) foot wide open green space area around the perimeter of the parking lot.

E. **Parking Lot Trees.** Landscaping shall be provided within parking lot landscape islands or surrounding the parking lot at a rate of one deciduous tree for every ten (10) parking spaces.

Section 19.13 Lighting

A. **Limitations on Intensity.** Exterior lighting shall be restrained and excessive brightness avoided to help ensure compatibility with adjacent land uses. All lighting shall be limited to twenty (20) feet in height. The intensity of light fixtures shall be limited to two hundred fifty (250) watts. Any lighting other than ornamental street lights shall be downward directed cut-off type fixtures. Floodlight type fixtures shall not be permitted except for building accent and sign lighting approved by the Planning Commission.

B. **Ornamental Lighting.** The Planning Commission may require a consistent type of pedestrian scale ornamental lighting along all streets, and sidewalks and within any off street parking lots.

C. **Lighting Plan.** A lighting plan including illustration of a foot candles grid and details of lighting fixtures shall be provided for nonresidential parking lots and loading areas.

Section 19.14 Signs

Residential entrance signs, industrial signs and commercial signs shall be approved as part of the final PUD.

Section 19.15 Circulation

A. **Internal Roads.** All streets within the PUD shall meet the minimum construction and other requirements of city ordinances, unless modified by City Commission.

B. Pedestrian Circulation.

1. Sidewalks, a minimum of five (5) feet wide shall be provided on both sides of all streets within a residential or mixed use PUD.
2. Sidewalks, a minimum of (5) five feet wide, shall be provided between parking areas and building entrances within an industrial PUD.
3. Sidewalks shall be at least eight (8) feet wide in commercial areas or in residential areas adjacent to parking spaces where the sidewalk is connected to the curb.
4. Eight (8) foot wide bike paths shall be provided along major thoroughfares abutting a residential or mixed use PUD.
5. Trails shall be provided within the open space. They may be constructed of asphalt, gravel or other similar material.

Section 19.16 Approval Procedure

A. **Preliminary PUD Site Plan Requirements.** The preliminary PUD site plan shall set forth the proposed uses to be developed in the Planned Unit Development and the following specific information on a site plan.

1. current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement;
2. a completed application form, supplied by the Building Official and Zoning Administrator, and an application/review fee; a separate escrow deposit may be required for administrative charges to review the PUD submittal;
3. one (1) copy of the preliminary PUD site plan, reduced in size to eight and one-half (8½) by eleven (11) inches, on clear acetate or similar material suitable for use with an overhead projector;
4. sheet size of submitted drawings shall be at least twenty-four (24) inches by thirty-six (36) inches, with graphics at an engineers scale of one (1) inch equals twenty (20) feet for sites of twenty (20) acres or less; and one (1) inch equals one hundred (100) feet or less (i.e. one (1) inch equals twenty (20) to one hundred (100) feet) for sites over twenty (20) acres;
5. cover sheet providing:
 - a. the applicant's name;
 - b. name of the development;
6. the preparer's name and professional seal of architect, engineer, surveyor or landscape architect indicating license in the State of Michigan;
7. date of preparation and any revisions;
8. north arrow;
9. property lines and dimensions;
10. complete and current legal description and size of property in acres;
11. small location sketch of the subject site and area within one-half, and scale;
12. zoning and current land use of applicants property and all abutting properties and of properties across any public or private street from the PUD site;
13. lot lines and all structures on the property and within one hundred (100) feet of the PUD property lines;
14. location of any access points on both sides of the street within one hundred (100) feet of the PUD site along streets where access to the PUD is proposed;

15. a site analysis plan sheet indicating locations of significant natural, historical, and architectural features, including:
 - a. existing buildings;
 - b. drainage patterns;
 - c. surface water bodies;
 - d. floodplain areas;
 - e. wetlands with supporting documentation;
 - f. existing topography at five-foot contour intervals;
 - g. tree survey in accordance with Article 23 Landscape Standards and Tree Replacement;
16. a plan sheet indicating:
 - a. existing and proposed topography at five-foot contour intervals, or two-foot contour intervals (two-foot intervals required for final site plan), and a general description of grades within one hundred (100) feet of the site;
 - b. dimensions of existing and proposed right-of-way lines, names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian and/or bicycle paths;
 - c. existing buildings, utility services (with sizes), and any public or private easements, noting those which will remain and which are to be removed;
 - d. layout and typical dimensions of proposed lots, footprints and dimensions of proposed buildings and structures; uses with the acreage allotted to each use; for developments with residential components: the number, type and density of proposed housing units;
17. a landscape plan in accordance with Article 23 Landscape Standards and Tree Replacement noting existing trees and landscaping to be retained;
18. size, type and location of proposed identification signs;
19. if a multi phase Planned Unit Development is proposed, identification of the areas included in each phase; for residential uses identify the number, type, and density of proposed housing units within each phase;
20. any additional graphics or written materials requested by the Planning Commission or City Commission to assist the city in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impacts using trip generation rates recognized by the Institute of Transportation Engineers (ITE) for an average day and peak hour of the affected roadways; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost; and
21. a draft written PUD development agreement specifying all the terms and understanding of the PUD development.

B. Final PUD Site Plan Requirements. The final site plan shall include a complete site plan meeting the requirements of Article 16 Site Plan Review or a preliminary plat meeting the requirements of the City Subdivision Control Ordinance, as applicable.

C. PUD Approval Process.

1. **Pre-Application Meeting.** The applicant shall meet with the Planning Commission at a regularly scheduled meeting. The purpose of this meeting is to allow the applicant to present the PUD concept, and receive comments or direction from the Planning Commission on the PUD concept or the need for additional information needed to evaluate the impacts of the PUD, such as a traffic or environmental study. No formal action shall be taken.

2. **Technical (Staff) Reviews.** The Building Official and Zoning Administrator shall forward the application to the City Planner for review. The Department of Public Works, Fire Chief, Police Chief, City Engineer, Building Department Manager, Road Committee and Natural Resources Committee, if applicable, shall also review the application. The reviews shall be submitted to the Building Official and Zoning Administrator. The Building Official and Zoning Administrator may schedule a conference with applicable consultants and departments which reviewed the submittal information. The technical reviews may be revised and resubmitted following the conference or submittal of a revised application. An application shall not be forwarded to the Planning Commission until all required technical information is provided.

3. **Public Hearing.** Following the technical review process, the Planning Commission shall schedule and conduct a public hearing to review the request in accordance with the procedures noted below. The applicant is also encouraged to meet with neighborhood associations and land owners prior to the Planning Commission public hearing on the proposed project.

a. The Building Official and Zoning Administrator shall publish a notice of public hearing on the request for PUD approval in a newspaper of general circulation in the city. Separate notice 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 in question, and to the occupants of all structures within three hundred (300) feet. Such notification shall be in accordance with Section 4 of the City and Village Zoning Act (Public Act 207 of 1921, as amended).

b. The Planning Commission shall conduct the required public hearing. The purpose of the public hearing is for the Planning Commission and the applicant to receive public comment on the PUD. The Planning Commission shall not take action at the same meeting when the public hearing is conducted unless there is a specific finding that all review standards are met and no conditions are necessary for the recommendation to the City Commission.

c. Following the public hearing the applicant shall submit revised plans and a document which point-by-point addresses each issue, as directed by the Planning Commission.

4. Preliminary Approval.

a. **Planning Commission Recommendation.** The Planning Commission shall review the PUD site plan in consideration of public hearing comments, technical reviews from city staff and consultant's correspondence from applicable review agencies, and compliance with the standards of this article and other applicable standards of this ordinance. The Planning Commission shall make a recommendation to the City Commission to approve, approve with conditions or deny the request. The Planning Commission recommendation shall be based on the following:

(1) whether the proposal meets the eligibility criteria for qualification of the PUD and promotes the land use goals and objectives of the city;

(2) whether all applicable provisions of this section and this ordinance shall be met; if any provision of this section shall be in conflict with the provisions of any other section of this ordinance, the provisions of this section shall apply to the lands embraced within a PUD; and

(3) whether there is, or will be at the time of development, adequate facilities to accommodate the sanitary sewage, storm water, solid waste, water supply needs and traffic generated by the proposed project.

b. **City Commission Approval.** Following receipt of the Planning Commission's recommendation, the preliminary PUD site plan shall be considered by the City Commission. The City Commission shall take one of the following actions on the request:

(1) **Table.** If the application is determined to be insufficient, does not fully respond to Planning Commission issues or more information is required, then the request may be tabled. The City Commission shall direct the applicant to prepare additional information, revise the PUD plan or direct the city staff to conduct additional analysis.

(2) **Reconsideration.** If the City Commission believes there is new information which might modify the recommendation of the Planning Commission, the City Commission may return the application with the new information to the Planning Commission for reconsideration. The Planning Commission shall provide a recommendation within thirty (30) days.

(3) **Approval.** Upon determination that a PUD site plan is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, the City Commission shall approve the preliminary PUD site plan. The City Commission may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. The applicant shall submit a revised PUD site plan that demonstrates compliance with the conditions for administrative approval by the Building Official and Zoning Administrator.

(4) **Denial.** Upon determination that a PUD site plan does not comply with standards and regulations set forth in this ordinance, or requires extensive revision in order to comply with said standards and regulations, the City Commission shall deny the application. Resubmittal of an application which was denied shall be considered a new application.

5. **PUD Agreement.** If the City Commission approves the PUD site plan, the applicant shall submit an Agreement stating the conditions upon which approval is based, for review and approval by the city attorney. The Agreement, after review by the Planning Commission and approval by the City Commission, shall be entered into between the city and the applicant and be recorded in the office of the Lapeer County Register of Deeds at the expense of the applicant. Approval shall be effective upon recording. Said agreement shall provide:

a. a survey of the acreage comprising the proposed development;

b. the manner of ownership of the developed land;

c. the manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space;

d. provision assuring that those open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose; the city may require conveyances or other documents to be placed in escrow to accomplish this;

e. satisfactory provisions have been made to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the City Commission;

f. the cost of installing and maintaining all streets and the necessary utilities has been assured by a means satisfactory to the City Commission;

g. provisions to ensure adequate protection of natural features; and

h. the Preliminary PUD Plan shall be incorporated by reference and attached as an exhibit.

6. **Final Approval.** Site plans and subdivision plats, as applicable, shall be submitted for review and approval in accordance with Article 16 Site Plan Review or the Subdivision Regulations, as applicable, for an area embraced in the PUD. If site plans or subdivision plats for at least the first phase of the project are not submitted and approved during this two (2) year period, the right to develop under the approved preliminary PUD site plan shall terminate and a new application must then be filed and processed. In reviewing site plans and subdivision plans, the following standards shall apply:

a. site plans or subdivision plans shall be in substantial conformance with the approved Preliminary PUD Plan;

b. each site plan or subdivision plat shall either individually or in combination with previously approved contiguous project areas,

meet the standards of this section and the approved Preliminary PUD Plan regarding layout, density, open space and land use;

c. each plan submission shall include a map illustrating the site or phase in relation to previously approved plans and the overall PUD; and

d. any amendment requested to the Agreement approved by the City Commission shall be submitted for review by the city attorney and approved by the City Commission.

7. **Extensions.** The two (2) year period for preliminary PUD approval may be extended for one (1) year, if applied for by the petitioner and granted by the City Commission.

Section 19.17 Revisions to Approved PUD Plans

Approval of the concept plan and site plans confers upon the City Building Official and Zoning Administrator the authority to approve certain minor deviations when an applicant or land owner who was granted site plan approval notifies the Building Official and Zoning Administrator of the proposed amendment to such approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.

A. **Procedure.** Within fourteen (14) days of receipt of a request to amend the site plan, the Building Official and Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.

B. **Minor changes.** The Building Official and Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the agreement, would not reduce the area devoted to open space, and all applicable zoning ordinance regulations will be met. The Building Official and Zoning Administrator shall inform the Planning Commission of such approval in writing. The Building Official and Zoning Administrator shall consider the following when determining a change to be minor:

1. for residential buildings, the square footage of structures may be reduced by three percent (3%); or increased by three percent (3%), provided the overall density of units does not increase, the minimum square footage and parking requirements are met and the building(s) do not extend into any required open space or required setbacks;

2. gross floor area of non-residential buildings may be decreased; or increased by up to three percent (3%) or two thousand (2,000) square feet, whichever is smaller, provided parking requirements are met and the building does not extend into any required setback or open space;

3. floor plans may be changed if consistent with the character of the use;

4. relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other standards;

5. height of buildings may be lowered;

6. designated woodlands or areas not to be disturbed may be increased;

7. plantings on the approved landscape plan may be replaced by similar types of landscaping on a one-to-one or greater basis; any regulated trees lost during construction shall be replaced on a caliper-per-caliper basis on the site;

8. improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, with documentation from Lapeer County, where appropriate;

9. changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Building Official and Zoning Administrator;

10. grade change of up to one (1) foot, reviewed by the City Engineer;

11. modification of entry design, sign placement or reduction in size of signage, which is consistent with the intent of this section and the approved PUD Plan;

12. internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design;

13. changes to the location of accessory buildings and structures only when the new location will be consistent with the building envelope identified on the approved plan; and

14. changes required or requested by the city, county or state for safety reasons.

C. **Major Changes.** Where the Building Official and Zoning Administrator determines a requested amendment to the approved site plan is major, resubmittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved Preliminary PUD Plan, a revised preliminary PUD site plan shall be submitted according to the procedures outlined in this article. In all cases, a change in use to a more intensive use than approved in the Preliminary PUD Plan shall be considered major and require resubmission of a Preliminary PUD Plan.

Section 19.18 Limitations on Variances from Zoning Board of Appeals

The decision to grant PUD approval or any regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan.

Article 20

Special Land Uses

Section 20.1 Purpose

The intent of this article is to provide standards for Special Land Uses, which are uses which under usual circumstances, could be detrimental to other land uses permitted within the same zoning district, but may be permitted because of circumstances unique to the location of the particular use. This article will provide standards for the Planning Commission to determine the appropriateness of a given special land use using factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used and processes employed. Accordingly, special land uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

Section 20.2 Standards for Approval

A. Prior to approving a special land use application the Planning Commission shall require that the following general standards, in addition to the specific standards noted for individual uses in Section 20.8 special land use Specific Requirements, be satisfied. The proposed use or activity shall meet the following standards:

1. The use must be compatible and in accordance with the goals, objectives and policies of the city Master Plan and promote the intent of the zoning district in which the use is proposed.
2. The use must be constructed, operated and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
3. The use must be served adequately by public facilities and services, such as highways, streets, police and fire protection, drainage structures, water and sewage facilities and primary and secondary schools.
4. The use must not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.

B. Properties for which application for special land use approval is made shall also be subject to site plan review in accordance with the requirements of Article 16, Site Plan Review. Failure to obtain said site plan approval will constitute denial of the approved Special Land Use.

Section 20.3 Application Procedure

A. Any person owning or having an interest in the subject property may file an application for one (1) or more Special Land Use approvals as provided for in this article.

B. The following materials shall be submitted to the city at least thirty (30) days prior to the meeting at which the Planning Commission first considers the special land use application:

1. payment of the required fee;
2. copies of completed application forms;
3. copies of a site plan or sketch plan meeting the requirements of Article 16 Site Plan Review; and
4. an impact assessment may be required by the Planning Commission; the analysis shall be carried out by qualified individuals and shall include, but need not be limited to the impact on: natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.

Section 20.4 Designated Review Authority and Approval Procedure

A. The Planning Commission shall have final review authority for all Special Land Uses.

B. Following the submission of the required application materials the Planning Commission shall hold a public hearing in accordance with Section 27.9 Notice of Public Hearings.

C. The Planning Commission shall review the application in terms of the requirements of Section 20.2 Standards for Approval, and shall approve, deny, or approve with conditions, the application. The Planning Commission shall approve any application that meets all standards of approval in Section 20.2. The Planning Commission shall deny any application that fails to meet the standards of approval in Section 20.2 or their intent.

D. Upon approval of an application for a special land use the Building Official and Zoning Administrator shall be responsible for ensuring that any conditions attached to the approval of the special land use are adhered to.

(Am. Ord. 6.1, passed 12-5-06)

Section 20.5 Conditions of Approval

A. Prior to granting any special land use, the Planning Commission may impose any additional conditions or limitations as, in its judgement, may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of Section 20.2 Standards for Approval, and the applicable regulations of Section 20.8 special land use Specific Requirements

are met.

B. Approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.

C. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use approval is approved.

D. A record of the decision of the Planning Commission, the reasons for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

E. The Building Official and Zoning Administrator shall make periodic investigations of developments authorized by the special land use approval to determine continued compliance with all requirements imposed by the Planning Commission and this ordinance. Noncompliance with the requirements and conditions approved for the Special Land Use shall constitute grounds for the Planning Commission to terminate the approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing and as required by this ordinance.

Section 20.6 Validity of Special Land Use Approval

A. In cases where actual physical construction of a substantial nature of the structures authorized by a Special Land Use approval has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed, the approval shall automatically become null and void and all rights thereunder shall terminate.

B. Upon written application filed prior to the termination of the one (1) year period, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one (1) year extension.

C. The granting of a Special Land Use approval shall allow that particular use to be conforming on the subject property, as long as the standards of this section are maintained.

D. Any use for which a Special Land Use approval has been granted and which ceases to continuously operate for a six (6) month period shall be considered abandoned and the Special Land Use approval shall become null and void.

E. No application for a special land use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission.

Section 20.7 Special Land Use Amendments and Expansions

A. **Amendments.** Any person or agency who has been granted a Special Land Use approval shall notify the Building Official and Zoning Administrator of any proposed amendment to the approved site plan of the Special Land Use. The Building Official and Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with the requirements of Article 16 Site Plan Review. A major amendment to a Special Land Use approval shall comply with the application and review procedures contained in this article.

B. **Expansion or Change in Use.** The expansion, change in activity, reuse or redevelopment of any use requiring a Special Land Use approval, with an increase of ten percent (10%) or greater, shall require resubmittal in the manner described in this article. A separate Special Land Use approval shall be required for each use requiring Special Land Use review on a lot, or for any expansions of a Special Land Use which has not previously received Special Land Use approval.

Section 20.8 Special Land Use Specific Requirements

A. The general standards and requirements of Section 20.2 Standards for Approval, are basic to all uses authorized by a Special Land Use approval. However, certain Special Land Use, because of their unique character and potential impacts on the welfare of adjacent properties and the city require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met in addition to the general standards of Section 20.2 Standards for Approval and other sections of this ordinance.

B. The following are Special Land Use with specific site and/or use standards which are described on the following pages:

1. Accessory Fuel Services and Storage and Accessory Use or Storage of Hazardous Materials
2. Adult Day Care Facilities
3. Adult Regulated Uses
4. Amusement Parks, Carnivals, and Fairgrounds
5. Automobile Gasoline Stations
6. Automobile Service Establishment (Routine Maintenance and Minor Repair)
7. Automobile Washes, Automatic or Self-service
8. Automobile or Vehicle Dealerships
9. Bars, Taverns, Lounges, Microbreweries (Accessory), and Brewpubs
10. Bed-and-breakfast Inns

11. Billboards and Off-premise Signs
12. Body Piercing Establishment
13. Churches, Temples and Similar Places of Worship and Related Facilities
14. Commercial Outdoor Display, Sales or Storage
15. Commercial Parking Garages/structures and Off-street Parking Lots
16. Drive-through Window Facilities for Banks, Restaurants or Other Allowed Uses
17. Essential Public Service Buildings and Structures
18. Extractive Uses (Commercial Mining of Sand, Gravel, Stone and Similar Materials)
19. Funeral Homes and Mortuary Establishments
20. Garden Centers, Nurseries and Greenhouses
21. Golf Courses, Par Three Golf Courses
22. Golf Driving Ranges and Miniature Golf Courses
23. Hospitals, Urgent Care Facilities and Emergency Medical Stations
24. Housing for the Elderly
25. Kennels
26. Mini- or Self-storage Warehouses
27. Open Front Stores, Restaurant Windows, Seasonal Outdoor Seating, and Outdoor Cafes
28. Recreation Facilities: Public and Private, Indoor and Outdoor
29. Retail Businesses and Shopping Centers Exceeding 50,000 Square Feet
30. Salvage Yards
31. Schools - Public, Private, Parochial, Elementary, and Secondary
32. Tattoo Parlor
33. Theaters and Cinemas
34. Veterinary Offices, Clinics, and Hospitals; Animal Grooming Establishments
35. Wireless Communication Towers

C. The following are specific use standards required for the following specific uses:

1. **Accessory Fuel Services and Storage and Accessory Use or Storage of Hazardous Materials.**

- a. The minimum lot size shall be five (5) acres.
- b. The main and accessory buildings and any storage facilities shall not be located nearer than three hundred (300) feet to any adjacent residential district or use.
- c. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures will not cause the contamination of any groundwater source.
- d. No advertising or other signs, other than required regulatory or warning signs, shall be permitted on any tank or other storage facility.

2. **Adult Day Care Facilities.**

- a. The use shall be registered with the City of Imlay City Clerk's Office and shall continually have on file with the city documentation of a valid license as required by the state.
- b. The site shall comply with the sign provisions of Article 24 Signs.
- c. Off street parking shall be provided for the number of employees on site at any one time.
- d. The building shall have an appearance which is non-intrusive and consistent in color, materials, roof-line and architecture with the district in which it is located, as determined by the Planning Commission.
- e. An on-site drive shall be provided for drop-offs/loading. This drive shall be arranged to allow maneuvers without creating a hazard to traffic flow on the public street.

3. **Adult Regulated Uses.**

- a. **Intent.** In the development and execution of these zoning regulations, it is recognized there are some uses that, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated

under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of adult uses to certain uses considered particularly susceptible to the negative impacts or the concentration of adult uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime and contribute a blighting affect on the surrounding area. This subsection describes the uses regulated and the specific standards needed to insure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses and to require sufficient spacing from uses considered most susceptible to negative impacts.

b. **Uses Regulated.** The following uses are regulated by this subsection:

- (1) Adult book or supply store.
- (2) Adult model studio.
- (3) Adult motion picture arcade.
- (4) Adult motion picture theater or adult live stage performing theater.
- (5) Adult outdoor motion picture theater.
- (6) Adult physical cultural establishment.
- (7) Cabaret.

(8) Massage parlor except those defined as therapeutic massage or licensed by the State of Michigan and meeting the criteria outlined in Article 29 Definitions.

c. **Required Spacing.** The establishment of the types of Adult Regulated Uses listed above shall meet all of the following space requirements, with the distance between uses measured horizontally between the nearest point of each property line:

- (1) At least one thousand (1,000) feet from any other adult regulated use.
- (2) At least one thousand (1,000) feet from all churches, convents, temples and similar religious institutions.
- (3) At least one thousand (1,000) feet from all public, private or parochial nursery, primary or secondary schools, public parks and hospitals.
- (4) At least one thousand (1,000) feet from any use defined as a state licensed adult or child residential care facility.
- (5) At least eight hundred (800) feet from any single-family or multiple-family residential district or use.
- (6) At least eight hundred (800) feet from any pool or billiard hall, concreted amusement center, indoor and outdoor recreation such as miniature golf; dance club catering primarily to teenagers, movie theaters, ice or roller skating rinks and similar uses frequented by children and teenagers.

d. **Special Site Design Standards.**

- (1) Maximum size of the building shall be five thousand (5,000) square feet.
- (2) The building and site shall be designed, constructed and maintained so material such as a display, decoration or sign depicting, describing, or relating to "specific sexual activities" or "specified anatomical areas" (as defined in this ordinance) cannot be observed by pedestrians and motorists on a public right-of-way or from an adjacent land use.
- (3) Adult regulated uses shall be located within a freestanding building. A shared or common wall structure or shopping center are not considered to be a freestanding building.
- (4) The color of the building materials shall be reviewed and approved by the Planning Commission.
- (5) A six (6) foot high brick or masonry wall shall be constructed to screen the parking lot. The Planning Commission may permit use of landscaping in place of the wall.
- (6) Access shall be from an arterial roadway.

e. **Obscene Material Strictly Prohibited.**

(1) The applicant for a Special Land Use for any adult regulated use shall set forth in his or her application a statement in sufficient detail to describe the material contained in the adult regulated use. In the event that the Planning Commission finds the material proposed to be within the Adult Regulated to be obscene, then the Special Land Use shall not be granted.

(2) For purposes of this subsection, a form of expression shall be classified as obscene if it is any material which meets all of the following criteria:

- (a) The average individual, applying contemporary community standards for the city would find that the material, taken as a whole, appeals to the prurient interest.
- (b) The material, taken as a whole, lacks serious literary, artistic, political or scientific value.
- (c) The material depicts or describes, in a patently offensive way, sexual conduct.

f. **Waivers.**

(1) Upon denial of any application for a regulated use under this section the applicant may appeal for a waiver of the location provisions above to the Zoning Board of Appeals consistent with the standards set forth below. The Zoning Board of Appeals may waive the

location provisions set forth in this section, after all the following findings are made:

(a) **Compliance with regulations.** The proposed use will not be contrary to any other provision of these zoning regulations, or injurious to nearby properties.

(b) **Not enlarge district.** The proposed use will not enlarge or encourage the development of a “skid row” or “strip.”

(c) **Consistent with programs.** The establishment of an additional regulated use will not be contrary to, or interfere with, any program of urban renewal or neighborhood development.

(d) **Consistent with law.** All applicable city, state or federal laws and regulations will be observed.

(2) Procedure for Waiver.

(a) Prior to granting a waiver of the location restrictions set forth above, a public hearing in accordance with Act 207 of the Public Acts of 2021, as amended, shall be held.

(b) The notice of application shall further indicate that a public hearing on the proposed regulated use may be requested by a property owner or occupant, no less than eighteen (18) years of age, or a structure located within 300 feet of the boundary of the property being considered for the regulated use. The applicant, City Commission, or Zoning Board of Appeals may request a public hearing.

g. **Conditions of Approval.** Prior to the granting of approval for the establishment of any regulated use, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use which is necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

h. **Specific Penalties.** No person operating an adult entertainment business shall permit any person under the age of eighteen (18) years to be on the premises of said business as an employee, customer or otherwise.

4. Amusement Parks, Carnivals, and Fairgrounds.

a. Minimum lot size shall be ten (10) acres.

b. Activity areas using fences, buildings, walkways or other suitable barriers shall be clearly defined on the site plan.

c. All buildings, structures and parking shall be at least three hundred (300) feet from any dwelling unit excluding any dwelling unit on the site.

d. The Planning Commission may require a six (6) foot high wall or fence, in addition to landscaping, around all or part of the site.

e. Access shall be provided onto a primary road. Access shall be controlled, with capability to accommodate at least three (3) lanes of ingress traffic. At least three hundred (300) feet on stacking (queuing) area shall be provided on site before parking fee collection.

f. The amount of on-site parking shall be deemed sufficient by the Planning Commission.

g. Maximum coverage by buildings and structures shall be twenty percent (20%).

h. The Planning Commission may require posting of a performance bond or other form of financial guarantee. The bond shall be in an amount determined by the Planning Commission as necessary to cover any potential damage or clean-up on the site or adjacent properties.

i. The Planning Commission may establish limits on hours of operation, time limits on the validity of the Special Land Use approval, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations along public streets.

j. Prior to issuance of a Special Land Use approval, the applicant shall provide evidence of public liability insurance and property damage insurance to cover potential liability for death or injury to persons, or damage to property, which may result from the conduct of the activity.

5. Automobile Gasoline Stations.

a. There shall be a minimum lot area of one (1) acre and minimum lot width of two hundred fifty (250) feet.

b. Pump islands shall be a minimum of forty (40) feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be, set back at least fifteen (15) feet from any lot line.

c. Overhead canopies shall be setback at least twenty (20) feet from the right-of-way with materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. The canopy shall be no higher than the principal building. Lighting shall be recessed.

d. Only one driveway shall be permitted from each street unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site.

e. Where adjoining residentially zoned or used property, the Planning Commission may require a solid, decorative, masonry wall six (6) feet in height along any common lot line. Such wall shall be continuously maintained in good condition. The Planning Commission may approve a fence, landscaped berm, or landscaping as an alternative.

f. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

g. There shall be no outdoor sales, storage or display of goods, parts, supplies or equipment, except within an area defined on the site plan approved by the Planning Commission and which extends no more than ten (10) feet beyond the building.

h. The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain back catch basins and automatic shut off valves.

i. Any use involving maintenance, service, or repair shall also meet the standards for automobile maintenance/service establishments.

j. In the event that an automobile service station use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises, in accordance with state requirements.

6. Automobile Service Establishments (Routine Maintenance and Minor Repair).

a. All principal and accessory structures shall be set back a minimum of five hundred (500) feet from a single-family residential district.

b. There shall be a minimum lot frontage on a paved road of two hundred (200) feet.

c. Overhead doors shall not face a public street or residential district. The Planning Commission can modify this requirement upon a determination that there is no reasonable alternative and the poor visual impact will be diminished through use of landscaping beyond that required in Article 23 Landscape Standards and Tree Replacement.

d. Where adjoining residentially zoned or used property, the Planning Commission may require a solid, decorative, masonry wall six (6) feet in height along any common lot line. Such wall shall be continuously maintained in good condition. The Planning Commission may approve a fence, landscaped berm, or landscaping as an alternative.

e. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

f. All maintenance and repair work shall be conducted completely within an enclosed building.

g. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.

h. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck is prohibited beyond one (1) day.

i. The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain back catch basins and automatic shut off valves.

j. Any use with gasoline sales shall also meet the standards for automobile gasoline stations.

7. Automobile Washes, Automatic or Self-service.

a. Only one (1) ingress/egress driveway shall be permitted on any single street.

b. Where adjoining residentially zoned or used property, the Planning Commission may require a solid, decorative, masonry wall six (6) feet in height along any common lot line. Such wall shall be continuously maintained in good condition. The Planning Commission may approve a fence, landscaped berm, or landscaping as an alternative.

c. All washing facilities shall be within a completely enclosed building. Self-service facilities may be within a partially enclosed building.

d. Vacuuming and drying may be located outside the building, but shall not be in the required front yard and shall be set back at least fifty (50) feet from any residential district. Such areas shall be screened with obscuring landscaping as determined by the Planning Commission.

e. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

f. Adequate stacking space shall be provided in accordance with the requirements of Article 21 Parking and Loading Standards. Such space shall not be permitted in the public right-of-way.

8. Automobile or Vehicle Dealerships.

a. Outdoor storage of automobiles or vehicles for sale shall not be permitted in any required front or required side yard.

b. All parking and outdoor storage areas shall be paved with a permanent and durable surface.

c. Where adjoining residentially zoned or used property, the Planning Commission may require a solid, decorative, masonry wall six (6) feet in height along any common lot line. Such wall shall be continuously maintained in good condition. The Planning Commission may approve a fence, landscaped berm, or landscaping as an alternative.

d. Any use involving the maintenance, service or repair of vehicles shall also meet the standards for automobile maintenance/service establishments.

9. Bars, Taverns, Lounges, Microbreweries (As Accessory) and Brewpubs.

a. The principal building shall be setback at least one hundred (100) feet from a residential district.

b. Noise shall not be apparent outside of the building.

c. A decorative masonry wall six (6) feet in height shall separate the site from any adjacent residentially zoned or used property. The Planning Commission may approve a fence, landscaped berm, or landscaping as an alternative.

d. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

10. Bed and Breakfast Inns.

a. The establishment shall be serviced by approved water and sanitary sewer services.

b. The establishment shall be located on property with direct access to a paved public road.

c. Such uses shall only be established in a detached single family dwelling.

d. Parking areas shall be located off-street and shall not be located in any required front yard. One (1) parking space shall be provided for each occupant room.

e. The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district.

f. The total number of guest rooms in the establishment shall not exceed seven (7), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed a total of ten (10) guest rooms.

g. Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.

h. One (1) sign shall be allowed for identification purposes. Such sign shall not exceed sixteen (16) square feet in area, and may not exceed four (4) feet in height. If illuminated, such illumination shall only be of an indirect nature; internally lighted signs are not permitted. Such sign shall be set back at least one-half (2) of the front yard setback area setback of the zoning district in which the use is located and shall be located at least fifteen (15) feet from any side or rear lot line.

i. The establishment shall contain the principal residence of the operator and such operator shall live on the premises while the establishment is active.

j. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.

k. Meals and other services provided on the premises shall be served only to the operator's family, employees, and overnight guests.

l. No guest of the bed and breakfast establishment shall be permitted to reside on the premises for more than thirty (30) consecutive days.

11. Billboards and Off-premise Signs.

a. Such signs shall be permitted only in the I-2 General Industrial District.

b. No such sign shall exceed three hundred (300) square feet in area per sign face.

c. The maximum height for such signs shall be twenty (20) feet.

d. All off-premise advertising sign shall meet the following setbacks:

(1) such sign shall be set back at least one hundred (100) feet from any property line or public right-of-way;

(2) such sign shall be set back at least five hundred (500) feet from any public park, school, church, hospital, cemetery, convention center, residential district or government building;

(3) there shall be a minimum of one thousand five hundred (1,500) feet between off-premise

advertising signs along an interstate freeway and a minimum of one thousand (1,000) feet between off-premise advertising signs along any other public road or highway; there shall be a minimum of one hundred (100) feet between any off-premises advertising sign and any other on-premise sign.

e. Off-premise advertising signs shall not be located on or over the roofs of buildings.

f. Two (2) signs may counted as a single billboard, if the signs are placed back-to-back.

g. The billboard may be illuminated, however, such illumination shall be so arranged as to not cause a hazard to drivers on the adjacent roadway.

h. No animation or moving parts may be permitted, nor any flashing lights, or intermittent lights that may simulate movement.

12. Body Piercing Establishment.

a. A body piercing establishment shall be permitted only when it is accessory to another use that is subject to a Lapeer County Health Department license or a license from the State of Michigan Department of Consumer and Industry Services.

b. The body piercing establishment is to be situated on the same lot and within the same building as the use to which it is accessory.

- c. The use to which the body piercing establishment is accessory shall be registered with the City of Imlay City Clerk's Office and shall continually have on file with the city documentation of a valid license as required by the state.
- d. The site shall comply with the sign provisions of Article 24 Signs.
- e. Body piercing establishments are permitted to operate between the hours of 7:00 a.m. and 10:00 p.m. only.
- f. Parking shall be provided to the satisfaction of the Planning Commission.
- g. The area within the building used for body piercing shall be situated or configured so that the activity is not visible from outside the building and the area used for body piercing is to be physically separated from other areas of the building.
- h. The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the district in which it is located, as determined by the Planning Commission.

i. **Waivers.** Upon denial of any application for a regulated use under this section the applicant may appeal for a waiver of the location provisions above to the Zoning Board of Appeals consistent with the standards set forth below. The Zoning Board of Appeals may waive the location provisions set forth in this section, after all the following findings are made:

- (1) **Compliance with regulations:** The proposed use will not be contrary to any other provision of these zoning regulations, or injurious to nearby properties.
- (2) **Consistent with programs:** The establishment of an additional use will not be contrary to, or interfere with, any program of urban renewal or neighborhood development.
- (3) **Consistent with law:** All applicable city, state or federal laws and regulations will be observed.

j. **Procedure for Waiver.**

(1) Prior to granting a waiver of the location restrictions set forth above, a public hearing in accordance with Act 207 of the Public Acts of 2021, as amended, shall be held.

(2) The notice of application shall further indicate that a public hearing on the proposed regulated use may be requested by a property owner or occupant, no less than eighteen (18) years of age, or a structure located within 300 feet of the boundary of the property being considered for the regulated use. The applicant, City Commission, or Zoning Board of Appeals may request a public hearing.

k. **Conditions of Approval.** Prior to the granting of approval for the establishment of any body-piercing establishment, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use, which is necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

13. Churches, Temples and Similar Places of Worship and Related Facilities.

- a. Minimum lot area shall be three (3) acres, plus an additional fifteen thousand (15,000) square feet for each one hundred (100) persons of seating capacity.
- b. Buildings of greater than the maximum height allowed in Article 15 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. All principal and accessory buildings shall be set back a minimum of one-hundred (100) feet from any single-family residential district. Parking shall be set back a minimum of fifty (50) feet from any single-family residential district.
- d. Wherever the off-street parking area is adjacent to a residential district, a continuous and obscuring wall, fence and/or landscaping screen at least four (4) feet in height shall be provided along the sides of the parking area adjacent to the residentially zoned land.
- e. Access to the site shall be provided from a street classified as a major street or collector street.
- f. A parking generation study and/or operations plan may be required by the Planning Commission to verify parking demand.

14. Commercial Outdoor Display, Sales or Storage.

- a. Commercial outdoor display, sales, or storage may be allowed on the same property as an approved mini-storage use or other principal use deemed compatible by the Planning Commission, but such commercial outdoor display, sales or storage in all instances requires a Special Land Use approval.
- b. Minimum lot area shall be five (5) acres.
- c. Stored vehicles or goods on a site without a building shall meet the setback requirements of the zoning district. If a building is located on the site, no outdoor display, sales or storage shall be permitted in the required front, side or rear yard of buildings.
- d. If retail activity is associated with the use, a building of at least five hundred (500) square feet of gross floor area for office and sales use is required.
- e. The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties. The storage of fertilizers, pesticides and other hazardous materials is prohibited.
- f. An obscuring screen consisting of a wall, fence or landscaping shall be required as determined by the Planning Commission. All outdoor display, sales and storage area property lines adjacent to a residential district shall be screened according to the standards of Article 23, Landscape Standards and Tree Replacement, using buffer zone A requirements.

g. All stored materials including loosely packaged materials shall not be piled or stacked higher than the height of the obscuring screen. Vehicles, implements, and recreational vehicles may exceed the height of the screen provided that they are set back from the screen a distance equal to their height.

h. All outdoor storage areas shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.

i. All loading and truck maneuvering shall be accommodated on-site.

j. Fencing and lighting for security purposes may be required as determined by the Planning Commission. All lighting shall be shielded from adjacent residential areas.

15. Commercial Parking Garages/Structures and Off-street Parking Lots.

a. All access to the lot shall be provided from the commercial property and/or the street on which the commercial use fronts; not onto a residential (local) street.

b. The parking garage or off-street parking lot must be adequately screened as determined by the Planning Commission with berms, walls, fences, landscaping or combination thereof, to adequately screen vehicles and headlights from adjacent properties.

c. Decorative fences, knee walls, and other architectural features may be required by the Planning Commission to assure compatibility with the existing or intended character of the general vicinity.

d. Parking garages/structures shall comply with the standards of Section 21.2.K. Parking Garages/Structures.

16. Drive-through Window Facilities for Banks, Restaurants or Other Allowed Uses.

a. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. Stacking shall be in accordance with Article 21 Parking and Loading Standards. Stacking spaces shall be located so as to not interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility.

b. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

c. Parking areas shall be set back at least one-half the required front yard setback for the district in which the use is located, and at least twenty (20) feet from the side and rear lot lines.

d. Access driveways shall be located no less than one hundred (100) feet from the centerline of the intersection of any street or seventy-five (75) feet from the centerline of any other driveway.

e. Trash containers shall be enclosed by a structure screened on at least three (3) sides.

f. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

17. Essential Public Service Buildings and Structures.

a. Such facilities shall not be located closer than one hundred fifty (150) feet from any lot occupied by a residential use or located in a residential zoning district.

b. Electric or gas regulator equipment and apparatus shall be set back a minimum of fifty (50) feet from any public right-of-way and thirty (30) feet from all other lot lines.

c. An obscuring screen consisting of a wall, fence, or landscaping shall be required as determined by the Planning Commission.

d. An open-air fence six (6) feet in height shall be constructed for security purposes as determined by the Planning Commission.

18. Extractive Uses (Commercial Mining of Sand, Gravel, Stone and Similar Materials).

a. Extractive operations reasonably related to site development for building foundations, parking lot grading and preparation, grading for approved detention or retention ponds and/or intended to accommodate swimming pools, as determined by the Building Official and Zoning Administrator, shall not require a special land use approval.

b. All extractive uses shall be established and maintained in accordance with all applicable State of Michigan statutes.

c. The applicant shall submit a written statement describing:

(1) the equipment to be used and the process involved;

(2) a time period by which the excavation shall be completed, including a specified extension period should undue weather conditions arise;

(3) indication of the proposed use of the property following the extraction;

(4) an approved reclamation plan;

(5) an agreement to conform to the standards of the zoning ordinance;

(6) documentation that demonstrates to the satisfaction of the Planning Commission that the extractive activities will not produce any serious consequences which will adversely affect the natural topography, drainage patterns, water bodies, floodplains, street conditions,

nearby property values or use of adjacent land; the Planning Commission may require separate environmental, engineering, traffic impact or marketing studies supporting the need for and minimal consequences of such extraction.

d. The Planning Commission may require a performance bond or other guarantee to ensure compliance with the standards of this article. In addition, the Planning Commission may require an occupancy permit to allow extractive activities for a time not exceeding one (1) year. The permit may be renewed upon the finding by the Building Official and Zoning Administrator that the applicant has complied with the requirements by the city and other appropriate agencies.

e. In order to ensure sublateral support, no machinery shall be erected or maintained within fifty (50) feet of any property line or street right-of-way; or within two hundred (200) feet of any residential district.

f. Creation of a lake or pond shall only be permitted where the applicant can demonstrate using engineering and hydrologic studies that the water can be maintained in a nonpolluted condition; and that the applicant meets any requirements by the MDEQ (Michigan Department of Environmental Quality).

g. Truck routing shall be restricted to those streets designed to accommodate truck traffic on a year-round basis. The Planning Commission may restrict access routes to protect the character or surrounding areas and/or street pavement and base conditions.

h. A reclamation plan shall be provided indicating final grades which are harmonious with surrounding grades and not in excess of five (5) percent unless demonstrably necessary for the proposed reclamation land use. No topsoil shall be removed from the site; topsoil shall be redistributed properly upon completion of the extractive activities, or phase thereof.

i. The Planning Commission may require that the site be enclosed with a six-foot-high security fence with a locking access gate. Such fences shall be placed no closer than fifty (50) feet to the top or bottom of any slope.

j. No slope shall exceed an angle with the horizontal of forty-five (45) degrees.

k. No building or structure shall be erected on the site, except as may be permitted in that zoning district or if approved as a temporary structure for machinery or field office.

l. Proper measures shall be utilized to minimize the nuisance of noise and dust or airborne materials, as determined by the Building Official and Zoning Administrator, and may include requirements on stockpiling size and/or covering of stockpiles.

19. Funeral Homes and Mortuary Establishments.

a. Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred fifty (150) feet.

b. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

20. Garden Centers, Greenhouses, and Nurseries.

a. The outdoor storage or materials display areas shall not be permitted in any front yard as determined by the Planning Commission. Such areas shall meet all other yard setback requirements applicable to any building in the district.

b. All loading activities and parking areas shall be provided on the same premises off-street.

c. The storage of any soil, sand, mulch, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties. The outdoor storage of fertilizers, pesticides and other hazardous materials shall be prohibited.

d. Decorative fences, knee walls, and other architectural features may be required by the Planning Commission for outdoor sales, display and storage areas to assure compatibility with the existing or intended character of the general vicinity.

e. All materials stored outdoors shall not be piled or stacked higher than the height of any garden center fencing or wall.

f. An obscuring screen consisting of walls, fencing and/or landscaping may be required as determined by the Planning Commission.

21. Golf Courses, Par Three Golf Courses.

a. Minimum lot size shall be forty (40) acres.

b. The principal and accessory buildings, including maintenance sheds, shall be set back at least seventy-five (75) feet from all property and street lines.

c. Accessory buildings, structures and storage areas shall be screened on all sides from adjacent residential areas and public street rights-of-way.

d. Operational hours for maintenance vehicles, course maintenance and/or irrigation may be restricted by the Planning Commission to protect nearby residential districts.

22. Golf Driving Ranges and Miniature Golf Courses.

a. All traffic ingress and egress shall be from a major traffic route in the City of Imlay City Master Plan, or as a local or collector street.

b. Whenever any such use abuts a residential district, a transition buffer area at least one hundred (100) feet in width shall be provided between all operations, buildings and structures, including fences, and the residential property. Landscaping, berms, and structural screens of a type approved by the Planning Commission shall be placed within the buffer strip.

c. All buildings, uses, operations, and structures, including fences, shall be located a minimum of one hundred (100) feet from any public right-of-way. This yard shall be landscaped as determined by the Planning Commission.

23. Hospitals, Urgent Care Centers and Emergency Medical Stations.

- a. Maximum height permitted is four (4) stories, however, in the OS-1 (Office Service) and B-1 (Local Business) Districts, only two (2) stories shall be permitted.
- b. Minimum lot area for hospitals shall be ten (10) acres.
- c. The proposed site shall have at least one (1) property line abutting a major street, or identified as a major traffic route in the Master Plan.
- d. The front, side and rear yard minimum setbacks shall be fifty (50) feet.
- e. Parking setback shall be forty (40) feet in the front yard, twenty (20) feet for side and rear yards.
- f. Whenever any such use abuts a residential district, a transition buffer area of at least one hundred (100) feet in width shall be provided. Walls, fences or landscaping shall be required as part of this buffer area as determined by the Planning Commission.
- g. Emergency room, ambulance and delivery areas shall be screened from public view with an obscuring wall and/or landscaping a minimum of six (6) feet in height.
- h. Auxiliary uses, such as a pharmacy, gift shop, cafeteria and similar customary hospital related uses shall be allowed.
- i. Parking for professional and outpatient buildings, or sections of a hospital building, shall be calculated as separated uses as noted in Article 21 Parking and Loading Standards. Only one-half of the total number of parking spaces within gated or restricted physician parking lots shall be included in parking calculations.
- j. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

24. Housing for the Elderly.

- a. For projects meeting the requirements and standards of Article 19 Planned Unit Development (PUD) Regulations, the allowable density of the underlying zoning district may be increased by no more than fifty percent (50%) for all nursing care units licensed by the State of Michigan; twenty-five percent (25%) for non-licensed nursing care and supportive care units.
- b. All dwelling units shall have a minimum of four hundred fifty (450) square feet per unit.
- c. Maximum height permitted is two (2) stories.
- d. Setbacks shall be as provided in Article 15 Schedule of Regulations, footnote (I).
- e. Total lot coverage of all buildings shall not exceed twenty-five percent (25%) of the total site, exclusive of any dedicated public or private rights-of-way.
- f. Open space areas shall be provided at the rate of twenty-five (25) square feet per one hundred (100) square feet of living area.
- g. Retail and service uses may be permitted on the site if such uses are accessory to the elderly housing use. All such uses shall be within the principal residential building. No exterior signs of any type are permitted for these accessory uses.
- h. All medical waste facilities shall be secured and meet the requirements of the health department of the State of Michigan.
- i. Walkways shall be provided from the main building entrance(s) to any sidewalks along the adjacent public street.

25. Kennels.

- a. For kennels housing dogs, the minimum lot size shall be two (2) acres for the first three (3) dogs and an additional one-third (1/3) acre for each one (1) additional dog.
- b. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located closer than one hundred and fifty (150) feet to any lot line and two-hundred (200) feet from any road right-of-way.
- c. Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).
- d. All enclosures for breeding, rearing, shelter, or other uses in connection with harboring of animals, shall be hard surfaces and provided with proper drains for washing with water pressure.
- e. A kennel may be permitted as an accessory use to a veterinary office, clinic or hospital. Such accessory use shall be subject to the Special Land Use standards of the veterinary use and not these specific requirements.

26. Mini- or Self Storage Warehouses.

- a. Minimum lot size shall be three (3) acres.
- b. Minimum building and parking setback shall be fifty (50) feet from any public street right-of-way line, fifty (50) feet setback from any residential district and twenty-five (25) feet from any non-residential zoning district.
- c. The front yard visible from a public right-of-way and any side or rear yards adjacent to residential districts shall include wrought iron or similar decorative fencing and landscaping as determined by the Planning Commission.
- d. Building design and materials shall be compatible with the existing and intended character of the area.

e. No storage unit doors shall face or be visible from a public right-of way.

f. All storage shall be completely within enclosed buildings or structures, unless a separate Special Land Use approval is granted for commercial outdoor storage on the premises, in accordance with Section 20.8 C. (14) Commercial Outdoor Display, Sales and Storage, above.

g. A structure for a resident manager may be allowed on the site.

h. The use shall be limited to storage only.

27. Open Front Stores, Restaurant Windows, Seasonal Outdoor Seating, and Outdoor Cafes.

a. All containers shall be made of recyclable materials; styrofoam and similar petroleum based material containers shall be prohibited.

b. Trash receptacles shall be provided and maintained on the property.

c. All signs placed on the building shall be flat; and interior signs visible to patrons through glass or an opening shall not exceed twenty-five percent (25%) of that area. Temporary signs indicating the whether the establishment is “opened” or “closed for the season” shall be permitted in accordance with Article 24 Signs.

d. Outdoor seating may be provided within the required setbacks of the district. Parking requirements shall include the outdoor seating area. The Planning Commission may require additional fencing and/or landscaping for screening around the outdoor seating area. Limits of the outdoor seating must be shown on the site plan.

e. Months and hours of operation shall be provided as part of the Special Land Use application.

28. Recreation Facilities: Public and Private, Indoor and Outdoor.

a. The site shall be located on a paved street which is classified as a major route in the City of Imlay City Master Plan or classified as a “major street.”

b. The front, side and rear yard minimum building setbacks shall be fifty (50) feet. The building area includes recreation activity areas, spectator seating and any other structural appurtenances.

c. The parking setback shall be twenty (20) feet in the front, side and rear yards in non-residential zoning districts and fifty (50) feet in residential districts.

d. Whenever any such use abuts a residential district, a transition buffer area of at least one hundred (100) feet in width, in addition to the setback requirement, shall be provided. Walls, fences or landscaping shall be required as part of this buffer area as determined by the Planning Commission.

e. Building design and materials shall be compatible with the existing or intended character of the surrounding area.

f. Provisions shall be taken, at the discretion of the Planning Commission, to insure that excessive dust, noise, traffic, lighting glare and trespassing are not inflicted on adjacent properties.

29. Retail Businesses and Shopping Centers Exceeding 50,000 Square Feet.

a. Retail businesses and shopping centers exceeding fifty-thousand (50,000) square feet shall only be located where they can be accessed by major traffic routes, as classified in the City of Imlay City Master Plan.

b. The design of buildings or shopping centers shall ensure that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between traffic generated by the building or shopping center, and traffic on adjacent streets and thoroughfares. The Planning Commission, prior to making a recommendation on an application for such use, may require a traffic analysis which rates the projected trip generating capacity of the proposed development to existing and projected traffic volumes and the carrying capacity of adjacent streets. The traffic analysis shall be prepared by a firm or individual experienced in such matters.

c. Whenever any such use abuts a single-family residential district, a building setback of at least two hundred (200) feet shall be provided. Impervious surfaces (parking and driveways) shall be set back a minimum of one-hundred (100) feet. Walls, fences or landscaping shall be required as part of the buffer area as determined by the Planning Commission.

d. Maximum lot coverage of all buildings shall be twenty-five percent (25%), maximum lot coverage of all buildings, parking and paved areas shall be sixty percent (60%) of the site.

e. Internal circulation shall be designed such that no intersection includes more than four (4) aisles or drives.

f. Site entrances shall be restricted to three-way movements, with unrestricted inbound movements.

g. Internal drives defined by the ends of aisles shall have raised curbed islands at appropriate locations to define circulation paths and control movements through the parking lot.

h. Loading facilities which serve the commercial establishment in the principal building shall be screened from public view.

i. Outdoor storage of trucks, trailers, or pallets shall be prohibited. The outdoor display, sale or storage or merchandise shall require a Special Land Use approval.

j. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

k. Any outlots shall have circulation and parking designed to complement the remainder of the site.

1. An operations plan including uses, hours of operation, delivery times, truck routes, security provisions, maintenance procedures and other operations as determined by the Planning Commission may be required as part of Special Land Use review to assure compatibility with the surrounding neighborhoods.

30. **Salvage Yards.**

- a. The property shall include at least six (6) acres.
- b. The salvage yard shall be enclosed on all sides by a solid wall or fence at least six (6) feet in height. The wall or fence shall be maintained in good repair and shall be free of handbills or other advertising except for approved signs. Non-transparent gates not exceeding forty-eight (48) feet in width shall be permitted in the enclosure.
- c. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty-foot continuous loop drives separating each row of vehicles.
- d. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
- e. No vehicle, vehicle bodies, or other materials shall be stored in a manner as to be visible from any residence, business, or street from a height at or below the top of the fence enclosing the yard.
- f. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
- g. The front obscuring fence shall be set back the same distance as a building in the I-2 General Industrial district, and all such fences shall be set back a minimum of five hundred (500) feet from any residential use or district.
- h. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours, provided that such activities shall not be conducted on Sundays or federally recognized holidays.
- i. The applicant must demonstrate that the activities of the salvage yard will comply with all state and federal regulations.
- j. The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of the city. These conditions can include a provision for an annual inspection by the Building Official and Zoning Administrator to ensure continuing compliance with the above standards.

31. **Schools - Public, Private, Parochial, Elementary and Secondary.**

- a. At least one (1) street access shall be onto a street classified by the Michigan Department of Transportation as a major or collector street.
- b. All play areas adjacent to a residential district must be fenced.
- c. Bus and automobile drop-off and pickup drives must be provided and shall be separate from, and not conflict with, through travel lanes of any street classified as a major or collector street.

32. **Tattoo Parlor.**

- a. A tattoo parlor shall be permitted only when it is subject to a Lapeer County Health Department license.
- b. The tattoo parlor shall be registered with the City of Imlay City Clerk's Office and shall continually have on file with the city documentation of a valid license issued by the Lapeer County Health Department. A copy of the license must be submitted to the City Clerk's Office prior to the commencement of the business.
- c. Tattoo parlors are permitted to operate between the hours of 9:00 a.m. and 10:00 p.m. only.
- d. The site shall comply with the sign provisions of Article 24 Signs.
- e. Parking shall be provided to the satisfaction of the Planning Commission.
- f. The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the district in which it is located, as determined by the Planning Commission.
- g. The area within the building used for tattooing activities shall be situated or configured so that the activity is not visible from outside the building and the area used for tattooing is to be physically separated from other areas of the building.
- h. The establishment of a tattoo parlor shall be located at least one thousand (1,000) feet from any other tattoo parlor, with the distance between uses measured horizontally between the nearest point of each property line:
 - i. No property used for a tattoo parlor is to abut a residential use or residential zone.
- j. **Waivers.** Upon denial of any application for a regulated use under this section the applicant may appeal for a waiver of the location provisions above to the Zoning Board of Appeals consistent with the standards set forth below. The Zoning Board of Appeals may waive the location provisions set forth in this section, after all the following findings are made:

(1) **Compliance with regulations:** The proposed use will not be contrary to any other provision of these zoning regulations, or injurious to nearby properties.

(2) **Consistent with programs:** The establishment of an additional regulated use will not be contrary to, or interfere with, any program of urban renewal or neighborhood development.

(3) **Consistent with law:** All applicable city, state or federal laws and regulations will be observed.

k. Procedure for Waiver.

(1) Prior to granting a waiver of the location restrictions set forth above, a public hearing in accordance with Act 207 of the Public Acts of 2021, as amended, shall be held.

(2) The notice of application shall further indicate that a public hearing on the proposed regulated use may be requested by a property owner or occupant, no less than eighteen (18) years of age, or a structure located within 300 feet of the boundary of the property being considered for the regulated use. The applicant, City Commission, or Zoning Board of Appeals may request a public hearing.

1. **Conditions of Approval.** Prior to the granting of approval for the establishment of a tattoo parlor, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use, which is necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

33. Theaters and Cinemas.

a. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any single-family residential district or permitted use. Parking and other impervious surfaces shall be set back a minimum of one-hundred (100) feet from any single-family residential district or permitted use.

b. All uses shall be conducted completely within a fully enclosed building.

c. At least one (1) street access shall be onto a street classified by the Michigan Department of Transportation as a major or collector street.

d. The design of building shall ensure that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between traffic generated by the use, and traffic on adjacent streets and thoroughfares. The Planning Commission may require a traffic analysis which rates the projected trip generating capacity of the proposed development to existing and projected traffic volumes and the carrying capacity of adjacent streets. The traffic analysis shall be prepared by a firm or individual experienced in such matters.

e. Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned pre-cast concrete or any other materials as determined by the Planning Commission. E.I.F.S. and vinyl shall be used as accent materials only.

34. Veterinary Offices, Clinics, and Hospitals; Animal Grooming Establishments

a. The buildings or structures used for principal veterinary and animal grooming uses shall be setback at least seventy-five (75) feet from the front property line; and at least two hundred (200) feet from any property line abutting a residential district or use on the same side of the street, and at least seventy-five (75) feet from all other property lines.

b. Veterinary and animal grooming uses may be permitted as accessory uses to retail pet supply establishments as determined by the Planning Commission.

c. Parking lots shall be set back at least fifty (50) feet from a residential district or use, and shall be screened by a wall at least four (4) feet high with landscaping on the exterior side of the wall. A landscaped berm or dense landscape buffer may be permitted as an alternative to the wall, as determined by the Planning Commission.

d. All principal use activities shall be conducted within a totally enclosed principal building; no outdoor animal enclosures or runs are permitted.

e. Any indoor boarding shall be limited to that incidental to treatment or surgery unless the use has also been approved as a kennel.

f. Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).

g. All waste disposal shall meet the requirements of the Health Department of the State of Michigan.

35. Cellular Towers, Wireless Communication Facilities, Attached Wireless Communication Facilities, and Wireless Communication Support Structures

a. A wireless communication support structure must be established within a right-of-way having an existing width of more than two hundred four (204) feet.

b. A wireless communication support structure must be established on municipally-owned property.

c. **Purpose and Intent.** It is the general purpose and intent of Imlay City to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempts have been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further the purpose and intent of this section to:

(1) Facilitate adequate and efficient provision of sites for wireless communication facilities.

(2) Establish in predetermined districts the number, shape, and location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.

(3) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

(4) Ensure that wireless communication facilities are situated in appropriate municipally-owned locations and relationships to other land uses, structures and buildings.

(5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.

(6) Promote the public health, safety and welfare.

(7) Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.

(8) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(9) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.

(10) City Commission finds that the presence of numerous tower structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a

material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

d. Authorization. Subject to the standards and conditions set forth in paragraph e. below, wireless communication facilities shall be permitted uses in the following circumstances:

(1) An existing structure which will serve as an attached wireless communication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the zoning administrator, proposed to be either materially altered or materially changed appearance.

(2) A proposed co-location upon an attached wireless communication facility which had been pre-approved for such co-location as part of an earlier approval by the city.

(3) An existing structure which will serve as an attached wireless communication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Planning Official, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

e. Standards and Conditions Applicable to All Facilities. All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission and City Commission in its discretion:

(1) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

(2) Facilities shall be located on municipality-owned property only and designed to be harmonious with the surrounding areas.

(3) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

(4) Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.

(5) The following additional standards shall be met:

(a) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure). The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.

(b) The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.

(c) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located.

(d) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.

(e) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.

(f) Where an attached wireless communication facility is proposed on the roof of a building if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

(g) The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

(h) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.

(i) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

(6) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:

(a) Proximity to an interstate or major thoroughfare.

(b) Areas of population concentration.

(c) Concentration of commercial, industrial, and/or other business centers.

(d) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.

(e) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.

(f) Other specifically identified reason(s) creating facility need.

(7) The proposal shall be reviewed in conformity with the co-location requirements of this section.

(8) If it is demonstrated to the satisfaction of the City Commission by an applicant that a wireless communications facility is required to be established in an area other than municipally-owned property in order to operate a wireless communications service, then wireless communications facilities may be permitted elsewhere in the City of Imlay City by special land use approval only subject to approval by the City Commission, the requirements of this section, and the following criteria and standards:

(a) At the time of submittal, the applicant shall demonstrate that a location within an allowable district or area cannot reasonably meet the coverage and/or capacity needs of the applicant.

(b) Wireless communications facilities shall be of a design such as a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the Planning Commission.

(c) In the R-1, R-2, RT, RM-1 and RMH districts, site locations shall be permitted on a priority basis on the following sites, subject to application of all other standards contained in this section:

i. Municipally-owned sites.

ii. Other governmentally owned sites.

iii. Religious or institutional sites.

iv. Public parks and other large permanent open space areas when compatible.

v. Public or private school sites.

f. Application Requirements:

(1) A site plan prepared in accordance with Article 16 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 where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement 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.

(3) The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations

for the district in question, in determining the appropriate setback to be required for the structure 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 h. below. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the attorney for the community and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the community in securing removal.

(5) The application shall include a map showing existing and known proposed wireless communication facilities within the city and further showing existing and known proposed wireless communication facilities 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. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. M.C.L.A. § 15.243(1)(g). This section shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.

(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 facility is on the premises.

g. Co-location.

(1) Statement of Policy. It is the policy of the city to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for attached wireless communication facility purposes, consistent with the statement of purpose and intent, set forth in subsection (c) of this section above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should co-locate on attached wireless communication facility and wireless communication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in subsection (c) of this section. If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with this policy.

(2) Feasibility of Co-location. Co-location shall be deemed to be "feasible" for purposes of this section where all of the following are met:

(a) The wireless communication provider entity under consideration for co-location will undertake to pay market rent or other market compensation for co-location.

(b) The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

(c) The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.

(d) The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in paragraph e. of this section, above.

(3) Requirements for Co-location.

(a) A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.

(b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.

(c) The policy of the community is for co-location. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect.

(d) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible co-location, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible co-location shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the city, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the city for a period of five (5) years from the date of the failure or refusal to permit the co-location. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

(4) Incentive. Review of an application for co-location, and review of an application for a permit for use of a facility permitted under paragraph d.(1)(a), above, shall be expedited by the city.

h. Removal.

(1) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

(a) When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.

(b) Six (6) months after new technology is available at reasonable cost, as determined by the legislative body of the community, which permits the operation of the communication system without the requirement of the support structure.

(2) The situations in which removal of a facility is required, as set forth in subsection (1) above, may be applied and limited to portions of a facility.

(3) Upon the occurrence of one or more of the events requiring removal, specified in subsection (1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

(4) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, 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 and/or enforced from or under the security posted at the time application was made for establishing the facility.

(Am. Ord. 6, passed 2-19-02; Am. Ord. passed 12-20-05)

Article 21

Parking and Loading Standards

Section 21.1 Purpose

The purpose of this article is to ensure adequate and well designed parking and loading areas in all districts at the time of erection, enlargement or change in use, of any principal building or lot. Off-street parking and loading areas are to be designed, maintained and operated in a manner that will ensure their efficient use, promote public safety, improve aesthetics and, where appropriate, protect surrounding uses from undesirable impacts. 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.

(Am. Ord. 2013-001, passed 7-16-13)

Section 21.2 General Requirements

A. Residential Parking.

1. Single-family residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve.

2. No parking shall be permitted on a regular basis on lawns or other unpaved areas on residential lots, with the exception of approved gravel parking areas.

3. A minimum three (3) feet wide lawn or landscape strip shall be required between the edge of pavement and all property lines to provide adequate room for drainage, snow storage and privacy.

4. Commercial and recreational vehicle parking, as defined in Article 29 Definitions, in residential districts shall comply with the standards in Article 2 General Provisions.

5. The width of a parking strip or driveway in a front yard serving single-family or two-family dwellings shall be the lesser of twelve (12) feet or one-third (1/3) of the lot's width.

B. Location.

1. Except for within the B-2, CBD District, off-street parking for multiple-family and non-residential uses shall be either on the same lot or within lots under the same ownership and control within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building or use entrance to the nearest point of the off-street parking lot, except as otherwise permitted for collective use of off-street parking.

2. Within the B-2, CBD District, off-street parking shall be either on the same lot, lot(s) under the same ownership and control, open public parking lots within five hundred (500) feet of the building it is intended to serve, measured from the nearest point of the building entrance to the nearest point of the off-street parking lot. The Planning Commission may, however, require that some or all of the parking required by Section 21.4 Parking Space Numerical Requirements be provided outside of municipal parking lots if it is determined that sufficient capacity is unavailable within the municipal parking lot(s).

3. Within the B-2, CBD District, Planning Commission will permit off-street parking for residential units above or behind commercial uses to be provided in open public parking lots within five hundred (500) feet of the building in which the residential units are located. The number and location of the parking spaces will be specified prior to the time that plans or building permits for the residential units are

approved.

C. Change in Use or Intensity.

1. Whenever the use of a building or lot is changed, parking facilities shall be provided as required by this article for the new use, regardless of any variance which may have been in effect prior to change of use.
2. If any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided to bring the site into compliance.
3. Any area once designated as required off-street parking shall not be changed to any other use, including temporary sales, display or storage, unless and until equal facilities meeting the standards of this article are provided elsewhere, or the parking requirements of the site change as determined by the Building Official and Zoning Administrator

D. Storage and Repair. The use of required parking and loading areas for the material storage, refuse storage stations/dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited.

E. Control of Off-Site Parking. It shall be unlawful to park or store any motor vehicle on private property without the expressed or implied consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.

F. Construction. During construction, off-street parking shall be provided on site for all construction vehicles and employees. Gravel surfacing may be permitted for such temporary parking as determined by the Building Official and Zoning Administrator.

G. Carports and Garages. Carports and garages for multiple-family dwellings and other non-single family residential uses shall be calculated as parking spaces on a one-to-one basis. Carports and garages in such developments shall have a maximum height of fourteen (14) feet, measured from the grade to the peak of the structure. Carports shall be enclosed or obscured at least twenty-five percent (25%) along all sides visible from public streets, residential districts or vehicular drives within the site. All details must be provided on the site plan and reviewed and approved by the Planning Commission.

H. Parking Garages/Structures. Parking structures shall be permitted subject to the following standards:

1. Any parking structure shall comply with the required setbacks and height requirements for the district in which it is located.
2. Parking structures shall be designed as integral elements of the overall site plan, taking into account the relationship to the principal building and other structures on the site.
3. The facade of the parking structure shall be compatible in design, color, and type of material to the principal building(s) on the site.
4. Landscaping shall be placed around the parking structure in accordance with an approved landscape plan. Any such landscaping shall be compatible with the overall landscape plan for the entire site.
5. Access design must ensure safe and efficient traffic operation along the public or private roadway serving such structure.

I. Stacking Space Requirements.

1. Stacking spaces which block access to parking spaces shall not be included in calculating the required number of spaces.
2. Each required stacking space shall be a minimum of twenty-four (24) feet long and nine (9) feet wide.
3. Stacking space shall be designed so that an efficient circulation pattern is maintained on the site and a sufficient width is available to allow a vehicle to maneuver around another vehicle waiting in line.

J. Use of Loading Space. Required loading space shall not be counted or used for required parking.

K. Uses Not Cited. For uses not specifically listed in Section 21.4 Parking Space Numerical Requirements the requirements for off-street parking facilities shall be in accordance with a similar use as determined by the Building Official and Zoning Administrator or based on documentation regarding the specific parking needs for the particular use, as determined by the Planning Commission. Parking studies must be based on examples from three or more similar institutions or uses taken during peak periods.

(Am. Ord. passed 12-20-05; Am. Ord. 2013-001, passed 7-16-13)

Section 21.3 Parking Units of Measurement

The following standards shall be used in determining the required number of parking spaces:

- A. Floor Area.** Where floor area is the unit for determining the required number of off-street parking and loading spaces, such unit shall mean the gross floor area (GFA), unless otherwise noted.
- B. Bench Seating.** In calculating bench seating for places of assembly, each twenty-four (24) inches of benches, pews or other such seating, shall be counted as one (1) seat.
- C. Employees.** Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises at any one time and may include overlap of employees during shift changes.
- D. Fractional Spaces.** When units of measurements determining the number of required parking or loading spaces result in a fractional space, any fraction shall be counted as one (1) additional space.

(Am. Ord. 2013-001, passed 7-16-13)

Section 21.4 Parking Space Numerical Requirements

A. **Additional Parking.** To minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, no parking lot shall exceed the minimum parking space requirements by more than ten percent (10%), except as approved by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence of actual use and demand provided by the applicant.

B. **Parking Space Flexibility.** The following parking flexibility shall be permitted:

1. **Collective Parking.** The collective provision of off-street parking for two or more buildings or uses is permitted subject to the following:

a. The total number of spaces provided collectively shall not be less than the sum of spaces required for each separate use. However, the Planning Commission may reduce the total number of spaces by up to twenty-five percent (25%) if they determine that the operating hours of the buildings or uses do not overlap.

b. Each use served by collective off-street parking shall have direct access to the parking without crossing any public rights-of-way.

c. The collective off-street parking shall not be located farther than five hundred (500) feet from the building or use being served measured from the nearest point of the building or use entrance to the nearest point of the off-street parking lot.

d. Written easements which provide for continued use and maintenance of the parking shall be submitted to the city for approval. Such agreement shall include provisions to address any changes in use which shall be reviewed in accordance with Section 21.2 C. Change in Use or Intensity, above.

2. **Parking Lot Deferment.** Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that area of sufficient size to meet the parking space requirements of this article is retained as open space and the owner agrees in writing to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Building Official and Zoning Administrator. Stormwater calculations shall be provided to verify adequate capacity if an expansion is necessary. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.

C. **Additional Planning Commission Flexibility.**

1. **Allowed Flexibility.** The Planning Commission may further modify the number of spaces required in Section 21.4, Parking Space Numerical Requirements, where it is found that one of the following conditions exist:

a. The size of the development exceeds fifty thousand (50,000) square feet of gross leasable floor area.

b. The required number of parking spaces exceeds four hundred (400).

c. A traffic study, prepared by a licensed professional, is submitted that indicates fewer parking spaces will be demanded by the development.

d. Existing conditions on the site are such that re-occupancy of the building will be prevented solely due to additional parking requirements and the proposed new occupant, according to the requirements of Section 21.4, Parking Space Numerical Requirements, will not require more than 125% of the number of spaces previously required or that exist on the site.

e. The development provides cross-access connections to an adjacent developed site in accordance with Section 22.4 Shared Access - Joint Driveways, Frontage Roads, Parking Lot Connections and Rear Service Drives.

2. **Criteria for Review.** The Planning Commission may modify the number of required parking spaces upon consideration of the following:

a. The proposed modification is consistent with the general intent of Article 21, Parking and Loading Standards and Article 22, Access Management and Driveway Standards.

b. City engineering staff, where their opinion is requested, endorses the proposed parking lot.

c. The parking lot has been improved to meet other ordinance requirements to the greatest extent practical and reasonable.

d. Shared access has been provided, or the applicant has demonstrated it is not practical.

e. Such modification is the minimum necessary to provide reasonable parking, will not impair public safety and is not simply for convenience of the development.

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

| <i>RESIDENTIAL</i> | |
|---------------------------------|------------------------------|
| Single and Two-family Dwellings | 2.0 spaces per dwelling unit |

| | |
|--|--|
| Multiple-Family Dwellings | <p>1.5 spaces per each efficiency or one-bedroom dwelling unit,</p> <p>2.0 spaces per each unit with two bedrooms,</p> <p>2.5 spaces per each unit with three or more bedrooms, plus</p> <p>5.0 additional spaces for any office, plus</p> <p>1.0 space per 200 sq. ft. of gross floor area of any clubhouse facility, plus</p> <p>visitor off-street parking equal to at least 20% of the total spaces required</p> |
| Mobile or Manufactured Homes in a Mobile Home or Manufactured Housing Park | <p>2.0 spaces per dwelling unit, plus</p> <p>5.0 additional spaces for any office or clubhouse facility, plus</p> <p>1.0 visitor space for every 3 homes</p> |

| <i>HOUSING FOR THE ELDERLY</i> | |
|--|--|
| Senior Apartments | 1.0 space per unit |
| Congregate, Assisted Living or Interim Care Housing | 1.0 space per each room or three beds, whichever is less |
| Dependent Housing Facilities including Convalescent Homes, Nursing Homes, Rest Homes, etc. | 1.0 space per each four beds or two rooms, whichever is less |

| <i>INSTITUTIONAL/PUBLIC</i> | |
|---|---|
| <i>INSTITUTIONAL/PUBLIC</i> | |
| Auditoriums, Assembly Halls, Stadiums and Sports Arenas with Fixed Seating | 1.0 space per each three seats or six lineal feet of bleachers, plus |
| Lodge and Union Halls; Fraternal Orders; Private and Civic Clubs and similar uses | <p>1.0 space per employee</p> <p>1.0 space per 120 sq. ft. of gross floor area</p> |
| Child Care Centers, Adult Day Care Facilities | <p>1.0 space per 400 sq. ft. of gross floor area, plus</p> <p>1.0 space per employee, plus adequate drop-off area</p> |
| Churches, Temples and other places of worship | <p>1.0 space per each three seats or 6 ft. of pews in the main unit of worship, plus</p> <p>required spaces for any accessory uses such as a school, child care center, recreation facilities, etc.</p> |
| Community Centers including Senior Centers, Cultural Centers and Teen Centers | 1.0 space per each 100 sq. ft. of gross floor area |
| Group Day Care Homes, Adult Foster Care Group Homes and Adult Congregate Care Facilities | <p>1.0 space per four residents, plus</p> <p>1.0 space per employee, plus</p> <p>adequate drop off spaces</p> |
| Hospitals, Outpatient Service Centers, Urgent Care Centers, Emergency Medical Stations and similar uses | <p>1.0 space per 175 sq. ft. of gross floor area, plus</p> <p>1.0 space per employee</p> |
| Municipal Office Buildings | 1.0 space per 250 sq. ft. of gross floor area |
| Post Offices, Public Libraries and Museums | <p>1.0 space per 200 sq. ft. of gross floor area (available for public use), plus</p> <p>spaces for employee and delivery vehicles</p> |
| Public Utility use | 1.0 space per employee |

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| Schools, Primary (Elementary) and Intermediate (Junior High or Middle Schools) | 2.0 spaces per classroom, plus 2.0 drop-off spaces per classroom, plus spaces required for an assembly hall, auditorium, and/or outdoor arena or athletic fields |
| Schools, Secondary (High Schools), Colleges, Business and Vocational Schools and Technical Training Facilities | 2.0 spaces per classroom, plus 15.0 student spaces per classroom, plus parking required for any assembly hall, auditorium, or outdoor arena |

| OFFICE | |
|--|---|
| Branch Banks, Credit Unions, Financial Institutions and ATM Machines | 1.0 space per 200 sq. ft. of gross floor area, plus 2.0 spaces per each 24-hour teller, plus 4.0 stacking spaces per each drive-through window or ATM machine |
| Business Offices and Professional services | 1.0 space per 300 sq. ft. of gross floor area |
| Medical and Dental Clinic/Offices | 1.0 space per 200 sq. ft. of gross floor area (when such use comprises less than 50% of the building or site) |
| | 1.0 space per 150 sq. ft. of gross floor area (when such uses comprises more than 50% of the building or site) |
| Veterinary Offices, Clinics or Hospitals | 1.0 space per 250 sq. ft. of gross floor area excluding kennels or boarding areas |

| COMMERCIAL | |
|---|--|
| COMMERCIAL | |
| Automobile Gasoline Stations | 1.0 space per each pump island and service bay (bay can be included as a space), plus 1.0 space per employee, plus 1.0 space per each tow truck, plus 1.0 space for each 500 sq. ft. of gross floor area devoted to sales of automotive goods, plus required spaces for any convenience store (mini-mart), restaurant or auto wash |
| Automobile and Vehicle Service Establishments | 3.0 spaces per each service bay (bay can be included as a space), plus 1.0 space per employee, plus 1.0 space for each tow truck, plus 1.0 stacking space per bay |
| Automobile and Vehicle Dealerships including Recreational Vehicles, Boats, Motorcycles and Mobile Homes | 1.0 space per 400 sq. ft. of gross floor area of interior sales space, plus 1.0 space per 600 sq. ft. of gross floor area of exterior display, plus 3.0 spaces per each service bay (bay can be included as a space) |

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| Automobile Washes (Automatic) | 2.0 spaces, plus 1.0 space per employee, plus 10.0 stacking spaces per freestanding bay, or 6.0 spaces when accessory to a gas station |
| Automobile Washes (Self-service or Coin Operated) | 2.0 spaces per bay for drying, plus 3.0 stacking spaces per wash bay |
| Bars, Taverns, Lounges, and Brewpubs (Majority of Sales Consist of Alcoholic Beverages) | 1.0 space per 50 sq. ft. of gross floor area |
| Barber Shops, Beauty Salons, and Tanning Facilities | 1.0 space per 175 sq. ft. of gross floor area, or 2.5 spaces per each barber or beautician's chair/station, whichever is greater |
| Bookstores | 1.0 space per 125 sq. ft. of gross floor area |
| Business and Personal Service Establishments | 1.0 space per 300 sq. ft. of gross floor area |
| Conference, Meeting or Banquet Rooms; Exhibit Halls and similar uses | 1.0 space per 120 sq. ft. of gross floor area |
| Dry Cleaners | 1.0 space per 500 sq. ft. of gross floor area, plus 2.0 stacking spaces per drop off station |
| Equipment Repair Establishments | 1.0 space per 800 sq. ft. of gross floor area |
| Funeral Homes and Mortuary Establishments | 1.0 space per 50 sq. ft. of gross floor area of service parlors, chapels and reception area, plus 1.0 space per each funeral vehicle stored on the premises |
| Furniture and Appliance, Carpet and Flooring Stores | 1.0 space per 500 sq. ft. of usable floor area |
| General Retail and Service Uses not otherwise specified, with less than 50,000 sq. ft. gross leasable floor area | 1.0 space per 200 sq. ft. of usable floor area |
| General Retail and Service Uses not otherwise specified, with more than 50,000 sq. ft. gross leasable floor area | 1.0 space per 250 sq. ft. of usable floor area |
| Supermarkets and Convenience Stores (Mini-marts) | 1.0 space per 175 sq. ft. of usable floor area |
| Kennels (Commercial) and Animal Grooming Establishments | 5.0 spaces, plus employee parking |
| Laundromats | 1.0 space per each two washing machines, plus 2.0 spaces for employees |

COMMERCIAL (Cont'd)

COMMERCIAL (Cont'd)

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| Mini or Self-storage Warehouses | minimum of 6.0 spaces |
| Motel, Hotel, Bed and Breakfast Inn, Boarding Houses and similar uses | 1.0 space per guest room, plus 1.0 space per employee, plus 75% of required spaces for restaurants, conference rooms, banquet halls and other uses |
| Open Air Businesses Including Nurseries, Garden Centers and Other Outdoor Display, Sales, and Storage Uses | 1.0 space per 500 sq. ft. of gross floor area of outdoor display, sales and storage area, plus 1.0 space per 200 sq. ft. of gross floor area of indoor space, plus 1.0 space per employee |

| | |
|--|---|
| Pharmacies | 1.0 space per 250 sq. ft. of gross floor area, plus 3.0 stacking spaces for any drive-through windows |
| Restaurants, Standard, with Liquor License | 1.0 space per 60 sq. ft. of gross floor area, or 0.6 spaces per seat, whichever is greater, plus spaces required for any banquet or meeting rooms |
| Restaurants, Standard, Without Liquor License | 1.0 space per 70 sq. ft. of gross floor area or 0.5 spaces per seat, whichever is greater, plus spaces required for any banquet or meeting rooms |
| Restaurants, Fast Food with Drive-through Window, Including Coffee Shops, Cafes, Delicatessens, etc. | 1.0 space per 80 sq. ft. of gross floor area, plus 1.0 space per employee, plus 5.0 spaces between the pick-up window and order station, plus 10.0 stacking spaces |
| Restaurants, Fast Food Without Drive-through Window | 1.0 space per 80 sq. ft. of gross floor area or 0.5 spaces per seat, whichever is greater |
| Restaurants, Drive-in | 1.0 space per drive-in station, plus 1.0 space per employee |
| Restaurant Carry-out and Open Front Window, with less than Six Tables and/or Booths | 6.0 spaces, plus 1.0 space per employee |
| Shopping Centers with less than 50,000 sq. ft. gross leasable floor area | 1.0 space per 200 sq. ft. of usable floor area, plus spaces required outlot parcel |
| Shopping Centers with 50,000 sq. ft. or more gross leasable floor area | 1.0 space per 250 sq. ft. of usable floor area, plus spaces required outlot parcel |
| Studios for Art, Photography, Music, Dance and similar uses | 1.0 space per 300 sq. ft. of gross floor area, plus 1.0 space per employee |
| Video rental establishments | 1.0 space per 150 sq. ft. of gross floor area, with a minimum of 8.0 spaces provided |

RECREATION/ENTERTAINMENT

RECREATION/ENTERTAINMENT

| | |
|---------------------------------------|--|
| Arcades | 2.0 spaces per machine, plus 1.0 space per employee |
| Baseball and Softball Fields | 25.0 spaces per field |
| Batting Cages | 3.0 spaces per cage |
| Bowling Centers | 5.0 spaces per lane, plus 1.0 space per employee, plus 25% of required spaces for any lounge or other uses |
| Golf Course Driving Ranges | 1.0 space per tee |
| Golf Courses, Miniature and Par Three | 2.0 spaces per each course hole, plus 1.0 space per employee |
| Golf Courses | 6.0 spaces per each course hole, plus 1.0 space per employee, plus required spaces for restaurants, banquet rooms, pro-shop, offices, and other uses |

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|---|--|
| Health and Fitness Centers and Clubs | 1.0 space per 200 sq. ft. of gross floor area, plus required spaces for swimming pools, courts, restaurants and other uses |
| Ice/roller Skating Rinks | 1.0 space per 170 sq. ft. of gross floor area plus 50% of parking required for restaurants, pro-shops and other uses |
| Pool and Billiard Halls | 1.0 space per 70 sq. ft. of gross floor area, or 1.0 space per every three persons of capacity authorized by the BOCA Code |
| Recreation Centers (Indoor) Commercial, not already specified | 1.0 space per 1,000 sq. ft. of gross floor area, plus required spaces for restaurants, banquet rooms, offices, sales area, and other uses |
| Recreation Centers (Outdoor) Public or Commercial | 1.0 space per 200 sq. ft. of gross floor area |
| Soccer and Football Fields | 30.0 spaces per field |
| Swimming Pools | 1.0 space per each three persons of capacity authorized by the building code |
| Tennis Courts And Racquetball Centers | 1.0 space per 1,000 sq. ft. gross floor area, or 6.0 spaces per court, whichever is greater, plus 50% of required spaces for restaurants, banquet rooms, offices, sales area, and other uses |
| Theaters, Cinemas | 1.0 space per each three seats, plus 1.0 space per two employees |

| INDUSTRIAL | |
|---|--|
| Light Industrial, Manufacturing, Testing Labs, Research, Design and Development Centers | 5.0 spaces, plus 1.0 space per 500 sq. ft. of gross floor area, or 1.2 spaces per employee, whichever is greater, plus 1.0 space for each corporate vehicle, plus spaces required for any office or sales area |
| Warehousing and Wholesale Establishments (Non-retail) | 5.0 spaces, plus 1.0 space per employee, or 1.0 space per 2000 sq. ft. of gross floor area, whichever is greater, plus 1.0 space for each corporate vehicle, plus spaces required for any office or sales area |

(Am. Ord. 2013-001, passed 7-16-13)

Section 21.5 Barrier-Free Parking Requirements

A. Each parking lot that serves a building or use, with the exception of single and two-family dwelling units, shall provide spaces for physically handicapped persons in accordance with the Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division.

B. The required number of accessible parking spaces shall be included with the number of total parking spaces for the use and shall be in accordance with the following schedule:

| <i>Total Number of Spaces Required</i> | <i>Minimum Number of Accessible Spaces Required</i> |
|--|---|
| <i>Total Number of Spaces Required</i> | <i>Minimum Number of Accessible Spaces Required</i> |

| | |
|-----------|---|
| 1 - 25 | 1 |
| 26 - 50 | 2 |
| 51 - 75 | 3 |
| 76 - 100 | 4 |
| 101 - 150 | 5 |
| 151 - 200 | 6 |
| 201 - 300 | 8 |
| 301 - 400 | 12 |
| over 400 | 12, plus 2 for every 250 or fraction thereof over 400 |

C. Accessible parking spaces shall be signed and marked and shall be located closest to the nearest accessible entrance on an accessible route.

D. Accessible parking spaces shall be at least eight (8) feet wide and shall have an adjacent access aisle a minimum of five (5) feet in width. Two (2) accessible parking spaces may share a common access aisle.

E. Where a curb exists between a parking lot surface and a sidewalk entrance, an inclined approach or curb cut with a gradient of not more than a 1:12 slope and width of a minimum four (4) feet shall be provided for wheelchair access.

(Am. Ord. 2013-001, passed 7-16-13)

Section 21.6 Off-street Parking Space Design Standards and Setback Requirements

Where required, off-street parking facilities shall be designed, constructed and maintained according to the following standards and regulations:

A. **Ingress and Egress.** Adequate ingress and egress to the parking facility shall be provided by clearly defined driveways and maneuvering lanes in accordance with Article 22 Access Management and Driveway Standards. Spaces backing directly onto a street shall be prohibited. Access to off-street parking which serves a non-residential use shall not be permitted across land that is zoned or used for residential purposes.

B. Surfacing and Drainage.

1. Grading, surfacing, and drainage plans shall comply with city engineering specifications and subject to the review and approval of the City Engineer. All driveways, parking lots, access lanes and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material in accordance with specifications of the city.

2. Off-street parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.

C. **Curbs.** A raised or rolled concrete curb a least six (6) inches in height shall be installed to prevent motor vehicles from being driven or parked within two (2) feet of abutting landscape areas, sidewalks, streets, buildings or adjoining property.

D. Parking Lot Setbacks.

1. **From Street Rights-of-Way.** Parking lots, including drives and maneuvering aisles but excluding driveways, shall not be permitted within any minimum yard abutting a street right-of-way, private road, or access drive. Required parking lot setback areas shall be landscaped according to the standards of Article 23 Landscape Standards and Tree Replacement.

2. **From Non-Residential Districts.** Parking lots shall have a minimum setback of ten (10) feet from any non-residential property line that is not a street right-of-way line. This requirement may be waived by the Planning Commission in the CBD or where a shared access driveway, connected parking lots, frontage road, or rear service drive, designed in accordance with Article 22 Access Management and Driveway Standards, is provided.

3. **From Residential Districts.** Parking lots shall have a minimum setback of fifty (50) feet from any single-family residential zoning district or use and twenty (20) feet from any multiple-family residential zoning district or use. This setback area shall include either berming, landscaping and/or a wall to screen headlights, designed according to the standards of Article 23 Landscape Standards and Tree Replacement.

E. Lighting.

1. All parking lot or display lighting shall be designed, located and/or shielded to prevent spillover onto adjacent properties, and shall be arranged to prohibit adverse affect on motorist visibility on adjacent public roadways.

2. The intensity of the lighting shall not exceed one (1) foot candle at any property line or ten (10) foot candles anywhere within the site.

3. Metal halide shoebox type fixtures shall be used and directed downward.

4. The maximum height of parking lot light fixtures shall be twenty (20) feet for any lot within one hundred fifty (150) feet of a residential district, and a maximum height of thirty-five (35) feet in all other parking lots.

5. Parking lot poles shall be located in parking lot islands or in the periphery parking lot area. Light poles shall be prohibited in parking

spaces.

F. **Dimensions.** All spaces shall be designed and marked with dimensions described below.

| <i>Parking Pattern</i> | <i>Parking Space Dimension</i> | <i>2-Way Aisle Width</i> | <i>1-Way Aisle Width</i> |
|------------------------|--|--------------------------|--------------------------|
| 76-90 degree | 10 feet X 22 feet | 26 feet | 20 feet |
| 30-75 degree | 10 feet X 22 feet | 24 feet | 15 feet |
| Parallel parking | 9 feet X 25 feet with 3-foot area striped for "no parking" between each two (2) spaces | 22 feet | 15 feet |

G. **Parking Lot Marking.** All parking spaces must be marked with double (or loop) stripes three (3) to four (4) inches wide and spaced eighteen (18) to twenty-four (24) inches apart.

(Am. Ord. 2013-001, passed 7-16-13)

Section 21.7 Parking Lot Construction and Maintenance

A. Two (2) sets of plans and specifications for parking areas shall be submitted to the Building Official and Zoning Administrator prior to the issuance of a building permit. These plans shall include:

1. Existing and proposed grades;
2. Indication that stormwater runoff shall be accommodated on-site through approved drainage facilities, including catch basins, runoff calculations, pipe sizes and connections to existing drainage structures; and
3. Indication of surface and base materials to be used during construction.

B. Required parking lots shall be installed and completed within six (6) months of receipt of a building permit and before issuance of an occupancy permit. The Building Official and Zoning Administrator may grant a single extension for an additional six (6) months in the event of adverse weather conditions or unusual delays beyond the control of the property owner.

C. All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting fixtures, signs, and related appurtenances shall be maintained in good condition. The visibility of pavement markings delineating parking spaces and directional control shall be maintained.

D. All off-street parking and loading facilities required by this article shall be maintained free of accumulated snow or standing water which prevent full use and occupancy of such facilities, except for temporary periods of no more than five (5) days in the event of heavy rainfall or snowfall.

(Am. Ord. 2013-001, passed 7-16-13)

Section 21.8 Off-street Loading and Unloading Requirements

A. **Generally.** Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas.

B. **General Applicability.** On-premises space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods.

C. **Change in Use and Intensity.** Whenever use of a building, structure, or lot is changed, loading space shall be provided as required by this article for the new use, regardless of any variance which may have been in effect prior to change of use.

D. **Location.**

1. Loading/unloading areas and docks shall be prohibited in the front yard or on any building side facing and directly visible to a public street.
2. Loading/unloading operations shall not interfere with traffic on public streets or off-street parking.
3. The vehicular path to the loading area must be shown on the site plan to verify truck maneuverability on site.

E. **Size.** The size of all required loading/unloading spaces shall be at least ten (10) feet by fifty (50) feet or five hundred (500) square feet in area with a clearance of at least fourteen (14) feet in height.

F. **Surfacing and Drainage.**

1. Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material.
2. Loading areas shall be graded and drained so as to dispose of surface waters.
3. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.
4. Grading, surfacing, and drainage plans shall be subject to review and approval by the City Engineer.

G. **Storage and Repair Prohibited.** The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.

H. **Central Loading.** Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:

1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
2. The total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the central loading space.
3. No building served shall be more than three hundred (300) feet from the central loading area.

I. **Loading Spaces.** The minimum number of loading spaces shall be provided in accordance with the following table. The Planning Commission may modify these requirements upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

| <i>INSTITUTIONAL, COMMERCIAL AND OFFICE USES</i> | |
|---|--|
| Up to 5,000 sq. ft. GFA | 1.0 space |
| 5,001 - 60,000 sq. ft. GFA | 1.0 space, plus 1.0 space per each 20,000 sq. ft. GFA or fraction thereof |
| 60,001 sq. ft. GFA and over | 3.0 spaces, plus 1.0 space per each 50,000 sq. ft. GFA or fraction thereof |

| <i>INDUSTRIAL USES</i> | |
|-------------------------------|---|
| Up to 1,400 sq. ft. GFA | 0 |
| 1,401 - 20,000 sq. ft. GFA | 1.0 space |
| 20,001 - 100,000 sq. ft. GFA | 1.0 space, plus 1.0 space per each 20,000 sq. ft. GFA in excess of 20,000 sq. ft. or fraction thereof |
| 100,001 sq. ft. GFA and over | 5.0 spaces |

J. **Screening.** When off-street loading in a non-residential district is visible from a public right-of-way or abuts a residential district, the off-street loading shall be screened from such contiguous, residential district by a solid, ornamental masonry wall at least six (6) feet in height above the grade elevation at the residential district line, in addition to the landscape requirements of Article 23 Landscape Standards and Tree Replacement.

K. **Calculation.** Required loading areas shall not be included in calculations for off-street parking space requirements.

(Am. Ord. 2013-001, passed 7-16-13)

Article 22

Access Management and Driveway Standards

Section 22.1 Purpose

The purpose of this article is to provide access standards which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The standards are specifically designed for streets whose primary function is the movement of through traffic, as opposed to local streets whose primary function is access to adjacent properties.

Section 22.2 Application of Standards

A. The standards of this article shall be applied to the following major traffic routes (arterials) identified in the City of Imlay City Master Plan:

1. M-53 (Cedar Street)
2. S. Almont Avenue
3. Capac Road
4. Borland Road
5. Newark Road

B. The access standards contained herein shall be required in addition to, and where permissible shall supersede, the requirements of the

Michigan Department of Transportation (MDOT).

C. The standards contained in this article shall apply to all uses, except permitted single-family and two-family dwelling units.

D. For expansion and/or redevelopment of existing sites where the Planning Commission determines that compliance with all the standards of this article is unreasonable, the standards shall be applied to the maximum extent possible. In such situations, suitable alternatives which substantially achieve the purpose of this article may be accepted by the Planning Commission, provided that the applicant demonstrates all of the following apply:

1. size of the parcel is insufficient to meet the dimensional standards;
2. the spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost;
3. the use will generate less than five hundred (500) total vehicle trips per day or less than seventy-five (75) total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers; and
4. there is no other reasonable means of access.

Section 22.3 Number of Driveways

A. Access to a parcel shall consist of either a single two-way driveway or a pair of one-way driveways wherein one (1) driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.

B. Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.

C. Where parcels have frontage along two (2) streets on parcel of at least two (2) acres in area, access should be provided only along the street with the lower average daily traffic volume, unless the Planning Commission determines this would negatively affect traffic operations or surrounding land uses.

D. Where the property has continuous frontage of over three hundred (300) feet and the applicant can demonstrate, using the Institute of Transportation Engineers manual Trip Generation or another accepted reference, that a second access is warranted, the Planning Commission may allow an additional access point. Where possible, this access should be spaced accordingly to the standards contained herein, located on a side street, shared with an adjacent property, and/or be designed to restrict one (1) or both left turn movements.

E. Where the property has continuous frontage of over six hundred (600) feet, a maximum of three (3) driveways may be allowed, with at least one (1) such driveway being designed and signed for right-turns-in, right-turns-out only.

Section 22.4 Shared Access - Joint Driveways, Frontage Roads, Parking Lot Connections and Rear Service Drives

Shared use of access between two (2) or more property owners should be encouraged through use of driveways constructed along property lines, connecting parking lots and construction on-site of frontage roads and rear service drives; particularly within one-quarter mile of major intersections, for sites having dual frontage, where frontage dimensions are less than three hundred (300) feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In such cases, shared access of some type may be the only access design allowed.

A. In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility may be required by the Planning Commission.

B. In cases where a site is adjacent to undeveloped property, the site should be designed to accommodate a future frontage road, parking lot connection or rear service drive.

C. The applicant shall provide the city with letters of agreement or access easements from all affected property owners.

Section 22.5 Adequate Sight Distance

A. Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in Chapter 9 of *A Policy on Geometric Design of Highways and Streets*, 1994.

B. The Planning Commission may adjust driveway location where there is a concern regarding adequate sight distance.

Section 22.6 Driveway Spacing From Intersections

A. Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.

B. In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:

1. For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one (1) or more movements) and/or a significant number of traffic accidents (five or more annually), the Planning Commission may require that access be constructed along the property line furthest from the intersection.

2. For locations within two hundred (200) feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of one hundred fifty (150) feet from the intersection; where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of seventy-five (75) feet from the intersecting street right-of-way.

3. For locations not addressed by 2. above, driveways shall be spaced a minimum of one hundred (100) feet from the intersection.

Section 22.7 Driveway Spacing from Other Driveways

A. Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.

B. Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as follows:

| <i>Posted Speed (mph)</i> | <i>Minimum Driveway Spacing</i> |
|-------------------------------|---------------------------------|
| 25 mph | 100 feet |
| 30 mph | 125 feet |
| 35 mph | 150 feet |
| 40 mph | 185 feet |
| 45 mph | 230 feet |
| 50 mph | 275 feet |
| 55 mph | 350 feet |

C. Driveways shall be directly aligned with those across the street or, where offset, the minimum driveway spacing from driveways across the street shall be a minimum of one hundred fifty (150) feet, as determined by the Planning Commission, excluding when one (1) or both driveways are designed and signed for right-turn-in, right-turn-out only.

Section 22.8 Driveway Design, Channelized Driveways, Deceleration Lanes and Tapers, Bypass Lanes

A. **Generally.** Driveways shall be designed to the standards of the Lapeer County Road Commission, except where stricter standards are included herein or by the city driveway construction standards.

B. Driveway Width and Radii.

1. The typical driveway design shall include one (1) ingress and one (1) egress lane, with a combined maximum throat width of thirty (30) feet, measured from face to face of curb.
2. Wherever the Planning Commission determines that traffic volumes or conditions may cause significant delays for traffic exiting left, two (2) exit lanes may be required.
3. For one-way paired driveway systems, each driveway shall be sixteen (16) feet wide, measured perpendicularly.
4. In areas with pedestrian traffic, the exit and enter lanes may be separated by a median with a maximum width of ten (10) feet.
5. Driveways shall be designed with a twenty-five (25) foot radii; thirty (30) foot radii where daily semitruck traffic is expected.

C. **Driveway Storage.** Driveway storage shall be determined by the Planning Commission based on traffic volumes and conditions. A minimum of forty (40) feet of driveway storage shall be provided for less intense developments and a minimum of one-hundred and twenty (120) feet of driveway storage shall be required for larger developments. Driveway storage shall be measured from the right-of-way line.

D. **Directional Driveways, Divided Driveways and Deceleration Tapers.** Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes may be required by the Planning Commission where they will reduce congestion and accident potential for vehicles accessing the proposed use or site. Right-turn tapers shall be a minimum of seventy-five (75) feet in length and at least eleven (11) feet wide. Design of direction and divided driveways shall be in accordance with the designs on the following pages [Figures 22.01 Directional Driveway Standards and 22.02 Divided Commercial Driveway Standards].

Section 22.9 Design of Frontage Roads, Rear Service Drives and Parking Lot Connections

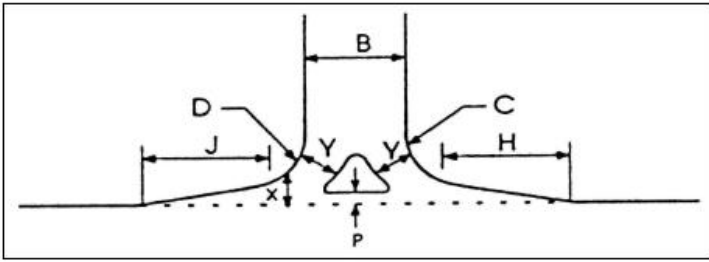
A. Frontage roads, rear service drives and drives connecting two (2) or more parking lots shall be constructed in accordance with Figure 22.03 Frontage Roads, Service Drives and Parking Lot Connections and the following standards:

1. Pavement width shall be a maximum of thirty (30) feet, measured face of curb to face of curb; intersection approaches may be widened to thirty-nine (39) feet for a left turn lane.
2. Frontage road access to public streets shall be spaced according to the standards of Sections 22.6 Driveway Spacing from Intersections and 22.7 Driveway Spacing from Other Driveways.
3. Frontage roads shall have a minimum setback of thirty (30) feet between the outer edge of pavement and the right-of-way line, with a minimum sixty (60) feet of uninterrupted queuing (stacking) space at the intersections.
4. Parking along or which backs into a frontage road shall be prohibited.
5. For properties which are currently developed or are adjacent to developed uses, and the standards of 1 through 4 above are determined by the Planning Commission to be too restrictive, frontage roads can be defined through parking lots by raised and/or painted

islands, as shown, provided that at least every third end island is raised.

Figure 22.01

Directional Driveway

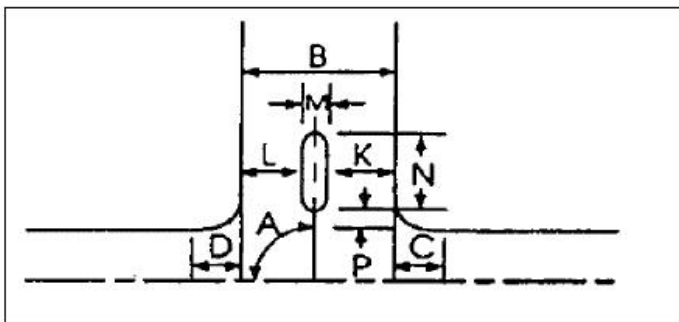


| <i>Directional Driveway</i> | | | |
|-----------------------------|---|-----------------|---------------|
| <i>Design Features</i> | | <i>Required</i> | <i>Range*</i> |
| <i>Directional Driveway</i> | | | |
| <i>Design Features</i> | | <i>Required</i> | <i>Range*</i> |
| Driveway Width | B | 30' | 25' - 30' |
| Entering Radius | C | 30' | 25' - 40' |
| Exiting Radius | D | 30' | 25' - 35' |
| Entering Taper | H | 75' | 50' - 100' |
| Exiting Taper | J | 75' | 50' - 100' |
| Nose Offset | P | 4' | 4' - 10' |
| Taper Offset | X | 12' | 12' |
| Entering/Exiting Land Width | Y | 15' | 14' - 18' |

* The "required" dimension shall be used unless the city specifies, or the applicant demonstrates technical justification for, a different value. The range in dimensions indicates the working values for each design feature.

Figure 22.02

Divided Commercial Driveway



| <i>Divided Commercial Driveway</i> | | | |
|------------------------------------|---|-----------------|---------------|
| <i>Design Features</i> | | <i>Required</i> | <i>Range*</i> |
| <i>Divided Commercial Driveway</i> | | | |
| <i>Design Features</i> | | <i>Required</i> | <i>Range*</i> |
| Intersection Angle | A | 90° | ----- |
| Driveway Width | B | 48' | 46' - 78' |
| Entering Radius | C | 30' | 25' - 40' |
| Exiting Radius | D | 25' | 20' - 35' |
| Entrance Drive Width | K | 16' | 16' - 27' |

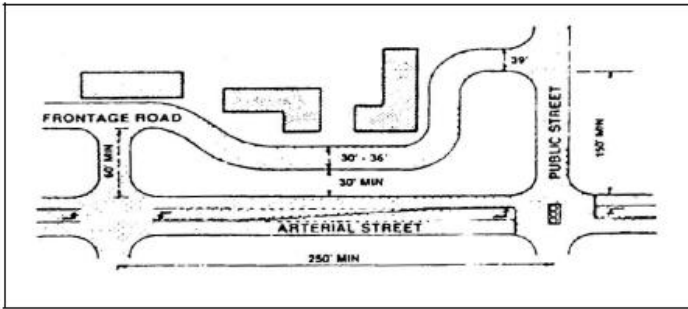
| | | | |
|------------------|---|-----|------------|
| Exit Drive Width | L | 22' | 20' - 27' |
| Island Width | M | 10' | 6' - 24' |
| Nose Offset | P | 12' | 6' - 18' |
| Island Length | N | 35' | 30' - 100' |

*The "required" dimension shall be used unless the city specifies, or the applicant demonstrates technical justification for, a different value. The range in dimensions indicates the working values for each design feature.

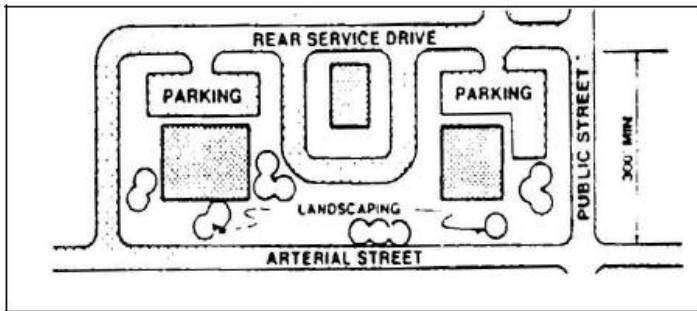
Figure 22.03

Frontage Roads, Rear Service Drives and Parking Lot Connections

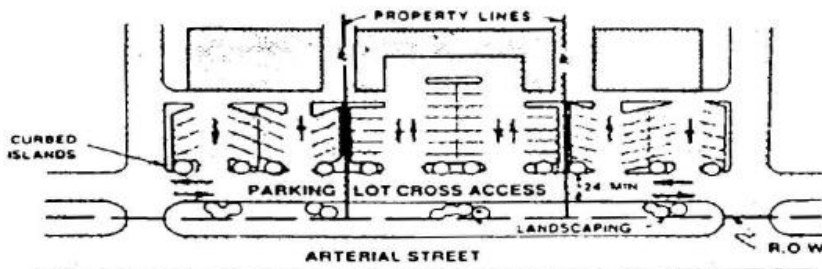
1. Frontage Road



2. Rear Service Drive



3. Parking Lot Cross Access



Article 23

Landscape Standards and Tree Replacement

Section 23.1 Purpose

A. The intent of this article is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscape improvements. Landscaping is viewed as a critical element contributing to the aesthetics,

development quality, stability of property values and the overall character of the city. The standards of this article are intended to help achieve a number of functional and environmental objectives such as:

1. promoting the implementation of the City Master Plan and subarea studies;
2. defining and articulating outdoor spaces and architectural elements;
3. obscuring, integrating and complementing various site elements;
4. assisting in directing safe and efficient movement of vehicular and pedestrian circulation;
5. screening headlights to reduce glare and incidental pollution;
6. reducing the physical impact between adjacent land uses;
7. provide landscape treatments that are consistent with adjacent sites and parcels within the surrounding area;
8. providing incentives to preserve quality existing plant material; and
9. providing reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein.

B. The standards contained in this article are considered the minimum necessary to achieve the objectives identified above. In several instances these standards are intentionally flexible to encourage flexibility and creative design. Additional landscaping beyond the minimum specified is encouraged to further improve the function, appearance and value of the property.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.2 Applicability

A. The requirements of this section shall apply to all projects subject to administrative review, sketch plan review, site plan review, or condominium review. No site plan, condominium, or land use permit shall be approved unless landscaping consistent with the requirements of this section is provided.

B. The landscaping requirements shall be met prior to the issuance of a certificate of occupancy and shall be continuously maintained in a sound, healthy, and vigorous growing condition.

C. The requirements herein, shall be independent of each other and shall not be double counted to fulfill the requirements of different required landscape elements.

D. In any case where an existing building and/or parking area is being increased by twenty-five percent (25%) or more over the original site plan, the site shall be brought into full compliance with the landscape standards herein.

E. Where an increase in an existing building and/or parking area is less than twenty-five percent (25%), the extent of new landscaping shall meet the landscaping requirements to the greatest extent practical.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.3 Definitions

For purposes of this ordinance, the following definitions shall apply:

1. **Berm:** A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.
2. **Buffer zone:** A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing singularly or in combination to serve as a visual and noise barrier.
3. **Caliper:** The diameter of a trunk measured as follows:
 - a. Existing trees are measured at four and one-half (4.5) feet above the average surrounding grade; and,
 - b. Trees which are to be planted shall be measured twelve (12) inches above the average surrounding grade if the tree caliper is more than four (4) inches, or if the tree caliper is less than four (4) inches, it shall be measured at six (6) inches above the average surrounding grade.
4. **Canopy tree:** A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to provide shade to adjacent ground areas and to enhance aesthetics.
5. **Diameter breast height (DBH):** The diameter of a tree measured at four (4) feet above the natural grade.
6. **Drip line:** An imaginary vertical line extending from the outermost branches of a tree to the ground.
7. **Greenbelt:** A landscaped area along a street between the curb or road shoulder and the front yard building or parking setback line; this area is also referred to as the front yard parking lot setback area.
8. **Hedgerow:** A row of eight (8) or more trees having a four-inch diameter or greater at a height of four (4) feet; the dripline of the trees defines the land area of the hedgerow.
9. **Landmark tree:** Any tree of stature standing alone in the open; or any woodlot tree which stands obviously apart from its neighbors by size, form or species. Trees equal to or greater than the diameters shown below will generally be considered a landmark tree regardless of

location:

| Common Name | Diameter (in inches) at 4 feet |
|------------------------|--------------------------------|
| American Hornbeam | 8 |
| Arborvitae | 18 |
| Ash | 24 |
| Basswood | 24 |
| Beech, American | 18 |
| Beech, Blue | 8 |
| Birch | 18 |
| Black Walnut | 24 |
| Catalpa | 24 |
| Cedar, Red | 12 |
| Chestnut | 18 |
| Crabapple/Hawthorne | 8 |
| Dogwood, Flowering | 8 |
| Elm | 24 |
| Fir | 18 |
| Ginkgo | 18 |
| Hackberry | 24 |
| Hemlock | 18 |
| Hickory | 18 |
| Honey Locust | 24 |
| Kentucky Coffeetree | 18 |
| Larch/Tamarack | 12 |
| London Plane, Sycamore | 24 |
| Maple | 18 |
| Oak | 18 |

| Common Name | Diameter (in inches) at 4 feet |
|---------------|--------------------------------|
| Pine | 18 |
| Redbud | Redbud |
| Sassafras | 18 |
| Serviceberry | 8 |
| Spruce | 18 |
| Sweetgum | 16 |
| Tulip Popular | 24 |
| Wild Cherry | 18 |
| Witch Hazel | 8 |

10. **Landscaping:** The treatment of the ground surface with live plant materials normally grown in Lapeer County such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping if provided in combination with live plant material. Various landscaping related terms are defined below.

a. **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns.

b. **Ground cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.

c. **Parking lot landscaping:** Landscaped areas located in and around a parking lot in specified quantities to improve the safety of pedestrian and vehicular traffic, guide traffic movement, improve the environment and improve the appearance of the parking area and site.

d. **Planting:** A young tree, vine or shrub that would be placed on or in the ground.

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

f. **Shrub:** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.

g. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of at least fifteen (15) feet.

h. **Ornamental tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty five (25) feet or less.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.4 Landscape Plan Specifications

A. The requirements set forth in this article shall apply to all uses, lots, sites, and parcels which are developed, expanded or otherwise modified. A separate detailed landscape plan shall be submitted as part of the preliminary site plan review or tentative preliminary plat review process.

B. The landscape plan shall demonstrate that all requirements of this article are met and shall be prepared in accordance with the following:

1. illustrate location, spacing species, and size of proposed plant material;
2. separately identify compliance with the minimum numeric requirements for greenbelts, buffer zones, parking lot trees, detention ponds, and interior landscaping; required trees or materials cannot be double counted;
3. if applicable, identify compliance with the numeric requirements for tree replacement and preservation;
4. provide, where required by the city, typical cross sections to illustrate views from adjacent land uses and the slope, height and width of proposed berms or landscape elements;
5. identify trees and other landscape elements to be preserved;
6. delineate the location of tree protection fence and limits of grading at the perimeter of areas to be preserved;
7. provide significant construction details to resolve specific conditions such as limits of grading adjacent to areas with trees and vegetative cover to be preserved, tree wells to preserve existing trees or culverts to maintain natural drainage patterns;
8. provide details to ensure proper installation and establishment of proposed plant material;
9. identify grass areas and other methods of ground cover; and
10. identify a landscape maintenance program including statement that all diseased, damaged or dead materials shall be replaced in accordance with standards of this ordinance.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.5 Replacement of Removed Trees

A. A tree survey is required to identify the location, species and size of existing trees within the proposed development area. Existing trees that are greater than eight (8) caliper inches shall be replaced on the site in accordance with the following standards:

1. Trees between eight (8) and eighteen (18) caliper inches shall be replaced at a rate of 50% of the total dbh removed.
2. Trees greater than eighteen (18) caliper inches shall be replaced at a rate of 75% of the total dbh removed.
3. Trees greater than thirty (30) caliper inches shall be replaced at a rate of 100% of the total dbh removed.
4. Trees that are dead or diseased are exempt from replacement requirements.

B. A summary table of the existing trees shall be provided and those trees that will be removed shall be indicated.

*Diameter at breast height (dbh) is the diameter measured at a height of four and one-half (4.5) feet above the natural grade.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.6 Incentives to Preserve Existing Trees

The standards listed below are intended to encourage the preservation of quality and mature trees by providing credits toward required landscape components.

A. Trees intended to be preserved shall be indicated on the site plan.

B. To obtain credit, the preserved trees shall be arranged to meet the intent of this article, be of high quality, as confirmed by the city, and at least (2.5") caliper in size.

C. Each tree preserved that is between 2.5" to 7.9" caliper in size shall be calculated as one (1) required tree, two (2) credits for trees with a caliper of 8" or greater.

D. The landscape plan shall include a matrix that lists required trees and credits for preserved trees.

E. During construction, tree protection fencing shall be placed ten (10) feet beyond the drip-line of the tree. The ground area within the

fence line shall be maintained with vegetative landscape material or pervious surface cover. The City may allow pedestrian pathways, driveways or parking within the dripline upon determination that the setback from the trunk is suitable to reasonably ensure protection of the tree and the public. Storage of soils or other materials during or after construction within the dripline is prohibited.

F. If trees are lost within three (3) years after completion of the construction, the property owner shall replace with new trees equal to the number of tree credits granted.

G. Tree credits may account for up to 50% of the required trees and be applied throughout the site.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.7 Design Standards

A. **Greenbelts.** A greenbelt shall be planted or preserved along public right-of-ways and designated frontage roads. The greenbelt is intended to provide a transition between the roadway and an existing or proposed land use. Greenbelts shall be provided in accordance with the following requirements:

1. The width of the greenbelt shall be thirty-five (35) feet in residential districts and equivalent to the minimum required parking lot setback in non-residential districts.
2. Greenbelts shall include only living materials and planting beds, except for approved sidewalks, bike paths, signs, driveways, and essential services.
3. Where sidewalks are located within the greenbelt, plant material shall be provided on each side of the pathway to provide visual and physical separation between the vehicular and pedestrian circulation.
4. The greenbelt shall contain a minimum of one (1) canopy tree and six (6) shrubs per thirty (30) linear feet, or fraction thereof, of road frontage including any openings for driveways, pathways or easements. The Planning Commission may approve the substitution of evergreen trees for up to fifty percent (50%) of the required canopy trees when appropriate in consideration of the land use and existing character of adjacent uses.
5. Ornamental trees may be used to diversify greenbelt planting requirements, provided two (2) ornamental trees shall be provided for each one (1) required canopy tree.
6. Greenbelt plantings shall be arranged to simulate a natural setting such as massing or staggered rows, except where the Planning Commission finds a more formal arrangement would be consistent with the established character of the area.
7. Greenbelts shall be designed to ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, clearance from overhead utility lines, adequate separation from underground utilities and accessibility to fire hydrants.
8. Planning Commission may reduce or waive the above requirements if it is determined that the greenbelts cannot be accommodated because of existing site conditions or are not needed to improve the appearance of the property.

B. Buffer Zones.

1. A buffer shall be provided between the subject site and all adjacent properties in accordance with the table below. The Planning Commission shall determine whether landscaping, a wall, a berm, or combination of these elements are needed to attain the intended screening. The use of canopy trees and associated understory are encouraged while walls and berms are discouraged.
2. At a minimum, the width of the buffer shall be equal to the required setback. However when a wall or berm are used, a larger buffer width may be required to accommodate both the required plant material and the wall or berm. All walls and berms shall be designed in accordance with the standards contained herein. (Note: exceptions may be granted as outlined below.)
 - a. **Type A Buffer.** One (1) canopy or evergreen trees and three (3) shrubs, per twenty (20) linear feet along the property line, rounded upward.
 - b. **Type B Buffer.** One (1) canopy or evergreen tree and three (3) shrubs, per thirty (30) linear feet along the property line, rounded upward.

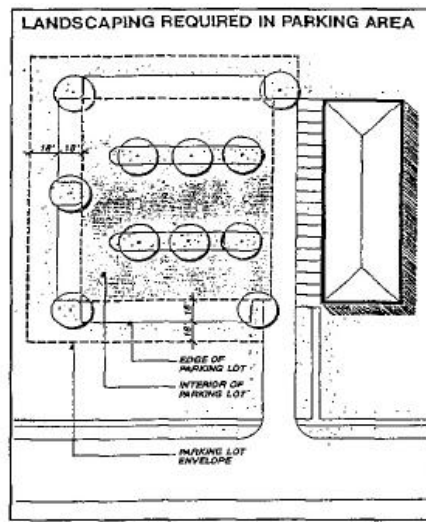
| Zoning or Proposed Use of Subject Site | Zoning or Use of Adjacent Site | | | | | |
|--|--------------------------------|-----------------|----------------------|--------|--------------------------|---------------------------|
| | Single Family | Multiple Family | Manufactured Housing | Office | Medical or Municipal Use | Central Business District |
| Single Family | none | Type B | Type A | Type B | Type A | Type A |
| Multiple Family | Type B | none | Type A | Type B | Type A | Type A |
| Manufactured Housing | Type A | Type A | none | Type A | Type A | Type A |
| Office | Type B | Type B | Type A | none | Type B | Type B |
| Medical or Municipal Use | Type A | Type A | Type A | Type B | none | Type B |
| Central Business District | Type A | Type A | Type A | Type B | Type B | none |
| Commercial | Type A | Type A | Type A | Type B | Type B | Type B |
| Industrial | Type A | Type A | Type A | Type B | Type A | Type A |

| | | | | | | |
|---|--------|--------|--------|--------|--------|--------|
| Outdoor Storage Areas in Any District | Type A | Type A | Type A | Type B | Type B | Type A |
| Public Utility Buildings & Structures in Any District | Type A | Type A | Type A | Type A | Type A | Type A |
| Parking Lots | Type A | Type A | Type A | Type B | Type B | Type B |

| Zoning or Proposed Use of Subject Site | Commercial | Industrial | Outdoor Storage Areas in Any District | Public Utility Buildings & Structures in Any District | Parking Lots |
|---|------------|------------|---------------------------------------|---|--------------|
| Single Family | Type A | Type A | Type A | Type A | Type A |
| Multiple Family | Type A | Type A | Type A | Type A | Type A |
| Manufactured Housing | Type A | Type A | Type A | Type A | Type A |
| Office | Type B | Type B | Type B | Type A | Type B |
| Medical or Municipal Use | Type B | Type A | Type B | Type A | Type B |
| Central Business District | Type B | Type A | Type A | Type A | Type B |
| Commercial | none | Type A | Type A | Type A | Type B |
| Industrial | Type A | none | Type B | Type B | Type B |
| Outdoor Storage Areas in Any District | Type A | Type B | none | Type B | Type B |
| Public Utility Buildings & Structures in Any District | Type A | Type B | Type B | none | Type B |
| Parking Lots | Type B | Type B | Type B | Type B | none |

C. Parking Lot Landscaping. Parking lot landscaping shall be provided in accordance with the following standards:

1. Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of pavement and assist with vehicular and pedestrian flow.
2. At least one (1) canopy tree shall be provided per twelve (12) parking spaces provided.
3. All of the required parking lots trees shall be placed within the parking lot envelope as described by the area including the parking lot surface and extending eighteen (18) feet from the edge of the parking lot.
4. A minimum of one-third (a) of the trees shall be placed within parking lot islands. Planning Commission may reduce or waive this requirement if it is determined that the parking lot islands will interfere with vehicular circulation or is not needed because the parking lot is not highly visible from a public right-of-way.
5. Parking lot islands shall be curbed and be at least one hundred (100) square feet in area. Islands within parking lots having less than 100 spaces may be a minimum of ten (10) feet in width; parking areas with more than 100 spaces shall have islands at least twenty (20) feet in width. The depth of the island shall be two (2) feet shorter than an adjacent parking space.
6. Only shrubs, grass or other living ground cover shall be used to supplement trees within parking lot islands.
7. The design and layout of the parking lots shall provide appropriate pedestrian circulation and connections to perimeter pedestrian connections.



D. **Detention/Retention Pond Landscaping.** Ponds shall be located outside required setbacks and designed to provide a natural appearance. Detention and retention ponds shall be provided in accordance with the following standards:

1. Side slopes shall not exceed requirements that require the perimeter of the pond to be fenced.
2. One (1) canopy or evergreen tree and ten (10) shrubs are required per fifty (50) feet of pond perimeter, as measured along the top of the bank elevation. The required landscaping shall be planted in a random pattern, not limited to the top of the pond bank.
3. Where a natural landscape is found not to be particular or desirable the Planning Commission may require some type of decorative fencing.
4. Planning Commission may reduce or waive this requirement if it is determined that detention/retention pond is not highly visible from adjacent sites or from areas that are readily accessed by the public.

E. **Interior Site Landscaping.** Site landscaping shall be located near building entrances, along building foundations, along pedestrian walkways, near service areas or as landscaped plazas.

F. **Residential and Site Condominium Developments.** Landscaping for single-family condominium and multiple-family residential developments shall be provided in accordance with the following requirements:

1. Street trees shall be provided at a rate of one (1) tree per forty (40) linear feet of frontage, or thereof, along all interior roads. The Planning Commission may determine that existing trees preserved within ten (10) feet of the road edge may fulfill the street tree requirement for that portion of the road. Trees should generally be planted between the sidewalk and road curb, in consideration of intersection sight distance.
2. The landscape plan shall also include details of the cul-du-sac islands, project entrances, accessory buildings and common open space areas.

G. **Right-of-Way Landscaping.** Public right-of-ways located adjacent to required landscaped areas shall be planted with grass or other suitable living plant material and maintained by the owner or occupant of the adjacent property as if the right-of-way were part of the required landscaped areas. Tree and shrubs may be planted within the right-of-way with permission from the appropriate authority with jurisdiction over the road.

H. **Accessory Site Components.** In addition to required screens or walls, necessary site elements such as waste receptacles, air conditioner units, utility boxes and other similar components shall be appropriately screened with plant material.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.8 Specifications for Landscape Improvements and Plant Materials

A. **Wall Standards.** While walls are not necessarily encouraged, certain situations may be appropriate for provision of a structural screen. When provided, walls shall meet the following standards:

1. Walls shall be located on the lot line or within the required setback when it is desired to have plant material on both sides of the wall.
2. Walls shall be continuous except for openings for pedestrian connections as approved by the Planning Commission.
3. Walls shall be constructed of the primary building material of the principal structure as determined by the Planning Commission.

B. **Berm Standards.** While berms are not necessarily encouraged, certain situations may be appropriate for provision of a structural screen. In instances where large setbacks are available between uses, the Planning Commission may allow the substitution of a berm with additional landscaping in place of the wall requirement. Berms shall be constructed with horizontal and vertical undulations so as to represent a natural appearance with a crest area at least four (4) feet in width. Berms shall be planted with trees, shrubs or lawn to ensure that it remains stable. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other similar method. The maximum slope of the berm shall not exceed one (1) foot of vertical rise to three (3) feet of horizontal distance.

C. **Plant Material.** All plant material shall be hardy to the city, be free of disease and insects and conform to the American Standard for Nursery Stock of the American Nurserymen.

D. **Minimum Sizes and Spacing.** The minimum plant sizes and spacing shall be provided in accordance with the following:

1. Wherever screening is required, screening shall consist of closely spaced evergreen plantings which can be reasonably expected to form a complete visual barrier. Deciduous plant material may be used for variety to supplement evergreen plantings.

| Plant Material | Minimum Plant Sizes | Spacing Requirements |
|----------------------------|--------------------------------------|----------------------|
| Deciduous canopy trees | 22" caliper | 25' on-center |
| Ornamental trees | 2" caliper 6' height (clump form) | 15' on-center |
| Evergreen trees | 6' height | 15' on-center |
| Narrow evergreen trees | 4' height | 12' on-center |
| Deciduous shrubs | 2' height | 4' - 6' on-center |
| Upright evergreen shrubs | 2' height | 3' - 4' on-center |
| Spreading evergreen shrubs | 18" - 24" spread | 6' on-center |

E. **Mixing of Species.** The overall landscape plan shall not contain more than 33% of any one plant species. The use of native species and mixture of trees from the same species association is strongly encouraged.

F. **Trees Not Permitted.** The following trees are not permitted as they split easily, their wood is brittle, their roots clog drains and sewers, and they are unusually susceptible to disease or insects. The Planning Commission may, however, allow trees from this list when associated with an appropriate ecosystem. Trees not permitted are as follows: Box Elder, Elms, Tree of Heaven, Willows, Soft Maples (silver), Poplars, Horse Chestnut (nut bearing), Ginkgo (female), Cottonwood, Mulberry, Black Locust, Honey Locust (with thorns).

G. **Planting Beds.** Bark used as mulch shall be maintained at minimum of two (2) inches deep. Planting beds shall be edged with either plastic or metal edging in residential districts and metal edging in all other zoning districts.

H. **Topsoil.** Top soil shall consist of a 4" base for lawn areas and an 8" – 12" base within planting beds.

I. **Proximity to Utilities.** Plant material shall not be located in a manner that will interfere with or cause damage to underground utility lines, public roads or other public facilities.

J. **Lawn Grasses.** Lawn grasses shall be planted in species normally grown as permanent lawns in Lapeer County. Grasses may be plugged, sprigged, seeded or sodded except that rolled sod, erosion reducing net or suitable mulch shall be used in swales or other areas susceptible to erosion and shall be staked where necessary for stabilization. When complete sodding or seeding is not used, nursegrass seed shall be sown and mulched for immediate protection until permanent coverage is achieved. Grass sod and seed shall be free of weeds and noxious pests or disease.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.9 Delay.

If weather conditions or other factors determined by the Zoning Administrator are sufficient enough to warrant a delay in installing landscaping, a refundable performance bond or satisfactory guarantee of a sufficient amount to ensure the installation of all required landscaping shall be required in compliance with the requirements of this section to ensure that landscaping is installed within a reasonable period of time.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.10 Waiver or Modification of Landscaping and Screening Requirements

During site plan or subdivision plat review, the Planning Commission may determine that existing plant material would provide adequate landscaping or screening or that dimensional conditions unique to the subject parcel would prevent development of required landscape components. If such a determination is made, the Planning Commission may waive or modify the landscape provisions of this article in consideration of, but not limited to, the following:

- A. existing vegetation;
- B. topography and grade changes;
- C. existing wetlands;
- D. type of and distance to adjacent land uses;
- E. tree sizes proposed being larger than the minimum requirements;
- F. existing development pattern in the central business district; or
- G. the future land use designation proposed in the City Master Plan.

(Am. Ord. 6.1, passed 4-20-10)

Section 23.11 Minimum Standards for Installation, Irrigation and Maintenance

A. **Timing of Planting.** All required plant material shall be planted prior to issuing a Final Certificate of Occupancy. In the event that the project is completed during a time of year when planting is impractical, a financial guarantee in the amount of the remaining improvements shall be provided in a form of payment acceptable to the city.

B. **Completion of Improvements.** Tree stakes, guy wires and tree wrap shall be removed after completion of the initial growing season.

C. **Irrigation.** All landscaped areas shall be provided with an underground irrigation system.

D. **Maintenance.** Landscaped areas and plant materials required by this ordinance shall be kept free from refuse and debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance in accordance with the approved site plan. If any plant material dies or becomes diseased, it shall be replaced within thirty (30) days written notice from the city or within an extended time period as specified in said notice.

(Am. Ord. 6.1, passed 4-20-10)

Article 24

Signs

Section 24.1 Purpose

The purpose of this article is to regulate signs and to minimize outdoor advertising within the City of Imlay City to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction and loss of visibility; promote public convenience; preserve property values; support and complement strategies of the city of Imlay City Master Plan and this ordinance; and enhance the aesthetic appearance and quality of life within the city.

The regulations and standards of this article are considered the minimum amount of regulation necessary to achieve a substantial government interest for public safety, aesthetics, protection of property values, and are intended to be content neutral. These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city so as to:

A. protect the public right to receive messages, especially non-commercial messages such as religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution;

B. recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premises activities; alternative channels of advertising communication and media are available for advertising which do not create visual blight and compromise traffic safety;

C. recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents;

D. prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair;

E. enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs;

F. prevent placement of signs which will conceal or obscure signs of adjacent uses;

G. prevent off-premises signs from conflicting with land uses;

H. preserve and improve the small town atmosphere of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings; and

I. prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

(Ord. 6.1, passed 1-16-07)

Section 24.2 Scope of Requirements

It will be unlawful for any person, firm, or corporation to erect, construct, or alter any sign in Imlay City except in conformance with the provisions of this article, subject to issuance of a permit, except as otherwise provided herein.

(Ord. 6.1, passed 1-16-07)

Section 24.3 Definitions

For the purposes of this article, the following definitions shall apply (see illustrations):

A. **Accessory Sign:** A sign which pertains to the use of the premises on which it is located.

B. **Animated Sign:** A sign which uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene.



C. **Awning Sign:** A sign which is painted on, printed on, or attached flat against the surface of an awning.

D. **Banner Sign:** A sign made of fabric, cloth, paper, or other non-rigid material that is typically not enclosed in a frame.

E. **Billboards:** See "Off-Premises Advertising Sign."

F. **Bulletin Board:** A type of "changeable copy" sign which displays the name of an institution, school, library, community center, fraternal lodge, golf course, country club, park or other recreational facility, and which displays announcements of its services and activities upon the premises.

G. **Changeable Message Sign:** A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include those that use incandescent lamps, LEDs and LCD displays, but do not include manual changeable message signs.

H. **Community Special Event Sign:** A sign advertising a community special event, limited to charitable organizations located within the corporate limits of the city.

I. **Construction Sign:** A temporary sign identifying the designer, contractors and subcontractor, and material suppliers participating in construction on the property on which the sign is located.

J. **Directional Sign:** A sign installed by a public agency to direct traffic flow, regulate traffic operations and provide information in conformance with the Michigan Manual of Uniform Traffic Control Devices.

K. **Festoon:** A string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.

L. **Flashing Sign:** A sign which contains an intermittent or sequential flashing light source.

M. **Freestanding Sign:** A sign which is erected upon or supported by the ground, including "pole or pylon signs" and "ground signs."

N. **Gasoline Price Sign:** A sign which is used to advertise the price of gasoline. In the event that the brand identification sign is attached to or is a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.



O. **Ground or Monument Sign:** A three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.

P. **Illegal Sign:** A sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.

Q. **Incidental Sign:** A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on credit cards and business affiliations.

R. **Mansard:** A slope roof or roof-like facade. Signs mounted on the face of a mansard roof shall be considered wall signs.

S. **Marquee:** A permanent roof-like structure or canopy, supported by and extending from the face of the building.

T. **Marquee Sign:** A sign attached to or supported by a marquee structure.

U. **Moving Sign:** A sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" is a type of moving sign. Such motion does not refer to the method of changing the message on the sign.

V. **Mural:**

1. A work of art that consists of painting and similar pictorial display that is applied to and made an integral part of an exterior wall, which contains no commercial advertising or logos, and which does not advertise or promote any business, product, activity, service, interest or entertainment.

2. A mural shall be considered a wall sign if it contains words, logos, trademarks or graphic representations of any person, product or service that identify or advertise a business. Signatures on a mural shall be allowed and limited to a maximum of two (2) square feet in size.

W. **Nameplate:** A non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group

of occupants.

X. **Neon Sign:** See “Outline Tubing Sign.”

Y. **Nonconforming Sign:**

1. A sign which is prohibited under the terms of this ordinance, but was erected lawfully and was in use on the date of enactment of this ordinance, or amendment thereto.

2. A sign which does not conform to the requirements of this ordinance, but for which a variance has been granted.

Z. **Obsolete Sign:** A sign that advertises a product that is no longer made or that advertises a business that has closed.

AA. **Off-Premises Advertising Sign:** A sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where such sign is located.

BB. **On-Premises Advertising Sign:** A sign which contains a message related to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where the sign is located.

CC. **Outline Tubing Sign:** A sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

DD. **Parapet:** The extension of a false front or wall above a roof line. Signs mounted on the face of a parapet shall be considered wall signs.

EE. **Permanent Sign:** A sign designed to be installed permanently in the ground a minimum of 42" deep by use of a steel post, wood post or other appropriate materials.



FF. **Pole or Pylon Sign:** A type of freestanding sign that is elevated above the ground on a pole(s) or brace(s) that are in excess of three (3) feet tall and not attached to any building or other structure. Pole or pylon signs mounted on poles or braces three (3) feet tall or less are subject to the regulations for ground signs.

GG. **Political Sign:** A temporary sign relating matters to be voted on in a local, state, or national election or referendum.



HH. **Portable Sign:** A sign designed to be moved from place to place, whether or not it is permanently attached to the ground or structure. This includes hot-air and gas-filled balloons, pennants, streamers, ribbons, pinwheels, non-governmental flags, searchlights and signs mounted on a portable structure, including those with wheels. Prohibited portable signs shall not include signs which are expressly permitted in this ordinance.

II. **Poster Panel:** A type of temporary sign that is used to draw attention to matters that are temporary in nature, such as price changes or sales. “A” frame or sandwich signs are types of poster panel signs.

JJ. **Projecting Sign:** A sign, other than a flat wall sign, that projects more than twelve (12) inches from the face of the building or structure upon which it is located. A projecting roof sign is one that projects beyond the face or exterior wall surface of the building upon which the roof sign is mounted.

KK. **Public Sign:** A sign erected in the public interest by or upon orders from a local, state, or federal public official. Examples of public signs include: legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, and similar signs.

LL. **Real Estate Development Sign:** A sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction on the parcel on which the sign is located.

MM. **Real Estate Sign:** An on-premises temporary sign which makes it known that real estate upon which the sign is located is for sale, lease, or rent.

NN. **Residential Entranceway Sign:** A sign which marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.

OO. **Roof Line:** The top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

PP. **Roof Sign:** Any sign that extends above the roof line or is erected over the surface of the roof.

QQ. **Rotating Sign:** See "Moving Sign."

RR. **Sign:** Any device, structure, fixture, or placard which uses words, numbers, figures, graphic designs, logos or trademarks for the purpose of informing or attracting the attention of persons. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily directed at persons within the premises upon which the sign is located.

SS. **Temporary Sign:** A sign not constructed or intended for long term use. Examples of temporary signs include signs which announce a coming attraction, a new building under construction, a community or civic project, or other special events that occur for a limited period of time.

TT. **Time and Temperature Signs:** Signs which display the current time and/or temperature.



UU. **Tourist Oriented Directional Signs (TODS):** Signs located within the right-of-way of a primary highway that identifies and gives directions to activities or sites of significant interest to the traveling public.

VV. **Vehicle Signs:** Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

WW. **Wall Sign:** A sign attached parallel to and extending not more than twelve (12) inches from the wall of a building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs. Permanent signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside, shall also be considered wall signs.



XX. **Window Sign:** A sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside, shall be considered wall signs.

(Ord. 6.1, passed 1-16-07; Am. Ord. passed 4-15-08; Am. Ord. passed 5-7-08; Am. Ord. passed 12-20-11)

Section 24.4 General Provisions

A. **Signs Exempt from Permits.** The following signs are specifically exempt from the permit requirements of this article:

1. Address Signs. Address numbers with a numeral height no greater than six (6) inches for residences and eighteen (18) inches for businesses;
2. Barber Poles;
3. Flags. Flags or insignia bearing the official design of a nation, state, municipality, educational institution, or noncommercial organization, provided the maximum height of the flagpole is thirty-five (35) feet measured from the average surrounding grade, a maximum of (two) flagpoles per lot;
4. Employment Signs. "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be six (6) square feet with a maximum height of four (4) feet;
5. Historic Markers. Historical marker including plaques or signs describing state or national designation as a historical site or structure and containing narrative, not exceeding twenty-five (25) square feet in area;
6. Memorial Signs. Memorial signs or tablets, names of buildings and date of erection, monumental citations, commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other noncombustible material and made an integral part of the structure and not exceeding twenty-five (25) square feet in area;
7. Non-commercial Signs. Non-commercial signs including signs containing non-commercial messages, such as those designating the location of public telephones, restrooms, restrictions on smoking and restrictions on building entrances, provided that such signs do not

exceed two (2) square feet in area;

8. **Traffic Control Signs.** Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices;

9. **Nameplates.** Residential nameplates identifying the occupants of the building, the home occupation, or for professional purposes provided such sign shall be limited to one (1) per dwelling and not to exceed two (2) square feet in area; the sign shall not be illuminated and must be attached to an exterior building wall;

10. **Signs on Vehicles.** Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked;

11. **Device Signs.** Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three (3) square feet in area, limit of one (1) sign per vending machine, gas pump or ice container;

12. **Open House Signs.** Portable real estate "open house" signs provided the following conditions are met:

- a. there shall be only two (2) such signs placed off-premises and one (1) on-premises;
- b. the size of each sign shall be a maximum of four (4) square feet in size and three (3) feet in height above grade;
- c. signs shall not be affixed to other signs, utility poles, fire hydrants or trees;
- d. signs may be located in the public right-of-way but shall be placed at least ten (10) feet from the curb or fifteen (15) feet from the pavement edge where there is no curb;
- e. the person or firm placing the signs shall obtain the written permission from the owner or occupant of all properties on which such signs are placed;
- f. the signs shall be allowed for a maximum of eight (8) hours per day; and
- g. the signs shall be removed within one (1) hour following closing of the open house;

13. **Parking Lot Signs.** Private parking lot and driveway identification sign limited to one (1) per lot and not to exceed three (3) square feet per sign and six (6) feet in height;

14. **Warning Signs.** Publicly authorized warning signs, such as no trespassing, warning of electrical currents or animals, provided such signs do not exceed two (2) square feet in area;

15. **Public Signs.** Regulatory and directional traffic control and street signs erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices; and

16. **Enclosed Signs.** Any sign which is located completely within an enclosed building, and which is not visible from outside the building.

17. **Inconspicuous signs** which are not readable beyond the boundaries of the parcel upon which they are located or from any public or private street or alley, including wire signs that are located within the interior of a property and not readable from abutting properties.

18. **Tourist Oriented Directional Signing (TODS)** on public property, including a public right-of-way. Signs require the approval of the Michigan Department of Transportation and are to be installed by MDOT licensed installers.

B. Prohibited Signs. The following signs are prohibited in all districts:

1. Any sign not expressly permitted;
2. **String Lights.** String lights used for commercial purposes, other than holiday decorations;
3. **Unsafe Signs.** Any sign or sign structure which:
 - a. is structurally unsafe;
 - b. constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
 - c. is capable of causing electric shock to person who comes in contact with it; or
 - d. is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights;
4. **Non-Regulatory Signs.** Any sign placed in any public right-of-way and erected on a tree or utility pole, except for signs of a government or utility;
5. **Obsolete signs,** as defined in this article;
6. **Vehicle Signs.** Signs affixed to a parked vehicle or truck trailer and parked on a business premises or an industrial lot for a time period exceeding forty-eight (48) hours for advertising purposes, rather than for transportation purposes;
7. **Signs that Obstruct Access.** Signs which obstruct free access or egress from any building;
8. **Signs that Confuse Traffic.** Any sign which makes use of the words "stop", "look", or "danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic;

9. Signs which in any way simulate or could be confused with the lighting of emergency vehicles or traffic signals; there shall be no flashing, oscillating or intermittent, or red, yellow, or green illumination on any sign located in the same line of vision as a traffic control system, nor interference with vision clearance along any highway, street, or road or at any intersection of two or more streets;

10. Illegal Signs. Any sign unlawfully installed, erected, or maintained;
11. Pole Signs. Pole or pylon signs, as defined;
12. Roof Signs;
13. Road Furniture Signs. Signs on street furniture, such as benches and trash receptacles;
14. Real estate signs no longer valid due to the sale, rental, or lease of the property.

C. **Murals.** This section regulates the installation, location, size, and appearance of murals and empowers the Planning Commission to evaluate all applications for mural permits, and to ensure conformance with the intent of this section.

1. No person shall install, construct, paint, or modify any mural in violation of this section. All applications for mural permits are required to undergo preliminary review by the DDA and final review and approval by the Planning Commission.

2. Murals may be construed as signs, but are not intended to be regulated as signs. Murals that are considered to be wall signs, pursuant to the definition of "mural" in Section 24.3, shall conform to the design standards and permit procedures applicable to such wall signs.

3. The following procedures shall govern the approval of murals not considered to be wall signs.

a. **Location.** Murals shall be permitted on non-residential buildings located within the Central Business District.

b. **Standards:**

(1) **Maximum Number of Murals per Site.** One (1) mural per structure may be approved by the Planning Commission. In unique circumstances whereby the design of the mural(s) and structure are enhanced by additional murals, the Planning Commission may allow for more than one (1) mural per structure.

(2) **Advertisement Value.** Words and/or images may not generally be incorporated within the proposed mural which specifically identify or reflect the business, products and/or services provided by the business occupying the structure.

(3) **Mural Area.** Murals shall not be calculated as business advertising signage and are not subject to the maximum wall sign area. Murals can occupy an entire single wall on which the mural is applied.

(4) **Public Safety.** The proposed mural does not create a public safety issue, such as a distraction to drivers.

(5) **Lighting.** Murals shall not be lighted in any manner.

(6) **Long-term Maintenance.** The mural shall be kept in good condition for the life of the mural according to the maintenance schedule and responsibilities approved by the Planning Commission.

c. **DDA Meeting.** The applicant shall appear before the DDA, at which time the DDA shall review the proposal, advise the applicant as to its viability, offer suggestions, and assist the applicant as necessary in the processing of the request. The DDA shall examine the application for completeness, for conformance with the city's rules and regulations and established criteria, and make a recommendation to the Planning Commission as to disposition of the request.

d. **Findings.** Following the above-noted DDA meeting and prior to approving a mural application, the Planning Commission shall find and justify that all of the standards identified in 3b are met.

e. **Appeals.** A decision of the Planning Commission may be appealed to the Zoning Board of Appeals.

(Ord. 6.1, passed 1-16-07; Am. Ord. passed 4-15-08; Am. Ord. passed 5-7-08)

Section 24.5 General Standards For Permitted Signs

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this section; provided, that no such sign shall be erected or altered until approved by the City Building Official and Zoning Administrator and until a sign permit has been issued pursuant to the City of Imlay City Code of Ordinances.

A. Sign Setbacks.

1. All signs, unless otherwise provided for, shall be set back a minimum of fifteen (15) feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.

2. Side yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least one hundred (100) feet from any residential district.

3. **Sight Triangle.** No sign shall be located within, project into, or overhang the triangular area formed at the intersection of any two road right-of-way lines (existing or proposed) 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.

B. Location.

Sign location to assure adequate sight distance. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of twenty-four (24) inches and six (6) feet within a triangular area measured

twenty-five (25) feet back from intersection of public right-of-way lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs.

C. Design and Construction Standards.

1. All signs, as permitted, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein.

2. Signs shall be constructed in a safe and stable manner in accordance with the city's adopted building code and electrical code. All electrical wiring associated with a freestanding sign shall be installed underground.

3. All signs shall be designed so that the supporting framework is contained within or behind the face of the sign or within the building to which it is attached so as to be totally screened from view.

4. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least twenty (20) pounds per square foot or seventy-five (75) miles per hour.

5. All signs, including any cables, guy wires, or supports shall have a minimum clearance of four (4) feet from any electric fixture, street light, or other public utility pole or standard.

D. Illumination.



1. Permanent signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it.

2. Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.

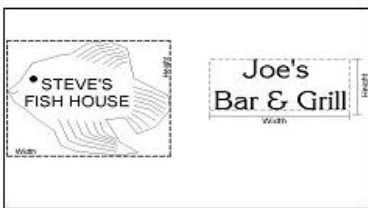
3. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.

4. Illumination by bare bulbs, neon, luminous tubing or flames is prohibited.

E. Measurement.

1. **Sign Area.** Sign area shall be computed as follows:

a. Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.



b. Where a sign consists of individual letters and logo affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.

c. The area of a freestanding sign shall be computed by measuring the entire vertical surface of a face upon which the letters and logo are attached.

d. When a sign has two (2) or more faces, the area of all faces shall be included in calculating the area of the sign.

e. The area of a cylindrical ground sign shall be computed by multiplying the diameter of the cylinder by its height.

2. **Setback and Distance Measurements.** The following guidelines shall be used to determine compliance with setback and distance measurements:

a. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the two signs.

b. The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or building.

c. The distance between a sign and a building or property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the building.

Section 24.6 Specific Sign Standards

A. Billboards or Off-Premises Advertising Signs. Billboards or freestanding off-premises advertising signs shall be subject to the provisions in Article 20 Special Land Uses.

B. Church Signs. Church signs shall be permitted subject to the same standards as other signs in the district in which the church is located. However, churches in residential districts may erect signs for the purposes of: identification of the church or church affiliated school, parsonage, or other facility; advertising the time or subject of church services; or, presenting other related information. Such signs shall be subject to the following standards:

1. Size. The maximum size of each such sign shall be twenty (20) square feet.
2. Height. The maximum height of church signs shall be eight (8) feet.
3. Location. Signs shall comply with the setback requirements for the district in which they are located.
4. Number. There shall be no more than one (1) sign per parcel, except on a corner parcel, two (2) signs, one (1) facing each street shall be permitted. One (1) additional sign shall be permitted for each school, parsonage, or other related facility.

C. Residential Entranceway Signs. Permanent residential entranceway signs shall be permitted in accordance with the following requirements:

1. Size. The sign shall cover no more than fifty percent (50%) of the entranceway structure.
2. Number. There shall be no more than one (1) such sign located at each entrance to a subdivision or development.

D. Signs for Nonconforming Uses in Residential Districts. Each nonconforming, nonresidential use in a residential district shall be permitted one wall-mounted sign, subject to the following requirements:

1. The maximum size for such a sign shall be two (2) square feet.
2. No such sign shall be intentionally lighted.

E. Signs for Residential District Uses in a Nonresidential District. Signs for nonconforming residential district uses in a nonresidential district shall be as permitted in this article.

F. Signs for Nonconforming Nonresidential Uses. Signs for nonconforming nonresidential uses in an office, commercial or industrial district (for example, a nonconforming commercial use in an industrial district) shall be governed by the sign regulations which are appropriate for the type of use, as specified in this article.

G. The number, display area, and height of signs within the various zoning districts are provided in Table 24-06 and its accompanying set of additional requirements.

| Table 24-06 | | | | | | |
|----------------------------|------------------------------|-------------|--|-----------------------------|-----------------|-------------------------|
| Specific Sign Requirements | | | | | | |
| Type of Sign | Districts Permitted | Max. Height | Max. Size (1) | Max. Number | Permit Required | Additional Requirements |
| Banner | All nonresidential districts | — | 16 square feet | 1 | yes | (2) |
| Ground or monument | OS-1, B-1, B-2, B-3 | 6 feet | 110 square feet total; 55 square feet per face | 1 per lot; 2 per corner lot | yes | (3) |
| Community special event | All districts | — | — | — | yes | (4) |
| Marquee | B-1, B-2, B-3 | — | 1 ½ square feet per lineal foot of building frontage | 1 per street frontage | yes | (5) |
| Awning/canopy | All nonresidential districts | — | 32 square feet | 1 per street frontage | yes | (6) |
| Wall | All nonresidential districts | — | — | — | yes | (7) |
| Warning | All districts | — | 3 | — | no | — |
| Window | All nonresidential districts | — | 25% of glass surface | — | no | (8) |
| Gasoline price signs | B-3, I-1, I-2 | 6 feet | 20 square feet | 1; 2 per corner lot | yes | (9) |
| Poster panel | B-2 | 4 feet | 12 square feet per side | 1 per street frontage | yes | (10) |
| Portable signs | All districts | 6 feet | 32 square feet | 1 | yes | (19) |
| Construction | All districts | 15 feet | 64 square feet | 1 | no | (11) |

| | | | | | | |
|---|------------------------------|---------|----------------|---------------------|----|------|
| Real estate - sale or lease of individual home or residential lot | All residential districts | 6 feet | 6 square feet | 1; 2 per corner lot | no | (12) |
| Real estate - sale or lease of individual business or vacant lot | All nonresidential districts | 10 feet | 16 square feet | 1; 2 per corner lot | no | (13) |
| Real estate - sale or lease of unplatted vacant lot | All districts | 10 feet | 64 square feet | 1; 2 per corner lot | no | (14) |

| <i>Type of Sign</i> | <i>Districts Permitted</i> | <i>Max. Height</i> | <i>Max. Size (1)</i> | <i>Max. Number</i> | <i>Permit Required</i> | <i>Additional Requirements</i> |
|------------------------------|--|--------------------|--|---------------------|------------------------|--------------------------------|
| Real estate development sign | All districts | 10 feet | 64 square feet | 1; 2 per corner lot | no | (15) |
| Grand opening sign | Commercial districts | 10 feet | 16 square feet | 1 | no | |
| Garage sale sign | Residential districts | 5 feet | 2 square feet | 2 | no | (16) |
| Political sign | All districts | 10 feet | 16 square feet | | no | (17) |
| Residential entranceway | All residential districts | 42 in. | 48 square feet | 1 each entrance | yes | — |
| Projecting signs | All nonresidential districts | — | 8 square feet per side | 1; 2 per corner lot | yes | (18) |
| Home occupation | All districts | — | 3 square feet | — | yes | — |
| Changeable message signs | I-1, I-2, by right B-1, B-3, OS-1 with limitations (20.a.1) | 4 feet | 25% of overall sign or 24 square feet, whichever is less | 1 per lot | yes | (20) |

H. Signs noted in Table 24-06 shall comply with the following requirements:

1. The Planning Commission may permit a fifteen percent (15%) increase in the allowable sign area where the site has shared access with an adjoining site, the sign has a brick base, and additional landscaping is provided around the base of the sign.

2. Banner Sign.

- a. Firmly attached to the wall of the main building or firmly attached to a secure structure.
- b. Limited to advertising the opening of a new business or special/seasonal sale or event.
- c. A maximum display time of an aggregate total of thirty (30) calendar days per calendar year.
- d. Not to be used as a permanent display.

3. Ground or Monument Sign.

a. The height of any ground or monument sign in any nonresidential district shall not exceed six (6) feet in height unless otherwise approved by the Planning Commission. The height of the sign shall be measured from the average grade measured fifty (50) feet along the frontage from both sides of the sign. Placing any sign atop a berm is permitted only if the berm is long enough to meet the average grade requirement and landscaping is provided on the berm.

b. Sign shall be set back a minimum of fifteen (15) feet from the edge of the adjacent street pavement. However, if conditions exist so as to make this impractical, this setback may be reduced by the Building Official and Zoning Administrator provided such reduction does not create a hazard to motorists or pedestrians and that no portion of the sign is located in the right-of-way.

c. Each lot of record shall be allowed one (1) ground sign except a corner lot where a total of two (2) signs may be permitted, one on each road frontage, provided that the total linear frontage is a minimum of three-hundred (300) feet.

d. Only one (1) ground or monument sign shall be permitted for multi-tenant buildings or shopping centers, but the sign area may be allocated for use by individual tenants.

e. The maximum width of any ground or monument sign shall not exceed fifteen (15) feet.

f. The maximum depth of such signs shall not exceed twenty-five percent (25%) of the width.



g. Such signs shall incorporate a masonry base that match the associated building(s). Alternatively, the sign may be mounted on poles or braces three (3) feet tall or less. In the latter case, landscaping shall be planted to minimize the appearance of the poles or braces.

4. Community Special Event Signs.

a. May include ground or wall signs, banners, pennants, or similar displays; the number, size and height of such signs shall be subject to Planning Commission approval.

b. In making its determination on the number, size and height of such signs, the Planning Commission may consider the size of the event, the size of and/or the number of properties hosting the event, the potential impact of the signs on nearby properties, and any other relevant factors.

c. Permitted for fourteen (14) days prior to and for duration of the event and not to be removed within three (3) days after the event concludes.

d. Sign may be installed off the premises of the organization, group, event location or activity location that the sign pertains to, as determined by the Planning Commission.

5. Marquee Signs.

a. The area of permanent lettering on a marquee sign shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.

b. Limitations imposed by this section concerning projection of signs from the face of a wall or building shall not apply to marquee signs, provided that marquee signs shall comply with the setback requirements for the district in which they are located.

c. Vertical clearance. A minimum vertical clearance of ten (10) feet shall be provided beneath any marquee.

d. Construction. Marquee signs shall consist of hard incombustible materials. The written message shall be affixed flat to the vertical face of the marquee.

e. Marquee signs shall be permitted for theaters located in commercial districts.

6. Awnings and Canopies.

a. Any sign area on an awning or canopy shall be included in calculations of maximum wall sign square footage.

b. No awning or canopy sign shall extend above the roof or parapet of the structure to which it is attached by more than one (1) foot.

c. Awnings and canopies shall not be internally illuminated.

d. The total area of the lettering and logo shall not exceed twenty-five percent (25%) of the total area of the awning or canopy that is visible from the street.

7. Wall Signs.

a. Distance from Wall. Sign shall not extend more than twelve (12) inches beyond the surface of the portion of the building wall area upon which it is painted, erected, or fastened.

b. Illumination. Wall signs may be directly or indirectly illuminated.

c. Height. The top of a wall sign shall not be higher than whichever is lowest:

(1) the maximum height specified for the district in which the sign is located;

(2) the top of the sills at the first level on windows above the first story; or

(3) the height of the building facing the street on which the sign is located.

d. Number. One (1) wall sign shall be permitted per street or highway frontage on each parcel. In the case of a multi-tenant building or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one (1) wall sign shall be permitted, but the total sign area should be allocated on an equal basis to all tenants.

e. Only one (1) ground or monument sign shall be permitted for multi-tenant buildings or shopping centers, but the sign area may be allocated for use by individual tenants.

f. The maximum vertical dimension of any wall sign shall not exceed one-third (1/3) of the building height.

g. The maximum horizontal dimension of any wall-mounted sign shall not exceed three-fourths (3/4) of the width of the building.

8. Window Signs.

a. The area of permanent window signs shall be counted in determining compliance with requirements for total area of wall signs.

b. Window signs that are faded, yellowed, ripped, or otherwise damaged shall be removed immediately.

9. Gasoline Price Signs. Gasoline price signs shall comply with the setback and height requirements specified for freestanding signs in the district in which the signs are located.



10. Poster Panel Signs.
 - a. The sign shall not be illuminated in any manner.
 - b. A minimum seven (7) feet of sidewalk area must remain clear for the passage of pedestrians.
11. Construction Signs.
 - a. May be a ground or wall sign.
 - b. The freestanding temporary sign shall be setback at least fifteen (15) feet from any public right-of-way line and one-hundred (100) feet from any residential district property line.
 - c. Permit valid from issuance of building permit to issuance of certificate of occupancy.
12. Real Estate, Sale or Lease of Individual Home or Residential Lot.
 - a. To be a portable ground sign.
 - b. The freestanding temporary sign shall be setback at least fifteen (15) feet from any public right-of-way line and one-hundred (100) feet from any residential district property line.
 - c. Sign to be removed within 30 days of sale or lease.
13. Real Estate, Sale or Lease of Individual Business or Vacant Lot.
 - a. To be a portable ground or wall sign.
 - b. The freestanding temporary sign shall be setback at least fifteen (15) feet from any public right-of-way line and one-hundred (100) feet from any residential district property line.
 - c. Sign to be removed within 30 days of sale or lease.
14. Real Estate, Sale or Lease of Unplatted Vacant Land.
 - a. To be a portable ground sign.
 - b. The freestanding temporary sign shall be setback at least fifteen (15) feet from any public right-of-way line and one-hundred (100) feet from any residential district property line.
 - c. Sign to be removed within 30 days of sale or lease.
15. Real Estate Development Sign.
 - a. To be a portable ground sign.
 - b. The freestanding temporary sign shall be setback at least fifteen (15) feet from any public right-of-way line and one-hundred (100) feet from any residential district property line.
 - c. Sign to be removed within 30 days after all units or lots sold or leased.
16. Garage Sale Sign.
 - a. May be a ground or wall sign.
 - b. The sign may be located in the required setback area, but must be setback at least ten (10) feet from the public right-of-way.
 - c. Sign can be installed for 4 consecutive days.
17. Political Signs.
 - a. The sign may be located in the required setback area, but must be setback at least ten (10) feet from the public right-of-way.
18. Projecting Signs.
 - a. Signs must be minimum of eight (8) feet above the ground level or sidewalk, whichever is greater.
 - b. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign. Use of glaring, undiffused lights or bulbs shall be prohibited.
19. Portable Signs.

a. Portable signs shall be allowed for advertising events, services or functions conducted by organized religious institutions only. The portable sign must be installed on the property owned and occupied by the religious institution.

b. Only one portable sign shall be permitted on the property at any one time, regardless of the number of events, services or functions; multiple portable signs or displays shall be prohibited.

c. No portable sign shall be displayed for more than five (5) consecutive calendar days at a time, nor shall portable signs be displayed for more than two (2) events during a single calendar year.

d. Illumination of portable signs is prohibited, including any internal, flashing or moving lighting.

20. Changeable Message Signs. Changeable message signs may be permitted as part of a wall or monument sign, when associated with a commercial, industrial, office, public or quasi-public institutional use, and when in compliance with the following:

a. Location.

(1) Changeable message signs shall be permitted in the following districts:

a) I-1, Light Industrial and the I-2, Heavy Industrial Districts.

b) B-1, Local Business, B-3, General Business and the OS-1, Office Service District on sites with road frontage and signage rights along Cedar Street/M-53, Newark Road and Capac Road/Old M-21.

c) Public and quasi-public uses located in any district.

(2) Changeable message signs shall be located at least fifty (50) feet from an existing residential home.

(3) Changeable message signs within one hundred (100) feet of an existing residential use must discontinue the display between the hours of 11:00 PM and 6:00 AM.

b. Sign Area. Changeable message signs shall be incorporated into a wall or monument sign and shall count as part of the overall sign area.

(1) A changeable message sign may occupy up to twenty-five (25) percent of the sign area or twenty-four (24) square feet, whichever is less.

(2) Changeable message signs mounted to the interior of a window shall count as a wall sign, and must be incorporated into the overall wall sign allowed for the use.

c. Movement and Frequency of Message Change.

(1) Electronic messages shall be displayed for at least fifteen (15) seconds, and lights in the display shall activate simultaneously, remain constantly activated for not less than fifteen (15) seconds and deactivate simultaneously.

(2) Electronic message changes shall take less than one (1) second, and shall not scroll, flash, fly, fade in or out, or contain any animations, pixalization or dissolve modes.

d. Illumination. Changeable message signs may be illuminated in accordance with the following:

(1) Signs may emit no more than eight (8) to ten (10) footcandles of light, measured four (4) feet from the sign face.

(2) Only one (1) color of lighting or bulbs may be used to prevent nuisances and distractions upon adjoining properties and thoroughfares.

(3) Any voids or burned out bulbs in an electronic display shall be replaced.

(4) The Planning Commission may require dimming of changeable message signs if the location is expected to cause a distraction to motorists, or cause a nuisance to nearby uses. Alternatively, the Planning Commission shall require ambient light monitors (automatic dimming devices) to automatically adjust the sign brightness based on ambient light conditions.

(Ord. 6.1, passed 1-16-07; Am. Ord. passed 4-15-08; Am. Ord. passed 12-20-11)

Section 24.7 Administration

Signs permits shall be obtained from the city prior to the erection or replacement of any regulated sign. Applications for sign permits shall be submitted to the City Manager for review. Sign permit applications that meet the requirements of this article shall be forwarded to the Building Official and Zoning Administrator for a permit and inspection of the sign following installation. The fee for a sign permit shall be established, and periodically changed, by resolution of the City Commission.

A. Plans, Specifications, and Permits.

1. **Permits.** It shall be unlawful for any person to erect, alter, relocate, or structurally change a sign or other advertising structure, unless specifically exempted by the article, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, which shall be established by the City Commission.

Exceptions to Permit. No permit shall be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for signs which are stated as being allowable without a permit.

2. **Applications.** Application for a sign permit shall be made upon forms provided by the Building Official and Zoning Administrator. The following information shall be required:

- a. name, address, and telephone number of the applicant;
- b. location of the building, structure, or lot on which the sign is to be attached or erected;
- c. position of the sign in relation to nearby buildings, structures, and property lines;
- d. plans showing the dimensions, materials, method of construction, and attachment to the building or in the ground;
- e. copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure;
- f. name and address of the person, firm, or corporation owning, erecting, and maintaining the sign;
- g. information concerning required electrical connections;
- h. insurance policy or bond, as required in this article;
- i. written consent of the owner or lessee of the premises upon which the sign is to be erected; and
- j. other information required by the Building Official and Zoning Administrator to make the determination that the sign is in compliance with all applicable laws and regulations.

3. **Review of Application.**

a. **Planning Commission Review.** Sign permit applications submitted in conjunction with the proposed construction of a new building or addition to an existing building shall be reviewed by the Planning Commission as a part of the required site plan review. Proposed signs must be shown on the site plan along with all details and dimensions.

b. **Building Official and Zoning Administrator Review.** The Building Official and Zoning Administrator shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.

4. **Issuance of a Permit.** Following review and approval of a sign application by the Planning Commission or Building Official and Zoning Administrator as appropriate, the Building Official and Zoning Administrator shall have the authority to issue a sign permit.

5. **Exceptions.** A sign shall not be enlarged or relocated except in conformity with the provisions set forth herein for new signs, nor until a proper permit has been secured. However, a new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for certain exempt signs listed in paragraph 24.4 A. of this article.

B. **Inspection and Maintenance.**

1. **Inspection of New Signs.**

a. All signs for which a permit has been issued shall be inspected by the Building Official and Zoning Administrator when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Ordinance and Building Code standards.

b. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Building Official and Zoning Administrator when such fastenings are to be installed so that inspection may be completed before enclosure.

2. **Inspection of Existing Signs.** The Building Official and Zoning Administrator shall have the authority to routinely enter onto property to inspect existing signs. In conducting such inspections, the Building Official and Zoning Administrator shall determine whether the sign is adequately supported, painted to prevent corrosion, and so secured to the building or other support as to safely bear the weight of the sign and pressure created by the wind.

3. **Correction of Defects.** If the Building Official and Zoning Administrator finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the sign erector, owner of the sign, or owner of the land shall make the sign safe and secure by completing any necessary re-construction or repairs, or entirely remove the sign in accordance with the timetable established by the Building Official and Zoning Administrator.

C. **Removal of Obsolete Signs.**

1. Any sign that no longer identifies a business that is in operation, or that identifies an activity or event that has already occurred, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure within seven (7) calendar days of the cessation of operation. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business.

2. However, where a conforming sign structure and frame are typically reused by a current occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition. Where the city's Building Official and Zoning Administrator determines that a sign structure and frame are in good condition, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied.

D. **Nonconforming Signs.**

1. Nonconforming signs are those signs that do not comply with the size, placement, construction or other standards or regulations of this article, but were lawfully established prior to its adoption. The intent of this article is to encourage eventual elimination of nonconforming signs in a timely manner. This objective is considered as much a subject of public health, safety and welfare as the prohibition of new signs in violation of this article. Therefore, the purpose of administering this article is to remove illegal, nonconforming

signs while avoiding any unreasonable invasion of established private property rights.

2. No nonconforming sign shall not be altered or reconstructed, unless the alteration or reconstruction is in compliance with this ordinance, except that nonconforming signs shall comply with the following regulations:

a. **Repairs and Maintenance.** Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty percent (50%) of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of surface panels provided the new panels are no larger than existing panels; or, repair or replacement of electrical wiring or electrical devices.

3. **Nonconforming Changeable Copy Signs.** The message on a nonconforming changeable copy sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity.

4. **Substitution.** No nonconforming sign shall be replaced with another nonconforming sign.

5. **Modifications to the Principal Building.** Whenever the principal building on a site on which a nonconforming sign is located is modified to the extent that site plan review and approval is required, the nonconforming sign shall be removed.

6. **Discontinuance.** A nonconforming sign shall not be re-established after the activity, business, or use to which it related has been discontinued for ninety (90) days or longer.

7. **Continued Use of Nonconforming Sign Structure.** Where the city's Building Official and Zoning Administrator determine that a nonconforming sign structure and frame are in good condition and can be reused by a new occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied. If the building is unoccupied for less than thirty (30) days the previous business' sign information may be retained. If the building is unoccupied for more than thirty (30) days, the previous business' sign information must be removed. In such cases, the sign must be maintained in good condition and any openings must be covered with appropriate panels.

E. **Dangerous, Unsafe, Abandoned and Illegally Erected Signs.**

1. **Dangerous Signs.** Any sign constituting an immediate hazard to health or safety shall be deemed a nuisance and may be immediately removed by the city and the cost thereof charged against the owner of the property on which it was installed.

2. **Unsafe Signs.** Any sign that becomes insecure, in danger of falling, or otherwise unsafe but not considered an immediate danger by the Building Official and Zoning Administrator to the health or safety of the public shall be removed or repaired.

3. **Abandoned Signs.** Any sign that advertises a business that has been discontinued for at least ninety (90) days or that advertises a product or service that is no longer offered shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended by a change in ownership or management shall not be deemed abandoned unless the structure remains vacant for at least six (6) months. An abandoned sign shall be removed by the owner or lessee of the premises.

4. **Illegally Erected Signs.** The Building Official and Zoning Administrator shall order the removal of any sign erected illegally in violation of this article, according to the process outlined in section 27.7.

F. **Appeal to the Zoning Board of Appeals.** Any party who has been refused a sign permit for a proposed sign may file an appeal with the Zoning Board of Appeals in accordance with this article of this ordinance. In determining whether a variance is appropriate, the Zoning Board of Appeals shall study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the Zoning Board of Appeals may decline to grant a variance even if certain of the circumstances are present.

In granting a variance, the ZBA may attach such conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable. In granting a variance, the ZBA shall state the grounds and findings upon which it justifies granting the variance.

1. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.

2. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the Zoning Board of Appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

3. Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.

4. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.

5. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.

6. Variance from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.

7. A sign which exceeds the permitted height or area standards of this article would be more appropriate in scale because of the large size or frontage of the parcel or building.

G. **Adjustment in Size, Location.** The Zoning Board of Appeals may, upon application by the property owner, make reasonable adjustment in the size and location requirements for any sign, where such action meets all of the following standards:

1. A variance is deemed in the public interest;
2. The variance would not adversely affect properties in the immediate vicinity of the propose sign;
3. The alleged hardship or practical difficulties supporting the variance request results from conditions that do not generally exist throughout the city, and denial of a variance would preclude all reasonable use of the property;
4. Granting a variance would result in substantial justice being done, considering the public interests protected by the standards of this article, the individual hardships that would be suffered by denial of the variance and the rights of others throughout the city whose property may be affected by granting the variance; and
5. The type of sign has been designed to make it compatible with the surrounding area.

(Ord. 6.1, passed 1-16-07)

Article 25

Nonconforming Lots, Uses, Buildings and Structures

Section 25.1 Intent

A. Non-conformities are considered to be incompatible with the current or intended use of land, buildings or structures in the district in which they are located. This article is intended to meet the objectives stated below by establishing regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of non-conformities, and specify the circumstances and conditions under which non-conformities shall be permitted to continue.

B. The intent of this article is to eliminate, or bring into compliance, lots, buildings, structures and uses which legally existed at the date of adoption of this article, but do not meet the current standards of this article. This section also has special provisions to permit certain non-conforming situations considered to be less harmful to continue under certain conditions, but to discourage their expansion, enlargement, or extension. The requirement and standards of this article are intended to accomplish the following:

1. Terminate and remove any use, building, accessory structure or any combination thereof that was established after the effective date of this article and in violation of this article. Such uses, buildings, or accessory structures are classified as violations of this article and shall not receive any of the rights, privileges or protection conferred by this article for non-conforming situations.
2. Discourage the continuation of non-conforming uses that are more intense than the uses permitted within the zoning district and are considered to be incompatible with permitted uses, or encourage their redevelopment into a more conforming use.
3. Permit legal non-conforming buildings, structures or uses to remain until they are discontinued, removed or abandoned.
4. Encourage a gradual upgrading to a more conforming status of site landscaping, parking, paving, signs or other features of a site required by the Zoning Ordinance developed in compliance with the requirements at the time of their construction, but which do not meet the site requirements of this article.
5. Encourage the combination of contiguous non-conforming lots of record to create lots which conform or more closely conform to current requirements, for better compatibility with other lots in the zoning districts in which they are located, to promote the public health, safety and welfare and to eliminate problems associated with the overcrowding of land.

(Ord. passed 12-20-05)

Section 25.2 Applicability

To avoid undue hardship, nothing in this article shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this article, upon which actual building construction has been diligently continued and there is a valid building permit. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such work shall be deemed to be actual construction, provided that such work shall be diligently continued until completion of the building involved.

(Ord. passed 12-20-05)

Section 25.3 Non-Conforming Uses

Where, at the effective date of adoption or amendment of this article, a lawful use on open land, a lot(s), building(s) or accessory structure(s) exists that is made non-conforming by this article or its amendments, such use maybe continued, as it remains otherwise lawful, subject to the following provisions:

A. **Expansions.** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the effective date of this article. Except for one-family dwellings as permitted below, a non-conforming use shall not be enlarged, expanded or extended to occupy a greater area of land, constructed, reconstructed or structurally altered except with approval by the Zoning Board of Appeals (ZBA).

B. **Accessory Uses and Structures.** No new accessory use, building or structure shall be established.

C. **Relocation.** The non-conforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this article.

D. **Change in Use.** If no structural alterations are made, any non-conforming use of a building, or building and land in combination, may be changed to another non-conforming use if the ZBA finds the proposed use is more appropriate to the district than the existing non-conforming use. In permitting the change, the ZBA may require conditions and safeguards in accord with the purpose and intent of this article. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

E. **Removal.** Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. **Abandonment or Discontinuance.** If the non-conforming use of land ceases for any reason for a period exceeding one (1) year and the Zoning Administrator determines that the owner has established intent to abandon the non-conforming use, any subsequent use of such land shall conform to the requirements specified by this article for the zoning district in which it is located. A non-conforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:

1. Utilities, such as water, gas and electric to the property, have been disconnected.
2. The property, buildings, and grounds, have fallen into disrepair.
3. Signs or other indications of the existence of the non-conforming use have been removed.
4. Removal of equipment or fixtures which are necessary for the operation of the non-conforming use.
5. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.

G. Special Standards for One-Family Dwellings in a Non-Residential District.

1. An existing one-family residential dwelling in a zoning district which does not permit that use may be expanded to occupy the floor area necessary for living purposes.

2. A one-family dwelling and its accessory structures, in a zoning district which does not permit that use may be continued, replaced, repaired or remodeled if damaged by flood, fire, or vandalism, if approved by the ZBA. Such approval requires a finding that the resulting building footprint and floor area will be the same size or smaller than that of the building before such change. Replacement of such non-conforming one-family building shall commence no sooner than receiving a valid building permit and no later than six (6) months of the date of damage. Work shall be diligently pursued toward completion. The applicant maybe required to provide the city with evidence, visual or otherwise, that demonstrates to the satisfaction of the city that work is being diligently pursued. Failure to complete replacement or to diligently work toward completion shall constitute abandonment and result in the loss of its non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.

(Ord. passed 12-20-05)

Section 25.4 Non-Conforming Buildings or Structures

Where a lawful building or structure exists at the effective date of adoption or amendment of this article that could not be built under the terms of this article, that building or structure maybe continued provided it remains otherwise lawful, subject to the following provisions. Except as noted below, no building or structure may be enlarged unless a variance is granted by the ZBA.

A. **Damage by Fire or Other Catastrophe.** Any non-conforming structure or building, or any structure or building that contains a non-conforming use that is damaged by fire, flood, or other means to a point where the cost of repairs will be in excess of the structure and/or building's pre-catastrophe market value (as described in paragraph I. below) shall not be rebuilt, repaired, or reconstructed, except in complete conformity with the provisions of this article.

In the event that the cost of repairing the damage is less than the structure or building's pre-catastrophe market value (as described in paragraph I. below), the structure or building may be restored to its pre-catastrophe status. Such restoration shall take place only upon approval of the Zoning Administrator and all construction shall be in full compliance with applicable provisions of this article and other applicable City Codes. Any request for such rebuilding, repair, or restoration shall be made to the Zoning Administrator within one hundred eighty (180) days following the incident. Any such rebuilding, repair, or restoration shall be completed within one (1) year from the date of the catastrophe.

B. **Replacement of a Non-Conforming One-Family Dwelling.** A non-conforming building used as a one-family residence, and its accessory structures, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster if approved by the ZBA. Such approval requires a finding that the resulting building footprint will be the same size or smaller than that of the building before such change or that the building will become more conforming. Replacement of such a non-conforming one-family building shall commence within one (1) year of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or to diligently work toward completion shall result in the loss of legal non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.

C. **Relocation of a Non-Conforming Building or Structure.** Should any non-conforming building or structure be relocated or moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.

D. **Safety Related Repairs, Improvements, and Modernization.** Repairs, improvements, or modernization of non-conforming buildings or structures deemed necessary by the Zoning Administrator to maintain a non-conforming building in a structurally safe and

sound condition are permitted provided such repairs or improvements do not exceed the market value (as described in paragraph I. below) of the building or structure during any period of twelve (12) consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems to meet Building Code requirements. Any such repairs, improvements, and modernization shall not result in an enlargement of the non-conforming structure. However, if a non-conforming building or a structure containing a non-conforming use becomes physically unsafe, dangerous, and/or unlawful due to lack of maintenance and repairs and is formally declared as such by the Zoning Administrator, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

E. Non-Safety Improvements and Modernization. Repairs, improvements, or modernization of non-conforming buildings or structures which are not deemed necessary by the Building Department to keep a non-conforming building structurally safe and sound shall be permitted provided such repairs or improvements do not exceed fifty percent (50%) of the market value of the structure (as described in paragraph I. below) during any period of twelve (12) consecutive months. Any such repairs, improvements or modernization shall not result in an enlargement of the non-conforming structure or building.

F. Alterations that Decrease Non-Conformity. Any non-conforming structure or building or structure or building containing a non-conforming use, may be altered if such alteration serves to clearly decrease the non-conforming nature of the structure, building, and/or use. The Zoning Administrator shall determine if a proposed alteration decreases the degree of non-conformity.

G. Permitted Expansions to One-Family Dwellings. An expansion (footprint or floor area) of a non-conforming one-family building or structure shall be permitted when both of the following conditions exist:

1. Only one (1) wall of the existing building or structure does not comply with the applicable setback requirement.
2. The expansion is on a conforming wall of the existing building or structure and will comply with applicable setback and height requirements.

H. Elimination of Non-Conformity. In the event a non-conforming situation is removed, the corresponding section of the building or structure shall thereafter conform.

I. Market Value. For the purpose of this article, market value shall be determined by an acceptable independent appraisal provided by the applicant. The City Assessor and Zoning Administrator shall review the appraisal. The value of the repairs or improvements shall be based on a written estimate from a licensed contractor provided by the applicant. This estimate shall be reviewed by the Zoning Administrator.

(Ord. passed 12-20-05)

Section 25.5 Non-Conforming Lots

The following regulations shall apply to any non-conforming lot of record or non-conforming lot described in a deed or land contract executed and delivered prior to the effective date of the Zoning Ordinance or amendment thereto:

A. Use of Non-Conforming Lots. Any non-conforming lot may be used only for a use permitted in the zoning district in which it is located.

B. Variance from Area and Bulk Requirements. In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory building(s) may be erected on a lot that does not meet the requirements for lot width, lot area, or both without obtaining a variance from the ZBA provided that all other applicable requirements are met. In all other circumstances, use of a non-conforming lot requires a variance from the lot width and/or lot area requirements as applicable.

C. Non-Conforming Contiguous Lots under the Same Ownership. To develop a non-conforming lot(s) under the provisions of paragraphs A. and B. of this section, the applicant is required to submit evidence that ownership of the lot is not under contiguous single ownership with other lots that could be combined into a conforming or more conforming lot. The following regulations shall apply to non-conforming contiguous lots under the same ownership.

1. If two (2) or more lots or combination of lots with contiguous frontage are or have been under single ownership are of record at the time of adoption or amendment of this article, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lands shall be considered as a singular, individual parcel for the purposes of this article. Any altering of lot lines or combination of lots shall result in lots that more closely conform to the requirements of this article.

2. No portion of the non-conforming parcel shall be used, occupied, or sold in a manner that diminishes compliance with lot width and area requirements established by this article, nor shall any division of a parcel be made that creates a new lot having a width or area less than the requirements stated in this article.

3. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing dwelling unit.

D. Combination of Non-conforming Lots. The following regulations shall apply to the combination of non-conforming lots.

1. Any combination, in whole or in part, of non-conforming lots of record shall result in lots that more closely conform to the requirements of this article to the maximum extent feasible.

2. Once any combination that creates a conforming lot occurs, the resulting lot shall not retain non-conforming lot of record status and will hereafter be required to comply with the lot requirements of this article.

(Ord. passed 12-20-05)

Section 25.6 Non-conforming Sites

The intent of this section is to permit improvements and minor modifications to an otherwise conforming use and building which does not meet all of the various site improvement related regulations of this article. The purpose is to allow gradual compliance with the site related requirements, for the entire site, for sites which predate the various ordinance standards for landscaping, paving, and other non-safety site related items.

Improvements or expansions may be permitted by the Planning Commission during special land use or site plan review without a complete upgrade of all site elements under the following conditions. The city may require a performance guarantee to ensure that all improvements permitted under this section will be made in accordance with the approved plan.

- A. The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.
- B. The applicant has addressed safety related site issues on the overall site.
- C. The improvements or minor expansion will not increase noncompliance with site requirements.
- D. The applicant has upgraded the overall site landscaping consistent with Article 23.
- E. Driveways that do not conform to the access management requirements of this article shall be eliminated, provided that the minimum reasonable access shall be maintained, as determined by the standards of Article 22.
- F. Signs must comply with the city's sign ordinance.
- G. A site plan shall be submitted in accordance with Article 16.

(Ord. passed 12-20-05)

Section 25.7 Change of Tenancy or Ownership, Purchase, or Condemnation

A. In the event there is a change in tenancy, ownership, or management, a non-conforming use, structure or building shall be allowed to continue provided there is no change in the nature or character of such non-conformity and the use, structure, or building is otherwise in compliance with this article.

B. The City Commission may acquire, by purchase, condemnation or otherwise private property or an interest in private property for the removal of non-conforming buildings, structures or uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in the city.

C. The elimination of the non-conforming buildings, structures, or uses is declared to be for a public purpose and for a public use. The City Commission may institute and prosecute proceedings for condemnation of non-conforming buildings, structures or uses under the power of eminent domain in accordance with Act 149 of the Public Acts of 2511, as amended, being Sections 213.21 to 213.41 of the Michigan Compiled Laws of other applicable statute.

(Ord. passed 12-20-05)

Section 25.8 Acquisition of Non-conforming Buildings, Structures, or Uses

The Zoning Administrator, from time to time, may recommend to the City Commission, the acquisition of private property for the purpose of removal of non-conformities. Where such acquisition is contemplated, the following procedures shall be followed:

A. **Zoning Administrator Documentation and Recommendation.** Prior to initiating acquisition, the Zoning Administrator shall prepare or cause to have prepared a report for the City Commission. The report shall include the following:

1. A list of all requirements of this article that are not met by the subject property.
2. An estimate of the expense of such acquisition.
3. An estimate of the cost of removing the non-conformities.
4. An estimate of the probable resale price of the property after acquisition and removal of the non-conformities.
5. Recommendations concerning the allocation of costs to be incurred by the city.

B. City Commission Consideration.

1. **Public Hearing.** After receiving and reviewing the report from the Zoning Administrator, the City Commission shall determine if acquisition of the non-conforming property should be pursued. If the City Commission decides to pursue acquisition, then it shall first set a public hearing. Not less than fifteen (15) calendar days prior to the public hearing, notice of the time, place, and purpose of the public hearing shall be published in the official newspaper of the city, and sent by mail to the owners of property for which acquisition is being considered. The notice shall be sent to the owner's address as stated in the most recent assessment roll.

2. **Special Assessment.** If any or all of the expense related to acquisition of the subject property is assessed to a special district, then the City Assessor shall be directed to furnish the City Commission with a tentative special assessment district and tentative plan of assessment. The names and addresses of the owners of property located in the district (as stated in the latest assessment roll) shall be provided to the City Commission. Notice of the time, place, and purpose of the public hearing shall be sent by mail to the owners of property located in the tentative special assessment district.

3. **City Commission Determination.** If, following the public hearing, the City Commission finds that elimination of the non-conforming use, structure, or building would be for a legitimate public purpose, then it shall declare by resolution of the City Commission

that the city shall proceed to acquire the non-conforming use, structure, or building in accordance with the laws of the State of Michigan and applicable City Ordinances. The City Clerk shall send by registered mail a certified copy of the resolution of the City Commission to the owners of property to be acquired and to owners of property in any special assessment district, at the addresses stated in the latest assessment roll.

C. **Removal of Non-Conformity.** Upon passing of title of the property so acquired by the city, the City Commission shall cause the discontinuance or removal of the non-conforming use, or the removal or demolition or remodeling of the non-conforming building or structure.

D. **Disposition of Property.** The City Commission may thereafter elect to retain all or part of the property so acquired for municipal purposes. If acquisition costs and expenses are to be assessed against a special assessment district, the amount to be assessed shall be reduced by the market value of any part of the property retained for municipal use, as determined by the City Assessor. The City Commission shall thereafter order the sale of the portion of the property not retained for municipal purposes, but only for use in conformance with this article. The City Commission shall confirm the expenses related to the project and report the assessable cost to the City Assessor, who shall then prepare an assessment roll in the manner provided for law. Such an assessment may, at the discretion of the City Commission, be paid in one (1) or more, but not to exceed ten (10) annual installments.

(Ord. passed 12-20-05)

Article 26

Flood Hazard Area Overlay Zone

Section 26.1 Purpose

A. It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the city, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and re-designated as 44 FR 31177, May 31, 1979.

B. Further, the objectives of this article include:

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

Section 26.2 Delineation of Flood Hazard Area Overlay Zone

A. The flood hazard area overlay zone shall overlay existing zoning districts delineated on the official Zoning Map of the city. The boundaries of the flood hazard area overlay zone shall coincide with the boundaries of the areas indicated as within the limits of the one hundred-year flood area in the report entitled "The Flood Insurance Study, City of Imlay City, Lapeer County, Michigan," with accompanying flood insurance rate maps. The study and accompanying maps are adopted by reference, appended, and declared to be a part of this ordinance.

B. Where there are disputes as to the location of a flood hazard area overlay zone boundary, the Zoning Board of Appeals shall resolve the dispute in accord with Article 28 Zoning Board of Appeals.

C. In addition to other requirements of this ordinance applicable to development in the underlying zoning districts, compliance with the requirements of this article shall be necessary for all development occurring within the flood hazard area overlay zone. Conflicts between the requirements of this article and other requirements of this ordinance or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article to a greater extent than the requirements of this article. In such cases, the more stringent requirement shall be applied.

Section 26.3 Use and Principal Structure Regulations

Within the flood hazard area overlay zone, no land shall be used except for one (1) or more of the following uses:

- A. grading and agriculture, pastureland, and animal grazing;
- B. harvesting of a native or wild crop permitted by law such as wild rice, marsh hay, berries, and seeds;
- C. harvesting of trees;

- D. parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, par three golf courses, golf driving ranges, bridle paths, nature paths, and trails;
- E. wildlife preserves;
- F. fishing, trapping, and hunting in compliance with current laws and regulations;
- G. hunting and conservation clubs, noncommercial archery, rifle, and shooting ranges;
- H. historic sites and structures;
- I. swimming beaches, fishing, and boating docks in accord with the provisions of the Inland Lakes and Streams Act of 1972;
- J. sand and gravel extraction; and
- K. required open space or lot area for structural uses that are landward of the overlay zone.

Section 26.4 Accessory Buildings, Structures and Uses

A. Within the flood hazard area overlay zone, no building or structure shall be used except for one (1) or more of the following uses and only in a manner consistent with the requirements of principal uses and accessory buildings, structures and uses in the underlying district, and with those that follow.

B. The following accessory buildings, structures and uses are permitted: off-street parking, streets, roads, bridges, outdoor play equipment, sheds and garages, boathouses, boat hoists, utility lines, pumphouses, bleachers, bank protection structures, signs, fences, gazebos, and similar outdoor equipment and appurtenances; provided each of the following requirements are met:

1. the building or structure would not cause an increase in water surface elevation, obstruct flow, or reduce the impoundment capacity of the floodplain;
2. all equipment, buildings and structures shall be anchored to prevent flotation and lateral movement; and
3. compliance with these requirements is certified by an engineering finding by a registered engineer.

Section 26.5 Filling and Dumping

Dredging and filling and/or dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable state regulations are met including, but not limited to, approvals pursuant to P.A. 245 of 1929, as amended by P.A. 167 of 1968; P.A. 347 of 1972, as amended; P.A. 346 of 1972, as amended; and P.A. 203 of 1979, as amended.

Section 26.6 General Standards for Flood Hazard Reduction

A. No building or structure shall be erected, converted, or substantially improved or placed, and no land filled or building or structure used in a flood hazard area overlay zone unless a certificate of zoning compliance, or variance from the Zoning Board of Appeals, is obtained, which approval shall not be granted until a permit from the Department of Environmental Quality (MDEQ) under authority of Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968 has been obtained.

B. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.

C. Site plans shall be reviewed in accordance with Article 16 Site Plan Review to determine compliance with the standards in this article.

D. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this article.

E. The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.

F. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this Article. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

Section 26.7 Disclaimer of Liability

A. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Approval of the use of land under this Article shall not be considered a guarantee or warranty of safety from flood damage.

B. This ordinance does not imply that areas outside the flood hazard area overlay zone will be free from flood damage. This ordinance does not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Article 27

Administration And Enforcement

Section 27.1 Enforcement

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator or by such other official or officials as may be designated by the City Manager.

(Am. Ord. 6.1, passed 12-5-06)

Section 27.2 Duties of Building Official and Zoning Administrator

A. Except where herein otherwise stated, the provisions of this ordinance shall be administered by the Building Official and Zoning Administrator.

B. The Building Official and Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this ordinance.

C. Under no circumstances is the Building Official and Zoning Administrator permitted to make changes to this ordinance nor to vary the terms of this ordinance in carrying out his duties as Building Official and Zoning Administrator.

D. The Building Official and 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.

E. The Building Official and Zoning Administrator shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, discontinuance of any illegal construction, or shall take any other lawful action authorized by this ordinance to ensure compliance with, or prevent violations of its provisions.

Section 27.3 Permits

A. **Permits Not to be Issued.** No zoning compliance 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.

B. **Permits Required.** 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" or "repaired" shall include any changes in structural parts, stairways, fences, 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 Inlay City, except for minor repairs or changes not involving any of the aforesaid features.

C. **Plans and Specifications.** The Building Official and Zoning Administrator shall require that all applications for buildings permits be accompanied by three (3) copies of plans and specifications including a plot plan, 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 structure 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.

D. **Permits for New Use of Land.** No land heretofore vacant shall hereafter be used or an existing 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.

E. **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.

Section 27.4 Certificates

No land, building or part thereof shall be occupied by or for any use unless and until a certificate of occupancy has been issued for such use.

A. **Certificate Not to be Issued.** No certificate of occupancy shall be issued for any building, structure or part thereof, or for the use of any land which is not in accordance with all of the provisions of this ordinance.

B. **Certificate Required.** No building or structure, or part thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy has been issued for such building or structure.

C. **Certificate for Existing Buildings.** A certificate of occupancy shall be issued for any existing building, structure or part thereof, or existing use of land if, after inspection, it is found that such building, structure or part thereof, or such use of land, are in conformity with the provisions of this ordinance.

D. **Record of Certificate.** A record of all certificates issued shall be kept on file in the office of the Building Official and Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

E. **Certificates for Dwelling Accessory Buildings.** A separate certificate of occupancy shall not be required for any building or structure accessory to any dwelling but such may be included in the certificate of occupancy for the dwelling where shown on the plot plan and when completed at the same time as such dwelling.

F. **Application for Certificates.** An application for a certificate of occupancy shall be made in writing to the Building Official and Zoning Administrator on forms furnished by that Department. Such certificate shall be issued within five (5) days after receipt of such

application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this ordinance. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period.

Section 27.5 Final Inspection

The holder of every zoning compliance permit for the construction, erection, alteration, repair or moving of any building, structure or part thereof, shall notify the Building Official and Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

Section 27.6 Fees

Amounts covering performance guarantees, fees for inspection and the issuance of permits or certificates or copies thereof which may be required or issued under the provisions of this ordinance shall be collected by the City Manager, Building Official and Zoning Administrator, or City Clerk in advance of issuance, as provided herein. The amount of performance guarantees shall be determined by the City Manager, in consultation with the Building Official and/or Zoning Administrator. The amount of all other fees shall be established by resolution of the City Commission and shall cover the cost of inspection, and supervision, resulting from enforcement of the ordinance.

(Am. Ord. 6.1, passed 12-5-06)

Section 27.7 Violations and Penalties

A. **Violations.** Any person, corporation or firm who violates, disobeys, or omits, neglects or refuses to comply with any provision of this ordinance or any permit, license or exception granted hereunder, or any lawful order of the Building Official and Zoning Administrator, Zoning Board of Appeals or City Commission issued in pursuance of this ordinance shall be guilty of a municipal civil infraction, subject to payment of a civil fine of not less than fifty dollars (\$50.00) plus costs and other sanctions, for each infraction. Repeat offenses under this ordinance shall be subject to increased fines as provided in the City Code of Ordinance.

B. **Public Nuisance Per Se.** Any building erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this ordinance is declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.

C. **Fines and 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. A separate offense shall be deemed committed upon each day during or when a violation occurrence continues.

D. **Rights and Remedies.** The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 27.8 Performance Guarantee

A. **Purpose.** To insure compliance with the provisions of this ordinance and any conditions imposed thereunder, the city shall require that a performance guarantee be deposited with the City Clerk to insure faithful completion of improvements.

B. **Improvements Covered by the Performance Guarantee.** As used in the ordinance, improvements include those feature and actions associated with a project which are considered necessary to protect natural resources or the health, safety, and welfare of the residents of Imlay City and future users or inhabitants of the proposed project or project area. Improvements shall include roadways, lighting, utilities, sidewalks, landscaping, screening, parking areas, drainage, and similar features.

C. **Performance Guarantee.** The performance guarantee shall be determined and applied as follows:

1. The performance guarantee maybe in the form of a cash deposit, irrevocable bank letter of credit, certified check, certificate of deposit, or performance bond.

2. The City Manager and/or Building Official and Zoning Administrator may meet with the applicant prior to site plan review to determine the specific items to be subject to performance guarantee provisions.

Section 27.9 Notice of Public Hearings

In instances where a public hearing is required under this ordinance with the Planning Commission or the Zoning Board of Appeals, written notice of the public hearing shall be made as follows:

A. The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses. other means of identification may be used. Individual addresses of properties are not required to be listed for an amendment to the zoning ordinance, or the zoning map that affects eleven (11) or more properties or an interpretation by the Zoning Board of Appeals.
3. State when and where the request will be considered.
4. Indicated when and where written comments will be received concerning the request.

3. State when and where the request will be considered.

4. Indicated when and where written comments will be received concerning the request.

B. The notice shall be published and delivered not less than fifteen (15) days before the date of the public hearing as follows:

1. Notice of the request shall be published in a newspaper of general circulation in the city. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered.

2. In addition to paragraph 1. above, notice shall be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

3. 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 persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

4. The notice under subsections 2. and 3. is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service.

(Ord. 6.1, passed 12-5-06; Am. Ord. 6.1, passed 3-17-09)

Section 27.10 Planning Commission Duties

The Planning Commission shall discharge the following duties pursuant to the ordinance codified herein:

A. Formulation of Zoning Ordinance and Amendments: the Planning Commission shall be responsible for formulation of the zoning ordinance, review of amendments to the zoning ordinance, holding hearings on a proposed zoning ordinance or amendments, and reporting its findings and recommendations concerning the zoning ordinance or amendments to the City Commission.

B. Site Plan Review: the Planning Commission shall be responsible for review of all applications for site plan approval, and making a determination to grant approval, approval subject to revisions, or denial of approval.

C. Special Land Use Review: the Planning Commission shall be responsible for holding hearings, reviewing all applications, and making decisions for special land use approval.

D. Subdivisions: the Planning Commission shall review and make recommendations on plats before action thereon by the City Commission under section 112 of the Land Division Act, Public Act 288 of 1967, as amended. The Planning Commission may recommend to the City Commission amendments to the Imlay City Land Division Ordinance, as authorized under section 105 of the Land Division Act, Public Act 288 of 1967, as amended.

E. Formulation of a Master Plan: the Planning Commission shall be responsible for formulation and adoption of a Master Plan as a guide for the development of the city, in accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008.

F. Capital Improvements Program: to further the desirable future development of the city under the Master Plan, the Planning Commission, after adoption of the Master Plan, shall annually prepare a capital improvements program of public structures and improvements. The capital improvements program shall show those public structures and improvements, in the general order of their priority that in the Planning Commission's judgment, will be needed or desirable and can be undertaken within the ensuing six (6) year period. The capital improvements program shall be based upon the requirements of the city for all types of public structures and improvement. Each city department with authority for public structures or improvements shall upon request furnish the Planning Commission with lists, plans and estimates of time and cost of those public structures and improvements.

G. Review of Matters Referred by the City Commission: the Planning Commission shall be responsible for review of plats or other matters relating to land development referred to it by the City Commission. The Planning Commission shall recommend appropriate regulations and actions on such matters.

H. Report on Operation of the Zoning Ordinance: in accordance with section 308(2) of the Michigan Zoning Enabling Act, Public Act 110 of 2006, and section 19(2) of the Michigan Planning Enabling Act, Public Act 33 of 2008, the Planning Commission shall make an annual written report to periodically prepare for the City Commission concerning a report on the operations of the zoning ordinance and the status of planning activities, including recommendations as to the enactment of amendments or supplements to the ordinances and recommendations regarding actions by the City Commission related to planning and development.

(Ord. 6.1, passed 3-17-09)

Section 27.11 Planning Commission Annual Report

The Planning Commission shall at least once per year prepare for the City Commission a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

(Ord. 6.1, passed 12-5-06; Am. Ord. 6.1, passed 3-17-09)

Article 28

Zoning Board of Appeals

Section 28.1 Establishment

A Zoning Board of Appeals, hereinafter in this article sometimes referred to as the "Board," is hereby established pursuant to Act 207 of the Public Acts of 1921 (M.C.L.A. §§ 125.481 et seq., M.S.A. §§ 5.2931 et seq.), as amended, the composition, powers and duties of which are prescribed in this article. The continued administration of the Board shall be pursuant to the Michigan Zoning Enabling Act, P.A. 110 of 2006 (MCL 125.3101 et seq.), as amended.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.2 Applicability of State Statute

Act 110 of the Public Acts of the State of Michigan of 2006 (M.C.L.A. §§ 125.3101 et seq.), as amended, is hereby adopted and made a part of this article and the terms of the statute shall prevail, except as modified by the terms of the Code of Ordinances and the Charter which are not in direct conflict thereto.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.3 Membership, Quorum, and Alternate Members

The Board shall consist of seven (7) members appointed by the City Commission. In the first instance the City Commission shall appoint two (2) members for a one-year term, two (2) members for a two-year term, and three (3) members for a three-year term, respectively. Thereafter, each member shall be appointed to hold office for the full three-year term. Any vacancies shall be filled by the City Commission for the unexpired term. Five (5) members shall constitute a quorum. A majority of the regular members of the Board (i.e. four (4) members) must be present at all meetings. The City Commission may, if it desires, appoint two (2) alternate members for three-year terms. One (1) or both alternate members may be called by the chairman, or in the absence of the chairman by the vice chairman, or, in the absence of the vice chairman, by the secretary to sit as a regular member of the Board. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights a regular member. A member who has abstained for reasons of conflict of interest shall take no part in the discussion or voting of the hearing. An abstaining member may remain in attendance in the audience during the hearing.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.4 Qualifications of Members

Members of the Board shall be residents of the city. At least one (1) member shall be knowledgeable in the construction of buildings. No more than one (1) member of the City Commission shall serve on the Board and cannot serve as the Chairman. At least one (1) member of the Planning Commission must be appointed to the Board.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.5 Vote Required and Procedural Matters

The Board is hereby authorized and empowered to establish its own rules of procedure and to elect its own officers subject to the provision that it shall, at its organizational meeting, elect a chairman, a vice-chairman and a secretary. In establishing rules of procedure and election of officers, a majority of those in attendance and constituting a quorum shall be required.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.6 Jurisdiction, Duties and Responsibilities

The Board shall have all jurisdiction and powers granted by Act 110 of the Public Acts of the State of Michigan of 2006 (M.C.L.A. §§ 125.3101 et seq.), as amended, all jurisdiction and powers prescribed in other articles of this ordinance or in other chapters of the Code of Ordinances, and the following specific jurisdiction and powers:

A. To hear and decide appeals from and review any order, requirements, permit, decision or determination made by the Building Official and Zoning Administrator, Planning Commission or any other administrative official in enforcing the provisions of this ordinance. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, decision or determination as in the Board's opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official from whom the appeal is taken.

B. To hear and decide matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to Act 110 of the State of Michigan of 2006 (M.C.L.A. §§ 125.3101 et seq.), as amended, of the state, or by other chapters of the Code of Ordinances.

C. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the ordinance, chapter or code applicable to the matter appealed from, the Zoning Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in, equipment, or alteration of buildings or structures or the uses of land, buildings or structures, so that the spirit of the particular chapter shall be preserved, public safety secured and substantial justice done.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.7 Flood Hazard Area Overlay Zone Mapping Disputes

A. Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information should be utilized.

B. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

C. All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.

Section 28.8 Granting of Variances

The Board shall prescribe appropriate conditions and safeguards to carry out the requirements of the of this subsection and shall not grant any variance unless it shall have made a finding of fact based upon the evidence as presented to it in each specific case as specified below:

A. **Area Variance.** The Board may grant an area variance only upon a finding that practical difficulties exist. An area variance is a variance from any dimensional standard or requirement of the ordinance, such as, but not limited to, a deviation from density, height, bulk, setback, or parking, landscaping and sign standards and requirements. A finding of practical difficulties shall require demonstration by the applicant of all of the following:

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other “non-use” matters will unreasonably prevent the owner from using the property for a permitted purpose or will be unnecessarily burdensome.
2. The variance will do substantial justice to the applicant, as well as to other property owners.
3. A lesser variance than that requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
4. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
5. The problem and resulting need for the variance has not been self-created by-the applicant and/or the applicant's predecessor may or may not be considered depending upon whether the practical difficulty would have existed regardless of the action.
6. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.

A simple majority of the ZBA membership is required to grant an area variance.

B. **“Use” Variance.** The Board may grant a “use” variance only upon a finding that an unnecessary hardship exists. A “use” variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following:

1. The property cannot be reasonably used for any purpose permitted in the zoning district without the variance. There must be financial proof of the applicant's inability to realize any return; speculation or a qualitative assessment is inadequate.
2. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the Zoning Ordinance, not a variance.
3. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
4. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
5. The capacity and operations of public roads, utilities, other facilities, and services will not be significantly compromised.

A two-thirds (2/3) majority of the ZBA membership is required to grant a use variance.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.9 Flood Hazard Area Overlay Zone Variances

Variances from the provisions of Article 26 Flood Hazard Overlay Zone shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standards for variances contained in this Article and each of the following specific standards:

- A. A variance shall be granted only upon:
 1. a showing of good and sufficient cause;
 2. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. a determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- B. The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
- C. The Zoning Board of Appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this ordinance.

D. Variances may be granted for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Michigan Register of Historic Sites, or any other state register of historic places without regard to the requirements of this article governing variances in flood hazard areas.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.10 Appeals, How Taken

An appeal shall be taken within such reasonable time as shall be prescribed by the Board by general rule, and if no general rule has been adopted, within sixty (60) days of the order, requirements, or determination of an administrative official, by the filing with the Building Official and Zoning Administrator and with the Board of a notice of appeal specifying the grounds thereof. The Building Official and Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Filing with the secretary of the Board the notice of appeal, or, in the absence of the secretary filing of the same with the chairman or presiding officer, shall satisfy the provision of this article that a copy of the notice of appeal be filed with the board.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.11 Stay

An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official and Zoning Administrator certifies to the Board after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by the Circuit Court for the County, on application, on notice to the Building Official and Zoning Administrator and on due cause shown.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.12 Notice of Public Hearing

The Board shall fix a reasonable time for the hearing of the appeal, which time shall be within thirty (30) days of the receipt of the notice of appeal, and shall give due notice thereof to the persons to whom real property within three hundred (300) feet of the premises in question shall be assessed, and to the occupants of single- and two-family dwellings within three hundred (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 roll.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.13 Appearance

Any interested party may appear and be heard at the hearing in person or by an agent or attorney.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.14 Limitation on Powers of Appeal

The Board shall not have the power to alter or change the zoning district classification of any property.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.15 Vote on Appeals

Matters coming before the Board shall be decided within a reasonable time. A concurring vote of a majority of the total membership of the Board (four (4) votes) 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 the Board is required to pass under this ordinance or other chapters of the Code of Ordinances, except that a concurring vote of two-thirds (2/3) of the total membership (five (5) votes) of the Board shall be necessary to grant a variance from uses of land permitted in this ordinance. A member of the ZBA who is also a member of the Planning Commission or the City Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission, or the City Commission. However, the member may consider and vote on other unrelated matters involving the same property.

(Am. Ord. 6.1, passed 12-5-06; Am. Ord. 6.1, passed 3-17-09)

Section 28.16 Decisions

The decision of the Board shall not become final until the expiration of five (5) days from the date of entry of the order, unless the Board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and shall so certify on the record.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.17 Forms of Decisions

In its decisions, the Board shall state a finding of facts underlying its decisions.

(Am. Ord. 6.1, passed 12-5-06)

Section 28.18 Validity and Limitations of Board Orders

A. No order of the Board permitting the erection or alteration of buildings 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 commenced and proceeds to a completion in accordance with the terms of such permit.

B. 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 if the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.

(Ord. 6.1, passed 12-5-06)

Section 28.19 Making a Record

Decisions of the Zoning Board of Appeals may be appealed to the appropriate court on the record and for that reason the Board shall cause a record to be made of its proceedings.

Section 28.20 Court Appeals

An appeal from a decision of a ZBA shall be filed within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson or within twenty-one (21) days after the ZBA approves the minutes of its decision.

(Ord. 6.1, passed 3-17-09)

Article 29

Definitions

Section 29.1 Construction of Language

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

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive, with the decision made by the Planning Commission, City Commission, or Board of Zoning Appeals, as indicated.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The words “used” or “occupied” include the words “intended,” “designed,” or “arranged to be used or occupied”; the word “building” includes the word “structure” and any part thereof; the word “dwelling” includes the word “residence”; the word “lot” includes the words “plot” or “parcel.”
- F. The word “person” includes an individual, a corporation, a partnership, an incorporated or unincorporated association, or any other entity recognizable as a “person” under the laws of Michigan.
- G. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” “either...or,” the conjunction shall be interpreted as follows:
 1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
 2. “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination (i.e., “or” also means “and/or”).
 3. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- H. The terms “abutting” or “adjacent to” include property “across from,” such as across a street or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.
- I. The term “this Zoning Ordinance” or “this ordinance” includes the Zoning Ordinance and any amendments thereto.
- J. Terms not herein defined shall have the meaning customarily assigned to them.

Section 29.2 Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building, structure, or use: A building, structure, or use which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is related.

Adult day care facility: A facility providing care for elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

Adult foster care facility: A governmental or nongovernmental establishment that provides foster care to adults over 18 years of age, as licensed and regulated by the State under Michigan Public Act 218 of 1979, as amended, and rules promulgated by the Michigan Department of Social Services. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential center for persons released from or assigned to a correctional facility. Such facilities are classified as follows:

A. **Adult foster care small group home:** a facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

B. **Adult foster care large group home:** a facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

C. **Adult foster care family home:** a private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for twenty four (24) hours a day for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

D. **Congregate facility:** residence for more than twenty (20) adults.

Adult regulated uses: The following uses as used in this Zoning Ordinance:

A. **Adult Physical Culture Establishment:** Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical culture establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult physical culture establishment:

1. establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed physical therapist, a therapeutic massage practitioner, as defined in this ordinance, a licensed practical nurse practitioner, or any other similarly licensed medical professional;

a. fitness center, as defined herein;

b. electrolysis treatment by a licensed operator of electrolysis equipment;

c. continuing instruction in martial or performing arts, or in organized athletic activities;

d. hospitals, nursing homes, medical clinics, or medical offices;

e. barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck or shoulders only; and

f. adult photography studios whose principal business does not include the taking of photographs of "specified anatomical areas" as defined herein.

2. **Adult book or supply store:** An establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material.

3. **Cabaret:** An establishment where live entertainment is provided, presented, permitted or performed, which performances are distinguished or characterized by an emphasis on or relationship to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by or participation of patrons therein. Also, an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.

4. **Adult motion picture theater or adult live stage performing theater:** An enclosed building with a capacity of 50 or more persons wherein still or motion pictures, video tapes or similar material is presented or viewed which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

5. **Adult model studio:** Any place where models who display "Specified Anatomical Areas" (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any accredited art school or similar educational institution.

6. **Adult motion picture arcade or mini motion picture theater:** Any place where motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images displayed depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein).

7. **Adult, nude, partially nude dancing:** A business having as its principal activity the live presentation of or display of nude, or partially nude, male or female impersonator(s), dancer(s), entertainers(s), waiter(s) or waitress(es), or employee(s) and which may or may not feature the service of food or beverage. For the purpose of this ordinance, nude or partially nude shall mean having any or all of the "Specified Anatomical Areas" exposed (as defined herein).

8. **Adult outdoor motion picture theater:** A drive-in theater used for presenting material distinguished or characterized by an

emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

B. Specified Anatomical Areas: Portions of the human body defined as follows:

1. less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola; and
2. human male genitals in a discernible turgid state, even if completely and opaquely covered.

C. Specified Sexual Activities: The explicit display of one or more of the following:

1. human genitals in a state of sexual stimulation or arousal;
2. acts of human masturbation, sexual intercourse, or sodomy;
3. fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

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

Alteration: Any change, addition or modification in construction or type of occupancy, any change 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.”

Animal, domesticated: An animal that is commonly considered capable of being trained or is capable of adapting to living in a human environment and being of use to human beings, and which is not likely to bite without provocation, nor cause death, maiming or illness to human beings, including by way of example: bird (caged), fish, turtle, rodent (bred, such as a gerbil, rabbit, hamster or guinea pig), cat (domesticated), lizard (non-poisonous), and dog. Wild, vicious, or exotic animals shall not be considered domesticated.

Animal, exotic: Any animal of a species not indigenous to the State of Michigan and not a domesticated animal, including any hybrid animal that is part exotic animal.

Animal, non-domesticated (wild): Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animals, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

Animal, vicious: Any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.

Antennae, reception: See “Reception antennae.”

Arcade: The use of a building or a portion of a building for the location, operation, and placement of five (5) or more mechanical amusement devices. Mechanical amusement devices shall mean any device, apparatus, mechanical equipment or machine operated as amusement for required compensation. The term does not include vending machines used to dispense foodstuffs, toys, or other products for use and consumption.

Architectural feature, significant: Any building, structure, or portion thereof, that is sufficiently distinctive or unusual in design or construction as to warrant the preservation and minimal alteration of its original form.

Arterial street: A street defined in the Imlay City Master Plan as “major traffic routes” and/or as an arterial or major street by the Michigan Department of Transportation where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function.

As-built plans: Construction plans in accordance with all approved field changes.

Attorney, City: See “City Attorney.”

Auto (automobile): Any motorized vehicle intended to be driven on roads or trails, such as cars, trucks, vans, and motorcycles.

Automobile gasoline station: An establishment which includes buildings and premises for the primary purpose of retail sales of gasoline. An automobile gasoline service station may also include an area devoted to sales of automotive items and convenience goods (mini-mart) primarily sold to patrons purchasing gasoline. An establishment which provides vehicle maintenance or repair is not included within this definition.

Automobile or vehicle dealership: A building or premises used primarily for the sale of new and used automobiles and other motor vehicles such as motorcycles, boats, and recreational vehicles. Such a dealership may include outdoor display and accessory indoor maintenance and repair.

Automobile maintenance/service establishments (routine maintenance and minor repair): A building or premises used primarily to provide general maintenance on automobiles such as oil changes and lubrication; servicing and repair of spark plugs, batteries, pumps, belts, hoses, air filters, windshield wipers and distributors; replacement of mufflers and exhaust systems, brakes and shock absorbers; radiator cleaning and flushing; sale and installation of automobile accessories such as tires, radios and air conditioners; wheel alignment, balancing and undercoating; but excluding tire recapping or grooving or any major mechanical repairs, collision work, or painting. An automobile maintenance/service establishment may also sell gasoline, but is distinct from an automobile gasoline station.

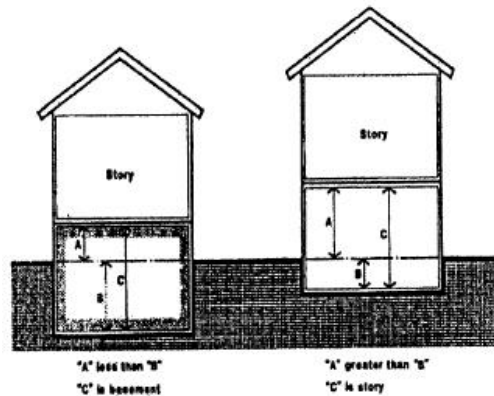
Automobile repair establishment (major repair): An automotive repair establishment which may conduct in addition to activities defined below as “minor repairs” one or more of the following: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles, major

overhauling of engine requiring removal of cylinder-head or crank case pan, recapping or retreading of tires, steam cleaning and similar activities.

Automobile wash: Any building or structure or portion thereof containing facilities for washing motor vehicles using production line methods with a conveyor, blower, steam cleaning device or other mechanical washing devices; and shall also include coin and attendant operated drive-through, automatic self-serve, track mounted units and similar high volume washing establishments, but shall not include hand washing operations.

Base flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement: The 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. (*see below*)



Basement and Story

Bed and breakfast inn: Any dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provision for a morning meal only for the overnight guest. A bed and breakfast is distinguished from a motel in that a bed and breakfast establishment shall have only one set of kitchen facilities, employ only those living in the house or up to one additional employee, and have facade style consistent with surrounding homes.

Block: The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, 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.

Boarder, roomer or tenant: A person who occupies a bedroom or room as a lodging unit within a dwelling unit, boarding house, rooming house or lodging house on a long-term residential basis for compensation and where meals may be provided by the owner or operator.

Boarding, lodging or rooming houses: Dwellings with rooms rented or leased to persons outside of the immediate family. Lodging is provided for definite periods of times. Such dwellings shall have only one set of kitchen facilities.

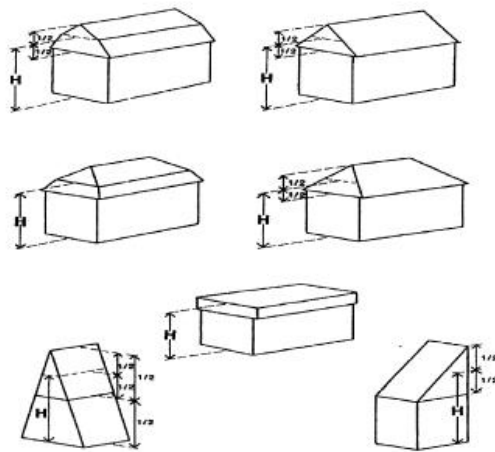
Brewpub: A restaurant or drinking establishment which includes the brewing of beer as an accessory use only. Sale of such beer shall be on the premises only.

Building: Any structure, either temporary or permanent, having a roof and walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind. A building shall include tents, mobile homes, manufactured housing, storage, sheds, garages, greenhouses, pole barns, semi-trailers, vehicles situated on a parcel and used for the purposes of a building and similar structures. A building shall not include such structures as signs, fences, smokestacks, canopies, or overhangs but shall include structures such as storage tanks, produce silos, coal bunkers, oil cracking towers, or similar structures.

Building Department: The Department charged with enforcing the Building Code.

Building envelope: The ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a principal building and any attached accessory structures (such as a garage) is permitted by this ordinance. For condominium developments, the building envelope shall be illustrated on a site plan.

Building height: The vertical distance measured from the finished 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. Where a building is located on sloping terrain, the height shall be measured from the average grade. (*see below*)



Building Height Requirements

Building line: A horizontal line generally parallel to a front, rear, or side lot line which is located at the point of the foundation of a principal building nearest to the front, rear, or side lot line.

Building Official: The person responsible for issuing building permits and administering the provisions of the adopted Building Code for the city.

Building permit: An authorization issued by the City Building Official to move, erect or alter a structure within the city.

Building, principal or main: A building in which is conducted the main or principal uses of the lot on which such building is located.

Caretaker (living quarters): An independent residential dwelling unit or living area within a principal building designed for and occupied by no more than two (2) persons, where at least one (1) is employed to provide services or to look after goods, buildings, or property on the parcel on which the living quarters are located.

Carport: A shelter for vehicles consisting of a roof extended from a wall of a building or a partially open structure consisting of a roof and possibly walls. Carports shall comply with all yard requirements applicable to private garages.

Cemetery: Land used or intended to be used for burial of the human dead and dedicated for such purposes. Cemeteries include accessory columbaria and mausoleums, but exclude crematories.

Certificate of zoning compliance: A document signed by the Building Official and Zoning Administrator as a condition precedent to the commencement of a use or the construction/reconstruction of a structure or building which acknowledges that such use, structure or building complies with the provisions of this ordinance.

Child care center: See "Child Care Organization."

Child care organization: A facility for the care of children under 18 years of age, as licensed and regulated by the State under Act No. 116 of the Public Acts of 1973 and Act No. 218 of the Public Acts of 1979 and the associated rules promulgated by the State Department of Social Services. Such care organizations are classified below:

A. **Child care center or day care center:** A facility other than a private residence, receiving more than six (6) preschool or school age children for group day care for periods of less than twenty four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less that two (2) 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, preschool, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

B. **Child caring institution:** A child care facility which is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24 hour basis, in a building maintained for that propose, and operates throughout the year. It includes a maternity home for the care of unmarried mothers who are minors, an agency group home, and institutions for mentally retarded or emotionally disturbed minor children. It does not include hospitals, nursing homes, boarding schools, or an adult foster care facility in which a child has been placed.

C. **Foster family home:** A private home in which at least one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

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

E. **Family child care home:** A private home in which one (1) but less than seven (7) 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. It includes a home that gives care to an unrelated child for more than (4) weeks

during a calendar year.

F. Group child care home: A private home in which more than six (6) but not more than twelve (12) children are given 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. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

Church or temple: A building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses.

City attorney: The duly licensed person or firm employed by the City Commission and representing the city in legal matters.

City Commission: The City of Imlay City, City Commission..

City engineer: The duly licensed person or firm employed by the City Commission and representing the city in engineering matters such as drainage, grading, paving, storm water management and control, utilities, and other related site engineering and civil engineering issues.

City planner: The person or firm employed by the City Commission and representing the city in planning, zoning and development related matters.

Clerk: The Clerk of the City of Imlay City.

Clinic, medical or dental: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

Clinic, veterinary or animal hospital: See "Veterinary clinic."

Club or fraternal organization: An organization of persons for special purposes or for the promulgation of sports, arts, science, agriculture, literature, politics, or similar activities, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the constitution of the United States or any laws or ordinances. The facilities owned or used by such organization may be referred to as a "club" in this ordinance.

Commercial outdoor display, sales and storage: See "Open air business."

Commercial use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee for more than seven (7) days during a calendar year.

Commercial vehicle: Any vehicle bearing or required to bear commercial license plates and which falls into one or more of the categories listed below:

- A. truck tractor;
- B. semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures;
- C. vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or delivery trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors;
- D. tow trucks;
- E. commercial hauling trucks;
- F. vehicle repair service trucks;
- G. snow plowing trucks;
- H. any other vehicle with a commercial license plate having a gross vehicle weight in excess of ten thousand (10,000) pounds or a total length in excess of twenty-five (25) feet.

Common elements: The portions of the condominium project other than the condominium units defines as follows:

- A. **General common elements means and includes:**
 1. The land in the condominium project;
 2. The foundations, main walls, roofs, halls, lobbies, stairways entrances, exits, or communication ways;
 3. The basements, flat roofs, yards and gardens, except as otherwise provided or stipulated;
 4. The premises for the use of janitors or persons in charge of the condominium project, including lodging, except as otherwise provided or stipulated;
 5. The compartments or installations of central services such as heating, power, light, gas, cold and hot water, refrigeration, air-conditioning, reservoirs, water tanks, and pumps and the like;
 6. The elevators, incinerators and, in general, all devices or installations existing for common use; and
 7. All other elements of the condominium project owned in common and intended for common use or necessary to the existence, upkeep

and safety of the project.

B. Limited Common Elements means and includes: Those common elements which are reserved in the master deed for the exclusive uses of less than all of the co-owner.

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

Common open space: An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common by them, often through a homeowners association.

Condominium: A system of separate ownership of individual units and/or multi-unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

Condominium Act: Michigan Act 59 of 1978, as amended.

Condominium, consolidating master deed: The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed. See also "Condominium, master deed."

Condominium, contractible: A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents and in accordance with the Imlay City Code of Ordinances and the Condominium Act, Act 59 of the Public Acts of 1978, as amended.

Condominium, conversion: A condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.

Condominium, convertible area: A unit or a portion of the condominium referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provisions in the condominium documents and in accordance with the Imlay City Code of Ordinances and the Condominium Act.

Condominium, expandable: A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with the Imlay City Code of Ordinances and the Condominium Act.

Condominium, general common element: The common elements other than the limited common elements. See also "Common elements."

Condominium, limited common element: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners. See also "Common elements."

Condominium, master deed: The condominium document recording the condominium project as approved by the Building Official and Zoning Administrator to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project. See also "Condominium, consolidating master deed."

Condominium, project: The equivalent to "subdivision," as used in this ordinance and the subdivision regulations.

Condominium project, mobile home: A condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

Condominium setbacks: Setbacks shall be measured as follows:

A. **Front yard setback:** The distance between the public street right-of-way or private road easement line and the foundation of the unit site. Where there is no public right-of-way or access easement, the front yard setback required in the district shall be measured from fifteen (15) feet from the nearest pavement edge to the foundation of the unit.

B. **Side yard setback:** The distance between the side of a condominium building unit and the side unit (lot) line. Where no unit (lot) lines are provided, the distance between the closest points of two units shall be double the side yard setback required in the zoning district.

C. **Rear yard setback:** The perimeter shall be the distance between the limit of the development and the rear of the unit; within the development, rear yard setbacks shall be measured as the distance between the rear building line and the rear site (lot) line, or where lot lines are not defined, the space between the rear building lines of two buildings shall be double the rear yard setback required in the zoning district.

Condominium, site condominium project: A condominium project designed to function in a similar manner, or as an alternative to, a platted subdivision. A residential site condominium project shall be considered equivalent to a platted subdivision for purposes of regulation of this ordinance.

Condominium subdivision plan: The site, survey and utility plans, and sections as appropriate showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common elements and any other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

Condominium unit: That portion of the condominium project designed and intended for separate ownership as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

Condominium unit site: The area designating the perimeter within which the condominium unit must be built. After construction of the

condominium unit, the balance of the condominium unit site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot,” for purposes of determining compliance of a site condominium subdivision with provisions of this ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

Contractor yard: A site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associate with building or construction. A contractor's yard may include outdoor storage, or a combination of both.

Convalescent home or 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 M.L.L.A. §§ 36.1 to 36.12, which provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity. See also “Housing for the elderly.”

Convenience store or mini-mart: A one-story, retail store that is designed and primarily stocked to sell food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). Convenience stores are designed to attract a large volume of stop-and-go traffic.

Convenience store with gasoline sales: An establishment that retails convenience food items which occupy fifty (50) square feet or greater of the sales area in conjunction with gasoline sales.

County Drain Commission: The Lapeer County Drain Commission.

County Health Department: The Lapeer County Health Department.

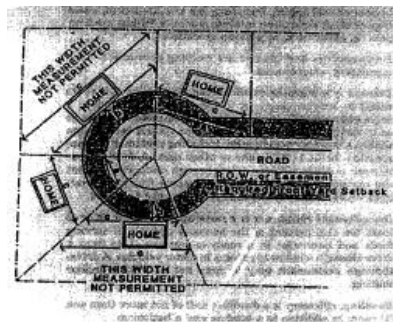
County Road Commission: The Lapeer County Road Commission.

Cul-de-sac: A dead-end public or private street, generally short in distance, which terminates in a circular or semicircular section of street which allows for vehicle turnaround.

Curb cut: The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

Curvilinear street: The minimum frontage is measured along a straight line connecting the points where the front lot line intersects the side lot lines .

- A. Minimum front yard setback is measured along a curve parallel to the street right-of-way or private road easement (A).
- B. Minimum frontage shall be measured along a straight line (chord) connecting the points where the side lot lines intersect the street right-of-way or private road easement (B).
- C. All side lot lines for lots or site fronting upon a cul-de-sac shall be radial from the center of the cul-de-sac (C). All lot lines radiating from the center of the cul-de-sac shall be a minimum of one hundred twenty-five (125) feet in length measured from the right-of-way of the cul-de-sac.
- D. Minimum lot width is measured along a straight line (chord) connecting the point where the front yard setback line intersects the side lot lines (D).
- E. Where side lot lines are perpendicular, the minimum lot width shall be provided between parallel lines.



Curvilinear street

Dangerous or hazardous materials: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, explosive or otherwise injurious properties, may be detrimental or deleterious to the environment or the health of any person handling or otherwise coming into contact with such material or substance.

Day care center: See “Child care organization.”

Deceleration lane: An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

Deck: A platform, commonly constructed of wood, which is typically attached to a house and which used for outdoor leisure activities.

Dedication: The intentional appropriation of land by the owner to public use.

Density: The number of dwelling units situated on or to be developed per net or gross acre of land. For purposes of calculating maximum density, only twenty-five percent (25%) of the acreage determined to be wetlands protected by the Goemaere-Anderson Wetland Protection Act, PA 203 of 1979, shall be calculated toward the total site acreage. All open bodies of water, land within the 100 year floodplain elevation, public rights-of-way and areas within overhead utility line easements are excluded from this calculation. Actual density shall also be determined by compliance with all setbacks, parking, open space and other site design requirements.

Detention basin or facility: A man-made or natural water collector facility designed to collect surface water in order to impede its flow and to release the water gradually at a rate not greater than that prior to the development of the property, onto natural or man-made outlets.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. A development may include a site plan, a plot (building) plan, a condominium plan, a plat or a mobile home park.

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

Drive-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, including customer communication facilities for banks or other uses. A drive-in restaurant is distinct from a drive-through restaurant in that the majority of drive-in patrons consume food and beverages while in the vehicle and parked on the premises.

Drive-through restaurant: A restaurant in which all or at least ten (10) percent of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating.

Dumpster: See "Waste receptacle."

Dwelling unit: A building, or enclosed portion thereof, designed for occupancy by one (1) family for residential purposes and having independent living, eating, sleeping, cooking, and sanitary facilities. A dwelling unit shall include both manufactured units (mobile homes and modular homes) and site built units.

Dwelling unit, attached: A dwelling unit attached to one (1) or more dwelling units by common major structural elements.

Dwelling unit, detached: A dwelling unit which is not attached to any other dwelling unit by any means.

Dwelling unit, efficiency apartment: A dwelling unit of not more than one (1) room in addition to a kitchen and a bathroom.

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, multiple-family: A building designed exclusively for, and containing three (3) or more dwelling units.

Dwelling unit, single-family: A detached building designed exclusively for, and containing one (1) dwelling unit only.

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.

Dwelling unit, two-family: A detached building designed exclusively for, and containing two (2) dwelling units only.

Easement: A right-of-way granted, but not dedicated, for limited use of private land for private, public or quasi-public purpose, such as for franchised utilities, a conservation easement or an access easement for a private road or service drive, and within which the owner of the property shall not erect any permanent structures.

Engineer: See "City engineer."

Endangered species habitat: An area where a plant or animal listed as an endangered species by state or federal agencies naturally grows or lives, or identified habitat sites designated on the Michigan Natural Features Inventory.

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

Essential public services: The erection, construction, alteration or maintenance by the public utilities or municipal department of underground, surface or overhead gas, electrical, cable television, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, transformers, splice boxes, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings or storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health safety or welfare. Essential services shall not include cellular telephone towers, commercial reception towers, air quality monitoring stations, school bus parking yards, sales or business offices, or commercial buildings or activities.

Essential public service building: A building or structure principal to an essential public service, such as a drop-off stations for residential recyclables, vehicle garages, telephone exchange buildings, electricity transformer stations or substations, and gas regulator stations.

Essential public service building storage yard: An outdoor storage area principal or accessory to an essential public service.

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

Exception: An exclusion from the normal Zoning Ordinance rules and regulations for the purposes of permitting particular uses or structures which are considered essential or appropriate in certain locations or under certain conditions as may be approved by the Zoning Board of Appeals. A variance is not required for uses or structures which are permitted because of an exception.

Facade: The exterior wall of a building exposed to public view.

Family: Family means either of the following:

A. A domestic family which is one or more persons living together and related by the bonds of blood, marriage or adoption, together with caretaker of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic housekeeping unit in a dwelling, or

B. The functional equivalent of the domestic family which is persons living together in a dwelling unit whose relationship is of a permanent and distinct character with a demonstrable and recognizable bond which render the persons a cohesive unit. All persons must be cooking and otherwise operating as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the Building Official and Zoning Administrator in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six (6). Such presumption may be rebutted by application for a special land use based upon the applicable standards in this ordinance.

Family child care home: See “Child care organization” or “Adult foster care facility.”

Family child care home: See “Child care organization.”

Family foster care home: See “Adult foster care facility” or “Child care organization.”

Farm: All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming with acceptable farming practices is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five (5) acres or more in area; provided further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries; but establishments keeping or operating fur-bearing animals, public or private stables, commercial kennels, stone quarries or gravel or sand pits, shall not be considered farms hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than twenty (20) acres. No farms shall be operated as piggeries, or for the disposal of garbage, public sewage, or rubbish, or as rendering plants, or for the slaughtering of animals except animals raised on the premises or maintained on the premises for at least one (1) year for the consumption by persons residing on the premises. Under no circumstances shall wild, vicious or exotic animals be considered farm animals or products.

Fence: An accessory structure constructed of wood, masonry, stone, wire, metal or any other material or combination of materials approved by the Building Department, intended for use as a barrier to property ingress or egress, a screen from objectionable vista, noise, and/or for decorative use.

Filling: The depositing or dumping of any matter onto, or into, the ground, except common household gardening and ground care.

Financial services: Establishments such as banks, savings and loan institutions, credit unions, brokerage houses, and similar establishments.

Fitness center or health club: A facility which provides indoor exercise facilities, such as exercise machines and weight-lifting equipment, usually in a structured physical activity program supervised by professional physical fitness instructors or specialists in sports medicine. As defined herein, “personal fitness center” shall not include spectator seating for sports events. A personal fitness center may or may not be enclosed within a gym.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard area: Land which on the basis of available floodplain information is subject to a one percent (1%) or greater chance of flooding in any given year.

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

Flood insurance study: The official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, and may include a flood hazard boundary-floodway map.

Floodplain: Land at a specified elevation subject to periodic flooding that have been defined by the Federal Emergency Management Agency (FEMA) as flood hazard areas (i.e., lands within the 100-year flood boundary) in the flood insurance study for the City of Imlay City.

Floodway: The channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.

Floor area, gross or total: The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, courtyards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

Floor area, 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 dwellings. The floor area measurement excludes areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Floor area, usable: For the purposes of computing parking requirements, the useable floor area shall be considered as that area 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, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and

total usable floor area for a building shall include the sum of the usable floor area for all floors. Where calculations are not provided, the useable or gross leasable floor area shall be assumed to be 80% of the gross floor area.

Foster family home and foster family group home: See “Child care organization” or “Adult foster care facility.”

Frontage: The linear dimension measured along the public street right-of-way line or along the private road access easement.

Frontage road: A public or private drive which generally parallels a public street between the right-of-way and the front building setback line. Frontage roads can be one-way or bidirectional in design. The frontage road provides specific access points to private properties while maintaining separation between the arterial street and adjacent land uses. A road which allows parking or is used as a maneuvering aisle within a parking area is generally not considered a frontage road.

Funeral home or mortuary establishment: An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held. A funeral home or mortuary establishment does not include crematoria.

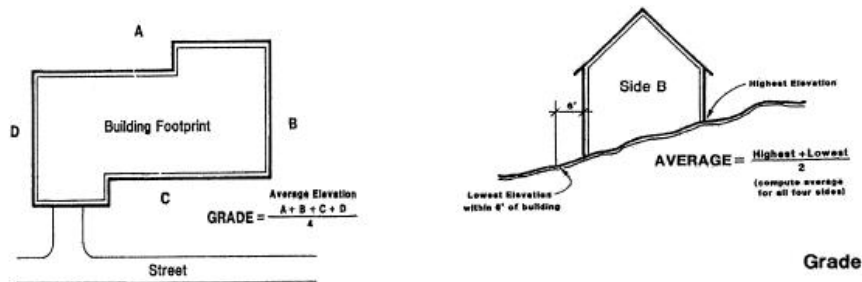
Garage, private or public: An accessory building or portion of a principal building designed or use solely for the storage of motor vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garden center: An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.

Glare: The effect produced at the lot line by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Golf course: A public or private open area of fairways, greens and rough and may include a clubhouse and related accessory uses provided that all structures and activities shall be an integral part of the intended main recreational land use. Further, all clubhouses, restaurants, pro-shop facilities, etc., shall be secondary in nature to the golf course and may not be continued if the principal golf course activity shall cease or become the minor activity of the facility.

Grade, average: The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.



Grade, finished: The lowest point of elevation between the exterior wall of the structure and a line six (6) feet from the exterior wall of the structure.

Grade, natural: The elevation of the ground surface in its natural state, before construction begins.

Gross site area: The total area of a planned unit development site including floodplains and water bodies.

Group child care home: See “Child care organization” or “Adult foster care facility.”

Group foster care home: See “Child care organizations” or “Adult foster care facility.”

Hard surface: For a single-family home, hard-surface consists of MDOT 22A or 23A gravel, brick, asphalt or concrete meeting the construction specifications of the City of Imlay City.

Hazardous uses and materials: Any uses which involve the storage, sale, manufacture, or processing of materials which are dangerous, combustible and/or produce either poisonous fumes or explosions in the event of fire. These uses include all high hazard uses listed in Section 306 of the Basic Building Code/1990 edition, as amended or updated, prepared by the Building Officials & Code Administrators International, Inc.

Hazardous or toxic waste: Waste or a combination of waste and other discarded material (including but not limited to solid, liquid, semisolid, or contained gaseous material) which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed: an increase in mortality, or an increase in serious irreversible illness, or serious incapacitating but reversible illness, or substantial present or potential hazard to human health or the environment.

Historical feature, significant: Any site or structure which is located in a designated local historic district or listed in the state or national register of historic places.

Home occupation: An occupation for gain or support conducted solely by members of a family residing on the premises and conducted entirely within the dwelling; provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing on the premises.

Hospital: A facility for primary inpatient care and services for observation, diagnosis and active treatment of patients with a medical,

surgical, obstetric or chronic conditions requiring daily care and supervision of physicians and professional medical support staff. A general hospital includes 24 hour emergency care services, and inpatient/outpatient diagnostic and therapeutic services, and medical clinics. A general hospital may include a specialty hospital or hospitals.

Hotel: A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment, and recreational facilities. A hotel shall not be considered or construed to be a multiple-family dwelling or boarding, lodging or rooming house as herein defined. See Motel, Boarding, Lodging, and Rooming House.

Housing for the elderly: Housing constructed for the exclusive use of an individual fifty-five (55) years of age or older, or for a couple where at least one (1) of the individuals is over the age of fifty-five (55). Housing for the elderly may include the types of facilities listed below.

A. **Senior apartments (independent care):** Multiple-family dwelling units where occupancy is restricted to persons fifty-five (55) years of age or older.

B. **Congregate or interim care housing:** A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.

C. **Dependent housing facilities:** Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

Impact assessment: An assessment of the ecological, social, economic, and physical impacts of a project on and surrounding the development site.

Impervious surface: a man-made material which covers the surface of land and substantially reduces the infiltration of storm water to a rate of five percent (5%) or less. Impervious surface shall include pavement, buildings, and structures.

Improvements: Any additions to the natural state of land which increases its value, utility or habitability. Improvements include but are not limited to street pavements, with or without curbs and gutters, sidewalks, water mains, storm and sanitary sewers, trees and other appropriate and similar items.

Indoor recreation center: An establishment which provides indoor exercise facilities and/or indoor court and field sports facilities, and which may include spectator seating in conjunction with the sports facilities such as skating rinks, swimming pools, indoor golf facilities and bowling alleys. Auditoriums and stadia are not included.

Industrial, heavy: The basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industrial, light: The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Industrial park: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

Junk: Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

Junkyard: See "Salvage yard."

kennel, commercial: Any lot or premises on which three (3) or more pets (but not including wild, vicious or exotic animals), six (6) months of age or older, are kept, either permanently or temporarily, for the purposes of breeding, boarding, training, sale, protection, hobby, pets or transfer.

Laboratory: An establishment devoted to research and experimental studies, including testing and analyzing, but not including manufacturing of any nature.

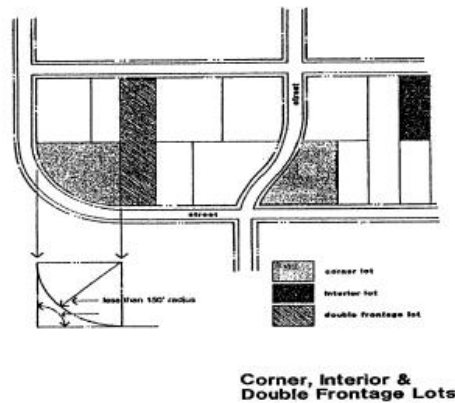
Landfill: A tract of land that is used to collect and dispose of "solid waste" as defined and regulated in Michigan Public Act 641 of 1979, as amended.

Livestock: Horses, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm. Wild, vicious or exotic animals shall not be considered livestock.

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.

Lodging house: See "Boarding house."

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. For purposes of meeting the dimensional standards of this ordinance, a lot does not include public rights-of-way or private road easements, but does include access easements for a service drive. A lot may be a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, contiguous portions of lots of record, a parcel of land described by metes and bounds or a condominium lot. Note: A separate definition is provided for site condominiums.



Lot area, gross: The area contained within the lot lines or property boundary including street right-of-way if so included.

Lot area, net: The total area of a horizontal plane within the lot lines of a lot, exclusive of any public street rights-of-way or private road easements, or the area of any lake. The lot area shall be used in determining compliance with minimum lot area standards. See definition for “Density.”

Lot area, net buildable: The net lot area less areas devoted to floodplains or surface water bodies; water bodies being defined as areas greater than five (5) acres in size (either before or after project implementation) which are periodically or permanently covered with water.

Lot, corner: Any lot having at least two (2) contiguous sides abutting upon one (1) or more streets, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than one hundred fifty (150) feet.

Lot, coverage: The part or percent of a lot occupied by buildings and accessory buildings.

Lot, depth: The horizontal distance between the front and rear lot lines, measured along the midpoint between side lot lines.

Lot, flag: A lot which is located behind other parcels or lots fronting on a public road, but which has a narrow extension to provide access to the public road.

Lot frontage: The length of the front lot line.

Lot, interior: A lot other than a corner lot which, with the exception of a “through lot,” has only one (1) lot line fronting on a street.

Lot line: A line bounding a lot, parcel, or general common element if there is no limited common element, which separates the lot, parcel, or general common element if there is no limited common element, from another lot, parcel, general common element if there is no limited common element, existing street right-of-way, approved private road easement, or ordinary high water mark.

Lot line, front or right-of-way line: The lot line which separates the lot from the existing street right-of-way or approved private road easement that provides access to the lot.

Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, it means an imaginary line ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.

Lot line, side: Any lot line other than a front or rear lot line.

Lot, nonconforming: A lot of record which does not meet the dimensional requirements of this ordinance.

Lot of record: A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds for Lapeer County, Michigan; or a tract of land described by metes and bounds which is the subject of a deed or land contract which is likewise recorded in the Office of the Register of Deeds. When two (2) lots in a recorded plat have been combined into a single building site, said lots shall be deemed a single lot of record for the purposes of this ordinance.

Lot, through (also called a double frontage lot): An interior lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Lot width: The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

Lot, zoning: A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record, or portions thereof.

Manufactured housing: A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

Manufactured housing or mobile home park: A parcel or tract of land under the control of a person, group or firm upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of

whether a charge is made, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

Master deed, and consolidating master deed: See “Condominium, master deed.”

Master Plan: The Master Plan of the City of Imlay City, and any corridor or subarea plans, adopted by the City Planning Commission. The Master Plan provides a review and analysis of existing features, projections for the future, goals and objectives, and a recommended future land use plan.

Mezzanine: An intermediate floor in any story occupying a maximum one-third of the story's floor area. (See “Story”).

Microbrewery or microbrewer: A brewery that produces beer and ale for on-site consumption and retail and wholesale distribution. A microbrewery may be permitted as an accessory use to a restaurant or a bar, tavern or lounge. See “Restaurant” and “Bar, tavern, lounge.”

Mini or self-storage warehouse or facility: A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

Mobile home: A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, or travel trailers.

Modular home: A dwelling which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed and assembled for permanent location on the lot.

Motel: An establishment providing sleeping accommodations with the majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building. A motel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms. A motel shall not be construed as multiple family housing or as a boarding, lodging or rooming house, as defined herein.

Natural features: Features including soils, wetlands, floodplain, water bodies, topography, vegetative cover, and geological formations.

Nonconforming building or structure: A building or portion thereof, existing at the effective date of this ordinance, as amended, and that does not conform to the provisions of this ordinance in the district in which it is located.

Nonconforming lot: A lot lawfully existing at the effective date of this ordinance, or amendments thereto, that does not conform to the dimensional standards for the district in which it is located.

Nonconforming use: A use which lawfully occupied a building or land at the effective date of this ordinance, as amended, 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: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people and traffic.

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

Obscuring screen: A visual barrier between adjacent areas or uses. The screen may consist of structures, such as a wall or fence, or living plant material.

Occupancy, change of: A discontinuance of an existing use and the substitution of a use of a similar or different kind or class, or the expansion of a use.

Occupied: Used in any manner at the time in question.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Offset: The distance between the centerlines of driveways or streets across the street from one another.

Off-street parking lot: 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 two (2) vehicles.

Open air business: A business and commercial use operated solely outside of any building, including: retail sales of garden supplies and equipment (including but not limited to, trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture); outdoor display, sale, and storage of building and lumber supplies; automobiles, recreational vehicles, boats, mobile homes, garages, swimming pools, playground equipment, mowing equipment, farm implements, construction equipment and similar materials or equipment; contractor yards; and permanent flea markets farmer's markets, roadside stands and auctions.

Open front store or restaurant window: 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, such as ice cream and yogurt restaurants serving to patrons through a walk-up window. The term “open front store” shall not include automobile repair establishment or automobile service stations. See also “Restaurant.”

Open space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, lawns, decorative planting, walkways, gazebos, active and passive recreation areas, playgrounds, fountains,

swimming pools, woodlands, wetlands and water courses. Open space shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel, but may include a recreational clubhouse or recreation center.

Ordinary high water mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil, and the vegetation.

Outdoor recreation facility: A publicly or privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) such as tennis courts, swimming pools, archery ranges, golf courses, miniature golf courses, golf driving ranges, skating rinks, baseball fields, batting cages, soccer fields and children's amusement parks.

Outdoor storage: The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty four hours.

Outdoor wood stove, outdoor boiler and outdoor wood furnace: A device located outside a building or structure that burns wood, pellets or other fuels or biofuels to generate heat or hot water for use in the building or structure.

Outlot: A lot in a subdivision which is restricted from use for building purposes, whether or not deeded to the city, but which is not dedicated as a street of public reservation or private part.

Parapet wall: An extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

Parcel or tract: A continuous area of acreage of land which can be described as provided for in the Michigan Land Division Act.

Parking lot, off-street: A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than three (3) vehicles.

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

Parkway: A thoroughfare bordered or divided with trees, bushes, grass and other landscaping.

Pen: A structure used to house, shelter or enclose an animal associated with a farm operation, either temporarily or permanently.

Performance guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development.

Person: Any individual, partnership, corporation, trust, firm, joint stock corporation, association or other organization; any governmental body including federal, state, county or local agencies.

Pet: A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is commonly available and customarily kept for pleasure or companionship.

Petitioner, applicant or developer: A person, as defined herein, who may hold any recorded or unrecorded ownership or leasehold interest in land. This definition shall be construed to include any agent of the person.

Planned unit development: A form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and nonresidential uses.

Planner: See "City Planner."

Planning Commission: The City of Imlay City Planning Commission, as duly created under Act 285 of the Public Acts of 1931, as amended.

Plat: A map or chart of a subdivision of land which has been approved with the Michigan Land Division Act, Michigan Public Act 288 of 1967, as amended.

Pool or billiard hall: An establishment wherein the substantial or significant portion of all useable floor area is devoted to the use of pool or billiard tables.

Ponds and lakes: Natural or artificial impoundments that retain water year round.

Principal building or structure: A building or structure in which is conducted the principal use of the lot upon which it is situated.

Principal use: The main use to which the premises are devoted and the principal purpose for which the premises exist. In cases where there is more than one use, the use comprising the greatest floor area shall generally be considered the principal use, except in cases where a use comprising a secondary amount of floor area is considered to have greater impact in terms of traffic generated, noise levels, disruption of views and similar impacts.

Principal use permitted: A use permitted in each zoning district by right.

Private road: See "Street."

Public and quasi-public institutional buildings, structures, and uses: Buildings, structures, and uses of governmental agencies and nonprofit organizations including, but not limited to, office buildings, police stations, fire stations, municipal parking lots, post offices, libraries, museums, and community centers.

Public park: Any developed land intended for active recreational pursuits, within the jurisdiction and control of a governmental agency.

Public open space: Any primarily undeveloped land, intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

Public street: See "Street."

Public utility: Any 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, public water, telephone lines, cable television services, communication, telegraph, and construction and maintenance of streets.

Radioactive materials: Materials defined as radioactive under Michigan Department of Natural Resources regulations for transportation of radioactive materials or under Lapeer County Health Department regulations, whichever is determined to be applicable.

Reception antennae: An exterior apparatus capable of receiving communications for radio or television purposes including satellite dishes and other satellite reception antennae but excluding facilities considered to be essential public services or those preempted from city regulation by applicable state, Federal Communication Commission (FCC), or federal laws or regulations.

Recognizable and substantial benefit: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses(s). Such benefits may include: long-term protection or preservation of natural resources and natural features, historical features, or architectural features; and elimination of or reduction in the degree of nonconformity of a nonconforming use or structure.

Recreational equipment and vehicles: Portable structures, machines or devices, self propelled or towable by another vehicle, capable of moving upon the highways without special movement permits; primarily designed, constructed or modified to provide temporary living quarters or for recreational camping, or travel use and such trailers and other devices as shall be primarily intended for such transporting of all such structures, machines, or devices. Motorcycles, bicycles, minibikes and such vehicles as jeeps, four-wheel drives and pickup trucks with attached cabs which do not exceed the roofline of the vehicle are specifically excluded from the provisions of this ordinance. This does not include a temporary building, structure or use, permitted to exist during periods of construction of the principal building, structure or use. Various types of recreational equipment and vehicles include:

A. **Travel trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" or a "fifth wheel" by the manufacturer. Travel trailers generally include self-contained sanitary, water, and electrical facilities. On an industry-wide basis, this type of recreational vehicle is classified as a non-motorized recreational vehicle.

B. **Pickup camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses. On an industry-wide basis, this type of recreational vehicle is classified as a non-motorized recreational vehicle.

C. **Motor home:** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities. On an industry-wide basis, this type of recreational vehicle is classified as either a Class A or Class B recreational vehicle. A Class A or bus type recreational vehicle has the luggage compartment below the living quarter. The Class C recreational vehicle is a van with the bed over the cab and is much larger than a passenger van due to the bed over the cab.

D. **Van/camper:** A is a recreational vehicle intended for temporary human habitation, sleeping and/or eating. This class of recreational vehicles includes conversion vans and camper vans which may contain refrigerator as well as water and electrical facilities. This class closely resembles passenger vans, but some models may be taller to allow for extra head room. On an industry-wide basis, this type of recreational vehicle is classified as a Class B recreational vehicle.

E. **Folding tent trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.

F. **Boats and boat trailers:** Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.

G. **Other recreational equipment:** Includes snowmobiles, jet skis, all terrain or special terrain vehicles, utility trailers, plus the normal equipment used to transport them on the highway.

Recycling center: A building in which used material is separated and processed prior to shipment to for use in the manufacturing of new products. A recycling center is distinct from a junkyard or a salvage yard.

Restaurant: Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

A. **Restaurant, carry-out:** A business establishment whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

B. **Delicatessen:** A restaurant typically offering both carry-out and seating of sandwiches and other foods and beverages. A delicatessen also typically offers meats, cheese and prepared foods on a retail basis.

C. **Restaurant, drive-in:** A business establishment whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building. A drive-in restaurant may also have interior seating.

D. **Restaurant, drive-through:** A business establishment whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.

E. **Restaurant, fast-food:** A business establishment whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands

inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.

F. Restaurant, open front window: See “Open front store or restaurant.”

G. Restaurant, standard: A business establishment whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

H. Bar/lounge/tavern: A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated. The hours of operation may extend beyond 11:00 p.m.; thereby differentiating it from a standard restaurant. A brewpub or microbrewery that operates beyond 11:00 p.m. is considered a bar, tavern or lounge.

Retail store: Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

Retention basin: A pond, pool, or basin used for the permanent storage of storm water runoff.

Right-of-way: A street, alley or other thoroughfare or easement intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use, permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

Roadside stand: A structure used solely by the owner, manager or tenant of the land on which it is located for the sale of produce grown on said land. This does not allow the sale of produce or other commodities on state or county road right-of-way and customers will not be permitted to stand or park on the public right-of-way.

Salvage: Material to be used for further use, recycling, or sale.

Salvage yard: Any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A “salvage yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. The term “salvage yard” does not include drop-off stations for residential recyclables.

Satellite dish antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrially and/or extraterrestrially based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (television reception only satellite antennas), and satellite microwave antennas.

Screening: The method by which a view of one site from an adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Service drive: A drive which generally parallels the public right-of-way but runs along the back of a land use which fronts on the public street. A service drive may provide access to properties on both sides, and vary in width and design.

Setback, required: The required minimum horizontal distance between a front, rear, or side lot line and a building line. Setbacks shall remain as open space as defined herein, unless otherwise provided for in this ordinance. Separate definitions for condominium projects are listed under “condominium, setbacks.”

Setback, parking lot: The minimum horizontal distance between the street right-of-way or property line and the near edge of a parking lot, excluding necessary and/or approved driveways, frontage roads and landscaping areas. This setback shall remain as open space as defined herein, unless otherwise provided for in this ordinance.

Sewer: A public sanitary sewage disposal system approved by the Michigan Department of Public Health.

Shopping center: A grouping of two or more business establishments developed in accordance to an overall plan and designed and built as an interrelated project. Buildings constructed on outlots shall not be considered part of the shopping center unless access and parking easements are provided. See also “Supercenter” and “Supermarket.”

Significant natural, historical, and architectural features: Significant architectural features, drainageways and streams, endangered species habitat, floodplain, hedgerow, significant historical feature, landmark tree, ponds and lakes, steep slopes, wetlands, and woodlots.

Sight distance: The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway. Required sight distance shall be based on the standards of the Lapeer County Road Commission.

Sign: See Definitions in Article 24, Signs.

Site condominium: See “Condominium, site condominium project.”

Site plan: A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions.

Special land use: A use of land for an activity which, under usual circumstances, could be detrimental to other land uses permitted within the same district but which may be permitted because of circumstances unique to the location of the particular use and which use can be conditionally permitted without jeopardy to uses permitted within such district. A special land use requires that a special use approval be obtained.

Stable, private: A stable for the keeping of horses for the use of the residents of the principal use and shall not include the keeping of

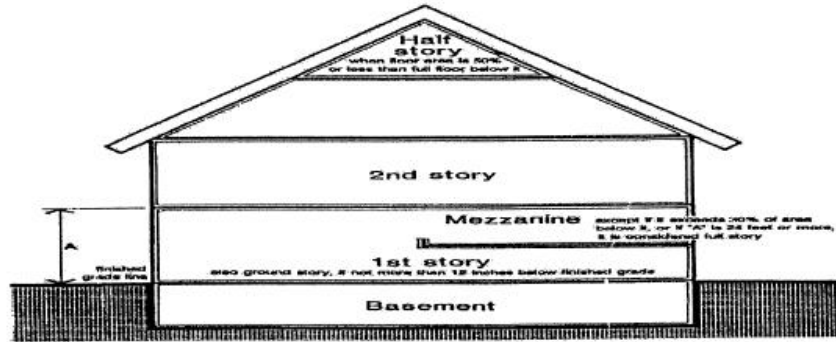
horses for others, or for commercial boarding, and with a capacity for not more than two (2) horses; provided, however, that the capacity of a private stable may be increased if the lot whereon such stable is located contains at least one (1) acre of land for each additional horse stabled thereon.

Stable, public or commercial: A stable other than a private stable, with a capacity for more than two (2) animals, and carried on within an unplatted tract of land of not less than forty (40) acres for the purposes of rearing and housing horses, mules, ponies or for riding and training academies.

State licensed adult and child residential care facility: See “Adult foster care facility” and “Child care organization.”

Steep slopes: Slopes with a grade of twelve (12%) percent or more.

Story: That part of a building, except a mezzanine as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if there is not floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty percent (50%), by cubic content, is below the height level of the adjoining ground. A basement shall not be counted as a story.



Basic Structural Terms

Street: Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel, whether designated as a road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of roads are defined below.

A. **Arterial street or roadway:** A street or roadway which carries high volumes of traffic at relatively high speeds, and serves as an avenue for circulation of traffic onto, out of, or around the Imlay City area. An arterial roadway may also be defined as a major thoroughfare, major arterial or minor arterial roadway. Since the primary function of the regional arterial roadway is to provide mobility, access to adjacent land uses may be controlled to optimize capacity along the roadway. Arterial roadways are listed in the City Master Plan.

B. **Collector street:** A street or road whose principal function is to carry traffic between minor and local roads and arterial roadways but may also provide direct access to abutting properties. Collector streets are classified in the City Master Plan.

C. **Cul-de-sac:** A street or road that terminates in a vehicular turnaround.

D. **Expressways:** Limited access interregional arterial routes, including I-69, designed exclusively for unrestricted movement, have not private access, and intersect only with selected arterial roadways or major streets by means of interchanges engineered for free-flowing movement.

E. **Highways:** Streets and roadways which are under the jurisdiction of the Michigan Department of Transportation. Highways may also be classified as expressways or arterial roadways.

F. **Local or minor street:** A street or road whose principal function is to provide access to abutting properties and is designed to be used or is used to connect minor and local roads with collector or arterial roadways. Local streets are designed for low volumes and speeds of 25 mph or less, with numerous curb cuts and on-street parking permitted.

G. **Private road:** Any road or thoroughfare for vehicular traffic which is to be privately owned and maintained and has not been accepted for maintenance by the city, Lapeer County, the State of Michigan or the federal government, but which meets the requirements of this ordinance or has been approved as a private road by the city under any prior ordinance.

H. **Public street:** Any road or portion of a road which has been dedicated to and accepted for maintenance by the City, Lapeer County, State of Michigan or the federal government.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. The following structures may be permitted within the required setback area: parking lots meeting the parking lot setback requirement, necessary driveways, sidewalks, bikepaths, overhead utility lines, utility access, fire hydrants, permanent signs meeting the standards of Article 23, Landscape Standards and Tree Replacement.

Structural addition: Any alteration that changes the location of the exterior walls or area of a building.

Subdivision: A subdivision as defined in the City of Imlay City Subdivision Control Ordinance.

Subdivision plat: The division of a tract of land for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent

(50%) of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the national register of historic places or the state inventory of historic places.

Supercenter: A retail establishment selling supermarket items as well as those items typically found in a department or discount store.

Supermarket: A retail establishment selling groceries, dry goods, frozen foods and similar items typically within a building of over five thousand (5,000) square feet.

Swimming pool: Any permanent, non-portable structure or container located either above or below grade designed to allow holding of water to a depth of greater than twenty four (24) inches, intended for swimming, bathing or relaxation. The definition of swimming pool includes spa, hot tubs and similar devices.

Temporary building, structure, or use for construction: A building, structure or use permitted to exist for a specified period during periods of construction or renovations on the principal building, structure or use.

Temporary uses and seasonal events: Seasonal outdoor events intended for a limited duration within any zoning district. Such a temporary use shall not be interpreted to be a continuance of a nonconforming use. Temporary uses and seasonal sales events may include carnivals, circuses, farmers market, art fairs, craft shows, sidewalk sales, antique sales, Christmas tree sales, flower sales, flea markets and similar events.

Theater: An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building. (“Theater” is distinct from adult theater defined separately under adult regulated uses.)

Therapeutic massage: The application of various techniques to the muscular structure and soft tissues of the human body performed by a massage practitioner. A massage practitioner must satisfy two or more of the following requirements:

A. The person is a member of the current Professional Level in the American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), International Myomassethics Federation (IMF) or other recognized massage association with equivalent professional membership standards consisting of at least five hundred (500) hours of training including: theory, practice and techniques of massage (minimum three hundred (300) hours); human anatomy and physiology (minimum one hundred (100) hours); and professionalism (minimum one hundred (100) hours). Instruction in this area shall include training in contraindications, benefits, ethics and legalities of massage, building and marketing a practice and other electives as appropriate.

B. The person is a graduate of a school of massage licensed by the State of Michigan or holder of a current license from another state which requires, at a minimum, the training set forth in paragraph A. above.

C. The person has completed a massage training program at a community college, college, university or technical school located in the United States, where such program requires at a minimum, the training set forth in A. above.

D. The person has passed the National Certification Exam for Massage and Bodywork Practitioners.

Topographical map: A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Traffic impact study: The analysis of the potential traffic impacts generated by a proposed project. This type of study and level of analysis will vary dependent upon the type and size of the project.

A. **Rezoning Traffic Impact Study:** A traffic impact study which contrasts typical uses permitted under the current and requested zoning or land use classification. This study usually includes a trip generation analysis and a summary of potential impacts on the street system.

B. **Traffic Impact Assessment:** A traffic impact study for smaller projects which are not expected to have a significant impact on the overall transportation system but will have traffic impacts near the site. This type of study focuses on the expected impacts of a development at site access points and adjacent driveways.

C. **Traffic Impact Statement:** A traffic impact study which evaluates the expected impacts at site access points and intersections in the vicinity.

D. **Regional Traffic Impact Study:** A comprehensive traffic impact study for large projects expected to have a significant long term impact on the street system. Such a study evaluates the impacts over a long period and may involve analyses of alternate routes. This type of study is typically prepared using a computer model which simulates traffic patterns.

Travel trailer: See “Recreational vehicles and equipment.”

Truck terminal: A structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other natural resources, are delivered for immediate distribution to other parts of the city, for delivery to other intrastate or interstate destinations, or for distribution involving transfer to other modes of transportation.

Urgent care center or emergency medical station: A facility offering immediate or emergency health care treatment and can be considered either a principal or accessory use.

Use: The 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: A relaxation or modification of the requirements of this ordinance as authorized by the Zoning Board of Appeals under the

provisions of this ordinance and Act 207 of the Public Acts of 1921, as amended.

Veterinary clinic, office or hospital: A facility which provides diagnosis, treatment, surgery and other veterinary care for domestic animals, horses and livestock provided that all activities are conducted within a completely enclosed building.

Wall: A structure constructed of masonry or brick of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

Warehouse: A building used primarily for storage of goods and materials.

Waste receptacle or dumpster: Any accessory exterior container used for the temporary storage of rubbish, pending collection, have capacity of at least one cubic yard. Recycling stations and exterior compactors shall be considered to be waste receptacles.

Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh. Locations of wetlands are generally shown on the natural features map of the City Master Plan.

Wetland, regulated: Certain wetlands regulated by the Michigan Department of Environmental Quality (MDEQ) under the provisions of Act 203 of the Public Acts of 1979, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river or stream;
- B. Not contiguous to an inland lake, pond, river or stream, and more than five (5) acres in size;
- C. Not contiguous to an inland lake or pond, or a river or stream; and five (5) acres or less in size if the Michigan Department of Environmental Quality (MDEQ) determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

Wholesale sales: The sale of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

Wireless Communication Facilities: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. This definition does not include "reception antenna" for an individual lot as otherwise defined and regulated in this zoning ordinance.

Woodlot: An area of one-fourth acre or more containing eight (8) or more trees per one-fourth (¼) acre, such trees having a four (4) inch or greater diameter at a four (4) foot height.

Yard, required: A required open space on the same lot with a principal building, unoccupied and unobstructed by any building or structure or portion thereof from the ground upward, except as otherwise provided in this ordinance .

Yard, required front: A required yard extending the full width of the lot, the depth of which is the required setback between the front lot line and the building line.

Yard, required rear: A required yard extending the full width of the lot, the depth of which is the required setback between the rear lot line and the building line.

Yard, required side: A required yard extending the full width of the lot, the depth of which is the required setback between the side lot line and the building line.

Zero lot line: The location of a building on a lot in such a manner that one or more of the buildings sides rests directly on the lot line.

Zoning Administrator: The person charged with the administration and enforcement of the zoning ordinance.

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

Zoning 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.

(Am. Ord. 6.1, passed 12-5-06; Am. Ord. 6.1, passed 3-17-09; Am. Ord. 6.1, passed 4-20-10)