

# **City Of McBain**

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**Zoning Ordinance  
Ordinance No: 57**

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**Effective: December 1, 1991**

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THE CITY OF MCBAIN ZONING ORDINANCE

Ordinance No. 57

AN ORDINANCE to establish zoning for the City of McBain, Missaukee County, Michigan pursuant to the provisions of Act 207 of the Public Acts of 1921, as amended, to meet the needs of the city's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to ensure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare. The land development regulations and districts of this Ordinance shall be made and modified in accordance with a plan adopted pursuant to Act 285 of 1931.

WHEREAS, Act 207, P.A. 1921 as amended, empowers the City to enact a zoning ordinance and to provide for its administration, enforcement, and amendment; and

WHEREAS, the City Council of the City of McBain deems it necessary for the purpose of promoting and protecting the health, safety, morals, and general welfare of the people of the City to enact such an ordinance; and

WHEREAS, the City Council, pursuant to the provisions of Act 285, P.A. 1931, as amended, has appointed a Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein; and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a basic plan; and

WHEREAS, all requirements of Act 207, P.A. 1921, as amended, and Act 285, P.A. 1931, as amended, with regard to the preparation of this Ordinance and subsequent action of the City Council have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MCBAIN, MISSAUKEE COUNTY, MICHIGAN AS FOLLOWS:

CHAPTER 1  
TITLE

1.01 TITLE

This Ordinance shall be known and may be cited as the "City of McBain Zoning Ordinance."



## CHAPTER 2 PURPOSE, SCOPE, AND LEGAL BASIS

### 2.01 PURPOSE

This Ordinance is based upon the City of McBain Master Plan and is designed (1) to promote the public health, safety, morals, and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to avoid the overcrowding of population; (4) to provide adequate light and air; (5) to lessen congestion on the public roads and streets; (6) to reduce hazards to life and property; (7) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and (8) to conserve the expenditures of funds for public improvements and services so as to obtain the most advantageous uses of land, resources, and properties. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, buildings and population development.

### 2.02 SCOPE AND INTERPRETATION

This Ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreements, or with restrictive covenants running with the land to which the City is a party. Where this Ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinance, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control. In the case of mobile home parks, any higher standard than imposed by state law must be approved pursuant to Rule 120 of the Mobile Home Commission Rules, 1987, as amended.

### 2.03 EFFECT OF ZONING

Zoning applies to every building, structure, or use. No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

### 2.04 LEGAL BASIS

This Ordinance is enacted to protect the public health, safety, and general welfare of the residents of City of McBain pursuant to the provisions of the City or Village Zoning Act, P.A. 1921, No. 207 of the Public Acts of the State of Michigan, MCLA 125.58 et seq., as amended.

## CHAPTER 3 DEFINITIONS

### 3.01 RULES APPLYING TO THE TEXT

The following listed rules of construction shall apply to the text of this Ordinance;

- A. The particular shall control the general.
- B. With the exception of this chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any way construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- G. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," "designed to use," "be used," or "occupied."
- H. Any word or term not defined herein shall have the meaning as defined in the Webster's New World Dictionary, second college edition.

### 3.02 ACCESSORY USE OR STRUCTURE

A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure. Freestanding satellite dishes and antennas, solar panels, and wind generators shall be considered accessory structures.

### 3.03 ALTERATIONS, STRUCTURAL

Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girder, any substantial change in the roof or an addition to or diminution of a structure or building.

### 3.04 AUTOMOBILE REPAIR

- A. Major Automobile Repair: General repair, rebuilding, or reconditioning of engines or vehicles, collision service (including body-repair and frame straightening), painting, or upholstering; or vehicle steam cleaning and undercoating, as a business.
- B. Minor Automobile Repair: Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding 2 tons capacity; provided, however, there is excluded any repair or work included in the definition of "Major Automobile Repair."

### 3.05 BASEMENT

A portion of a building, or a portion of a room, located wholly or partially below grade, but not including any part thereof not so located. The term basement shall not include an earth bermed or earth sheltered home.

### 3.06 BILLBOARDS AND SIGNS

- A. Billboard: Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.
- B. Business Sign: Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located or products primarily sold, manufactured, processed or fabricated on such land.
- C. Identifying Sign: Any structure on the same premises it identifies which serves only (1) to tell the name or use of any public or semi-public building or recreation space, club, lodge, church, or institution; (2) only to tell the name or address of an apartment house or motel; or (3) only to inform the public as to the use of a parking area.
- D. Name Plate: A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.
- E. Political Sign: A sign used in conjunction with a local, state, or national election or referendum.
- F. Real Estate Sign: Any temporary structure used only to advertise with pertinent information on the sale, rental, or leasing of the premises upon which it is located.
- G. Roof Sign: A sign located upon or structurally attached to a roof of a building or structure.

### 3.07 BUILDING

Anything that is constructed or erected having a roof supported by columns, walls, or other supports, which is used for the purpose of housing or storing of persons, animals, or personal property or carrying on business activities or other similar uses.

### 3.08 BUILDING HEIGHT

A vertical distance measured from the top of the main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

### 3.09 BUILDING SETBACK

The measurement from the road right-of-way line to the nearest point of the main wall of the building or structure. Steps may be located within the building setback. Porches are considered as part of the building or structure and may not be located within the building setback.

### 3.10 COMMERCIAL RECREATION

Commercial establishments related to recreation activities such as, but not limited to, billiard or pool hall, indoor theater, bowling alley, miniature golf, driving ranges, skating rinks, and video arcades.

### 3.11 DAY-CARE FACILITY

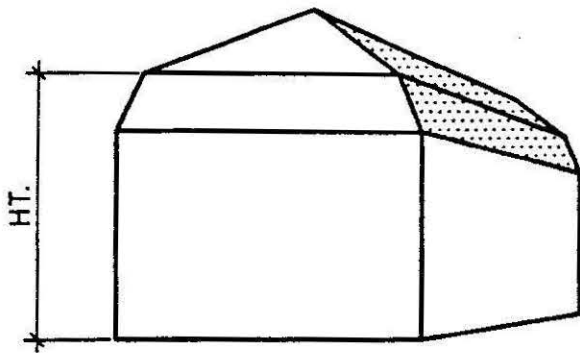
A facility for the care of children under 18 years of age, as licensed and regulated by the state under Act 116 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- A. **Family Day-Care Home:** A private home in which 1 to 6 children are received for care and supervision including those children less than 7 years old in the resident family. This number shall not include more than 2 children less than 12 months old.
- B. **Group Day-Care Home:** A private home where 7 to 12 children are received for care and supervision. This number shall not include more than 2 children younger than 2 years old.
- C. **Child-Care Center:** A facility, other than a private home, where 1 or more children are received for care and supervision.

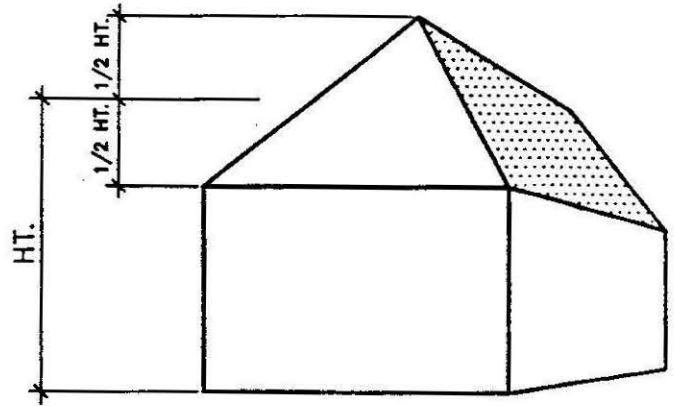
### 3.12 DWELLING

Any building or portion thereof which is occupied in whole or in part as a home residence, or sleeping place, either permanently or temporarily, by 1 or more families, but not including motels, hotels, tourist rooms, or cabins.

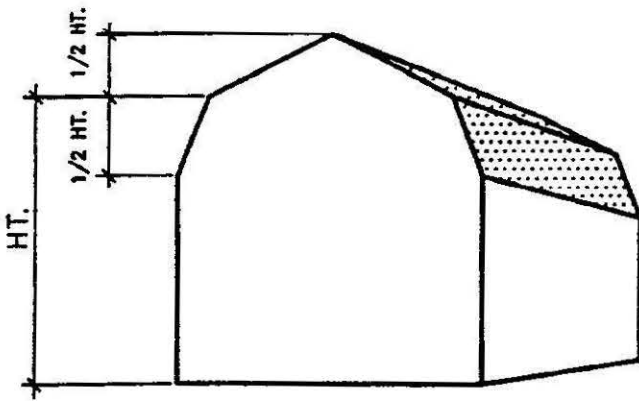
- A. **Dwelling, Single Family:** A building designed for use and occupancy by family only.



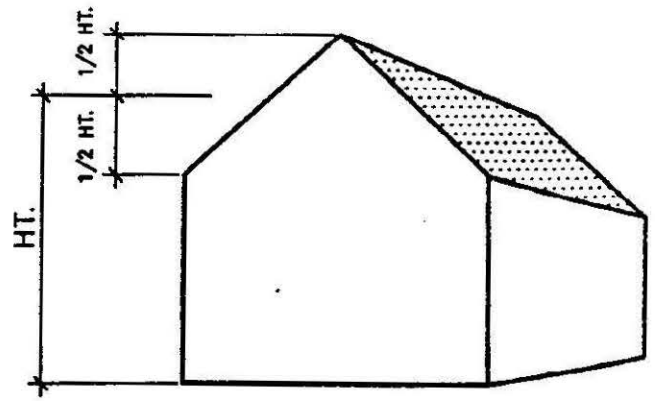
MANSARD ROOF



HIP ROOF



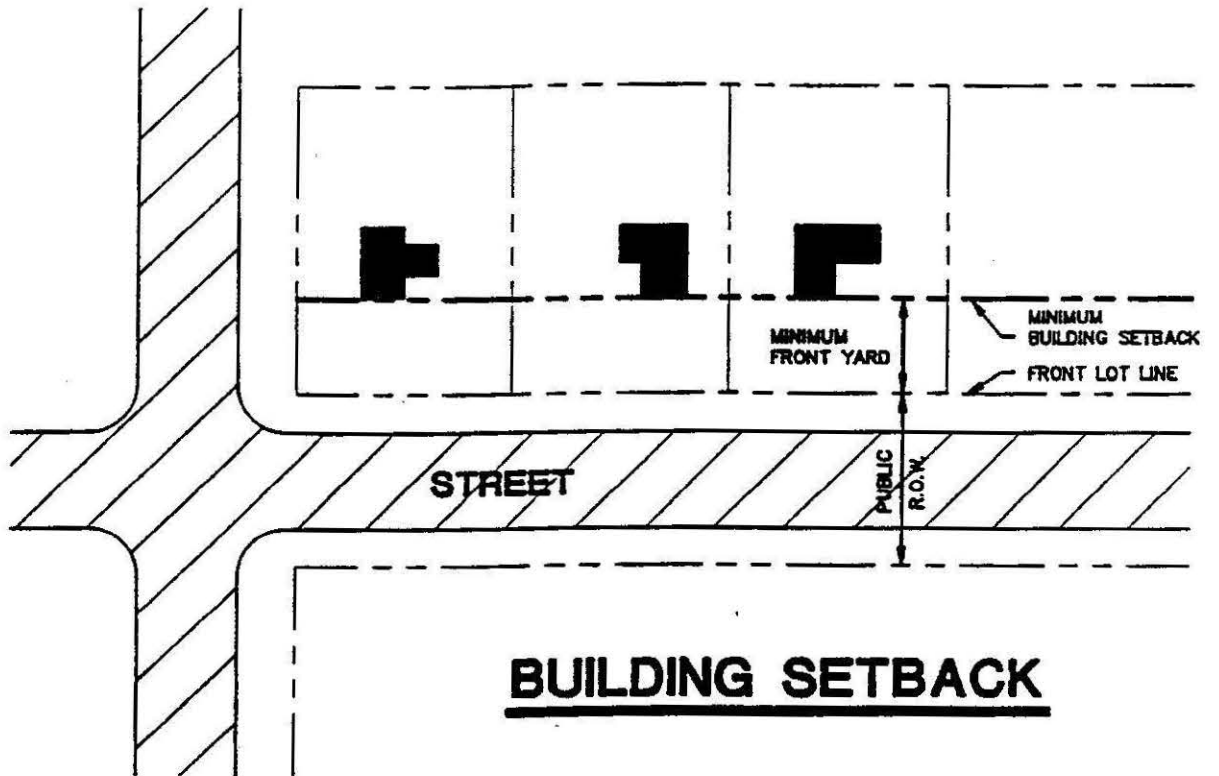
GAMBREL ROOF



GABLE ROOF

NOTE:  
HT. = HEIGHT OF BUILDING

**BUILDING HEIGHT**



B. Dwelling, Two Family: A building designed for use and occupancy by 2 families living independently of each other.

C. Dwelling, Multifamily: A building designed for use and occupancy by 3 or more families, living independently of each other.

### 3.13 DWELLING UNIT

A building or portion thereof designed for use or occupancy by 1 family for living and sleeping purposes with housekeeping facilities.

### 3.14 FAMILY

One or more persons living together as a single nonprofit housekeeping unit, organized as a single entity in which the members share common kitchen facilities in a domestic relationship based on consanguinity, marriage, adoption, or other domestic bond. This definition does not include any society, association, organization, or any other group whose domestic relationship is of a transitional or seasonal nature or for an anticipated limited duration.

### 3.15 FARM

A contiguous tract of land which is directly farmed or used for commercial agriculture including greenhouses, nurseries, orchards, vineyards, tree farms, and apiaries. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, farm products, or farm animals or used for the operation of the farm. The place of confined keeping of livestock or other animals in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which abnormal amounts of manure or related other animal wastes may originate by reason of keeping of such animals shall not be considered a "farm."

### 3.16 FLOOR AREA

The floor area of all floors of a building or an addition to an existing building. For all buildings, except dwelling units used for dwelling purposes, floor area shall include the basement.

### 3.17 HOME OCCUPATION

An income generating occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place which conforms to the provisions in Section 4.11.

### 3.18 HOUSEHOLD PETS

Animals that are customarily kept for personal, noncommercial use within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, rabbits, birds, fish, and domestic rodents.

### 3.19 LOT

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures or utilized for a principal use and accessory uses, together with such open spaces as are required by this Ordinance. Lot area cannot include any part of a public right-of-way. In the case of division of land on the basis of condominium ownership (site condominium), "lot" shall also include the portion of the condominium project designed and intended for separate ownership and use as described in the master deed.

- A. **Corner Lot:** A lot which has at least 2 contiguous sides abutting upon a street for their full length.
- B. **Interior Lot:** A lot other than a corner lot.
- C. **Through Lot:** An interior lot having frontage on 2 streets which do not intersect at a point contiguous to such lot.

### 3.20 LOT LINE

The line which defines the boundaries of a lot or parcel of land.

- A. **Front Lot Line:** The line which separates the front yard from the street right-of-way line. In the case of a corner lot or through lot, the lines separating the lot from each road right-of-way.
- B. **Rear Lot Line:** Lot line which is opposite the front line. In the case of a corner lot, the rear lot line may be opposite either front lot line, but there shall only be 1 rear lot line. In the case of a lot with side lot lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 20 feet long, lying farthest from the lot line and wholly within the lot.
- C. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

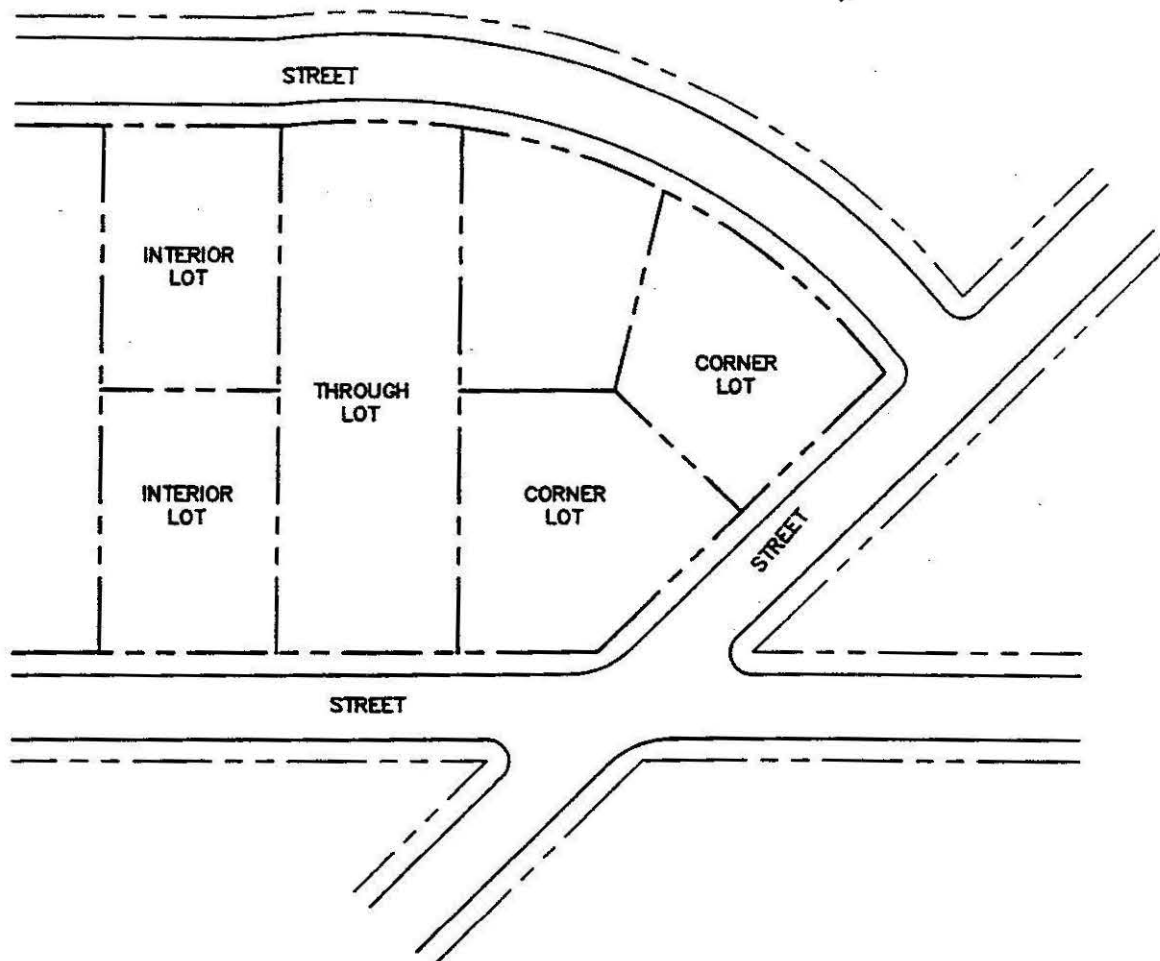
### 3.21 MOBILE HOME

A structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems in the structure. Mobile home does not include a recreational vehicle.

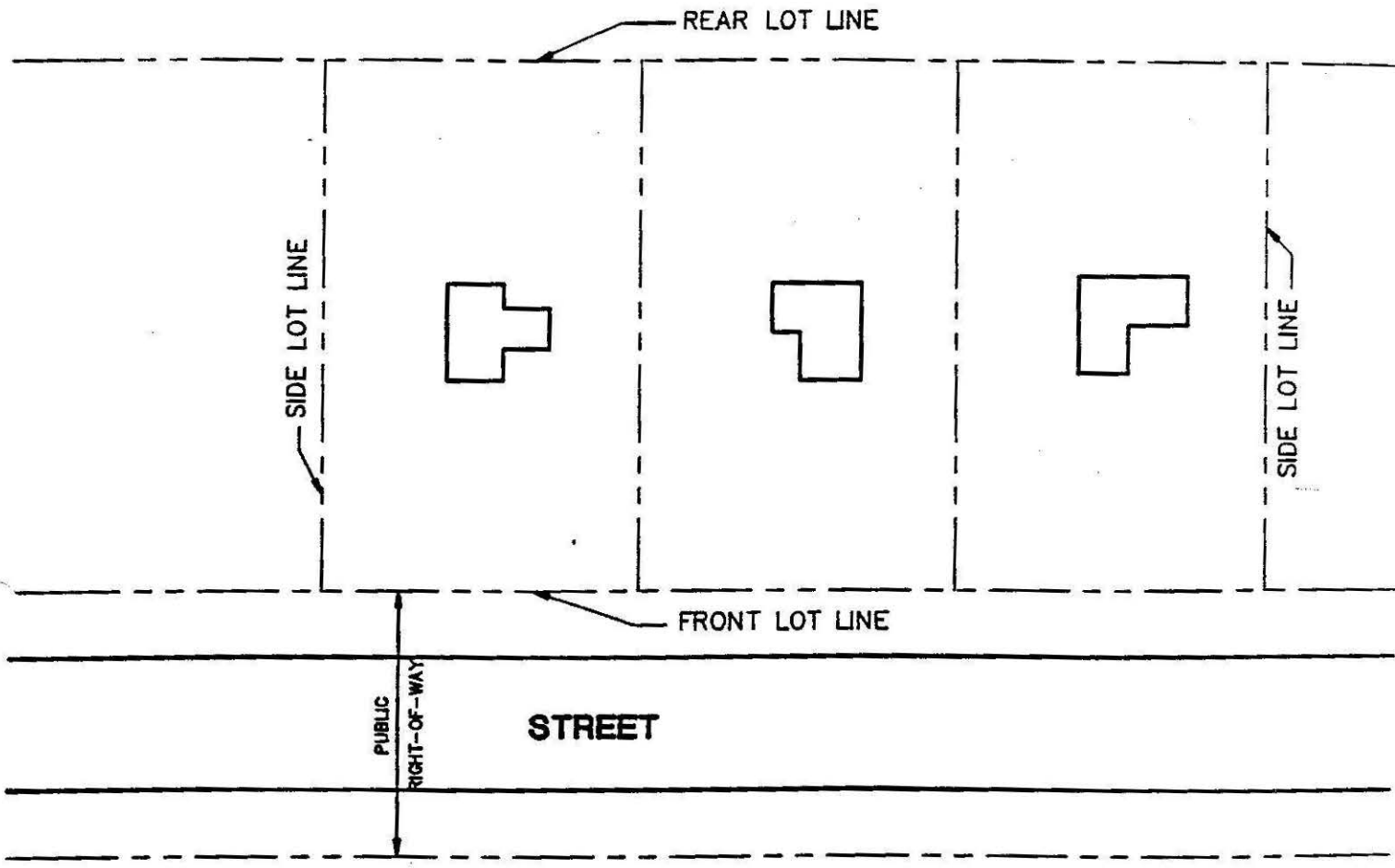
### 3.22 MOBILE HOME PARK

A parcel or tract of land upon which 3 or more mobile homes are located on a continual nonrecreational basis which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for the occupancy of a mobile home.





**CORNER, INTERIOR & THROUGH LOTS**



**LOT LINES**

### 3.23 MOTEL

A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, automobile travelers. The terms shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging with or without meals for compensation on a transient basis.

### 3.24 OUTDOOR SALES

Retail businesses whose principal activity is the sale or rental of merchandise in an outdoor setting, such as, but not limited to, farm implements, plants and trees, mobile homes, building supplies, and vehicles.

### 3.25 PRINCIPAL OR MAIN USE

The primary or predominant use of a lot.

### 3.26 PUBLIC OR INSTITUTIONAL USES

Churches; accredited public, parochial or private schools; trade schools or colleges; hospitals and nursing homes; parks, nonprofit recreational uses; libraries; government owned facilities; cemeteries; fire stations or similar uses providing service necessary to the community.

### 3.27 RECREATIONAL VEHICLE

A vehicular transportable structure mounted on wheels that is self-propelled or towed by a motor vehicle. A travel trailer is designed to provide temporary living quarters for recreational, camping or travel use. This definition includes, but is not limited to, portable structures commonly known as: travel trailers, travel homes, fold down campers, truck mounted campers, converted buses, and fifth wheels.

### 3.28 SALVAGE YARDS

Where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including wrecked vehicles, used building materials, structural materials, and equipment and other manufactured goods that are worn, deteriorated, or obsolete.

### 3.29 SIGNS

See "Billboards and Signs."

### 3.30 SITE CONDOMINIUM SUBDIVISION

The division of land on the basis of condominium ownership whereby a master deed is required in accordance with the Condominium Act, Act 59 of 1978, as amended.

### **3.31 STATE LICENSED RESIDENTIAL FACILITY**

A structure constructed for residential purposes that is licensed by the state pursuant to Act 287 of the Public Acts of 1972 as amended, or Act 116 of the Public Acts of 1973 as amended which provides resident services for 7 or more persons under 24-hour supervision or care for persons in need of that supervision or care.

### **3.32 STREET**

A publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, land, boulevard, highway, road, or other thoroughfare, except an alley. A street may also include a private road as approved pursuant to Section 4.14 of this Ordinance.

### **3.33 STRUCTURE**

Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

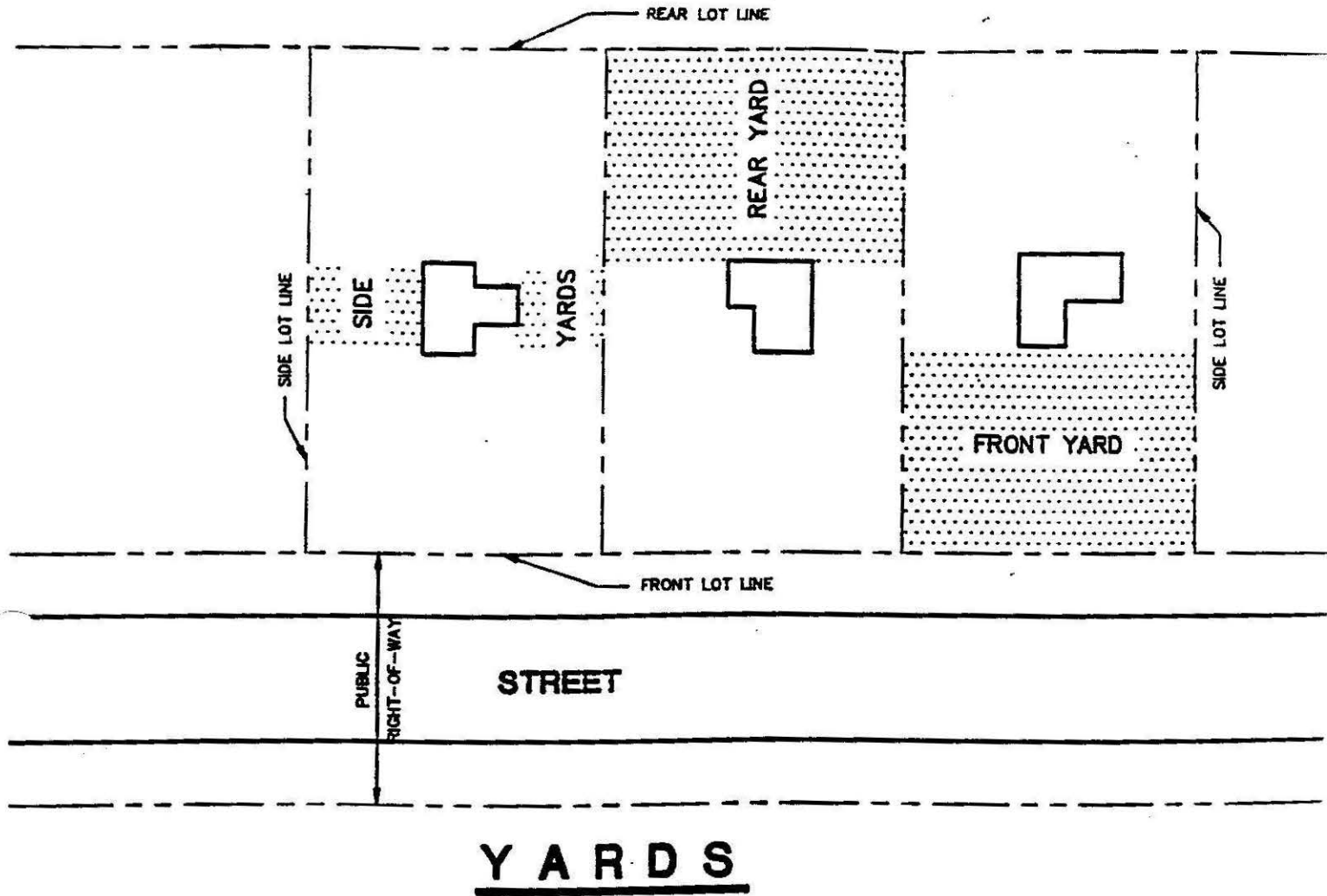
### **3.34 VEHICLE**

Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

### **3.35 YARD**

A required open space unoccupied and unobstructed by any building or structure or portion thereof from 30 inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. Accessory buildings may be permitted as regulated in Section 4.02.

- A. **Front Yard:** A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the nearest point of the main building.
- B. **Rear Yard:** A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and the nearest point of the main building.
- C. **Side Yard:** A yard between a main building and the side lot line, extending from the front of the main building to the rear of the main building. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.



**CHAPTER 4  
GENERAL PROVISIONS**

**4.01 ACCESS TO A STREET**

Any lot of record created after the effective date of this Ordinance shall have frontage on a street for a distance equal to the minimum lot width requirement of the district it is located in. In the case of a lot abutting the turnaround area of a dead-end street, the frontage on a street shall be a minimum of 30 feet provided that the lot width at the building setback shall meet the lot width requirements of the district it is located in.

**4.02 ACCESSORY BUILDINGS OR STRUCTURES**

- A. In any zoning district, an accessory building or structure may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building.
- B. Detached accessory buildings or structures shall not be located closer than 5 feet to the rear or side lot line. They shall not be located closer to the front lot line than the principal building is permitted.
- C. The distance between a detached accessory building and any principal building shall not be less than 10 feet. Accessory buildings shall be considered as attached to a principal building when the distance between the 2 buildings is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- D. No accessory building or structure shall include residential or living quarters for human beings.

**4.03 ACCESSORY USES**

In any zoning district, accessory uses incidental to a permitted principal use are permitted when located on the same lot.

**4.04 ANIMALS, KEEPING OF**

The keeping of animals other than customary household pets shall not be permitted in the R-2 or R-3 District, within 50 feet of a lot line located in an R-2 or R-3 District, or within 50 feet of any public building, commercial building, or neighboring residence.

#### 4.05 BASEMENT DWELLINGS

The use of any basement as a residence or dwelling unit is prohibited in all districts. The temporary use of a basement during construction work may be authorized by permit by the zoning administrator after issuance of a building permit for the proposed structure. The temporary permit shall terminate 12

months after the date of its issuance. The zoning administrator shall terminate the permit if the basement is not used for construction work within the time period specified in the permit. The zoning administrator shall also terminate the permit if the basement is used for any purpose other than construction work. The zoning administrator shall also terminate the permit if the basement is used for any purpose other than construction work.

#### 4.08 ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance by public utilities or governmental units, boards, or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission for the public health, safety or general welfare is permitted in any zoning district.

#### 4.09 HEALTH DEPARTMENT APPROVAL

No permit shall be issued for the construction of a building to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities are not authorized by the Missaukee County Health Department.

#### 4.10 HEIGHT EXCEPTIONS

The following buildings and structures shall be exempt from height regulations in all zoning districts; parapet walls not exceeding 4 feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, storage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which are controlled by the FCC.

#### 4.11 HOME OCCUPATION REQUIREMENTS

All home occupations shall meet all of the following conditions:

- A. Home occupations shall only be located in "R-1," "R-2," or "R-3" Districts.
- B. The home occupation must be operated in its entirety within the principal dwelling or accessory building located upon the premises.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
- D. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than 1 nonilluminated sign.
- E. The occupation shall not involve any alteration or construction not customarily found in dwellings.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fume, odors, or electrical interference detectable to the normal senses off the premises.



#### 4.12 JUNK VEHICLES

The storage of junk vehicles is not allowed in any district in the City, except as permitted by the City of McBain Junk Vehicle Ordinance. Ordinance No. 54, of 1989.

#### 4.13 PRINCIPAL BUILDING ON A LOT

In all districts, no more than 1 principal building shall be placed on a lot.

#### 4.14 PRIVATE ROADS

- A. Private roads shall include all nonpublic roads providing access to 2 or more dwelling units.
- B. The owner shall submit an application for a preliminary private road permit, together with the application review fee, to the zoning administrator. The application package shall include detailed construction plans, a detailed description of how the road will be operated and maintained, and how the costs of operation and maintenance will be apportioned and paid for by the benefitting property owners. An architect, engineer, or other persons will be consulted if deemed necessary. The applicant shall pay all costs incurred by the City in reviewing the application materials.
- C. If the application materials meet the requirements of this section, the zoning administrator shall issue a preliminary private road permit to the owner upon payment of the construction review fee. No construction shall begin on the private road or on adjacent properties which depend on the private road for access until the preliminary private road permit has been issued.
- D. Construction plans showing the proposed location, adjacent properties, proposed street grades, drainage, and proposed improvements shall be prepared by a registered engineer or registered land surveyor and shall be submitted to the zoning administrator as part of the preliminary private road permit application.
- E. Upon completion of construction, the owner shall submit a certification signed by a registered engineer that the road has been completed in accordance with the approved site plan and construction plan. The owner shall correct any deficiencies identified. Upon final review and approval of the completed private road improvement, the City clerk shall issue a final private road permit to the owner. Building permits for construction on properties served by the private road shall not be issued until the final private road permit has been issued.
- F. Maintenance, repair, and liability for private roads shall be the responsibility of property owners adjacent to the private road and not the responsibility or liability of the City. The developer or homeowners shall establish by appropriate deed provisions an association which shall be responsible for road maintenance and repair and which shall have the authority to apportion and collect the cost of maintenance and repair from benefitting property owners.

- G. The construction of the roadway shall conform to Missaukee County Road Commission Street Standards and Specifications Procedures for Plat Development, as amended provided that a bituminous surface shall not be required.

#### 4.15 SITE CONDOMINIUM SUBDIVISIONS

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures:

- A. All site condominium subdivisions shall require site plan approval by the Planning Commission in accordance with Chapter 17 of this Ordinance. In addition to the information required in Chapter 17 of this Ordinance, the following information shall also be included for site plan review:
1. A condominium subdivision plan as required in Section 66 of the Condominium Act.
  2. All information as required in the City of McBain Subdivision Regulations, as amended.
  3. Documented proof of review by the Missaukee County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation, and the Michigan Department of Natural Resources.
- B. All site condominium subdivisions shall meet the requirements of the zoning district in which it is located, including minimum lot size and minimum setbacks.
- C. All site condominium subdivisions shall meet the subdivision design standards and subdivision improvement requirements of the City of McBain Subdivision Regulations, as amended.
- D. The City of McBain clerk shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that the City of McBain will not be responsible for maintenance or liability of the nondedicated portions of the subdivision, that all private roads will be properly maintained, that snow removal will be provided, and that there is adequate access and turnaround for emergency vehicles. Responsibility for the maintenance of storm water retention areas, drainage easements, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated.
- E. The zoning administrator shall be furnished with 2 copies of all "as-built" drawings for review by the City engineer for compliance with all City ordinances prior to the issuance of any building permits. Fees for this review shall be established by the City Council.

#### **4.16 TEMPORARY STRUCTURES INCIDENTAL TO CONSTRUCTION WORK**

Temporary accessory structures for uses incidental to construction work may be authorized by permit by the zoning administrator after issuance of a building permit for the proposed structure. The temporary permit shall specify the location of the temporary accessory structure and shall terminate 12 months after the date of its issuance. The zoning administrator may renew the permit for 1 additional 12-month period if construction of the principal structure has been progressing in a reasonable manner.

**CHAPTER 5  
NONCONFORMING USES, BUILDINGS OR STRUCTURES, AND LOTS**

**5.01 NONCONFORMING USES**

Except where specifically provided to the contrary, and subject to the provisions of this chapter, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance or amendments thereto, may be continued although such use does not conform with the provisions of this Ordinance or any amendments thereto.

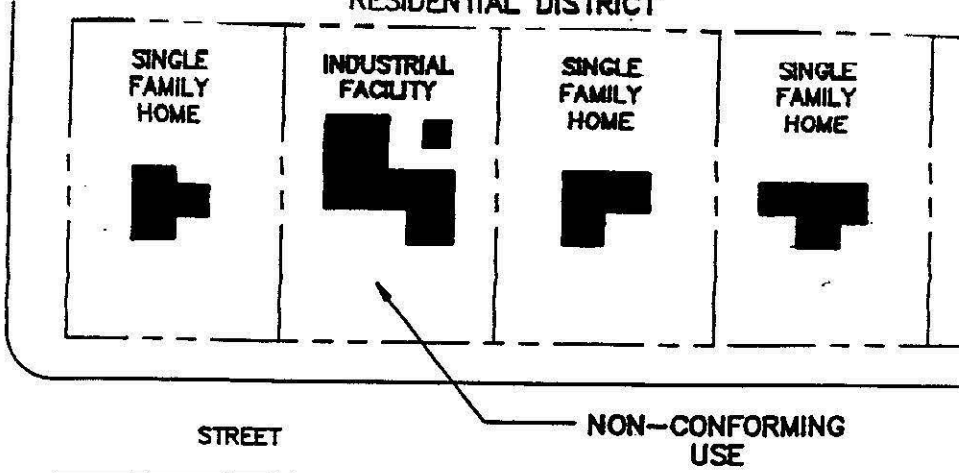
- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. Any nonconforming use may be extended throughout any parts of a building designed for such use at the time of adoption of amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- D. No existing structure devoted to a use not permitted in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered unless it is changed to a use permitted in the district in which it is located.

**5.02 NONCONFORMING BUILDINGS OR STRUCTURES**

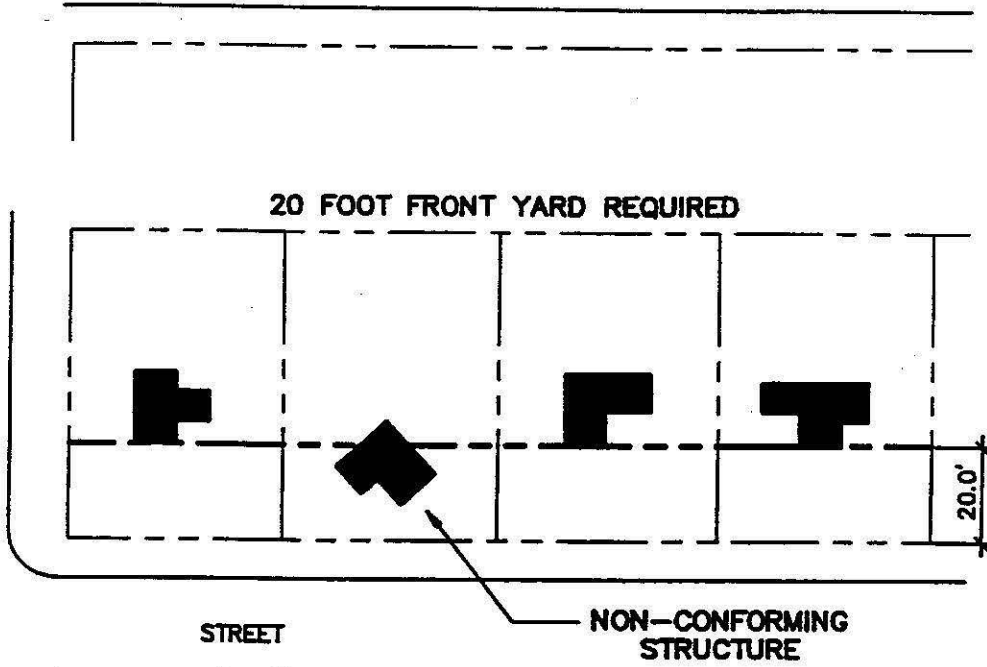
Except where specifically provided to the contrary and subject to the provisions of this chapter, a building or structure which is existing and lawful on the effective date of this Ordinance or amendments thereto, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendments thereto.

- A. No such structure may be enlarged or altered in a way which increases its nonconformity. However, a structure may be enlarged beyond the required setback area provided that it is not placed closer to the property line than a distance measured between the existing structure and the property line. In no cases, shall an enlargement or alteration of non-conforming building or structure extend beyond a neighboring property line.
- B. Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

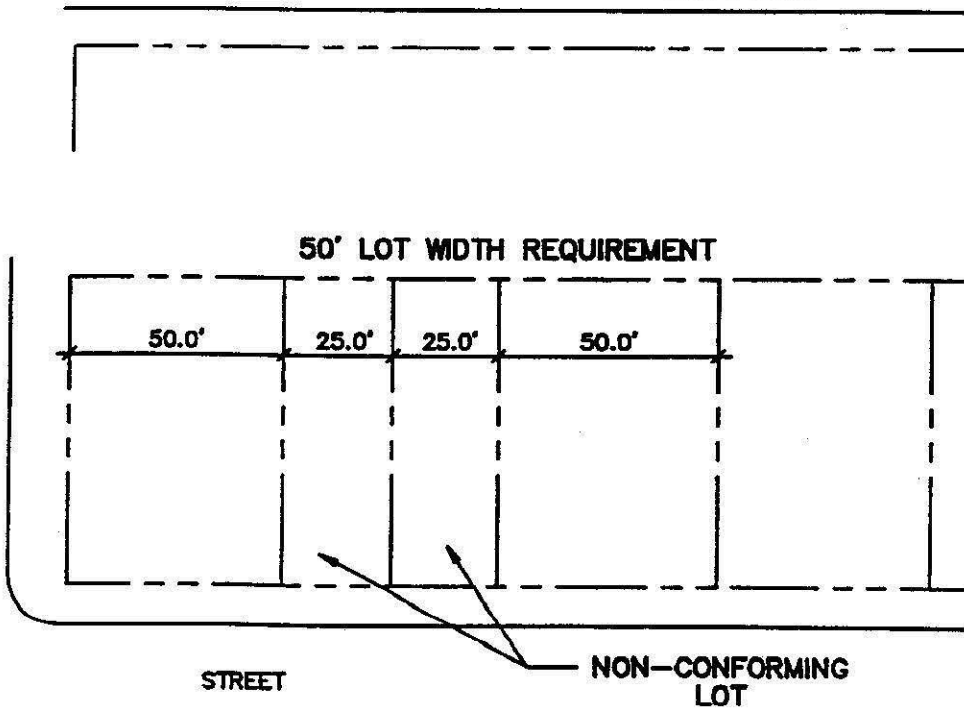
RESIDENTIAL DISTRICT



20 FOOT FRONT YARD REQUIRED



50' LOT WIDTH REQUIREMENT



### 5.03 NONCONFORMING LOTS

- A. If a lot which is platted or otherwise of record as of the effective date of this Ordinance, does not comply with the area, - depth or width requirements of its zoning district, then such lot may be used as authorized by the Planning Commission as a special land use pursuant to the general standards and procedures specified in Chapter 15. However, a lot to be used for a single- or two-family residential dwelling that is platted or otherwise of record as of the effective date of this Ordinance may be used without authorization from the Planning Commission as a special land use if the lot has a minimum lot area of 8,000 square feet and if there is compliance with all yard requirements for the zoning district in which the lot is located.
- B. Where 2 or more noncomplying lots are adjacent to each other and in common ownership, such lots shall be combined so that the lot or lots created by this combination comply with the minimum requirements of this Ordinance.

### 5.04 CHANGE OF NONCONFORMING USE

A nonconforming use may be changed to another nonconforming use as a special land use if the Planning Commission finds that such new use would decrease the degree of nonconformance and would not adversely affect adjacent property owners of the City for reasons of health, safety, or general welfare. Whenever a nonconforming use is changed to a more conforming use, such use shall not thereafter revert to the prior nonconforming use.

### 5.05 DISCONTINUANCE

If a nonconforming use is discontinued for a period of 1 year or more, it may not thereafter be continued. No nonconforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use.

### 5.06 RESTORATION AND REPAIR

- A. Only repairs and maintenance work required to keep a nonconforming structure in sound condition may be made. Provided, however, that nonconforming structures may be enlarged, altered, and moved in accordance with Section 5.02.
- B. A structure or use damaged by the elements, public enemy or other casualty may be rebuilt or restored to its size prior to such damage and its use resumed.

### 5.07 BUILDING OR STRUCTURE UNDER CONSTRUCTION

Any building or structure shall be considered existing and lawful and for purposes of Section 5.02 to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if an effort has been made toward construction and construction is completed within a 12-month period.

**CHAPTER 6  
ZONING DISTRICT REGULATIONS**

**6.01 ESTABLISHMENT OF ZONING DISTRICTS**

The City of McBain is hereby divided into the following zoning districts:

- "R-1" - Low Density Residential District.
- "R-2" - Medium Density Residential District.
- "R-3" - High Density Residential District.
- "C-1" - General Commercial District.
- "C-2" - Highway Commercial.
- "I-1" - Industrial District.

**6.02 AUTHORITY OF OFFICIAL ZONING MAP**

The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of City of McBain, Missaukee County, Michigan," which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply:

- A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following shorelines, lake, or stream beds shall be construed as following such shorelines, lake, or stream beds. In the event of change in the location of shorelines, lake, or stream beds, boundaries shall be construed as moving with the shoreline, lake, or stream bed.
- D. Boundaries indicated as approximately following City boundaries shall be construed as following City boundaries.
- E. Boundaries indicated as approximately following property lines, section lines, or other lines of a government survey shall be construed as following such property lines, section lines, or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendments thereto.

**6.03 IDENTIFICATION OF OFFICIAL ZONING MAP**

The official zoning map shall be identified by the signature of the Mayor, attested by the City clerk, and bear the following words: "This is to certify that this is the official zoning map referred to in the City of McBain Zoning Ordinance of (date)," together with the effective date of this Ordinance.

#### 6.04 CHANGES TO OFFICIAL ZONING MAP

If, in accordance with the procedure of this Ordinance and of Act 184 of the Public Acts of 1943 as amended, a change is made in a zoning district boundary, such change shall be entered on the official zoning map by the Mayor promptly after the amendment authorizing such change shall have been adopted and published, with an entry on the official zoning map as follows: "On (date) by official action of the City Council, the following change(s) were made in the official zoning map:" (brief description of change) which entry shall be signed by the Mayor and attested by the City clerk. No change in the official zoning map of any other nature shall be made unless authorized by the City Council and then only by the Mayor.

#### 6.05 REPLACEMENT OF OFFICIAL ZONING MAP

In event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes made thereto, the City Council may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such correction shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall be identified by the signature of the Mayor, attested by the City clerk, and bear the following words: "This is to certify that this is the official zoning map referred to in the zoning ordinance of City of McBain, adopted on (date) which replaces and supersedes the official zoning map which was adopted on (date)."

#### 6.06 SCHEDULE OF DISTRICT REGULATIONS

The use of land and principal buildings in all zoning districts in the City shall meet the area, depth, frontage, setback, and height regulations of the following table:



**CHAPTER 7**  
**"R-1" LOW-DENSITY RESIDENTIAL DISTRICT**

**7.01 DESCRIPTION AND PURPOSE**

This district is intended for low density single-family dwellings located in areas generally not suited for higher density development. The intent of this district is to encourage large lots and low intensity uses in areas not appropriate for development, while encouraging development to locate in more suitable areas of the City. The district is generally not intended for public sewer and water, so that large lot sizes are required to protect ground and surface waters. Agricultural activities are also allowed in this district.

**7.02 PERMITTED LAND USES**

The following uses of land and buildings are permitted by right:

- A. Farms.
- B. Family and group day-care centers.
- C. Home occupations, as permitted in Section 4.11.
- D. Signs, as permitted in Chapter 14.
- E. Single-family dwellings.

**7.03 SPECIAL LAND USES**

The following uses of land and buildings may be permitted upon obtaining a special land use approval permit pursuant to Chapter 15:

- A. Public or institutional uses.
- B. State licensed residential facilities.

**7.04 HEIGHT AND AREA REGULATIONS**

The use of land and buildings within this district shall meet all regulations of Section 6.06.

**7.05 PARKING REQUIREMENTS**

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

**SECTION 6.06  
SCHEDULE OF DISTRICT REGULATIONS**

Zoning District	Minimum Lot Area (sq ft) <sup>1</sup>	Min. Lot Depth <sup>1</sup>	Min. Lot Width <sup>1</sup>	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Maximum Height <sup>2</sup>
"R-1" Low-Density Residential	40,000	100' <sup>3</sup>	100'	25'	10'	20'	35'
"R-2" Medium-Density Residential							
One-Family Dwelling	10,000	100' <sup>3</sup>	66'	25'	10'	20'	35'
Two-Family Dwelling	15,000	100' <sup>3</sup>	80'	25'	15'	20'	35'
"R-3" High-Density Residential							
One-Family Dwelling	10,000	100' <sup>3</sup>	66'	25'	10'	20'	35'
Two-Family Dwelling	15,000	100' <sup>3</sup>	80'	25'	15'	20'	35'
Multifamily Dwelling	20,000 <sup>4</sup>	100' <sup>3</sup>	100'	25'	30'	30'	35'
"C-1" General Commercial	5,000	---	50'	0'	0' <sup>5</sup>	10'	35'
"C-2" Highway Commercial	12,000	---	80'	25'	10' <sup>6</sup>	20' <sup>6</sup>	35'
"I-1" Industrial	40,000	---	100'	25'	20' <sup>6</sup>	20' <sup>6</sup>	35'

<sup>1</sup>A lot that is platted or otherwise of record as of the effective date of this Ordinance may be used as regulated in Section 5.03.

<sup>2</sup>Refer to Section 4.10 for exceptions to the height requirements.

<sup>3</sup>The depth of the lot shall not exceed 2-1/2 times the lot width as measured at the building setback.

<sup>4</sup>A minimum of 3,500 square feet shall be provided for each dwelling unit.

<sup>5</sup>If the building is not structurally attached to an adjacent building or is not located immediately upon the property line, a side yard setback of 10 feet shall be required.

<sup>6</sup>If the side or rear yard abuts a property zoned R-2 or R-3, a 30-foot side or rear yard is

**CHAPTER 8**  
**"R-2" MEDIUM-DENSITY RESIDENTIAL DISTRICT**

**8.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for medium-density, single-family, and two-family dwellings serving the majority of the housing needs of the City. This district is intended for complete access to public services, such as sewers and water, sidewalks, roads, and street lighting.

**8.02 PERMITTED LAND USES**

The following uses of land and buildings are permitted by right:

- A. Family and group day-care centers.
- B. Home occupations, as permitted in Section 4.11.
- C. Signs, as permitted in Chapter 14.
- D. Single-family dwellings.
- E. Two-family dwellings.

**8.03 SPECIAL LAND USES**

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

- A. Planned unit developments.
- B. Public or institutional uses.
- C. State licensed residential facilities.

**8.04 HEIGHT AND AREA REGULATIONS**

The use of land and buildings in this district shall meet all regulations of Section 6.06.

**8.05 PARKING REQUIREMENTS**

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

**CHAPTER 9**  
**"R-3" HIGH-DENSITY RESIDENTIAL DISTRICT**

**9.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for higher-density single, two, and multifamily residential dwellings and related uses. This district is located in close proximity to necessary goods and services and may serve as a transition area between nonresidential districts and lower-density residential districts. It is intended for complete public services such as public sewer and water.

**9.02 PERMITTED LAND USES**

The following uses of land and buildings are permitted by right in the "R" District:

- A. Family and group day-care centers.
- B. Home occupations, as permitted in Section 4.11.
- C. Single-family dwellings.
- D. Signs, as permitted in Chapter 14.
- E. Two-family dwellings.

**9.03 SPECIAL LAND USES**

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

- A. Mobile home parks.
- B. Multifamily dwellings.
- C. Planned unit developments.
- D. Public or institutional uses.
- E. State licensed residential facilities.

**9.04 HEIGHT AND AREA REGULATIONS**

The use of land and buildings in this district shall meet all regulations of Section 6.06.

**9.05 PARKING REQUIREMENTS**

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

CHAPTER 10  
"C-1" GENERAL COMMERCIAL DISTRICT

10.01 DESCRIPTION AND PURPOSE

This zoning district is intended for retail businesses or service establishments which supply commodities or perform services which meet the daily needs of the residents with a minimal impact on adjacent residential development. In order to promote a sound business environment, uses which could create hazards, offensive or loud noises, vibration, smoke, glare, or heavy truck traffic are not permitted. This district should serve as the major commercial retail and service area of the City. Appropriate setbacks and screening shall be provided for special uses abutting residential districts.

10.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

- A. Generally recognized retail businesses whose principal activity is the sale or rental of merchandise in an enclosed building.
- B. Personal service establishments which perform services on the premises, such as, but not limited to: Repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barber shops, health clubs, photographic studios, self-service laundries, and dry cleaners.
- C. Banks, credit unions, and savings and loan associations.
- D. Child care centers.
- E. Commercial recreation establishments provided all activities are located in a fully enclosed building.
- F. Dental and medical clinics.
- G. Funeral homes.
- H. Motels.
- I. Offices.
- J. Restaurants or other places serving food or beverages.
- K. Service stations including minor auto repairs. All tires, auto parts, and bodies must be removed or kept in an enclosed building.
- L. Signs, as permitted in Chapter 14.

### 10.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

- A. Car wash.
- B. Commercial recreation (outdoor).
- C. Oil change establishments.
- D. Outdoor sales.
- E. Public or institutional uses.
- F. Wholesale sales.

### 10.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

### 10.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13, with the exception of the Downtown Parking Overlay District. The Downtown Parking Overlay District shall be defined as all parcels directly fronting upon Roland Street between Maple Street and Euclid Avenue. Due to the practical difficulty of obtaining off-street parking in the Downtown Parking Overlay District as a result of the existing non-conforming lots, and the level of existing development, no off-street parking shall be required.

### 10.06 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Chapter 17.

CHAPTER 11  
"C-2" HIGHWAY COMMERCIAL DISTRICT

11.01 DESCRIPTION AND PURPOSE

This district is intended for larger scale and higher intensity commercial land uses that would not be appropriate in the downtown area of the City due to possible objectionable conditions. This district is also appropriate for uses serving the motoring public. Increased setbacks and screening are required to protect neighboring land uses from any objectionable conditions.

11.02 PERMITTED LAND USES

The following uses are permitted by right:

- A. All uses permitted by right in the "C-1" District.
- B. Automobile repair (major and minor).
- C. Car washes.
- D. Commercial recreation (indoor and outdoor).
- E. Lumber yards.
- F. Oil change establishments.
- G. Outdoor sales.
- H. Wholesale sales.

11.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

- A. Public or institutional uses.

11.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

11.05 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

11.06 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Chapter 17.

**CHAPTER 12**  
**"I" INDUSTRIAL DISTRICT**

**12.01 DESCRIPTION AND PURPOSE**

This zoning district is intended for general industrial activities, such as compounding, assembling or treatment of articles or materials, light manufacturing, processing of raw materials, and other similar industrial uses. Uses permitted shall be free from excessive danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor, and other objectionable influences. Residential and commercial uses are determined to be incompatible with the industrial character of this district and are therefore not permitted.

**12.02 PERMITTED LAND USES**

The following uses of land and buildings are permitted by right within the "I" District.

- A. The manufacture, compounding, processing, packaging, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries, and food products, except the rendering or refining of fats and oils.
- B. The manufacture, compounding, assembly or treatment of articles from the following previously prepared materials: Aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semiprecious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.
- C. Auto body repair and paint shops.
- D. Central dry cleaning and laundry plants.
- E. Contractor yards.
- F. Lumber yards.
- G. Office uses accessory to other permitted uses.
- H. Printing and publishing shops.
- I. Research establishments and experimental laboratories.
- J. Residential use limited to watchman, police, or security purposes.
- K. Retail sales of food, beverages, and other convenience items to occupants and employees, provided such sales are not offered to the general public.



- L. Signs, as permitted in Chapter 14.
- M. Warehouses, storage, and trucking facilities.
- N. Wholesale sales.

#### 12.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Chapter 15:

- A. Public or institutional uses.
- B. Salvage yards.

#### 12.04 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet all regulations of Section 6.06.

#### 12.05 SCREENING PROVISIONS

A fence, wall, or planted material as approved by the Planning Commission shall be provided along all side and rear yards abutting a property line in any residential district.

#### 12.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Chapter 13.

#### 12.07 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Chapter 17.

#### 12.08 ADDITIONAL REGULATIONS

- A. All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a fence or wall at least 6 feet in height. No outdoor storage or processing shall be located in the required front-yard setback.
- B. There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot in such a manner as to create a public nuisance.
- C. The discharge of industrial waste into a body of water or onto the ground is prohibited.
- D. There shall be no vibration which is discernable to the human senses beyond the property line of the site on which such use is conducted.

- E. There shall be no noise emanating from the operation which will be more audible beyond the boundaries of the site than the volume of traffic noise on the nearest adjacent street.
- F. There shall be no direct or sky-reflected glare exceeding 1-1/2 footcandles or which would be damaging to the human eye measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exit or service drives leading to a parking lot. Exterior lighting sources shall be directed away from any neighboring residential district.

**CHAPTER 13  
PARKING AND LOADING REQUIREMENTS**

**13.01 SCOPE**

In all zoning districts, with the exception of the C-1 District off street parking and loading facilities for the parking of vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

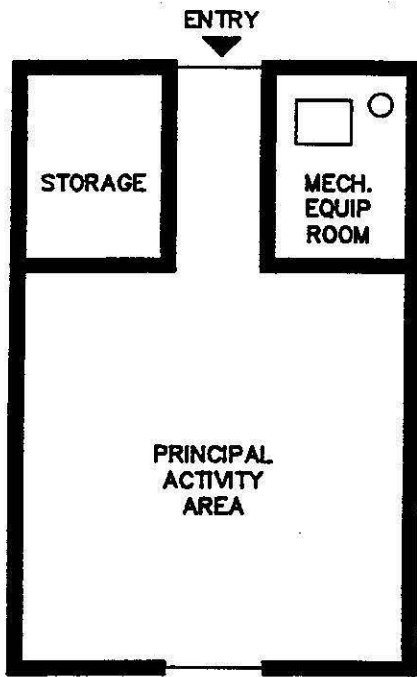
**13.02 MEASUREMENT UNITS**

For the purpose of determining the off-street parking and loading facilities required as accessory to a use, definitions and standards are established as follows:

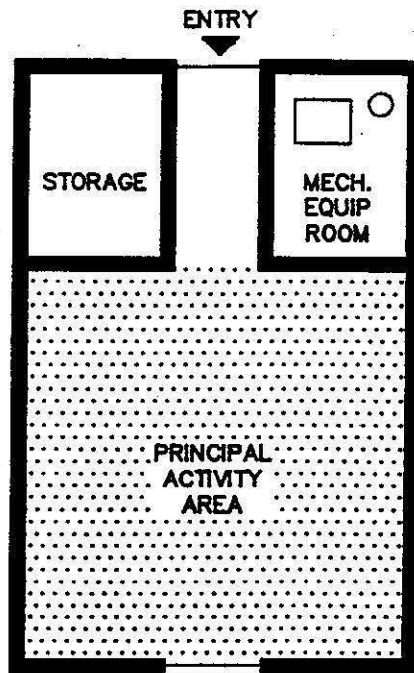
- A. Off-street parking area shall mean an open or enclosed area directly accessible from a public or private street for parking of automobiles of owners, occupants, employees, customers, or tenants of the main use. Each space shall be directly accessible from a drive or aisle.
- B. Usable floor area shall mean the total area of all the floors of the building used by the principal activities measured from the exterior faces of the building. The areas used for storage, mechanical equipment, stairwells, or otherwise not occupied by people shall be excluded from the usable floor area calculation.
- C. Gross floor area shall mean the total floor area used for the main and accessory activities and storage areas of the building served.

**13.03 SCHEDULE OF PARKING REQUIREMENTS**

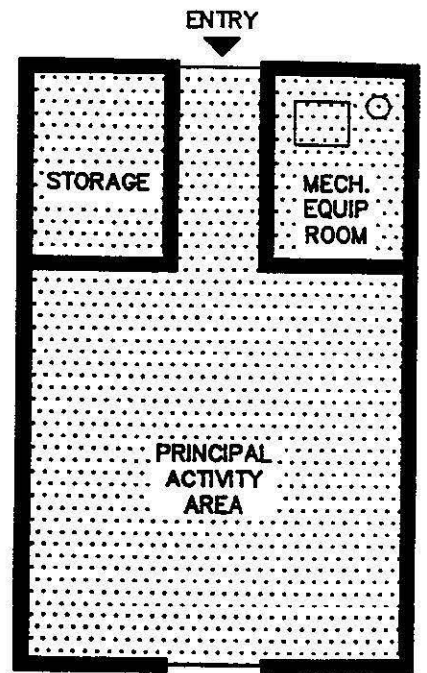
The zoning administrator shall determine the minimum number of spaces required for accessory off-street parking by applying the Schedule of Parking Requirements and any other applicable provisions of this Ordinance. Where the computation results in a fractional space, it shall be counted as 1 additional space required. The Planning Commission may vary the parking requirements of this section where it finds that due to the nature of the particular use, said requirements will not be adequate to provide sufficient parking or where the strict application of the requirements will result in an excess amount of parking related to the particular use.



FLOOR PLAN



USABLE FLOOR AREA



GROSS FLOOR AREA

# FLOOR AREA

## SCHEDULE OF PARKING REQUIREMENTS

<u>USE</u>	<u>MINIMUM PARKING SPACES REQUIRED</u>
(1) Single-family, two-family, and multifamily dwellings	2 for each dwelling unit
(2) Professional offices and buildings	1 for each 200 square feet of usable floor area
(3) Restaurants	1 for each 2 seats plus 1 for each employee
(4) Motels	1 for each sleeping room
(5) Car wash, oil change	3 for each stall plus 1 for each employee
(6) Beauty parlor or barber shop	3 for each 2 chairs
(7) Service station	2 for each stall plus 1 for each gasoline pump
(8) Retail stores, supermarkets, department stores, personal service shops	1 for each 150 square feet of usable floor area plus 1 for each employee
(9) Manufacturing, processing, or fabricating	1 for each employee
(10) Warehousing and storage buildings	1 for each employee or 1 for each 1,700 square feet of gross floor area, whichever is greater

### 13.04 USES NOT SPECIFICALLY MENTIONED

In the case of uses not specifically mentioned, those provisions for off-street parking facilities for a use which is mentioned and to which said use is similar in terms of parking demand shall apply as determined by the Planning Commission.

### 13.05 JOINT USE OF FACILITIES

Provision of common parking areas for several uses in the same vicinity is encouraged. In such cases, the total space requirements is the sum of the maximum individual requirements. In cases where the hours of operation are significantly different between two or more uses, a reduction in the total space requirements may be permitted by the Planning Commission.

### 13.06 SIZE OF PARKING SPACE

Each off-street parking space shall have an area of not less than 180 square feet (exclusive of access drives or aisles) and shall be a minimum of 10 feet in width.

### 13.07 REQUIREMENTS OF PARKING AREAS

Every parking area containing 6 or more spaces shall require site plan review in accordance with Section 17 and be developed and maintained in accordance with the following requirements:

- A. The parking area and its driveway shall be:
  - 1. Designed to provide adequate drainage.
  - 2. Surfaced with concrete or asphalt pavement or gravel.
  - 3. Maintained in good condition, free of dust, trash, and debris.
- B. The parking area shall be provided with entrances and exits so located as to minimize traffic congestion.
- C. Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.
- D. No part of any parking area shall be closer than 10 feet to the street right-of-way or closer than 5 feet to a lot line in any residential district.

### 13.08 OFF-STREET LOADING SPACES

- A. For every building or addition to an existing building requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot an area adequate for maneuvering and ingress and egress for delivery vehicles and off-street loading spaces as follows:
  - 1. Up to 20,000 square feet of gross floor area - 1 space.
  - 2. From 20,000 to 50,000 square feet of gross floor area - 2 spaces.
  - 3. 1 additional space for each additional 50,000 square feet of gross floor area or fraction thereof.
- B. Each such loading space shall be at least 10 feet in width, 35 feet in length and 14 feet in height. No such space shall be located within the front setback area or closer than 20 feet to a lot line in any residential district.

**CHAPTER 14  
SIGNS AND BILLBOARDS**

**14.01 GENERAL SIGN AND BILLBOARD REGULATIONS**

- A. No sign or billboard shall be erected at any location whereby reason of position, size, shape, color, movement or illumination, said sign may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device so as to interfere with, mislead or confuse traffic. Consideration of traffic visibility and injurious effect on adjacent properties is essential.
- B. No sign or billboard shall be erected at any location whereby such structure partially or wholly obstructs adjoining commercial or industrial properties from enjoying equal opportunity for advertising.
- C. No sign or billboard shall be placed within 10 feet of the road right-of-way or any adjacent property lines.
- D. No sign or billboard shall exceed a height of 35 feet above ground level.

**14.02 PERMITTED SIGNS IN ALL DISTRICTS**

In all districts in the City, the following signs shall be permitted:

- A. Real estate signs.
- B. Name plates.
- C. Signs advertising a recorded subdivision or development.
- D. Identifying signs.
- E. Political signs.

**14.03 PERMITTED SIGNS IN COMMERCIAL DISTRICTS**

The following signs are permitted in any commercial District.

- A. Business signs on or affixed flat against the wall of the building.
- B. One freestanding business sign, provided such sign does not exceed 80 square feet in area.
- C. One roof sign, provided such sign does not exceed 40 square feet in area.

#### 14.04 PERMITTED SIGNS IN INDUSTRIAL DISTRICTS

The following signs are permitted in the industrial District:

- A. Business signs on or affixed flat against the wall of the building. The total aggregate amount of signs shall be 1 square foot for each front foot of property or 3 square feet for each front foot of building, whichever is greater.
- B. No sign shall extend above the roof line of the building.
- C. No sign shall be lighted by means of flashing or intermittent illumination.

#### 14.05 BILLBOARDS

- A. Billboards shall only be permitted in commercial districts and shall not be located within 100 feet of any residential district.
- B. Billboards shall not exceed 300 square feet in area and shall be spaced a minimum of 500 feet measured on either side of the street.



## CHAPTER 15 SPECIAL LAND USES

### 15.01 PURPOSE

Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria which shall be met before the following special land uses are permitted.

- A. Car wash.
- B. Commercial recreation (outdoor).
- C. Mobile home parks.
- D. Multifamily dwellings
- E. Oil change establishments.
- F. Outdoor sales.
- G. Planned unit developments.
- H. Public or institutional uses.
- I. Salvage yards.
- J. State licensed residential facilities.
- K. Wholesale sales.

### 15.02 APPLICATION PROCEDURES

An application for a special land use shall be submitted and acted upon in accordance with the following procedures:

- A. Applications for a special land use shall be submitted through the zoning administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the City Council to cover the costs of processing the application. No part of this fee shall be refundable.
- B. An application for a special land use shall be accompanied by the following documents and information:
  - 1. A special land use application form submitted to the zoning administrator which has been completed in full by the applicant.
  - 2. A site plan as required in Chapter 17.

- C. Upon receipt of an application for a special land use, the Planning Commission shall publish notice of a public hearing for a special land use in a newspaper which circulates in the City and in addition, said notice shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed and to the occupants of all structures with 1 through 4 units within 300 feet of the boundary of the property in question. Notice shall also be given to the owner or manager of all structures with 5 or more dwelling units within 300 feet of the property in question who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than 5 nor more than 15 days before the application will be considered. The notice shall:
1. Describe the nature of the special land use request.
  2. Indicate the property which is subject to the special land use request.
  3. State when and where the special land use request will be considered.
  4. Indicate when and where written comments will be received concerning the request.
- D. The Planning Commission shall hold a public hearing to receive public comment on the request. The Planning Commission, based upon its review of the application for a special land use, comments received at the public hearing and other material submitted in relation to the request, shall make a determination on the special land use application. Such determination shall be in accordance with the criteria for approval stated in Section 15.03 and such other standards contained in this Ordinance which relate to the special land use under consideration.
- E. The decision of the Planning Commission on a special land use shall be incorporated in a statement which sets forth the findings, determinations and conclusion relative to the special land use under consideration. Said statement shall specify the basis for the decision of the Planning Commission and any conditions imposed.

#### 15.03 BASIS OF DETERMINATION

Prior to the approval of a special land use application, the Planning Commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

- A. The Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following general standards, and shall approve a special land use only upon finding, by a preponderance of the evidence, of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The special land use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property.
  2. The special land use shall not impair the essential character of the surrounding area.
  3. The special land use shall not be hazardous to the adjacent property or involve uses, activities, materials, or equipment which will be detrimental to the general health, safety and welfare.
  4. The special land use shall not place demands on public services and facilities in excess of current capacities.
  5. The special land use is in general agreement with the City's master plan.
- B. The Planning Commission may impose conditions with the approval of a special land use which are necessary to ensure compliance with the standards for approval stated in this section or any other applicable standards contained in this Ordinance. Such conditions shall be considered an intricate part of the special land use permit and shall be enforced by the zoning administrator.

#### 15.04 APPEAL

The Planning Commission's decisions on the special land use application may not be appealed to the Zoning Board of Appeals.

#### 15.05 SURETY

The Planning Commission may require reasonable surety arrangement to be posted by the applicant at appropriate stages of development to ensure that the development will be executed in accordance with the approved permit.

#### 15.06 DESIGN STANDARDS

All special land uses shall be subject to the requirements of the district in which they are located in addition to the following design standards:

##### A. Car Wash:

1. All structures shall be setback a minimum of 30 feet from any lot line in a residential district.
2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

##### B. Commercial Recreation (Outdoor):

1. All activities shall be setback a minimum of 50 feet from any lot line in a residential district.
2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

C. Mobile Home Parks:

1. All mobile home parks shall conform to the standards specified in Act 96 of the Public Acts of 1987 as amended, the Mobile Home Commission Rules, March 1987 as amended and the Department of Public Health, Bureau of Environmental and Occupational Health, Mobile Home Parks and Seasonal Mobile Home Parks Health Standards, May 26, 1984 as amended.
2. All mobile homes shall be skirted within 90 days of placement within the mobile home park and must meet the standards of Act 96 of the Public Acts of 1987, as amended.
3. All mobile homes shall be anchored when installed in a mobile home park with only those systems which are approved by Act 96 of the Public Acts of 1987, as amended.
4. Mobile homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line. If said structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line, except that if the boundary line runs through the center of the public road, the 50 feet shall be measured from the road right-of-way.
5. Mobile home parks shall be screened from view as follows:
  - a) If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
  - b) If the park abuts a nonresidential development, the park need not provide screening.
  - c) In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.
6. The screening shall consist of evergreen trees or shrubs of a minimum 5 feet in height that are spaced so they provide a continuous screen upon maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.
7. The sales of new or used mobile homes are only permitted within the mobile home park on sites approved for permanent occupancy and accessory to the use of the park for dwelling purposes.
8. All public and private utilities shall be stored underground.
9. A preliminary plan shall be submitted to the City for preliminary approval. The preliminary plan shall include the location, layout, general design, and a general description of the project.

D. Multifamily dwellings:

1. All structures shall be setback a minimum of 50 feet from any property line in an "R-1" or "R-2" District.
2. The Planning Commission may require a fence, wall, or planted material to screen the multifamily dwellings from adjacent residential districts.

E. Oil Change Establishments:

1. All structures shall be setback a minimum of 30 feet from any lot line in a residential district.
2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

F. Outdoor Sales:

1. No merchandise shall be located in the road right-of-way or within 5 feet of any adjacent lot line.
2. All structures shall be setback a minimum of 30 feet from any lot line in a residential district.
3. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

G. Planned Unit Developments (PUDs):

See Chapter 16 for planned unit development standards.

H. Public or Institutional Uses:

1. Such use shall be in conformance with the character of the adjacent neighborhood and shall be essential to service the neighborhood or community.
2. The Planning Commission shall establish requirements for setback, lot size, side yard, parking, screening, and other conditions necessary for the use to conform with the character of the adjacent neighborhood and to protect adjacent property owners.

I. Salvage Yards:

1. Minimum lot size shall be 3 acres.
2. All salvage materials must be screened from outside view by a solid 7-foot-high fence.
3. All uses shall be established and maintained in accordance with all applicable state and county laws.
4. All storage areas shall be set back at least 75 feet from any street right-of-way or property line and 500 feet from any

residential district. Such setbacks shall be landscaped to minimize the appearance and impact of the operation. The spacing and type of plant materials shall be approved by the Planning Commission.

5. No open burning shall be permitted.
6. All industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
7. All regulations cited in Section 12.08 shall be met.

**J. State Licensed Residential Facilities:**

1. Such use shall be in conformance with the character of the adjacent neighborhood.
2. The Planning Commission shall establish requirements for setback, lot size, side yard, parking, screening and other conditions necessary for the use to conform with the character of the adjacent neighborhood and to protect adjacent properties.

**K. Wholesale Sales:**

1. All structures shall be setback a minimum of 30 feet from any residential district.
2. The Planning Commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

**CHAPTER 16  
PLANNED UNIT DEVELOPMENTS (PUDs)**

**16.01 PURPOSE**

- A. The Planned Unit Development is a method by which creative large scale development of land is encouraged in appropriate locations. The PUD is a device which makes use of varying lot sizes and integrates different building structures. Typically, structures in these developments are clustered in such a manner as to achieve the same overall density that would be achieved if the developer had laid out the development in the conventional grid zoning pattern while preserving important natural features, open space, and recreational opportunities.
- B. The general objectives of a PUD are as follows:
1. To provide more desirable living and shopping environments by preserving the natural character of open fields, stands of trees, wetland and surface water features, floodplains, hills, and similar natural assets.
  2. To encourage the provision of open space and the development of recreational facilities and neighborhood commercial facilities in a generally central location within reasonable distance of all living units.
  3. To encourage developers to use a more creative and imaginative approach in the development of land.
  4. To promote more efficient and aesthetic use of land.

**16.02 APPLICATION PROCESS**

- A. Applications for a PUD shall follow the same procedures for a special land use permit as described in Chapter 15.
- B. In formulating its decision, the Planning Commission shall consider the following:
1. General standards for special land uses as stated in Section 15.03.
  2. General objectives of a PUD as stated in Section 16.01.
  3. The description and purpose of the district in which the proposed PUD is located.
- C. Final approval or disapproval of the site plan shall be made by the Planning Commission. The Planning Commission shall prepare a report stating its conclusions on the request for a Planned Unit Development, the basis for its decision to approve or disapprove the request, the decision and the conditions relating to that approval. A copy of the report and the approved final site plan, shall be forwarded to the City clerk.

### 16.03 PERMITTED USES

- A. Permitted uses for a PUD in the "R-2" or "R-3" District are all uses allowed by right or by special land use in their respective districts.
- B. In PUDs with a minimum size of 20 acres, not more than 10 percent of the land area may be used for commercial retail and service uses primarily serving the residents of the PUD and adjacent areas. Such commercial uses shall be encouraged to locate at major intersections, rather than on local residential streets. The Planning Commission may require appropriate screening between commercial and residential uses.

### 16.04 REQUIRED CONDITIONS

The following minimum conditions and requirements shall be complied with and shown on all site plans:

- A. The density of the PUD shall not exceed the density of the district in which the proposed PUD is located except that the Planning Commission may authorize a density increase of up to 20 percent where evidence is documented which shows no adverse effect on public services and facilities, on adjacent properties, the natural environment or City plans, provided that an equal amount of land is preserved as usable open space. In determining the gross site area of the proposed development, wetlands or lands within the floodplain shall not be included.
- B. The front, side and rear yard requirements of the District in which the PUD is located shall serve as the building space standards for all PUD's although the Planning Commission has the discretion of altering these standards where necessary.
- C. Off street parking and signs shall meet the provisions of Chapter 13 and Chapter 14.
- D. PUD's shall be designed to enhance environmental features such as the preservation of trees, flood plains, natural areas and shall promote proper site landscaping.
- E. Private roads shall meet the procedures and requirements of Section 4.14.
- F. To ensure the PUD is compatible with adjacent land uses, a buffer zone may be required surrounding the development. This buffer zone shall be left to the discretion of the Planning Commission to ensure uniformity with adjacent districts.



## CHAPTER 17 SITE PLAN REVIEW

### 17.01 PURPOSE

It is the purpose of this chapter to require site plan approval for buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and land uses, and on the character of future development. It is further the purpose of this chapter to achieve safe and convenient traffic movement; harmonious relationships of buildings, structures and uses; and the conservation of natural features and resources.

### 17.02 USES REQUIRING SITE PLAN APPROVAL

The following buildings, structures and uses require site plan approval by the Planning Commission.

- A. Commercial uses.
- B. Industrial uses.
- C. Parking areas containing 6 or more parking spaces.
- D. Site condominium subdivisions.
- E. Special land uses.

### 17.03 SITE PLAN REQUIREMENTS

Each site plan submitted shall contain the following information, unless specifically waived by the Planning Commission, in whole or in part;

- A. The date, north arrow, and scale. The scale shall be not less than 1 inch = 20 feet for property under 3 acres and at least 1 inch = 100 feet for those 3 acres or more.
- B. All lot and/or property lines are to be shown and dimensioned, including building setback lines on corner lots.
- C. The location and height of all existing and proposed structures on and within 100 feet of the subject property's boundary.
- D. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas (show dimensions of a typical parking space), unloading areas, recreation areas, common use areas, and areas to be conveyed for public use and purpose.
- E. The location and pavement width and right-of-way width of all abutting roads, streets, alleys, or easements.
- F. The name and address of the individual or firm responsible for the preparation of the site plan.

- G. The name and address of the property owner or petitioner.
- H. A locational sketch drawn to scale.
- I. The respective zoning abutting the subject property.
- J. The location, height and types of fences, walls, and landscaping.
- K. All existing and proposed utilities, including proposed connections to public sewer or water systems.
- L. All existing and proposed surface water drainage facilities.
- M. For multiple family developments and parking areas with 6 or more spaces, contour intervals shall be shown (2 foot intervals for average slopes 10 percent and under, 5 foot intervals for slopes over 10 percent). Topography, however, may be required on all site plans at the discretion of the Planning Commission.

#### 17.04 REVIEW PROCEDURE

The proposed site plan shall be submitted in 5 copies to the zoning administrator who shall keep 1 copy of the proposed site plan and deliver 4 copies of the proposed site plan to the secretary of the Planning Commission. The Planning Commission shall study the site plan and shall within 60 days of its submittal to the zoning administrator either approve or disapprove the proposed site plan. If the site plan is disapproved, the reasons for the disapproval shall be stated. Upon approval of a site plan, at least 2 copies of the site plan as finally approved shall be signed and dated by the secretary of the Planning Commission. One copy of the signed site plan shall be kept on file with the zoning administrator and the other returned to the applicant.

#### 17.05 STANDARDS FOR SITE PLAN REVIEW

In reviewing a site plan, the Planning Commission shall determine whether the applicant has established that the site plan is consistent with this Ordinance and in accordance with the adopted plan of the City and more specifically:

- A. That the movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient.
- B. That the site plan is harmonious with, and not injurious or objectionable to, existing and projected uses in the immediate area.
- C. That the site plan shows the use will be adequately served by necessary improvements including, but not limited to, sewage collection and treatment, potable water supply, storm drainage, lighting, roads, and parking. The peak rate of storm water runoff from the site shall not increase as a result of the proposed development.
- D. That the site plan is adequate to provide for the health, safety, and general welfare of the persons and property on the site and in the neighboring community.

## 17.06 REGULATIONS

The following regulations shall apply to all land uses, with the exception of mobile home parks that are regulated pursuant to Act 96 of the Public Acts of 1987.

- A. The secretary of the Planning Commission shall not sign the approved site plan until the applicant has submitted 3 copies of all permits which may be required by the county or the state for the construction of the use such as, but not limited to, permits for on-site wastewater disposal, and permits required under the Soil Erosion and Sedimentation Act, Act 347 of the P.A. of 1972, the Inland Lakes and Streams Act, Act 346 of the P.A. of 1972, and the Wetland Protection Act, Act 203 of the P.A. of 1979.
- B. No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires a site plan approval until an approved site plan has been signed by the Secretary of the Planning Commission.
- C. The zoning administrator shall not issue a zoning permit for any use requiring site plan approval until an approved site plan has been signed by the secretary of the Planning Commission.
- D. The building inspector shall not issue a building permit for any use requiring site plan approval until an approved site plan has been signed by the secretary of the Planning Commission.

**CHAPTER 18  
ADMINISTRATION AND ENFORCEMENT**

**18.01 ZONING ADMINISTRATOR**

- A. The provisions of this Ordinance shall be administered and enforced by the zoning administrator.
- B. The zoning administrator shall be appointed by the City Council for such term and subject to such conditions and at such rate of compensation as the City Council shall determine.

**18.02 ZONING PERMITS**

- A. No building, structure or dwelling unit shall be erected, moved, placed, reconstructed, extended, enlarged or altered and no land shall be used, unless an application for a zoning permit shall be made in writing and upon printed forms furnished by the City. A zoning permit issued by the zoning administrator is nontransferable and must be obtained before any work, excavations, erection, alteration or movement is commenced. Satisfactory evidence of ownership of the lot or premises may be required by the zoning administrator and shall be furnished upon request.
- B. If the application is approved, the zoning administrator shall so mark both copies of the application over his signature and file 1 copy with the City clerk and return the other copy to the applicant.

**18.03 CONTENTS OF APPLICATION**

- A. Each application for a zoning permit shall include such reasonable information as may be requested by the zoning administrator in order to determine compliance with the terms and provisions of this Ordinance and shall include the following information:
  - 1. The location and actual dimension of the lot or premises to which the permit is to apply.
  - 2. The width of all abutting streets.
  - 3. The area, size, and location of all buildings or structures to which the permit is to apply.
  - 4. The type of use to be made of the building, structure, or land to which the permit is to apply.
  - 5. The use of buildings, structures, or land on adjoining properties.
  - 6. The estimated cost of the building or structure.
- B. The zoning administrator may waive the inclusion of any of the foregoing information in an application if it is determined that such information is not reasonably necessary to determine compliance with the terms and provisions of this Ordinance.

#### 18.04 ACCESSORY BUILDINGS OR STRUCTURES

Accessory buildings or structures, when erected, moved, placed, reconstructed, extended, enlarged, or altered, at the same time as the principal building on the same lot or premises and when shown on the application, for the zoning permit for the principal building, shall not require the issuance of a separate zoning permit. A separate zoning permit shall be required if any accessory building or structure is erected, moved, placed, reconstructed, extended, enlarged or altered separately or at a different time than the principal building on the same lot or premises, provided, it is 101 square feet or larger.

#### 18.05 PERMIT PROCESS

- A. When the terms and provisions of this Ordinance require authorization by the Planning Commission by special land use permit and such authorization is given, then both copies of the zoning permit shall be marked approved by the secretary of the Planning Commission in addition to being marked as provided above by the zoning administrator.
- B. Within 10 days after the receipt of any application, the zoning administrator shall either (1) issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance; or (2) deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case, the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his agent.
- C. A permit for any building or structure for which all construction work has not been completed within 1 year from the date of issuance shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable for additional terms of 1 year on payment of an additional fee equal to one-half of the original permit fee.
- D. The zoning administrator shall have the power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or in the event of any false permit. Notice of such cancellation and revocation shall be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit.

#### 18.06 CERTIFICATION OF COMPLIANCE

No building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be used in whole or in part until the owner thereof shall have been issued a certificate of compliance by the zoning administrator affirming that such building or structure conforms in all respects to the provisions of this Ordinance. Such certification shall be issued after the work is complete and final inspection has been made.

### 18.07 FEES

The City Council shall establish a schedule of fees for administering this Ordinance. The schedule of fees shall be posted on public display in the City office and the office of the zoning administrator and may be changed only by the City Council. No permit or certificate shall be issued unless such fees have been paid in full.

### 18.08 ENFORCEMENT

The City Council, Planning Commission, Board of Appeals, Zoning Administrator, the duly authorized attorney for the City, the prosecuting attorney for Missaukee County, or any owners or occupants of any real estate within the City may institute appearance tickets, injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

### 18.09 PENALTIES

- A. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, or any use of a lot or land which is begun, maintained, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se.
- B. Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement or any term or provision of this Ordinance or any amendment thereof shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500 or shall be imprisoned for not more than 90 days or both such fine and imprisonment in the discretion of the court. Each and every day during which any violation continues shall be deemed a separate offense. The duly authorized attorney for the City is empowered to prosecute such violations.

**CHAPTER 19  
ZONING BOARD OF APPEALS**

**19.01 CREATION**

- A. The legislative body may act as a Board of Appeals upon all questions arising under this zoning ordinance, and in such event the legislative body may fix rules and regulations to govern its procedure sitting as a Board of Appeals.
- B. In the event that the legislative body so desires, it may appoint a Board of Appeals consisting of not less than 5 members, each to be appointed for a term of 3 years. Appointments for the first year shall be for a period of 1, 2, and 3 years, respectively, so as to provide for the appointment of an equal number each year, depending on the number of members. Each member thereafter shall hold office for the full 3 year term.

**19.02 MEETINGS**

Meetings of the Board of Appeals shall be held at the call of the chair and at such other times as the board in its rules of procedure may specify. The chair, or in his/her absence the acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the City clerk and shall be a public record.

**19.03 JURISDICTION AND POWERS**

The Board of Appeals shall have all powers and jurisdiction granted by the City or Village Zoning Act, Act 207 of 1921. The Board of Appeals shall have the following major responsibilities, as described in more detail below.

- A. Interpretations
- B. Appeals
- C. Variances

**19.04 DECISIONS**

The concurring vote of a majority of the members of the Board of Appeals shall be necessary to make an interpretation, to reverse an order, requirement, decision, or determination of the administrative official or body, or decide in favor of the applicant any matter upon which they are required to pass under or to effect variation in this Ordinance.

## 19.05 INTERPRETATION

The Board of Appeals, when requested by an administrative official, Planning Commission, city, county, or individual, shall make an interpretation of the zoning ordinance wording and the zoning ordinance map. Such interpretation shall be made a part of the record and shall be forwarded to the zoning administrator, City clerk, building inspector, Planning Commission, and the party seeking the interpretation.

## 19.06 APPEALS

- A. The Board of Appeals shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the administration or enforcement of this Ordinance.
- B. The Board of Appeals shall fix a reasonable time for hearing the appeal, give due notice as required in Section 19.08 and decide the appeal within a reasonable time.
- C. At the hearing, a party may appear in person or by agent or by attorney.
- D. The Board of Appeals may reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

## 19.07 VARIANCES

- A. The board, after public hearing with notice given as required in Section 19.08, shall have the power to decide applications for variances as follows:
  1. Where the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship by reason of the exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary situation of the premises or of the use of the premises immediately adjoining the premises in question.
  2. Where there is practical difficulty or unnecessary hardship in meeting the strict letter of the Ordinance so that the spirit of the Ordinance may be observed, public safety secured and substantial justice done.
  3. Where the condition or situation of the property or the intended use of the property is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of the Ordinance.



B. No variance shall be authorized unless the board finds from reasonable evidence that such variance will not be detrimental to adjacent property and will not impair the intent and purposes of the Ordinance or the public health, safety and general welfare. In addition, the Board of Appeals must make the following findings in detail:

1. There are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the district affected.
2. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the district.
3. The condition or situation of the property or the intended use is not of so general or recurrent in nature as to make reasonably practical an amendment of the Ordinance.

C. Reasonable conditions may be required with the approval of a variance. The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.

1. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, or the community as a whole.
2. Be related to the valid exercise of the police power.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

#### 19.08 PUBLIC HEARINGS

A. When an application for appeal or variance has been filed in proper form and the required fee paid, the secretary of the board shall immediately place the same upon the calendar for public hearing and serve required notices.

- B. Notice shall be published once in a newspaper of general circulation in the City at least 5 days, but not more than 15 days, prior to such hearing. Copies of such notice shall be served upon the applicant and the zoning administrator or other administrative officers from which such appeal is taken. A like notice shall be sent at least 5 days prior to the hearing to all owners of real property and to the occupants of all 1 through 4 unit dwellings within 300 feet of the premises involved by regular U.S. mail and addressed to the last known address of such owners as determined by the City records. Notice shall also be given to the owner or manager of all structures with 5 or more dwelling units within 300 feet of the premises involved who shall be requested to post the notice at the primary entrance to the structure.
- C. The secretary shall record the grounds for each decision. The board shall render its decision upon any matter within 60 days after the matter is heard. A copy of each decision shall be sent to the zoning administrator, City clerk, building inspector, Planning Commission and the applicant. No building permit shall be issued by the building inspector until such decision is received.

**CHAPTER 20  
ORDINANCE AMENDMENT**

**20.01 INITIATION OF AMENDMENTS**

Amendments to this Ordinance may be initiated by the Planning Commission by resolution or by an interested person or persons by petition to the Planning Commission.

**20.02 AMENDMENT PETITION PROCEDURE**

All petitions for amendment to this Ordinance shall be in writing, signed, and filed with the zoning administrator for presentation to the Planning Commission. Such petitions shall include the following:

- A. The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned.
- B. The nature and effect of the proposed amendment.
- C. If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned.
- D. The alleged error, if any, in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.
- E. The changed or changing conditions in the area or in the City that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
- F. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

**20.03 AMENDMENT PROCEDURE**

- A. The Planning Commission shall authorize notice of the proposed amendment upon payment of the required fees.
- B. The Planning Commission shall set a time and place for a least 1 public hearing, notice of which shall be published in a newspaper of general circulation in the City not less than 15 days prior to the public hearing. Not less than 15 days' notice of the public hearing shall also be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the City clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

- C. In the case of map change requests, at least 15 days notice of the public hearing shall be given to the owner of the property in question and to all real property owners and occupants of all 1 through 4 unit dwellings within 300 feet of the property proposed to be rezoned. Notice shall also be given to the owner or manager of all structures with 5 or more dwelling units within 300 feet of the property requested to be rezoned, who shall be requested to post the notice at the primary entrance to the structure.

#### 20.04 STANDARDS FOR APPROVAL

In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition. The facts to be considered by the Planning Commission shall include, but shall not be limited to, the following:

- A. Whether or not the requested zoning change is justified by a change in conditions since the original Ordinance was adopted or by an error in the original Ordinance, and whether the property can reasonably be used for uses permitted within the district it is located.
- B. The precedents and the possible effects of such precedents which might result from approval or denial of the petition.
- C. The capability of the City or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
- D. Effect of approval of the petition on the condition and/or value of property in the City or in adjacent civil divisions.
- E. Effect of approval of the petition on adopted master plans or development policies of City of McBain and other governmental units.

All findings of fact shall be made a part of the public records of the meetings of the Planning Commission.

#### 20.05 DECISION

- A. The Planning Commission shall forward its decision, a copy of the minutes of the public hearing and the proposed amendment to the City Council with its recommendation for approval or denial.
- B. The City Council shall consider the amendment request, the Planning Commission's recommendations, and all comments made at the public hearing and shall make a decision to approve, deny, or approve with conditions the request, stating the reasons for its actions.

#### 20.06 ADOPTION

- A. The City Council may adopt the amendment at any regular meeting or at any special meeting called for such purpose with or without amendments that have been previously considered by the Planning Commission or at a public hearing.

- B. A majority vote of the members of the city council shall be required to adopt any amendment.
- C. Amendments shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:
  - 1. In the case of a newly adopted zoning ordinance the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city council of the City of McBain".
  - 2. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
  - 3. The effective date of the Ordinance.
  - 4. The place and time where a copy of the Ordinance may be purchased or inspected.

**CHAPTER 21  
MISCELLANEOUS PROVISIONS**

**21.01 ADMINISTRATIVE LIABILITY**

No officer, agent, employee, or member of the Planning Commission or Board of Appeals or City Council shall be held personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his/her duties and responsibilities pursuant to this Ordinance.

**21.02 SEVERABILITY**


This Ordinance and the various parts, sections, subjects, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

**21.03 NOTICE OF ADOPTION**

Following adoption of this ordinance and subsequent amendments by the City Council, one notice of adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. Notice shall be given pursuant to Section 4 (7) of the City or Village Zoning Act, Act 207 of 1921.

**21.04 EFFECTIVE DATE**

This Zoning Ordinance was approved by the City Council on November 11, 1991, and is ordered to take effect 20 days after adoption.

  
\_\_\_\_\_  
Richard Scheanwald  
Mayor

11/11/91  
Date

  
\_\_\_\_\_  
Evelyn Lucas  
City Clerk

11/11/91  
Date

Recommended By  
McBain Planning Commission

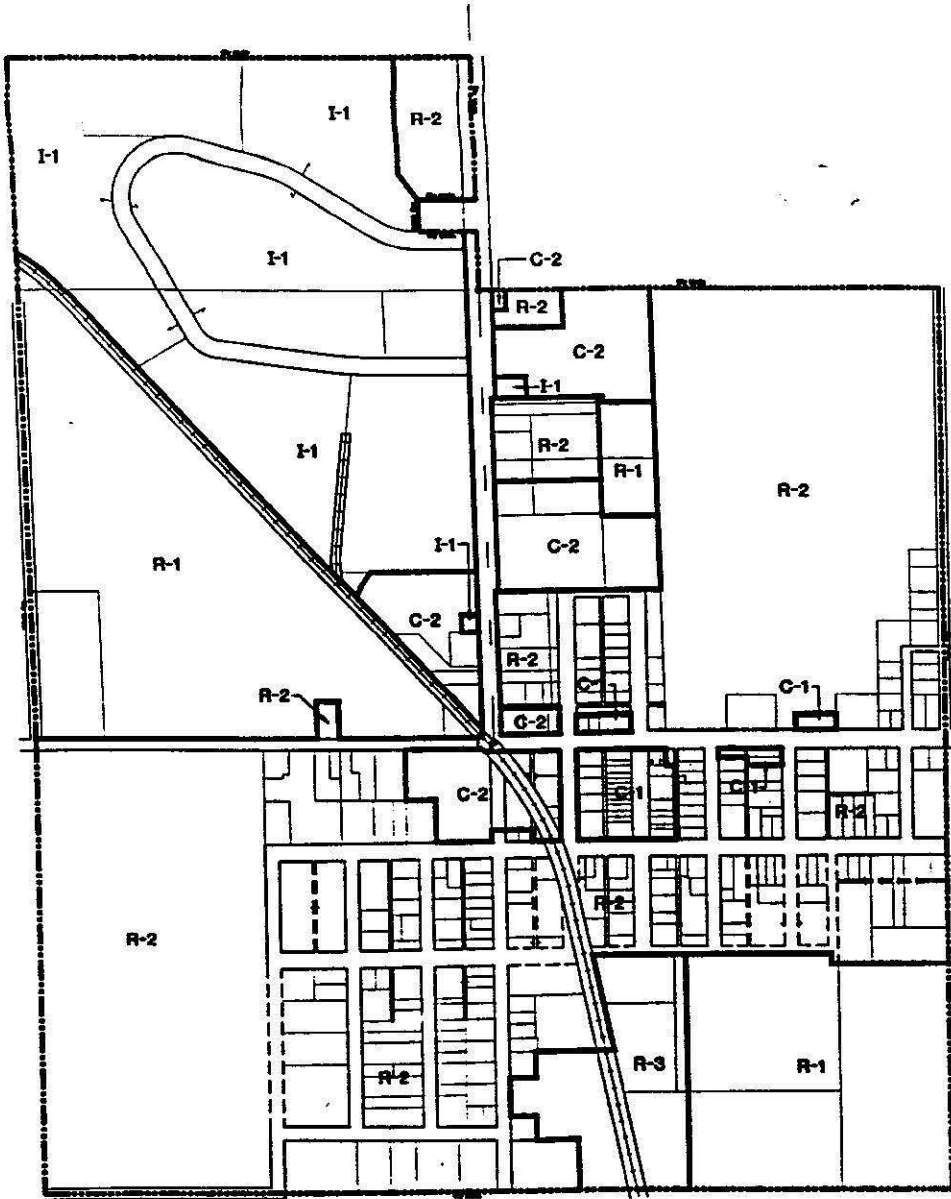
  
\_\_\_\_\_  
Charles Heethuis, Chairman

11/11/91  
Date

11/11/91  
Date Adopted

11/27/91  
Notice of Adoption Published

12/1/91  
Effective Date



# THE ZONING MAP OF THE CITY OF McBAIN, MISSAUKEE COUNTY, MICHIGAN

THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL  
ZONING MAP REFERRED TO IN THE CITY OF McBAIN  
ZONING ORDINANCE OF 1991.

Richard N. Schumann 12-9-91  
Richard Schumann DATE  
Mayor

Ev Lucas 12-6-91  
EV LUCAS, CLERK DATE

Charles Heathus 12-9-91  
CHARLES HEATHUS, PLANNING COMMISSION CHAIR DATE

EFFECTIVE DATE: DEC. 9, 1991

## ZONING LEGEND

- R-1 LOW DENSITY RESIDENTIAL DISTRICT
- R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT
- R-3 HIGH DENSITY RESIDENTIAL DISTRICT
- C-1 GENERAL COMMERCIAL DISTRICT
- C-2 HIGHWAY COMMERCIAL DISTRICT
- I-1 INDUSTRIAL DISTRICT



1" = 100' SCALE

**Progressive**  
Architects, Engineers, Planners  
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616-236-2200 FAX 616-236-2201