



Zoning Ordinance

Adopted September 9, 2019

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**CHAPTER 1
TITLE, PURPOSE, SCOPE, AND
LEGAL BASIS**

SECTION 1.01 TITLE

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

SECTION 1.02 PURPOSE

This Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare.
- B. To protect the stability of the economy, the character of residential development, and the viability of commercial and industrial areas within City of Muskegon Heights and to promote the orderly and beneficial development of these areas.
- C. To provide adequate light, air, privacy and convenience of access to property.
- D. To regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate space and to protect the public health.
- E. To lessen and avoid congestion on the highways and streets.
- F. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them.
- G. To protect the environment and conserve the expenditure of funds for public improvements and services.
- H. To conserve lands, waters and other natural resources for their most suitable purposes.
- I. To reduce hazards to life and property from flooding, air, and water pollution.
- J. To secure safety from fire and other dangers.
- K. To facilitate economical development of educational, recreational and other public facilities; to ensure appropriate locations and relationships of land uses; to ensure proper development of housing and commerce; and to enhance the social and economic stability of the City of Muskegon Heights.

SECTION 1.03 SCOPE

Zoning affects all structures, buildings, activities, and land uses within the City. City buildings, structures, and uses are also subject to this Ordinance.

SECTION 1.04 LEGAL BASIS

This Ordinance is enacted pursuant to the State of Michigan Zoning Act, PA 110 of 2006, as amended.

SECTION 1.05 REPEAL

The prior City of Muskegon Heights Zoning Ordinance, adopted April 26, 2012, as amended, and any prior zoning ordinances for the City are hereby repealed effective coincident with the effective date of this Ordinance. The repeal of said ordinances shall not have the effect of releasing or relinquishing any penalty, forfeiture or liability incurred under the prior ordinance, or any part thereof, and the prior ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of any penalty, forfeiture, or liability.

Conditions that have been attached to land, buildings, structures, and uses resulting from actions under a prior ordinance shall remain in effect unless specifically waived by this Ordinance, or through proper amendment, subject to the requirements of this Ordinance.

SECTION 1.06 CONFLICTS WITH OTHER LAWS

The provisions of this Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large.

If there are found to be differences between the meaning or implication of any drawing, table, figure, title or section heading, the text of this Ordinance shall apply.

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 agreement, or with restrictive covenants running with the land to which the City is a party.

Conflict or Inconsistency:

- A. Internal: Unless otherwise specifically stated within this Ordinance, if two or more provisions are in conflict or are inconsistent with one another, then the most restrictive provision shall apply.
- B. Local Regulations: Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, activities, or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use or utilization of land than are imposed or required by other existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.
- C. Federal and state regulations: Whenever a provision of the Ordinance imposes a greater restriction or a higher standard than is required by any state or federal code or regulation, county or City ordinance or regulation, the provision of this

Ordinance shall apply. Whenever a provision of any state or federal code or regulation, county or City ordinance or regulation imposes a greater restriction or a higher standard than is required by this Ordinance, the provision of the state or federal code or regulation, or other county or City ordinance or regulation shall apply.

- D. Private restrictions: Whenever a private covenant, contract, commitment, agreement, or other similar private land use regulation imposes a greater restriction or a higher standard than is required by a provision of the Ordinance, the City is not obligated to enforce the provisions of such private covenants, contracts, commitments, agreements, or other similar regulations to which the City is not a party. Unless the City has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the City.
- E. State law amendments: Whenever codes cited in this Ordinance refer to Michigan law that has been amended or superseded, this Ordinance shall be deemed automatically amended in reference to the new or revised code.

CHAPTER 2
RULES OF CONSTRUCTION &
DEFINITIONS

SECTION 2.01 **RULES APPLYING TO TEXT**

If the meaning of a provision of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of this Ordinance or law.

- A. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- B. Words or terms not herein defined shall have the meaning ordinarily and customarily assigned to them.
- C. The particular shall control the general. For terms used in this Ordinance, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a “drug store,” as used in this Ordinance, shall not be interpreted to be the same as a “retail store,” since each is listed as a separate and distinct use.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural includes the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” also includes any part thereof.
- F. The word “person” includes an individual, a firm, a corporation, a partnership, a limited liability company or corporation, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.
- G. Unless the context clearly indicates to the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. “Either ... or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the City or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

SECTION 2.02 DEFINITIONS - A

ABUTTING (lot or parcel)

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

ABANDONMENT

The surrender, relinquishment, or cession of activity on a property that includes both the intention to abandon and the effect of abandonment that may include, but is not necessarily limited to, cessation of business activity, lack of physical occupancy, lack of property maintenance or utility service, removal of structures, failure to pay taxes, etc.

ACCESS MANAGEMENT

A technique to improve traffic operations and safety along a major street through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to and across from one another; and the promotion of alternatives to direct access.

- A. Cross Access - A method whereby access to property crosses one or more contiguous or adjacent properties. These may include driveway or parking lot connections with cross easements.
- B. Alternative Access - A means of access that is not directly to the Highway including frontage streets, rear access streets and access to existing or proposed streets.
- C. Shared Access - A method whereby adjoining property owners share a common access to a street or Highway. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

ACCESSORY APARTMENT

Residential apartment units or dwellings above the first floor of commercial buildings meeting the regulations of this Ordinance.

ACCESSORY BUILDING

Except as otherwise specified by this Ordinance, a building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by, used, or devoted exclusively for an accessory use. When an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building. The accessory building can only be used for an accessory use.

ACCESSORY USE

A use naturally and normally incidental and subordinate to, and devoted exclusively to, the main use of the land or building.

ADULT USES OR ADULT-ORIENTED BUSINESSES

Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting “specified sexual activities” or “specified anatomical areas”. The term shall include the following:

1. *Adult cabaret* means a nightclub, restaurant, or other establishment which regularly features or displays:
 - a. Live performances, displays, or dancing predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
 - b. Films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or other visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
2. *Adult merchandise store* means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its “emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area” if any one or more of the following applies to the establishment:
 - a. 25% or more of the establishment’s retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets, and other nonpublic areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - b. 25% or more of the establishment’s visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - c. 25% or more of the establishment’s gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.

- d. The establishment is operated consistently with its being an adult-oriented business (e.g., advertising is directed to an “adults only” market; the establishment self-imposes, or imposes consistent with state or federal law, prohibitions on minors being present in the establishment, etc.).
3. *Adult motel* means a hotel, motel or similar establishment that:
- a. Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services), transmissions, films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
 - b. Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to sub-rent the room, for a period of time that is less than ten (10) hours, if the rental of such rooms accounts for more than ten percent (10%) of the establishment’s gross revenues.
4. *Adult-oriented business* means a business or commercial establishment engaging in one or more of the following enterprises, uses, or activities: (a) adult cabaret; (b) adult merchandise store; (c) adult motel; (d) adult theater; (e) escort agency; (f) nude or semi-nude model studio; or (g) sexual encounter center.
5. *Adult theater* means a theater, concert hall, auditorium, or similar establishment which regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or which regularly or primarily shows films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area. This definition includes, without limitation, establishments which offer individual viewing booths.
6. *Employee* means a person who performs any service for any consideration on the premises of an adult-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult-oriented business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.
7. *Escort* means a person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a

companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

8. *Escort agency* means a person or entity which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency is deemed to be operated in the location where (a) a request for an escort is received, or (b) the escort and the person requesting the escort are together.
9. *Material* means anything tangible, whether through the medium of reading, observation, viewing, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
10. *Merchandise* means material, products, and novelties.
11. *Novelty* means any instrument, device, or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.
12. *Nudity, Nude, or State of Nudity* means the knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this section does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
13. *Nude or semi-nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
 - a. An educational institution funded, chartered, or recognized by the state of Michigan; or
 - b. Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic

depiction in two-dimensional or three-dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.

14. *Operate* or *Cause to Operate* shall mean to cause to function or to put or keep in a state of doing business. *Operator* means any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated an adult-oriented business regardless of whether that person is an owner or part owner of the business.
15. *Patron* means a customer of the adult-oriented business or a person from the general public, not an 'employee' of the business, who is on the premises to obtain, receive, or view the products, services, or performances offered by the business.
16. *Regularly* mean recurring, attending, or functioning at fixed or uniform intervals.
17. *Semi-Nudity* or *Semi-Nude* or *in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited in a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
18. *Sexual encounter center* means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:
 - a. Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
 - b. The matching and/or exchanging of persons for any specified sexual activities.
19. *Specified anatomical area* means any or more of the following:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

20. *Specified sexual activity* means any of the following:
- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
 - b. A sex act, actual or simulated, including intercourse, oral copulation, or sodomy; or
 - c. Masturbation, actual or simulated; or
 - d. Excretory functions as part of or in connection with any of activities set forth in (1), (2) or (3) above.

ANIMALS, WILD AND EXOTIC

Any living member of the animal kingdom, including those born or raised in captivity, except the following: Domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), ferrets, rodents, caged, nonvenomous snakes, and captive-bred species of common cage birds.

ALLEY

A public way or right-of-way not more than thirty (30) feet in width that affords a secondary means of access to abutting property but not being intended for general traffic circulation.

ALTERATIONS

Any change, addition or modification to and in the construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, roofs, girders, or any change that may be referred to herein as "altered" or "reconstructed."

APPEAL

A request for a hearing or review of facts in connection with the administration of this Ordinance as provided by Public Act 110 of 2006 as amended.

ARCADE

Any place of business or establishment containing more than three (3) amusement devices.

ARCHITECTURAL FEATURES

Architectural features of a building include but are not limited to cornices, eaves, gutters, parapets, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

AVERAGE GRADE

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The

building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured prior to filling or grading.

SECTION 2.03 DEFINITIONS - B

BALCONY

A platform that projects from the wall of a building and is surrounded by a railing or parapet.

BASEMENT OR CELLAR

A portion of a building having more than one-half (1/2) of its height below grade. See graphic.

BED & BREAKFAST ESTABLISHMENT

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

BERM

A mound of soil less than three (3) feet in height, graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

BOARD OF APPEALS

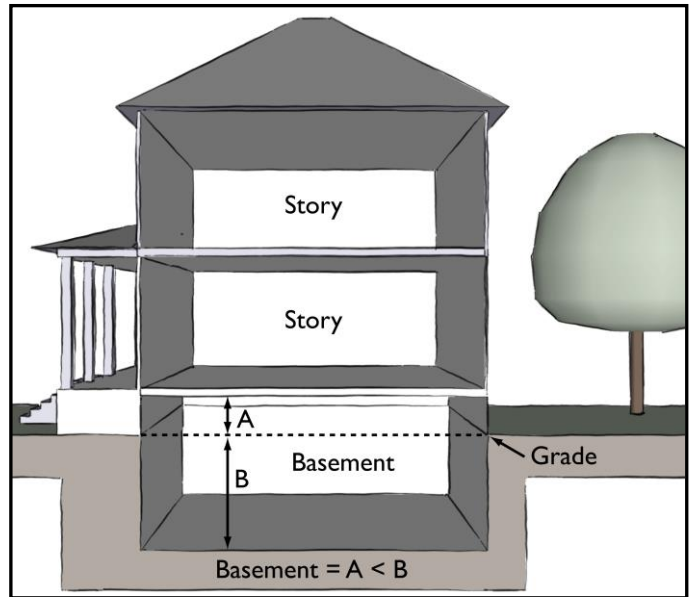
See ZONING BOARD OF APPEALS

BOARDING HOUSE OR ROOMING HOUSE

A dwelling having one kitchen and used for the purpose of providing meals and lodging for compensation to more than two persons on a weekly or other long term basis, other than members of the family occupying such dwelling.

BUILD-TO LINE

The line on which a main building must be placed with respect to the front yard setback.



BUILDABLE AREA

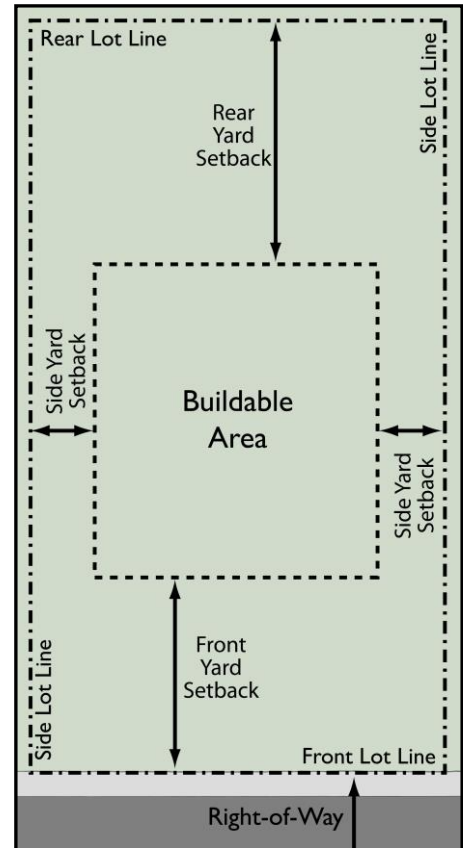
The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been met. See graphic.

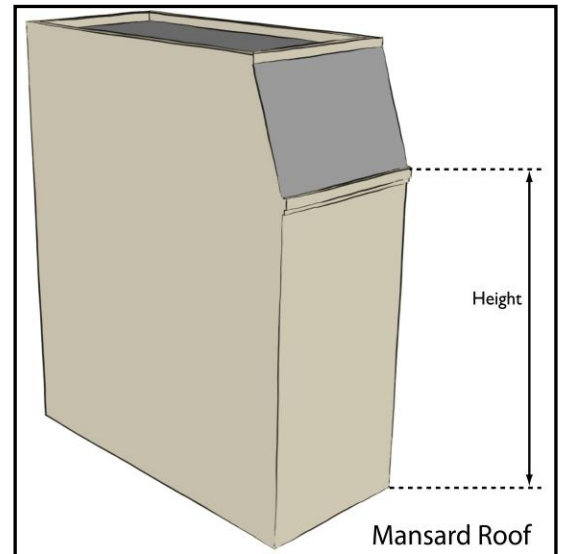
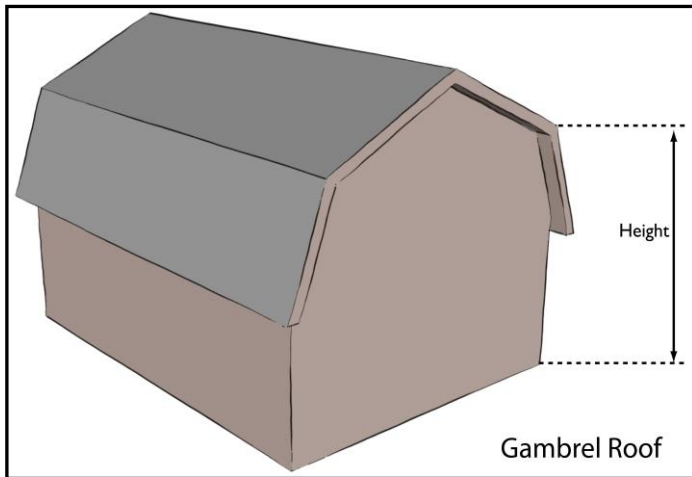
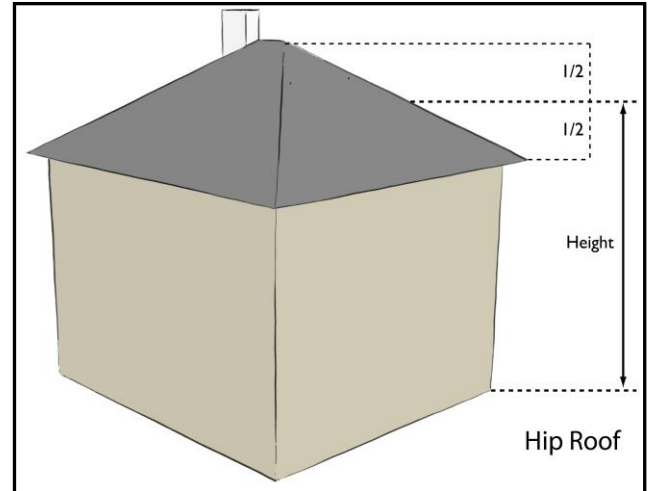
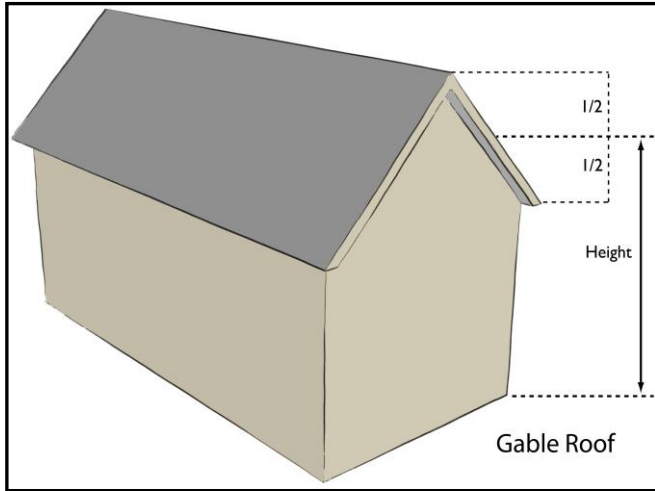
BUILDING

An independent structure, either temporary or permanent, having a roof or canopy supported by columns, poles, posts, walls, or any other support used for the enclosure, covering, protection, or storage of persons, animals, objects, vehicles, or chattels, or carrying on business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without openings, each portion of the building shall be deemed a separate building.

BUILDING HEIGHT

The building height is the vertical distance measured from the natural grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the height shall be measured at the average grade. See graphics.





BUILDING, MAIN

A building in which is conducted the main or principal use of the lot on which it is situated.

SECTION 2.04 DEFINITIONS - C

CANOPY TREE

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

CARPORT

An open covered motor vehicle parking structure accessory to a main building. It may be free standing or attached to another structure, and may be permanent or temporary.

CITY

City of Muskegon Heights, Muskegon County, Michigan.

CITY ATTORNEY

The person or firm appointed by the City Council as the attorney for City of Muskegon Heights.

CITY COUNCIL

The elected City Council for the City of Muskegon Heights.

CITY BUILDING INSPECTOR

The person or agency appointed by the City Council as the Building Inspector for City of Muskegon Heights.

CITY ENGINEER

The person or firm appointed by the City Council as the Engineer for City of Muskegon Heights.

CITY PLANNER

The person or firm appointed by the City Council as the Planner for City of Muskegon Heights.

CLEARING OF LAND

The removal of vegetation from any site, parcel or lot. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) health care professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

CLUB

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

COMMERCIAL

This term relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement. Business or “for profit” activities generally connotes commercial.

COMMON AREA

That part of a condominium or other development in which all members have an ownership interest, including but not limited to streets, alleys, walkways and open space.

CONDOMINIUM ACT

Public Act 59 of the Michigan Public Acts of 1978, as amended.

CONDOMINIUM PROJECT, SITE

A division or development of land on the basis of condominium ownership in accordance with the Condominium Act, that is not subject to the provisions of the Land Division Act (P.A. 288 of 1967, as amended), and within which the individual units resemble lots.

CONDOMINIUM UNIT

That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

CONSERVATION EASEMENT

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

COMMUNAL DWELLING UNIT

The use of a dwelling unit by more than two (2) unrelated individuals who are not a functional family. Licensed, State Residential Facilities are not included in this definition.

CONVALESCENT OR NURSING HOME

A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. The convalescent or nursing home shall conform to, and qualify for, license under applicable state law.

CUL-DE-SAC

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

SECTION 2.05 DEFINITIONS - D

DAY CARE

A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Day Care Center.

- A. Day Care Home, Family - A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

- B. Day Care Home, Group - A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

- C. Day Care Center, Commercial - A nonresidential facility where care is provided for any number of children or adults for periods of less than twenty-four (24) hours per day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

DECELERATION LANE

An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

DECK

An unroofed structure used for outdoor living purposes that may or may not be attached to a building and that protrudes more than four (4) inches above the finished grade.

DEED RESTRICTION

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

DENSITY

As applied in this Ordinance, the number of dwelling units situated on or to be developed on a gross acre of land.

DISTRICT

A zoning district pursuant to this Ordinance.

DRIVE-IN OR DRIVE-THROUGH FACILITIES

A commercial or other establishment whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

DRIVEWAY, PRIVATE

An improved or unimproved path or street extending from a public right-of-way or private street easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof. A driveway is located entirely within one lot.

DWELLING, OR DWELLING UNIT

A dwelling unit is any building or portion thereof having cooking facilities, that is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed to be a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

- A. Dwelling, Multiple Family - A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.
- B. Dwelling, Two-Family - A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in the building. It may also be termed a duplex.
- C. Dwelling, Single Family (Detached) - A detached building used or designed for use exclusively by one (1) family.

SECTION 2.06 DEFINITIONS - E

EASEMENT

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

ELDERLY HOUSING

A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty five (55) years of age or older or couples where either the husband or wife is fifty five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

ERECTED

The word “erected” includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

ESSENTIAL PUBLIC SERVICES

The phrase “essential public services” means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessory structures reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or general welfare, but not including cellular telephone or communications towers or buildings, nor including those buildings that are primarily enclosures or shelters of the above essential service equipment.

ESCROW

An amount of money held by the City to pay the costs associated with reviewing and processing a zoning application or undertaking other City action under this Ordinance. Escrow fees are for services or costs above what is covered by a fixed application or other fee.

EXCAVATING

Excavating shall be the removal, digging, or moving of soil or earth below the average grade of the surrounding land and/or street grade, whichever shall be highest, except common household gardening.

SECTION 2.07 DEFINITIONS - F

FAMILY

An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or a collective

number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FARM MARKET

A temporary use within the City, which sells produce and other farm products.

FENCE

Any permanent barrier, partition, wall, structure or gate erected as a dividing or screening structure or enclosure, and not part of a structure generally requiring a building permit.

FILLING

The depositing or dumping of any matter onto or into the ground, except common household gardening and landscaping care.

FLEA MARKET

A temporary market, usually held outdoors, where antiques, used household goods, and curios are sold.

FLOODPLAIN & RELATED TERMS

- A. Base Flood - The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- B. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings, or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.
- C. Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- D. Flood Hazard Area, Special - The land within a community subject to a one (1) percent or greater chance of flooding in any given year. Also known as "area of 100 year flood," and shown on the Flood Insurance Rate Map (FIRM) as "Zone A."

- E. Flood Insurance Rate Map (FIRM) - An official map of a community, on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- F. Flood Insurance Study - The official report for the City of Muskegon Heights provided by the Federal Insurance Administration containing flood profiles, the water surface elevation of the base flood, and the Flood Hazard Boundary-Floodway Map.
- G. Flood Plain - Land designated as Special Flood Hazard Area.
- H. Water and Floodplain Overlay District - The zone that overlays the existing zoning districts delineated on the official City of Muskegon Heights Zoning Map. The boundaries of the Water and Floodplain Overlay District shall coincide with the boundaries of the Special Flood Hazard Area indicated on the Flood Insurance Rate Map.
- I. Floodway, Designated Regulatory - The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study that shall be reserved in order to discharge the base flood.
- J. Harmful Increase - An unnaturally high stage on a river, stream or lake that causes or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

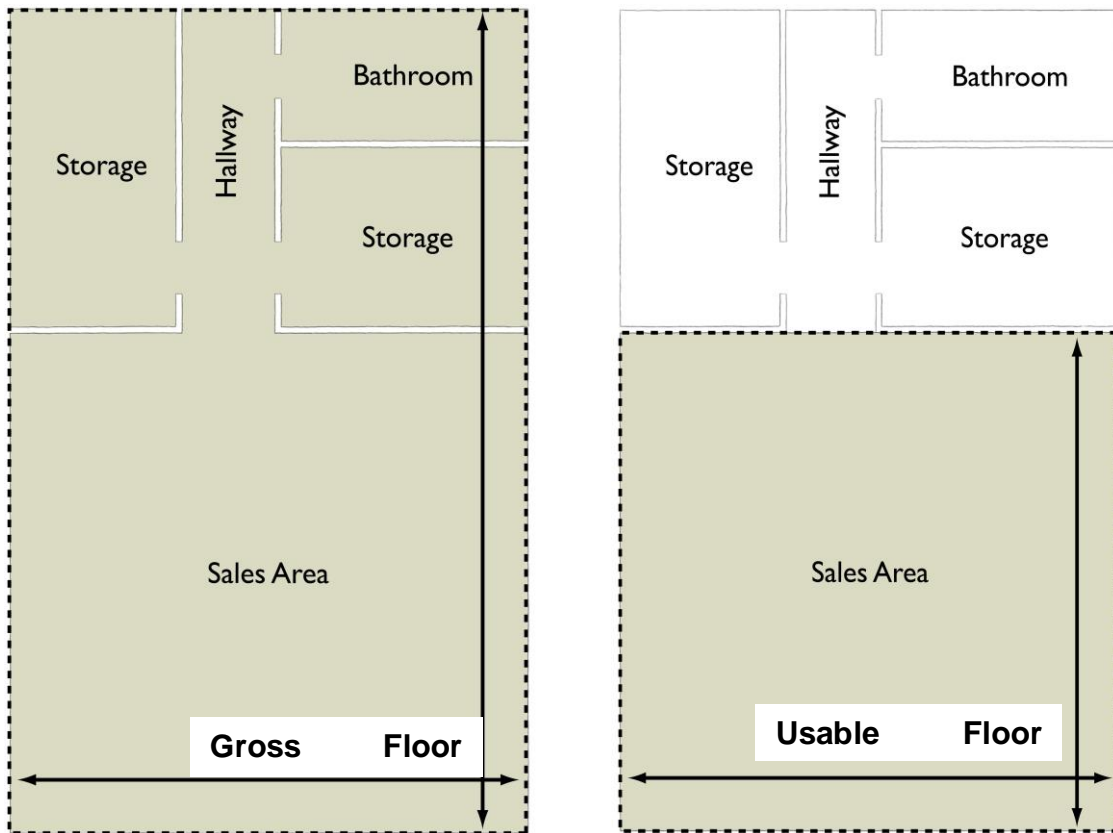
FLOOR AREA, GROSS (GFA) (as associated with commercial or industrial uses)

The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade and the floor area is finished and improved as livable space. (See Basement.)

Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area.

FLOOR AREA, USABLE (UFA) (as associated with commercial or industrial uses)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area that is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. See graphics on the following page.



FRONTAGE

The portion of a lot abutting, adjoining, or having frontage on a street, or street. Please also see “Lot Width.”

SECTION 2.08 DEFINITIONS - G

GARAGE

A building used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which the building is located.

GREENBELT

A vegetative strip intended to provide physical separation and visual screening between potentially incompatible uses; be sufficient to screen or filter views of building walls, loading areas, parked vehicles, and outdoor storage areas; moderate harsh or unpleasant sounds; filter air pollutants; and/or slow the effects of storm water runoff.

GREEN SPACE

A yard or landscaped area that may include a lawn, green belt, open space, or natural features.

SECTION 2.09 DEFINITIONS - H

HALFWAY HOUSE

A residential treatment facility that provides transitional living arrangements for individuals acclimating from institutional living back into the community. Facilities may serve former prison inmates, recovering addicts or alcoholics.

HOME OCCUPATION

An occupation customarily conducted entirely within a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single family detached residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care, including as an integral part of the institution, related facilities *such* as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

HOTEL OR MOTEL

A series of attached, semi-attached, or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

HUMAN SERVICE CENTER

A center operated by a governmental or non-profit entity designed to meet the material and physical needs of people, including but not limited to; food pantry, service kitchen, clothing donations, recreation, enrichment classes and day care.

SECTION 2.10 DEFINITIONS - I

INDOOR RECREATION ESTABLISHMENT

A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as a fitness centers, bowling alleys, billiard establishments, and racquetball and tennis clubs. Indoor recreation establishments shall not include arcades.

SECTION 2.11 DEFINITIONS - J

JUNK

For the purpose of this Ordinance, this term shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

JUNK YARD

Automobile wrecking yards and salvage areas and including any area of more than two thousand (2,000) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include lawful uses established entirely within enclosed buildings.

SECTION 2.12 DEFINITIONS - K

KENNEL

Any lot or premises on which four (4) or more dogs or cats, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding, being pets, or for sale.

SECTION 2.13 DEFINITIONS - L

LAND DIVISION ACT

Public Act 288 of the Michigan Public Acts of 1967, as amended, commonly called the "Michigan Land Division Act."

LANDMARK TREE

A tree with a diameter of over twenty-eight (28) inches four feet off the ground.

LAWN

Ground cover consisting of grass or sod kept closely mowed, commonly used as a primary ground cover.

LIVESTOCK

Those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, alpacas, bison, captive cervidae, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs or cats.

LIVING SPACE (with respect to residential uses)

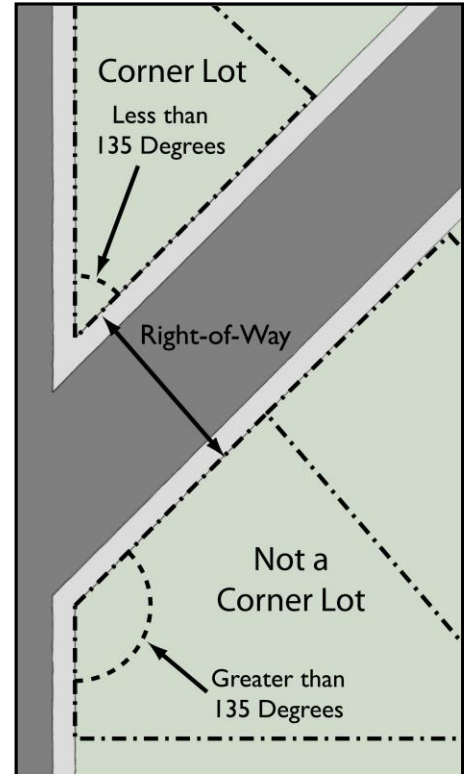
That part of a dwelling that is normally occupied including bedroom, kitchen, bathroom and gathering areas it excludes storage areas such as closets, attics, basements and garages. In order for a basement to qualify as living space, it shall be finished for living purposes and each qualifying room shall have a second form of egress under the building code.

LOADING SPACE

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT

A parcel of land occupied (or intended to be occupied) or utilized for a use allowed in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include a platted lot, plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use (often called a "unit" or "site condominium unit").

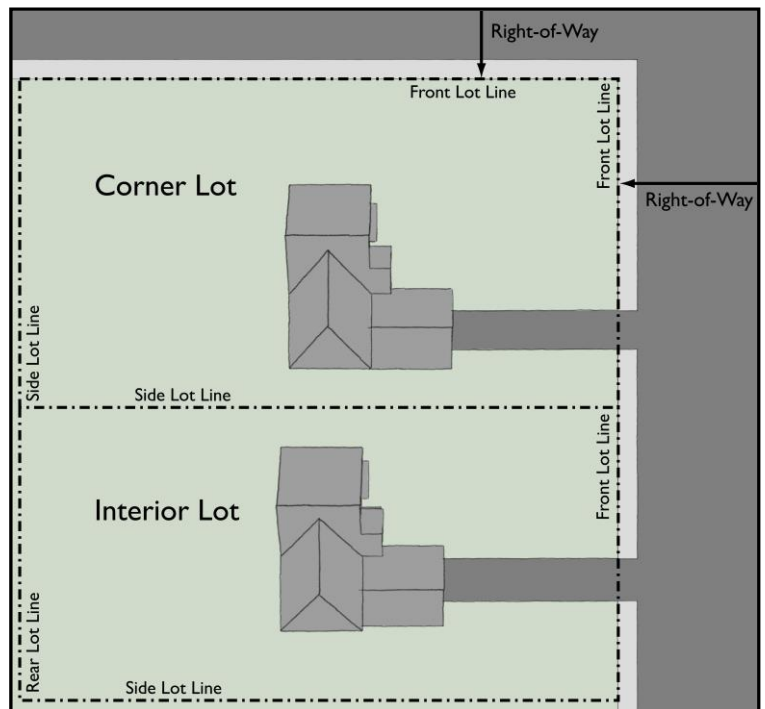


LOT AREA

The total horizontal area within the lot lines of a lot excluding a public street right-of-way and any private street easement or right-of-way. Lot area does not include portions of a lot located under water.

LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less. See graphics.



LOT COVERAGE

The part or percent of the lot occupied by buildings, impermeable surface areas, and structures, including pavement, accessory buildings or structures.

LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a through lot.

LOT, FLAG

A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property.

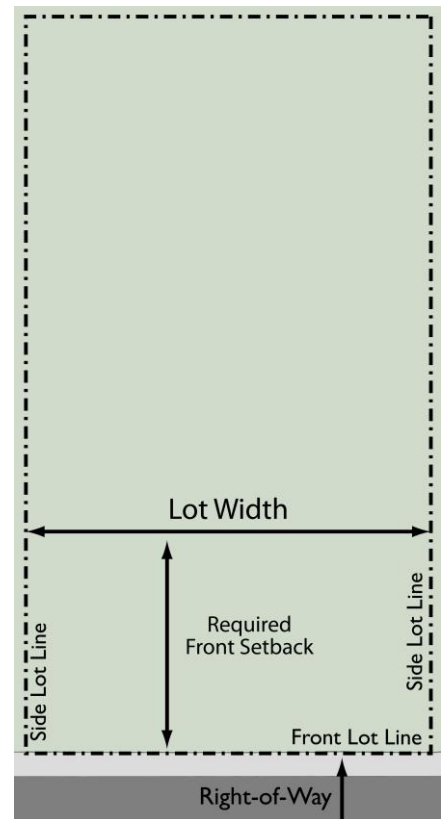
LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street.

LOT LINES

The property lines bounding the lot. See graphic.

- A. Front Lot Line. The line separating the lot from the abutting public or private street right-of-way. A corner or through lot shall have a front lot line abutting each adjacent public or private street right-of-way.
- B. Rear Lot Line. Ordinarily, that lot line that is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining the depth of a rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line. (See Double Frontage Lot).
- C. Side Lot Line. Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.



LOT OF RECORD

A lot that lawfully exists in a subdivision or plat as shown on the records of the Muskegon County Register of Deeds, or a lawful lot or parcel described by metes and bounds, that lawfully exists on record with the Muskegon County Register of Deeds.

LOT, THROUGH

A lot other than a corner lot having frontage on two (2) more or less parallel streets. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where the structures presently front.

LOT WIDTH

The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines. See graphic.

SECTION 2.14 DEFINITIONS - M

MAIN BUILDING

The building or structure in which the main use of the lot or parcel is located. Storage buildings, garages, and other accessory uses and structures shall not be considered main buildings.

MANUFACTURED HOME

A residential building, dwelling unit, dwelling room or rooms, or a building component that is designed for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected. A manufactured home is also commonly referred to as a mobile home or house trailer but it is not a modular home.

MANUFACTURED HOME PARK

A parcel or tract of land under the control of an individual, corporation, limited liability company, the state or any political subdivision thereof, agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity upon which three (3) or more manufactured homes are located on a continual, nonrecreational basis and that is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

MARINA

A facility located adjacent to a body of water and operated as a commercial enterprise for the sale, storage, or servicing of boats or other watercraft; or a dock or mooring located within a body of water and intended to be used by four (4) or more boats.

MASTER PLAN

The Master Plan as adopted by City of Muskegon Heights, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the city, and includes any unit or part of the plan and any amendment to the plan.

MEDICAL MARIHUANA DISPENSARY

Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, grown, processed, delivered, or distributed by or to one or more of the following:

- A. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
- B. A qualifying patient (as defined by Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
- C. Members of the public.

A medical marihuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana or such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility.

A medical marihuana dispensary shall not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended) so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and it is done in full compliance with not only this Ordinance and any other applicable City ordinances, but also all applicable Michigan and federal laws and regulations.

MUNICIPAL CIVIL INFRACTION

An act or omission that is prohibited by a provision of the ordinances of the City of Muskegon Heights for which the penalty has been designated as a Municipal Civil Infraction. A municipal civil infraction is not a crime and is punishable by all of the civil remedies provided for in Act 12 of the Public Acts of 1994, as amended.

SECTION 2.15 DEFINITIONS - N

NATURAL FEATURE

Including but not limited to soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

NATURAL VEGETATIVE COVER

Significant natural vegetation, including bushes, shrubs, groundcover, and trees, on a lot or parcel. A groomed lawn shall not qualify as natural vegetative cover.

NONCONFORMING BUILDING

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and that does not conform to the provisions of this Ordinance or the District in which it is located. Also referred to as a lawful nonconforming building.

NONCONFORMING LOT OF RECORD

A platted lot that conformed with all City zoning and other requirements at the time of recording of the plat, that no longer conforms to the zoning regulations and requirements for lot area or dimension, lot width, or both; or a lot outside a recorded plat that conformed with all City zoning and other requirements at one time, and that has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, that no longer conforms with the zoning requirements for lot area or dimension, lot width, or other matters. Also referred to as a lawful nonconforming lot.

NONCONFORMING STRUCTURE

A structure or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and that does not conform to the provisions of this Ordinance or the District in which it is located. Also referred to as a lawful nonconforming structure.

NONCONFORMING USE

The lawful use of any land or premises exactly as it existed at the time of enactment of the Zoning Ordinance, or amendment thereto, may be continued although the use does not conform to the current provisions of the Zoning Ordinance. Also referred to as a lawful nonconforming use.

NUISANCE

An offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

SECTION 2.16 DEFINITIONS - O

OCCUPANCY LOAD

The number of individuals which may safely occupy a building or structure based on the Building and Fire Code standards of the City of Muskegon Heights.

OCCUPIED

Includes the terms arranged, designed, built, altered, converted to, rented, leased, or intended to be inhabited; not necessarily for dwelling purposes.

OPEN SPACE

Undeveloped land not part of any required yard that is set aside in a natural state, for recreational purposes.

OPEN SPACE, USABLE

That portion of the common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation.

OPEN AIR BUSINESS

Uses operated for profit substantially in the open air, including, but not limited to:

- A. Utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, swimming pools, and similar activities but not including farm implements or commercial construction equipment.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumberyards.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

ORDINARY HIGH WATER MARK

The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

OUTDOOR FURNACE

Any device, appliance, and equipment apparatus or structure designed for heating a structure that:

- A. Is designed, intended and/or used to provide heat and/or hot water to any associated structure.
- B. Operates by burning wood or any other solid fuel including but not limited to: coal, paper pellets, and agricultural products.
- C. Is not located within the structure to be heated.
- D. Includes, but is not limited to, devices referred to as outdoor furnaces, outdoor boilers, and outdoor stoves.

OUTDOOR RECREATIONAL FACILITY

Tennis courts, archery courts, shuffleboard, horseshoe courts, go-carts, miniature golf, golf driving ranges, amusement park or similar outdoor recreation uses (transient or permanent).

OUTDOOR STORAGE

The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty four hours.

OVERLAY ZONE

An additional set of regulations that apply in conjunction with those in the underlying zoning district. A Planned Unit Development is an example of an overlay zone.

SECTION 2.17 DEFINITIONS - P

PARAPET WALL

An extension of a building wall above the roof which may serve as an architectural feature and/or to screen roof-mounted mechanical equipment

PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

PARKING SPACE

An off-street space of at least ten by eighteen feet in area (10x18) exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

PAWN SHOP

An establishment that receives any piece or item of personal property, or other valuable thing, by way of pledge, pawn, or purchase.

PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed to individuals primarily on the premises including but not limited to cosmetology salons, barber shops and tanning facilities.

PERFORMANCE GUARANTEE

A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development. It can be a cash deposit, irrevocable letter of credit, or a bond.

PLANNED UNIT DEVELOPMENT (PUD)

The use of a parcel of land that is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and that is designated and developed under one (1) owner or organized group.

PLANNING COMMISSION

The City of Muskegon Heights Planning Commission.

PORCH, ENCLOSED

A covered entrance to a building or structure that is totally enclosed, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PORCH, OPEN

A covered entrance to a building or structure that is unenclosed except for columns, posts or poles supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

PRINCIPAL USE

The main use to which the premises are devoted and the principal purpose for which the premises exist.

PRIVATE STREET

Any undedicated path, trail, street, access, or road that provides or is intended to provide the primary means of ingress and egress to two (2) or more lots or two (2) or more principal buildings, dwelling units, structures, or combination thereof, whether created by a private right-of-way agreement, a joint ownership, a license, a lease, or an easement.

Any and all extensions, additions, or branches of or to a private street shall be considered part of the private street that abuts the public road. A private street shall also include the following:

- A. An access serving one (1) lot if that lot does not have the requisite amount of frontage on a public road as required by this Ordinance.
- B. Where two (2) or more lots or dwellings share or utilize a common access drive, even if each lot has the required frontage on a public road.

SECTION 2.18 DEFINITIONS - Q

(RESERVED)

SECTION 2.19 DEFINITIONS - R

RECREATION VEHICLE OR EQUIPMENT

A vehicle or equipment used for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, motorcycles, golf carts, ATVs, UTVs, 4-wheelers, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

RELIGIOUS INSTITUTION

A building where persons regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship.

RETAIL STORE

Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and/or use and not for resale.

RESTAURANT

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

ROAD COMMISSION

The Muskegon County Road Commission.

RUBBISH

Any solid waste, except human excreta, but including garbage, refuse, trash, junk, ashes, street cleanings, dead animals, offal and solid agricultural, commercial, industrial, hazardous and institutional wastes and construction waste resulting from the operation of a contractor.

SECTION 2.20 DEFINITIONS - S

SALVAGE YARD

See JUNK YARD.

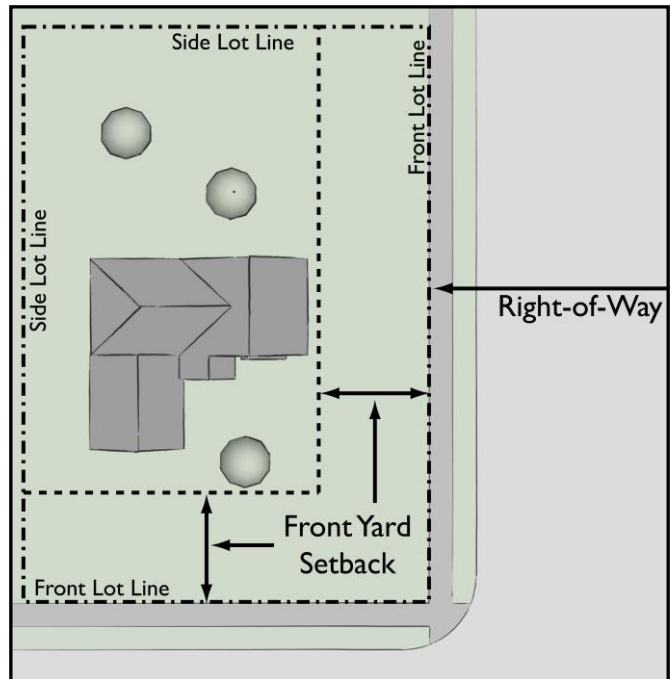
SCREEN

A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials.

SETBACK

The minimum required horizontal distance from a structure or a building measured from the front, side, or rear lot line, as the case may be, that describes an area termed the required setback area or yard on a lot or parcel. No building or structure can be located within a setback area. Where a setback from a public road or private street is involved, the setback shall be measured from the edge of the public road right-of-way or easement or the private street right-of-way or easement.

- A. Front Setback - The line marking the setback distance from the front right-of-way line that establishes the minimum front yard setback area, except for waterfront lots, where the front setback shall be measured from the ordinary high water mark to the building or structure and the street shall be the rear setback line.
- B. Rear Setback - The line marking the setback distance from the rear lot line that establishes the minimum rear yard setback area. For waterfront lots, the rear yard setback shall be measured from the road or street right-of-way line.
- C. Side Setback - The lines marking the setback distance from the side lot lines that establish the minimum side yard setback area.



SHORELINE

See Ordinary High Water Mark.

SIGNIFICANT NATURAL FEATURE

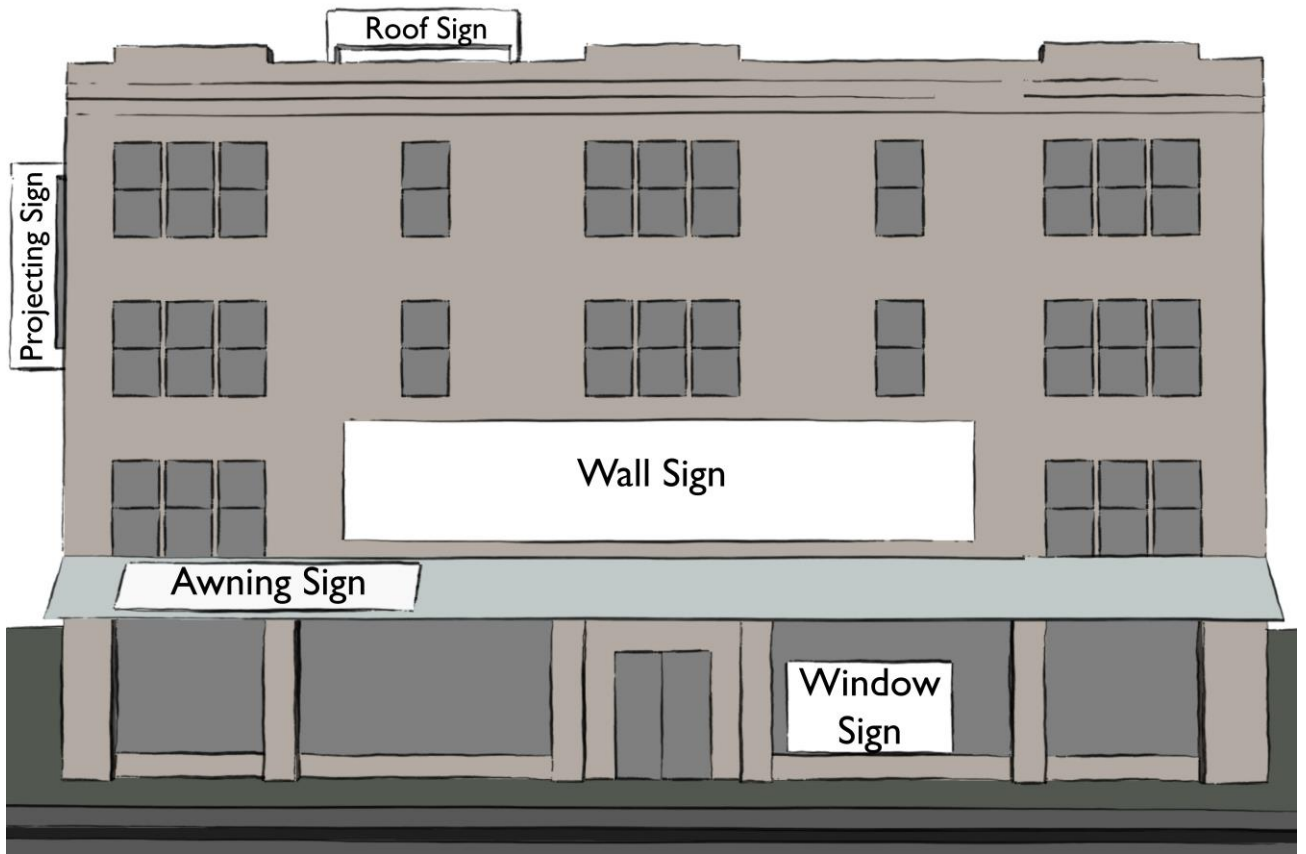
Any natural area as designated by the Planning Commission, City Council, or the Michigan Department of Natural Resources and the Environment, or other appropriate governmental agency, that exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

SIGNS (definitions relating to):

A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity. See also graphic following.

- A. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that project from the exterior wall of a building.
- B. Billboard: Any structure, on which lettered, figured, or pictorial matter is displayed for advertising either:
 - 1. A business, service, entertainment, activity or event that is not conducted on the land upon which the structure is located;
 - 2. A product that is not primarily sold, manufactured, processed or fabricated on the land upon which the structure is located;
 - 3. A second structure that is not located on the land upon which the first structure is located; or
 - 4. A geographical location or place that is not located on the land upon which the structure is located; or a person, however any structure that meets the definition of a directional sign shall not be considered to be a billboard.
- C. Business Center Sign: A freestanding or ground sign identifying the name of a business center and/or one (1) or more individual businesses within the center.
- D. Balloon sign: A sign composed of a non-porous bag of material filled with air.
- E. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- F. Construction sign: A sign that identifies the owners, financiers, contractors, architects, and/or engineers of a project under construction.
- G. Directional sign: A sign that gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs. A directional sign is any structure erected adjacent to a street that identifies, points toward and gives the distance to any public or semi-public building, off-street parking area, recreation space, club, lodge, church, institution, business, service, entertainment, activity or event.

- H. Freestanding sign: A sign supported on poles not attached to a building or wall.
- I. Government sign: A temporary or permanent sign erected by the City, Muskegon County, or the state or federal government.
- J. Ground sign: A sign resting directly on the ground supported by a foundation not attached to a building or wall.
- K. Off-premise sign: A sign that relates to or advertises an establishment, product, merchandise, good, service or entertainment that is not located, sold, offered, produced or manufactured or furnished at the property on which the sign is located.
- L. On-premise sign: A sign that pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment that is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
- M. Political sign: A temporary sign used in connection with a noncommercial message or an official City, school district, county, state, or federal election or referendum.
- N. Portable sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- O. Projecting sign: A double-faced sign attached to a building or wall that extends more than eighteen (18) inches but not more than thirty-six (36) inches from the face of the building or wall.
- P. Roof line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- Q. Real estate sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- R. Roof sign: A sign erected above the roof line of a building.
- S. Temporary sign: A sign not permanently attached to the ground, a structure, or a building. Temporary signs may include banners, portable signs, and any other signs displayed for a limited period of time.
- T. Wall sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than eighteen (18) inches from the exterior face of the wall to which it is attached.
- U. Window sign: A sign installed inside a window and intended to be viewed from the outside.



SITE PLAN

The documents and drawings required by this Ordinance to ensure that a proposed land use, structure, building, or activity is in compliance with this Ordinance, other City ordinances and codes, and state and federal statutes.

SPECIAL LAND USE

A use that, due to some characteristics of its operation, such as traffic, noise, odor, glare, or hours of operation, may be allowed in a district subject to special requirements different from those generally applicable to permitted uses within the zoning district in which the special land use is located.

STACKING SPACE

An area designated for a line of vehicles waiting for drive-through service.

STATE LICENSED RESIDENTIAL FACILITY

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

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

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

- A. Adult Foster Care Facility - A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. Such facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.
- B. Adult Foster Care Large Group Home - An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.
- C. Adult Foster Care Small Group Home - An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care.
- D. Adult Foster Care Family Home - A private residence in which the licensee is a member of the household and an occupant, providing foster care for five (5) or more days a week and for two (2) or more consecutive weeks with the approved capacity to receive six (6) or fewer adults.

- E. Foster Family Group Home - A private residence in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- F. Foster Family Home - A private residence in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

STOP WORK ORDER

An administrative order which is either hand delivered, posted on the property, or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity or use that is in violation of this Ordinance.

STORY

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.

STORY, HALF

That part of a building between a pitched roof and the uppermost full story having a floor area which does not exceed one-half (1/2) the floor area of the full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven (7) feet, at its highest point.

STREET

- A. Private Street – See the definition under “Private Street.”
- B. Public Street - A public thoroughfare located within a public street right-of way which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, drive, court, highway, street, street, and other thoroughfare; except an alley. Also known as a “public road.”
- C. Minor Street - A local public roadway on which homes are located. Their primary purpose is to provide land access.
- D. Major Street - A public roadway whose principal function is the movement of traffic into and through the city.

STRUCTURE

Anything constructed, installed, or erected, the use of which requires location on the ground or attachment to something on the ground. Also, any constructed, erected, or placed material or combination of materials in or upon the ground having a fixed location, including but not limited to buildings, radio towers, billboards, light posts, signs, swimming pools, animal enclosures (other than fences), garages, sheds, decks, platforms, portable or movable vehicle carports or enclosures, satellite dishes, towers, windmills, gazebos, tennis courts, signs, and storage bins.

The following are excluded from the definition of “structure”:

- A. Lawful fences, sidewalks, and paving on streets, driveways, or parking areas.
- B. Decks or patios, no portion of which is located:
 - 1. More than one (1) foot above the ground (natural grade); or
 - 2. Closer than five (5) feet to any lot line; or

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the true cash value of the structure either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this Ordinance, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SECTION 2.21 DEFINITIONS - T

TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events.

TEMPORARY EVENT

A use, activity, or event which is normally not allowed within a District, but may be allowed under certain circumstances pursuant to a temporary event permit issued under this Ordinance.

TENT

A shelter of canvas, plastic, or the like supported by poles and fastened by cords or pegs driven into the ground.

TATTOO PARLOR

An establishment where an indelible mark is made upon the body of another individual by the insertion of a pigment under the skin or by the production of scars or by branding.

TOWNHOUSE

A row of three or more attached one-family dwellings, in which each dwelling has its own front entrance and rear entrance.

SECTION 2.22 DEFINITIONS – U

USE

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

SECTION 2.23 DEFINITIONS - V

VARIANCE, USE

A modification of the literal provisions of the Zoning Ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause unnecessary hardship for the property owner due to circumstances unique to the property. A use variance permits a use of land that is otherwise not allowed in that District.

VARIANCE, NONUSE OR DIMENSIONAL

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulty owing to circumstances unique to the individual property.

VEHICLE REPAIR

Any major or commercial activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

VEHICLE SERVICE STATION

A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of the commodities on or in the vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Chapter.

VEHICLE WASH ESTABLISHMENT

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

VETERINARY CLINIC

Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

VIOLATION

Violating, breaking, or dishonoring the law or this Ordinance.

SECTION 2.24 DEFINITIONS - W

WETLAND

Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life. Wetlands are regulated by Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

WIRELESS TELECOMMUNICATION SERVICES

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

WIND ENERGY CONVERSION SYSTEM (WECS)

A surface area, either variable or fixed, for utilizing the wind for electrical power; and a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted or any building or accessory equipment.

Wind Energy Conversion System shall also mean any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes, blades, or sails that radiate from a horizontal shaft.
- B. A surface area such as a blade, rotor, or similar device (either variable or fixed) for utilizing the wind for electrical or mechanical power.
- C. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device.
- D. The generator, alternator, or other device used to convert the mechanical energy of the surface area into electrical energy.

- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
- F. A building or equipment accessory thereto.

WECS TOWER HEIGHT

The distance between the ground and the highest point of the WECS.

SECTION 2.25 DEFINITIONS – X

Reserved

SECTION 2.26 DEFINITIONS - Y

YARD

A yard is an open space on the same land with a structure, building, or group of buildings, which open space lies between the structure, foundation of the building, or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. Also the area within required setbacks.

- A. Front yard - An open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line. For lots with frontage on a body of water, the front yard is at the water.
- B. Rear yard - An open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line. For lots with frontage on a body of water, the rear yard is at the street.
- C. Side yard - An open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

SECTION 2.27 DEFINITIONS - Z

ZERO LOT LINE

The location of a building on a lot in such a manner that one or more of the buildings sides rests directly on a lot line, separated only by fire walls.

ZONING ACT

The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

ZONING ADMINISTRATOR

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

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of City of Muskegon Heights, sometimes also abbreviated in this Ordinance as the “Zoning Board of Appeals.”

ZONING COMPLIANCE PERMIT

Also referred to as a “zoning permit.” Such a permit shall be obtained before a use is commenced or a building or structure is constructed or expanded as provided in this Ordinance.

ZONING DISTRICT

See Chapter 6 of this Ordinance. Also referred to as a “District.”

CHAPTER 3 GENERAL PROVISIONS

SECTION 3.01 CHAPTER APPLICABILITY

Unless otherwise specified, the provisions of this Chapter apply to all zoning districts within the City.

SECTION 3.02 APPLICATION OF ZONING

- A. Any land use, structure, building, or activity not specifically permitted by this Ordinance is prohibited.
- B. When a use or activity is not stated in this Ordinance, the Zoning Administrator shall request an interpretation by the Zoning Board of Appeals to make a determination on the classification of the use. If deemed appropriate the Zoning Board of Appeals shall forward the classification to the Planning Commission to amend the ordinance to address the use. An applicant may also petition the City for an amendment to the Zoning Ordinance to address a use or activity not considered by the Ordinance.
- C. All buildings, structures or land may be used, constructed, altered or occupied, only when in full conformity with all of the regulations specified in this Ordinance for the district in which it is located in accordance with the procedures of this Ordinance.
- D. Except as otherwise allowed by this Ordinance, after the effective date of this Ordinance, no building, lot, or structure shall be altered:
 - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District.
 - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted by the Zoning District.

SECTION 3.03 MAIN BUILDING OR PRINCIPAL USE

Each lot shall contain only one (1) main building or principal use, except for groups of related commercial, industrial, office buildings, and multiple family dwellings contained within a single, integrated complex as demonstrated by shared parking, signs, access, and other similar features which, in the opinion of the Planning Commission, form a unified function and appearance.

SECTION 3.04 YARD AND AREA REGULATIONS

- A. No setback area, court, parking area, buffer or other space shall be reduced to less than the minimum required under this Ordinance. No lot, parcel, or other area shall be further reduced if already less than the minimum. No lot shall be created that does not meet all of the minimum lot size, access, width, frontage, and other dimensional requirements of this Ordinance.

- B. Where property is located on opposite sides of a public road or public street right-of-way and is in common ownership, the property shall not be considered to be one (1) lot or parcel but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or street shall meet all applicable requirements specified by this Ordinance or an individual lot or lots.
- C. In determining lot, land, yard, parking area or other open space requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) main building or use shall be included in the calculation of the space requirements for any other building, structure or use.

SECTION 3.05 LOT WIDTH; FRONTAGE

All lots shall have frontage on a public road or on a private street approved pursuant to Section 13.02 for a distance equal to or greater than the minimum lot width specified for the district in which the lot is located.

SECTION 3.06 GRADING, EXCAVATION, FILLING AND CLEARING OF TREES

- A. The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, trash rubbish, or other waste by-products is not permitted in a any zoning district except under the supervision of the Zoning Administrator or Building Inspector in accordance with County Soil Erosion Control Regulations or state Wetlands and Inland Lakes and Streams regulations.
- B. Clearing vegetation and trees from a vacant site of over one-quarter (1/4) acre or grading, excavation, filling, soil removal not associated with a building permit for one single family residence may be permitted only after review and approval by the City. The approval may be in the form of a zoning compliance permit issued by the Zoning Administrator (in the case of a single-family use) or through the site plan approval process with the Planning Commission.

SECTION 3.07 ILLEGAL DWELLINGS

- A. The use of any partially completed building, or any garage or accessory building as a dwelling unit or sleeping area is prohibited in any zoning district.
- B. Recreational vehicles, camping trailers, or tents may be used for temporary living purposes when accessory to a single family home provided such use shall only be permitted for a three (3) day period and for no more than one (1) such period in any thirty (30) consecutive days.

SECTION 3.08 WOOD FURNACE OR OUTDOOR WOOD STOVE

Due to the nuisance smoke and concerns regarding the public safety and welfare of residents living in relatively close proximity to one another, outdoor wood furnaces are prohibited in the City.

SECTION 3.09 ESSENTIAL PUBLIC SERVICES

The erection, construction, alteration or maintenance of essential public services shall be allowed in any zoning district.

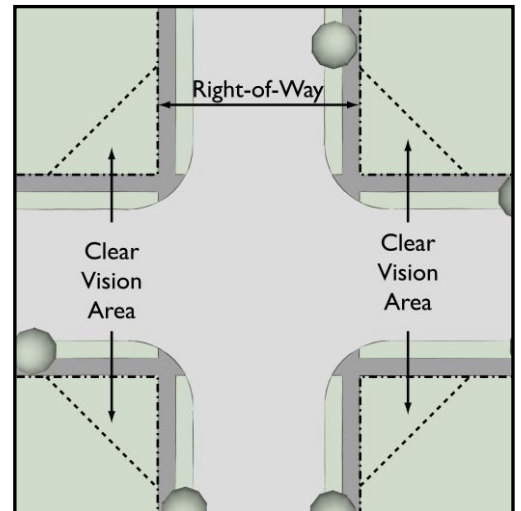
SECTION 3.10 MOVING OR RAZING OF BUILDINGS

- A. The moving of a building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable, including obtaining all required City permits.

- B. No building shall be razed until a demolition permit has been issued by the Building Inspector and a zoning compliance permit has also been issued by the Zoning Administrator. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities. An escrow deposit may be required to insure performance.

SECTION 3.11 CLEAR VISION AT INTERSECTIONS

No solid fence, wall or planting screen between thirty (30) inches and eight (8) feet in height as measured from grade, shall be located within a clear vision triangle. This triangle is formed by the intersection of the street right-of-way lines. The clear vision triangle shall be line fifteen (15) on alleys and minor streets and twenty five (25) feet on major streets. See graphic.



SECTION 3.12 HEIGHT EXCEPTIONS

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae (up to 30 feet high), water tanks, windmills, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level of a structure.

SECTION 3.13 PROJECTIONS INTO YARDS

- A. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be allowed to encroach upon the minimum setback requirements of this Ordinance, provided the projection into a required front or rear yard area is no closer than five (5) feet from a street right-of-way line or rear lot line. No encroachment shall be allowed into the side setback of the lot.

- B. Unenclosed terraces, patios, porches, and decks shall be allowed to encroach upon the minimum front yard requirements of this Ordinance provided they are:

1. Attached to the main building.
2. Elevated no more than thirty (30) inches above the average surrounding final grade.
3. Located no closer than fifteen (15) feet from a rear lot line or ten (10) feet from a street right-of-way line.
4. Do not encroach into the side setback of the lot.

Those structures covered above shall not be considered nonconforming, and therefore, shall be permitted to be rebuilt even if destroyed by an act of God or by the owner/occupant of the structure.

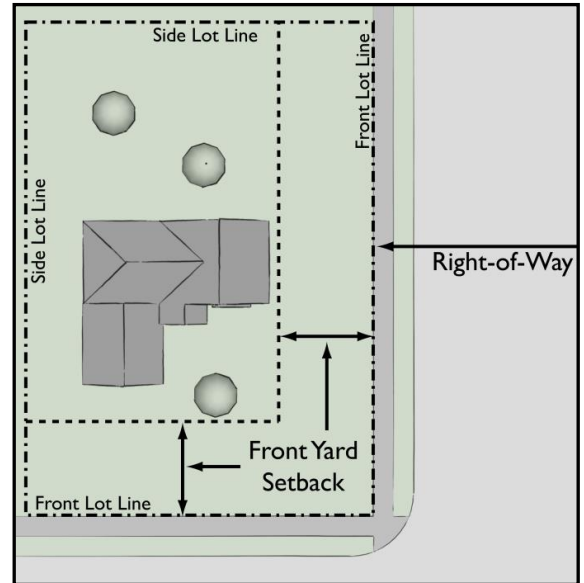
SECTION 3.14 LOTS AND SETBACK MEASUREMENT

A. All lots shall have sufficient buildable area to meet required setbacks and minimum lot size requirements of this Ordinance. All setbacks shall be measured from the property line to the drip edge of the structure.

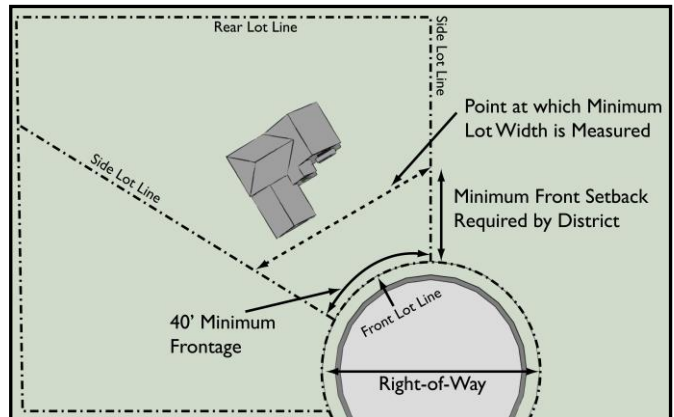
B. Corner Lots - Each line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard. The two (2) remaining yards shall each be side yards.

C. Average setbacks - The required front setback for a new structure may align with (or provide the average setback of) existing main buildings within three (3) lots of the lot where the front yard setbacks are:

1. Less than the required front yard setback for the zoning district.
2. On the same side of the street and either side of the subject parcel.
3. In the same zoning district as the subject parcel.



D. Cul-de-sac Lots - Cul-de-sacs are generally discouraged unless topography or other significant site limitations necessitate their use. Cul-de-sacs shall meet the minimum design standards of the City. A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line. See graphic.



SECTION 3.15 FENCES

A. General Requirements:

1. All fences erected by individual property owners shall be located on his/her property. Fences are allowed on the property line; however, the Zoning Administrator may require a survey where a property line location is questionable.
2. Fence height shall be measured from the existing natural grade.
3. Except for areas being protected due to national security, no person shall place, string or maintain barbed wire or razor wire as part of any fence, other work or structure in any zoning district.
4. No fence or wall shall be erected which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department.
5. It is unlawful to construct any private fence or barrier within a public right-of-way.
6. All fences shall be maintained in a good condition so that they do not result in an unreasonable hazard to persons who might come near them.

B. Fencing Materials:

1. Fencing Materials used as screening shall consist of the following:
 - a. Solid board fences of standard commercial construction. The finished side of the wood shall face abutting properties.
 - b. Open mesh fencing with woven slats, provided that it is of standard commercial construction.
 - c. Masonry walls designed and constructed to facilitate maintenance that is of standard commercial construction.

C. Residential Districts:

1. Fences may be up to four (4) feet in height in the front yard.
2. Fences may be up to six (6) feet in height behind the front building line.

D. Commercial and Industrial Districts:

1. A wall, fence or yard enclosure may be up to eight (8) feet in height behind the required front setback line, provided that clear vision standards are maintained.

SECTION 3.16 ACCESSORY BUILDINGS AND USES

General Requirements:

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to, and on the same lot with a principal building, structure or use which is permitted in the particular zoning district.
- B. No accessory building shall be allowed on any lot which does not contain a main building.
- C. In commercial or residential districts, accessory buildings shall be stick-built or the equivalent new building construction. No mobile home, tank, junk object, or salvage materials, trailer, vehicle, portable storage units or similar item shall be utilized as an accessory building or storage structure.
- D. Within a residentially zoned district:
 - 1. No more than two (2) detached accessory buildings shall be permitted on any lot.
 - 2. The maximum building height of accessory structures shall be fourteen (14) feet (see also definition of building height).
 - 3. The total square footage of all accessory buildings located on a lot shall not exceed the ground floor area of the principal building located on the same lot.
 - 4. Sheet metal shall not be used for exterior wall covering.
- E. In Residential Districts, existing nonconforming accessory structures may be replaced on the existing footprint provided they are wholly contained within the property, meet the required front yard setback and design requirements, and do not inhibit emergency access.
- F. Attached accessory buildings and structures shall be made structurally part of the main building and shall conform to the district setback requirements of the main building.
- G. Detached accessory buildings and structures shall be a minimum of five (5) feet from another building or structure (unless properly fire suppressed) or three (3) feet from any rear or side property line.
- H. Accessory building(s) shall not be erected in any required front yard or occupy any portion of a required greenbelt or buffer in any district; except that guard houses may be allowed in the required front yard of an Industrial District.
- I. No accessory building shall be used in any part for residential dwelling, boarding, or sleeping purposes.

- J. In residential districts, the architectural character of accessory structures over two hundred (200) square feet shall be compatible with, and similar to, the main building with respect to materials, scale, design, and aesthetic quality as determined by the Zoning Administrator.
- K. Sheet metal siding on accessory structures is prohibited in all residential districts and the C-1 and Central Business Districts.
- L. Freestanding solar panels shall be considered an accessory structure and shall be a minimum of three (3) feet from side, and rear lot lines and five (5) feet from front lot lines if not attached to a building.
- N. Amateur radio communication towers and windmills not exceeding 75 feet in height are allowed as an accessory use to the operator's dwelling or business. Supporting structures shall be designed to collapse upon themselves rather than toppling toward adjacent properties.
- O. Wireless communications antenna may be attached to a lawful existing telecommunications tower, water tower, or other structure after the issuance of a zoning compliance permit.
- P. A swimming pool may be allowed on a lot, subject to the requirements of the Building Code. Pools are only allowed in side and rear yards and may not be located under electrical wires. A minimum of a (10) foot setback shall be provided from side and rear lot lines which shall include any associated steps or decks around the pool.

SECTION 3.17 NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEMS

Noncommercial Wind Energy Conversion Systems (also called "windmills") are permitted in any zoning district with a zoning permit, provided:

- A. Units which are not mounted to a building that need a tower or monopole shall be setback from property lines a minimum of ten (10) feet.
- B. Units affixed to a structure shall not extend more than twenty (20) feet above the roof line of the structure it is mounted to.
- C. The maximum height of a free-standing unit shall be seventy-five (75) feet, as measured from the ground at its base to the tip of the rotor blade in the upright position.
- D. The unit shall meet all building code requirements for such factors as wind load and snow load. Units shall be "UL" listed and a copy of the manufacturer's installation instructions in addition to the structural specifications for the unit and all supporting structures shall be provided to the city. Plans may be required to be sealed by a structural engineer.

- E. Noise emanating from the operation of the unit shall not exceed fifty five (55) decibels, as measured on the DBA scale, measured at the nearest property line.
- F. The unit shall be equipped with both a manual and automatic braking device capable of stopping its operation in high winds, as established by the manufacturer.
- G. The unit shall not have affixed or attached to them any lights, reflectors, signs, flashers or any other illumination.
- H. Any unit that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

SECTION 3.18 HOME OCCUPATIONS

Home occupations are allowed in single-family dwellings in all zoning districts subject to all of the following conditions and requirements:

- A. Only members of the family residing in the home shall be engaged in the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for single-family residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area or five hundred (500) square feet of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation. No part of the home occupation shall be conducted outdoors or within any accessory building.
- C. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or departure from the single-family residential character of the dwelling. Further, activity associated with the home occupation shall not generate pedestrian traffic or visitation out of the ordinary for a single family residence.
- D. There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation.
- E. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- F. The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- G. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no

equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

SECTION 3.19 **STORAGE AND REPAIR OF VEHICLES**

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:
 - 1. The vehicles worked upon shall be owned by and titled in the name of the resident.
 - 2. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a completely enclosed building.
 - 3. Inoperable or unlicensed vehicles and vehicle parts must be stored only in a completely enclosed building.
- B. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction actively being conducted on the lot.
- C. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying a vehicle for sale, except in approved and licensed car sales lots.

SECTION 3.20 **OUTDOOR STORAGE**

Unless associated with an immediate construction project, residential uses shall not involve the storage of machinery, equipment, inoperable or unlicensed vehicles or trailers, lumber piles, crates, boxes, junk, debris or other materials in any yard or open area that is visible from the street, public right-of-way, alley or adjoining residential parcel or lot.

SECTION 3.21 **STORAGE OF RECREATIONAL VEHICLES**

- A. Storage in a residential district shall be allowed only when it is accessory to the principal use of the lot or adjacent lot when owned by the same person.
- B. No storage shall be permitted closer than five (5) feet to any dwelling unit, nor closer than three (3) feet to any side lot line.

SECTION 3.22 GARAGE AND YARD SALES

No garage or yard sale shall be held on a lot or property for more than fourteen (14) days in total per calendar year or for more than three (3) consecutive days.

SECTION 3.23 REGULATIONS APPLICABLE TO SINGLE FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS

Any one-family dwelling, whether constructed and erected on a lot, or a manufactured home outside a manufactured home park, may be allowed only if it complies with all of the following requirements:

A. Design Features:

1. The dwelling unit shall have a minimum living area of seven hundred and fifty (750) square feet for a one (1) bedroom dwelling. For each bedroom thereafter, an additional one hundred (100) square feet of living space shall be provided.
2. 750The minimum width across any front, side, or rear architectural elevation shall be at least twenty-four (24) continuous feet of exterior wall. The dwelling shall be twenty-four (24) feet wide for at least seventy percent (70%) of its length. No addition to a dwelling shall be of an exterior construction different than the primary dwelling, composed of exterior materials other than the exterior of the primary dwelling, or appear to be of different construction than the primary dwelling.
3. A structure with a front elevation view of over 40 linear feet shall have a design offset but not limited to; bay windows, covered porches, or structural offsets from the principal plane of the building.
4. The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.
5. The dwelling shall not contain additions or rooms or other areas that are not constructed with similar aesthetics and quality work as the original structure, including permanent attachment to the main building and construction of a foundation as required by the adopted Construction Code of the City.
6. The dwelling unit shall have at least two (2) exterior doors, with one (1) being in either the rear or the side of the dwelling unit.
7. Garage doors may not comprise more than fifty percent (50%) of the front face of the structure.

B. The dwelling shall conform to the state Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where the standards allow standards of construction which are less stringent than those imposed by the Building Code, then the less stringent federal or state standard or

regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- C. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured home shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time the standards may be amended.
- D. The dwelling shall be placed upon and secured to a permanent four (4) foot crawl space with a continuous footing that meets the requirements of the state Building Code. The area between the elevation of the lot and the structure shall have a wall of the same dimensions of the dwelling and constructed of materials and type as required in the applicable code for one-family dwellings. In the event that the dwelling is installed pursuant to the manufacturer’s set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- E. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- F. The requirements of this section shall not be construed to prohibit innovative design concepts involving matters such as solar energy, view, unique land contour, or relief from the common or standard designed home.

SECTION 3.24 TEMPORARY USES AND BUILDINGS

- A. Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by a permit issued by the Zoning Administrator.
- B. Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
 - 1. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.
 - 2. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Building Inspector for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on the lot.

- C. Sales offices or model homes may be placed on a lot provided:
 - 1. The location of the office shall be specified in the permit.
 - 2. The permit shall be valid for a period of up to one (1) year. A temporary permit may be renewed by the Zoning Administrator for up to two (2) successive one (1) year periods or less, at the same location if the office is still incidental and necessary.
 - 3. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be allowed.
- D. The temporary sale of merchandise in commercial districts related to a seasonal or periodic civic event, such as a festival. Seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities.
- E. Flea Markets or Farmers Markets for up to three (3) days in duration provided they are located in commercially zoned district and approved by City Council.
- F. All temporary uses shall meet the all of following standards:
 - 1. The nature of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
 - 2. The lot shall be of sufficient size to adequately accommodate the temporary use or structure.
 - 3. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
 - 4. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
 - 5. Signs shall conform to the provisions of this Ordinance.
 - 6. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

SECTION 3.25 REPRESENTATIONS AND PROMISES OF DEVELOPERS AND PROPERTY OWNERS

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a special land use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable

condition of any such zoning approval (whether or not such promise, condition, or restriction was made orally or in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other City approval document) if the City deems such promise, representation, or condition to have been a consideration by the official or City body which granted the zoning approval and the City also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

SECTION 3.26 **RESERVED**

SECTION 3.27 **RESERVED**

CHAPTER 4 NONCONFORMITIES

SECTION 4.01 INTENT

It is recognized that there exist certain buildings, structures, uses, and lots that were lawful before this Ordinance was adopted, and which were legally established, but would be prohibited, regulated, or restricted under the current regulations of this Ordinance. It is the intent of this Ordinance to allow nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.

Nonconforming lots, buildings, structures, and uses are hereby declared by this Ordinance to be incompatible with this Ordinance and the Districts in which they are located. It is the intent of this Ordinance that, unless otherwise expressly permitted, nonconformities shall not be enlarged upon, intensified, expanded, or extended without proper approvals, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the District or this Ordinance.

SECTION 4.02 GENERAL REQUIREMENTS

- A. No building, structure, or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in full conformity with the regulations herein specified for the Zoning District in which it is located and this Ordinance.
- B. No use shall be established on any lot, land or premises except in full conformity with the use regulations of the Zoning District in which it is located and the requirements of this Ordinance.
- C. No building or structure shall be established, constructed, or used on any lot, land, or premises except in full conformity with the regulations of the Zoning District in which it is located and the requirements of this Ordinance.
- D. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit was issued or on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted. A building permit shall be valid only in the event that the construction that is the subject of the permit commences within sixty (60) days after the date of issuance and shall be completed within one (1) year of the issuance date.
- E. The City may acquire, through purchase or condemnation, nonconforming lots, uses, buildings and structures. The City Council may take these actions in the manner as provided by law.

SECTION 4.03 **NONCONFORMING USES**

- A. If a nonconforming use is abandoned or does not occur for any reason for a period of twelve (12) consecutive months or longer, any subsequent use shall fully conform to the requirements of this Ordinance.

- B. A nonconforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - 1. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - 2. The property, buildings, or grounds have fallen into disrepair;
 - 3. Signs, structures, or other indications of the existence of the nonconforming use have been removed;
 - 4. Delinquent taxes;
 - 5. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use; or
 - 6. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner, tenant, or lessee to abandon the nonconforming use.

- C. Uses that are nonconforming solely because of height, area, parking or loading provisions may be expanded provided that the Zoning Administrator determines that all of the following are applicable:
 - 1. For the purposes of this subsection, expansion shall include extension or enlargement of the use;
 - 2. All Zoning District requirements (and other Ordinance requirements) are satisfied with respect to the expansion;
 - 3. The expansion shall not substantially extend the life of any nonconforming use by reason of parking and loading provisions; and
 - 4. The nonconforming use is made more conforming or less nonconforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the nonconforming use or change in use will not be allowed if it requires even greater parking and/or loading space.

- D. A nonconforming use not addressed in subparagraph C, above, may be enlarged when authorized by the Zoning Board of Appeals, subject to all of the following provisions:

1. The enlargement, when allowed, shall not exceed twenty-five percent (25%) of the area devoted to a nonconforming use at the effective date of this Ordinance or relevant amendment thereto.
 2. Any building used for the nonconforming use shall not be nonconforming or require a variance to effectuate the enlargement of the nonconforming use.
 3. That the expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.
 4. That the expansion does not intensify the use or unreasonably extend its probable duration.
- E. An existing nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:
1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
 2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise allowed by this section.
 3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
 4. Once returned to a more conforming use, the previous nonconforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall all conform to the requirements of the District.

SECTION 4.04 NONCONFORMING BUILDINGS

- A. Any building or structure existing and lawful at the time of enactment of this Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of this Ordinance.
- B. Repairs and maintenance work may be made as are required to keep a nonconforming building or structure in a sound condition.
- C. In the event of fire, wind or an act of God or the public enemy damages any nonconforming building(s) or structure(s), it may be rebuilt or restored provided it meets the district requirements and the total costs of repair or restoration shall not exceed seventy-five percent (75%) of the taxable value of the building or structure before the building was damaged. The Building Inspector shall determine the cost of reconstruction.
- D. A nonconforming building may not be enlarged or altered in a way which increases its nonconformity, except when authorized by the Planning Commission, after Public Hearing as required for Special Uses. The Planning

Commission shall be authorized to determine the amount of enlargement of any building or structure, consistent with the intent of this article. The nonconforming structure may be changed to an extent not exceeding thirty percent (30%) of the total floor area of the existing building at the time of enactment of the Ordinance from which this chapter is derived, or at the time of its amendment making a structure nonconforming.

SECTION 4.05 **NONCONFORMING LOTS**

1. If a nonconforming lot has less than the minimum required area, frontage, or width required for the Zoning District in which it is located, the area, frontage, or width may be maintained, unless regulated by subparagraph 3, below, but shall not be made more nonconforming.
2. Where a nonconforming commercial or industrial lot can provide the side and front yard requirements of its zone, the permitted uses of the District shall be allowed.
3. Where a residential lot of record in lawful existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width, dimension, or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located, provided that the lot meets at least eighty (80) percent of the required lot area, lot width, dimension, and side yard required by that district and further provided that any building or structure constructed on the lot complies with all other yard setback requirements.
4. Where two (2) or more nonconforming adjacent lots are in the same or similar ownership and each contain less than minimum required area, dimension, or width of the Zoning District in which it is located, the lots shall be considered a single lot for zoning purposes. These lots may not be used individually but shall be deemed automatically combined to create a lot that conforms as closely as possible to the District regulations.
5. A nonconforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the Zoning District in which it is located.

SECTION 4.06 **NONCONFORMING SIGNS**

- A. Every permanent sign in lawful existence at the time of adoption of this Ordinance which does not conform to the height, size, area, location, or other requirements of this Ordinance is deemed nonconforming.
- B. Nonconforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired as allowed by this Ordinance so as to continue their useful life.

- C. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.
- D. Abandonment or destruction: If a sign loses its legal nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this Ordinance. A nonconforming sign shall lose its lawful nonconforming designation and status if the Zoning Administrator determines that any of the following is applicable:

1. The sign is relocated, moved, rebuilt or replaced.
2. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs.
 - a. The sign is torn down or demolished;
 - b. The sign is wrecked or ruined;
 - c. Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or
 - d. More than 50% of the face of the sign has been shattered, or a portion of the sign face touches the ground.

If a sign is destroyed, subsection F hereof (which applies only to repairs and maintenance) shall not be applicable.

3. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50% or more as defined in subsection E, below, the sign shall be deemed to have lost its legal nonconforming status.
 4. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign.
 5. There is a material change in the use of the premises where the sign is located.
 6. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than 5% or 5,000 square feet, whichever is less.
 7. The sign is abandoned.
- E. Repair. This subsection E shall not apply if a legal nonconforming sign has been destroyed, since a destroyed sign automatically loses its legal nonconforming designation and status. If a legal nonconforming sign suffers 50% or more damage, destruction, or deterioration, it must be brought into full compliance with

this Ordinance or be removed. In order to determine whether or not a sign has been damaged or has deteriorated by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign. If less than 50% damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

SECTION 4.07 **BURDEN OF PROOF**

The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.

CHAPTER 5
SITE CONDOMINIUMS AND LAND
DIVISIONS

SECTION 5.01 **SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon provided the unit meets the use and District Regulations for a lot for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with Chapter 14.
- D. Monuments shall be set at all boundary corners and deflection points and at all street right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
- E. The Zoning Administrator and the City Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the City Council, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit benefiting the City of Muskegon Heights, whichever the City selects, in an amount as determined from time to time by resolution of the City Council.
- F. The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
- G. If the developer defaults, the City Council shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- H. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
- I. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
- J. The developer shall dedicate to the City of Muskegon Heights all easements for utilities. Water, sewer and electrical easements may be placed within public rights-of-way, subject to the approval of the City Engineer and City of Muskegon Heights standards.

- K. All streets proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this Ordinance and other ordinances of the City of Muskegon Heights.

SECTION 5.02 LAND DIVISIONS

- A. No lot, parcel of land, or access or private street easement shall be created or modified that does not fully comply with the minimum area, width, lot width-to-depth ratio, frontage, access and other dimensional requirements of this Ordinance. All land divisions, lot splits, or property boundary reconfigurations of platted lots and unplatted parcels of land shall comply with all applicable requirements of this Ordinance and the Michigan Land Division Act.
- B. No land division, lot split, creation of an access or private street easement, or reconfiguration or change of property boundary lines shall occur unless and until a land division permit has been obtained from the City Zoning Administrator or such other person as may be designated for such purpose by resolution of the City Council. No permit for a land division shall be issued unless and until the City determines that the land division, lot split, access or private street easement, or boundary reconfiguration, as well as the resulting lots, parcels of land, or access or private street easements, fully complies with the requirements of this Ordinance and all other applicable City ordinances.
- C. Fees for a land division permit shall be established from time to time by resolution of the City Council. No land division permit shall be approved or issued unless the application for such permit is accompanied by a survey prepared by a registered land surveyor showing all resulting lots or parcels of land, easements (if any), and all legal descriptions thereof, unless the Zoning Administrator waives the survey requirement for good cause shown.
- D. All land divisions must comply with the City's land division ordinance (or equivalent City ordinance or code).

CHAPTER 6 ESTABLISHMENT OF DISTRICTS

SECTION 6.01 ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, the City of Muskegon Heights is divided into the following zoning districts:

- R-1 Single Family Residential District
- RM-1 Low Density Multi-family District
- RM-2 High Rise Multi-family District
- C-1 Neighborhood Shopping District
- CBD Central Business District
- C-3 Highway Commercial District
- C-4 General Business District
- PUD Planned Unit Development District
- WFO Water and Floodplain Overlay District
- MHC Manufactured Home Community District
- I-1 Light Industrial District
- I-2 Heavy Industrial District

SECTION 6.02 OFFICIAL ZONING DISTRICTS MAP

The boundaries of the zoning districts enumerated in Section 6.01 are hereby established as shown on the “Official Zoning Map, City of Muskegon Heights,” which accompanies this text. Such map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the City Clerk, accessible to the public, and as the final authority as to the current zoning status of all property in the City.

SECTION 6.03 INTERPRETATION OF DISTRICT BOUNDARIES

If because of the scale, lack of details, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretations concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals upon written application.

In arriving at a decision, the Zoning Board of Appeals shall apply the following standards:

- A. The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.

- C. Unless shown by dimension on the Official Zoning Map, where a district boundary divides a lot of record, the location of the boundary shall be determined by use of the scale shown on the map.
- D. Where district boundaries are indicated as approximately following City limits, they shall be construed as following the City limits.
- E. A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline.
- F. If a district boundary is indicated as being parallel to, or an extension of a feature described in this section, it shall be so construed.
- G. Where physical or natural features existing on the ground do not coincide with those shown on the Official Zoning Map or in other circumstances not covered in this section, the Zoning Board of Appeals shall determine the district boundaries.

SECTION 6.04 ZONING OF VACATED AREAS

If a street, alley or other public right-of-way within the City is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.

CHAPTER 7 RESIDENTIAL DISTRICTS

SECTION 7.01 INTENT AND PURPOSE

The regulations of these Districts (R-1, RM-1 and RM-2) are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses. The intent of the Districts is to protect low density residential areas from the encroachment of uses that are not appropriate to a residential environment. The R-1, Single Family District is designed to create quiet, low density single family neighborhoods. The RM-1 Multi-family District is designed to permit a variety of housing choices to satisfy various life styles and income levels located in close proximity to commercial and service districts. The RM-2 Multi-family district is designed to permit high density development in a high-rise design.

SECTION 7.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for residential districts:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

- SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards contained in Chapter 16 and elsewhere in this Ordinance are met.

- PUD: Allowed only with Planned Unit Development approval.

- NP: Not Permitted: The use is not permitted in the District.

Table of Uses	R-1	RM-1	RM-2
Accessory structures and uses subject to Section 3.16	P	P	P
Non-commercial wind energy conversion systems subject to Section 3.17	P	P	P
Home occupations subject to Section 3.18	P	P	P
Single family detached dwellings	P	P	P
Multiple family dwellings	NP	P	P
Townhouses	PUD	PUD	NP
Two-family dwellings	NP	P	P
Elderly housing	NP	SLU	P
Family day care home	P	P	P
Group day care home	SLU	SLU	SLU
Communal home or boarding house	NP	SLU	NP
Bed and breakfast establishment	SLU	SLU	SLU
State licensed residential facility, <i>family care facility</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P
State licensed residential facility <i>Small Group Home Care Facility</i>	SLU	SLU	SLU
State licensed residential facility <i>Large Group Home Care Facility</i>	NP	SLU	SLU
Convalescent or nursing home	NP	SLU	SLU
Elementary, middle and high school (private)	SLU	SLU	SLU
Open space development	PUD	PUD	PUD
Park, playground or community center	P	P	P
Religious Institution/place of Religious Worship	SLU	SLU	SLU
Previously existing or established commercial uses not already converted to a residential use	SLU	SLU	SLU

SECTION 7.03**LOT, YARD AND BUILDING REQUIREMENTS**

Requirement	R-1	RM-1	RM-2
Minimum Lot Size	5,000 sf	10,000 sf	15,000 sf
Maximum Density	7 units per acre	16 units per acre	32 units per acre
Minimum lot width & frontage	40 ft	100 ft.	125 ft.
Lot width to depth ratio	No more than 3 times deeper than the width	No more than 3 times deeper than the width	No more than 3 times deeper than the width
Maximum Lot Coverage	50%	65%	85%
Setbacks	Front: 10 ft. Side*: 1 story – 6 ft 2 story – 8 ft Rear: 25 ft.	Front: 15 ft. Side*: 1 story – 8 ft 2 story – 10 ft 3+story – 12 ft Rear: 20 ft.	Front: 20 ft. Side: 1 story – 10 ft 2 story – 12 ft 3+story – 14 ft Rear: 30 ft.
Maximum Height	35 ft.	50 ft.	90 ft.
Minimum open space for developments	15%	15%	10%
Minimum dwelling unit living space (per unit)	Single family: 800 sq. ft. Townhouse: 600 sq. ft.	Efficiency: 500 sq. ft. 1 bdrm apt.: 650 sq. ft. 2 bdrm apt.: 750 sq. ft. 3 bdrm apt.: 880 sq. ft.	Efficiency: 400 sq. ft. 1 bdrm apt.: 550 sq. ft. 2 bdrm apt.: 650 sq. ft. 3 bdrm apt.: 780 sq. ft.

SECTION 7.04 PARKING REQUIREMENTS

Use	Minimum Parking Requirement Spaces per Unit of Measurement
Residential	
Dwelling units	2 per dwelling unit
Family and group day care homes and communal housing	1 per each 3 children or adults under care, computed on the basis of the licensing limits of the facility
Elderly housing	0.25 per dwelling unit
State licensed residential family care facility or group home care facility	1 per each 6 beds or 3 rooms, whichever is less, plus 1 per on duty shift staff
Bed and breakfast establishment	2 plus 1 per guest room
Boarding House	1 plus an additional space per 2 rooms
Non-Residential	
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Cemeteries	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker's residence
Family day care	1 per each 3 clients computed on the basis of the greatest number of clients on site at a given time in addition to those required for the residence
Elementary, middle and secondary schools (private)	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for busses shall be provided
High schools (private)	1 space per 5 students or the amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses shall be provided
Municipal and public service activities	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas
Parks, playgrounds and community centers	10 per each athletic field plus 5 per each playground
Religious Institutions/Place of Religious Worship	1 per each 5 seats for capacity. Based on the maximum seating capacity of the main place of assembly.

SECTION 7.05 PARKING LOCATION

The off-street parking facilities required for single family and two family dwellings shall be located on the same lot as the building they are intended to serve. Parking is limited to the garage and driveway.

- A. Off-street parking facilities required for townhouses, multiple family dwellings and non-residential uses shall not be located in the required front or side yard.
- B. Parking areas for a multiple family development of over four (4) units adjacent to a single family use or district shall provide a 6-foot screen for the parking area.

SECTION 7.06 DESIGN STANDARDS

- A. All residential buildings shall have architectural features that provide visual interest including, but not limited to porches, balconies, bay windows, cupolas, and/or dormers.
- B. The façade of all residential structures shall be at least 30% windows.
- C. Outdoor space shall be provided for each townhouses or multi-family dwelling unit at a minimum of fifty (50) square feet per unit, which may be a balcony.
- D. A structure with a front elevation view of over 40 linear feet shall have a design offset including but not limited to: bay windows, covered porches, or structural offsets from the principal plane of the building.
- E. Site amenities may be required by the Planning Commission for residential developments during site plan review and may include but not be limited to: bike racks, play equipment, benches, and trash receptacles.
- F. See also Chapter 13.

SECTION 7.07 PERMITTED SIGNS

- A. Entrance way signs of up to thirty-two (32) square feet in total area and no more than eight (8) feet in height are permitted at major entry points to residential developments.
- B. One (1) internally illuminated monument sign of up to thirty-two (32) square feet in total and no more than eight (8) feet in height is permitted for religious worship, schools and parks.
- C. One (1) non-illuminated wall sign of up to four (4) square feet for a home occupation.
- D. One (1) non-illuminated real estate sign not exceeding four (4) square feet in area.

- E. Non-illuminated trespassing, safety, directional, or caution signs not exceeding two (2) square feet in area.
- F. On-site political signs not exceeding eight (8) square feet in display area, provided that the signs are removed no later than ten (10) days after the election.
- G. **See also Section 13.11-13.14 for sign regulations applicable to all Districts.**

CHAPTER 8 COMMERCIAL DISTRICTS

SECTION 8.01 INTENT AND PURPOSE

The C-1 Neighborhood Shopping District is intended to allow small scale businesses near neighborhoods to serve community needs.

The CBD, Central Business District is intended to support a traditional downtown main-street atmosphere and is characterized by smaller lot sizes, mixed land uses and higher percentages of lot coverage. The District is further intended to promote the consolidation of commercial activities in the existing City center by providing for a variety of retail, office, restaurant and entertainment activities that are not automotive dependent. The purpose of this District is to encourage and promote the business use of the first floor of existing structures and to permit residential uses on upper stories. Screening, landscaping and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses.

The C-3, Business District is intended primarily for uses emphasizing higher intensity uses that tend to be auto dependent which are not well suited in the Neighborhood Shopping or Central Business District, but instead should be situated near major travel corridors.

The C-4 Commercial District is intended to isolate businesses that should not be located near residential areas because of their intensity or the nature of their services.

SECTION 8.02 TABLE OF USES

The following abbreviations apply to the Table of Uses:

- P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

- SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards contained in Chapter 16 and elsewhere in this Ordinance are met.

- NP: Not Permitted: The use is not permitted in the District.

Table of Uses	C-1	CBD	C-3	C-4
Accessory apartments on the upper floor of commercial uses	P	P	P	P
Accessory structures subject to Section 3.16	P	P	P	P
Outdoor or rooftop seating (see requirements below)	P	P	P	NP
Outdoor display (see requirements below)	NP	P	P	NP
Adult Uses	NP	NP	NP	SLU
Arcade (computer or video)	P	P	P	P
Art studio/craft shop	P	P	P	P
Bank or other financial institution without drive through facility	P	P	P	P
Bank or other financial institution with drive through facility	P	SLU	P	P
Banquet hall and/or conference center	SLU	SLU	SLU	SLU
Bed and Breakfast	SLU	P	NP	NP
Billboards	NP	NP	NP	P
Boarding house	SLU	SLU	NP	NP
Bus passenger or other transit station	SLU	SLU	SLU	NP
Catering establishment	NP	P	P	P
Clinics	P	P	P	P
Commercial day care center	SLU	NP	P	NP
Commercial mini storage	NP	NP	P	P
Contractor's office	P	P	P	P
Convenience store, with gasoline	SLU	NP	SLU	SLU
Convenience store, without gasoline	P	P	P	P
Drive through facility other than a restaurant (e.g., bank, credit union, pharmacy, dry cleaner)	P	NP	P	NP
Fraternal or social club or lodge	SLU	NP	NP	NP
Hotel/motel	SLU	P	P	NP
Kennel, commercial	NP	NP	SLU	P
Laundromat	P	P	P	P
Live/Work	P	P	NP	NP
Medical office	P	P	P	NP
Mortuary or funeral home	SLU	NP	P	SLU

Table of Uses	C-1	CBD	C-3	C-4
Medical Marihuana Facilities	NP	NP	SLU	NP
Open air business	NP	NP	SLU	NP
Pawn Shop	P	NP	P	P
Personal service establishment (e.g., salon, tailor, dry cleaning drop-off site, etc.)	P	P	P	P
Places of religious worship	SLU	NP	NP	NP
Professional offices (e.g., attorneys, accountants and dentists)	P	P	P	P
Recreation facility, indoor(e.g., bowling, billiards)	P	P	P	P
Recreation facility, outdoor(e.g., mini-golf, batting cages)	NP	NP	P	NP
Restaurant with drive-through facility	SLU	NP	SLU	P
Restaurant without drive-through facility	P	P	P	P
Retail building supplies and equipment stores with outdoor display and storage	SLU	NP	P	P
Retail	P	P	P	P
Tattoo Parlor	P	P	P	P
Tavern or pub	SLU	P	P	P
Vehicle repair	SLU	NP	P	P
Vehicle sales	NP	NP	SLU	SLU
Vehicle wash establishment	SLU	NP	P	P
Veterinary clinic	P	NP	P	P
Wind Energy Conversion systems, commercial	SLU	NP	SLU	NP
Wireless communication tower	SLU	NP	SLU	NP
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other structure, subject to overall height restrictions	P	P	P	NP

SECTION 8.03**LOT, YARD AND BUILDING REQUIREMENTS**

Requirement	C-1	CBD	C-3	C-4
Minimum Lot Area	4,000 sf	2,000 sf	10,000 sf	30,000 sq. ft
Minimum Lot Width	30 ft	20 ft	75 ft	150 ft.
Minimum Lot Depth	60 ft.	75 ft.	100 ft.	200 ft.
Lot Width to Depth Ratio	No more than 3 times deeper than the width	none	No more than 3 times deeper than the width	No more than 3 times deeper than the width
Maximum Lot Coverage	90%	100%	90%	90%
Minimum Front Setback	10 ft	Build to line is 0-2 ft.	20 ft., the first 10 feet of which shall be landscaped	30 ft., the first 10 feet of which shall be landscaped
Maximum Front Setback	15 ft.	Build to line is 0-2 ft.	50 ft.	50 ft.
Side Setback	10 ft.	None provided fire code is met	One side may be zero/ other side, 15 ft.	One side may be zero/ other side, 15 ft.
Minimum Rear Setback	20 ft.	5 feet from an alley. Otherwise, may be zero (if approved by the Zoning Administrator)	10 feet from an alley. Otherwise, may be zero (if approved by the Zoning Administrator)	40 ft.
Maximum Height	35 ft.	75 ft.	45 ft	45 ft.
Minimum Height	15 ft.	18 ft. must include a parapet wall	none	none
Minimum green space	10%	0%	10%	10%

SECTION 8.04 PARKING REQUIREMENTS

Use	Minimum Parking Requirements Spaces per Unit of Measurement GFA = gross floor area UFA = usable floor area
Accessory apartments as part of a commercial use	1 per dwelling unit
Adult Business	1 space per each 2 persons permitted under fire code.
Art studio/craft shop or cottage industry	1 space per 800 sq. ft. of GFA
Bank or other financial institution without drive-through facility	1 space per each 400 sq. ft. of GFA
Banquet hall and/or conference center and Catering establishment	1 space for every 4 persons by occupancy permitted in the structure by fire code
Bed and Breakfast	2 plus one per guest room
Bus passenger or other transit station	1 space per 200 sq. ft. of GFA
Boarding House	1 plus an addition space per 2 rooms
Commercial day care center	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial mini storage	1 space for every storage unit (adjacent to the units) plus 1 for each employee
Convalescent or nursing home	1 space per each 3 beds or 2 rooms, whichever is less, plus 10 spaces marked for visitors
Convenience stores	One space per 50 sq. ft. of GFA plus one per gas pump as applicable
Schools Elementary and middle (private)	2 per classroom
High schools (private)	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup shall be provided
Fraternal or social club or lodge	1 space for every 4 persons by occupancy permitted in the structure by fire code
Health or exercise club	1 space for every 6 persons by occupancy permitted in the structure by fire code
Hotel/motel	2 spaces for employees, plus 1 for each guest room
Indoor recreation facility	1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial	1 space for each 400 sq. ft. of UFA

Use	Minimum Parking Requirements Spaces per Unit of Measurement GFA = gross floor area UFA = usable floor area
Laundromat	1 space for each 2 machines
Medical office and Clinics	1 space per each 300 sq. ft. of GFA
Mortuary or funeral home	1 space per each 100 sq. ft. of UFA
Open air business	1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main building and associated accessory uses
Personal service establishments and Tattoo parlors	2 spaces per service provider
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Professional office	1 space per each 400 sq. ft. of GFA
Indoor recreation facility and Arcades	1 space for every 3 persons by occupancy permitted in the structure by fire code
Recreation facility, outdoor	1 space per each 2 miniature golf holes, plus 2 per each batting cage, plus 1 per each 100 sq. ft. of GFA of arcade space
Restaurant without drive through facility	1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes for the area devoted to indoor seating
Retail building supplies and equipment storage	1 space per each 300 sq. ft. of UFA
Retail establishments and Pawn Shops	1 space per each 300 sq. ft. of GFA
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises	1 space for every 3 persons by occupancy permitted in the structure by fire code
Vehicle repair, minor and major	1 space per service bay plus 1 space per employee
Vehicle sales	1 per each 300 sq. ft. of GFA in the showroom/ office, plus required spaces for accessory repair areas
Vehicle wash establishment	1 space per each 3 wash bays plus stacking as required by Chapter 15
Veterinary clinic	1 space for each 400 sq. ft. of UFA
Video rental and sales	1 for each 800 sq. ft. UFA plus 1 for each 2 employees
Wind Energy Conversion, commercial	1 space for service vehicles

- A. Bicycle Parking: In all commercial districts, the addition of one parking rack, capable of holding at least three (3) bicycles, will eliminate the need of three required parking spaces.
- B. Joint Use of Parking Areas: The joint use of parking facilities by two or more uses may be allowed whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.
 - 1. Computing Capacities: In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time each day. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced by the Planning Commission below the same total of the individual space requirements.
 - 2. Record of Agreement: A copy of an agreement between joint users shall be provided to the City. The agreement shall include provisions which assure continued long-term use and maintenance of the parking facility by each party, and their successors in interest, including owners and occupants of the premises which are served by the parking facility.

SECTION 8.05 DEVELOPMENT STANDARDS

See Chapter 13.

SECTION 8.06 PARKING LOCATION

- A. Off-street parking facilities in the CBD shall not be located in any required front yard.
- B. Parking minimums are not required in the CBD.
- C. Off-street parking facilities in the C-3 and C-4 Districts shall be primarily provided in side or rear yards.

SECTION 8.07 DESIGN STANDARDS

In the CBD, Central Business District:

- A. Buildings shall possess architectural variety, but create an overall cohesive community character. Architectural features of the buildings shall include details and ornaments such as archways, colonnades and cornices. Building entrances shall utilize windows, canopies and awnings. High-gloss, or bubble awnings are prohibited.

- B. Roofs shall be flat or hip, unless an alternate roof is approved by the Planning Commission. Flat roofs shall have a parapet wall.
- C. The first floor of the front face of all commercial and office buildings shall have:
 - 1. A minimum of 50%, non-reflective glass;
 - 2. A minimum of 50% brick, colored split block or stone (or composites mimicking brick or stone) or split block on the remaining surface area of the first floor.
 - 3. In no case shall vertical siding, standard concrete blocks or sheet metal be considered an acceptable outdoor wall covering on the front face of a building.
 - 4. The Planning Commission may consider other design alternatives as part of the site plan review process as long as the spirit of this section is addressed.
- D. Site amenities may be required by the Planning Commission as part of site plan review process and may include but not be limited to: bike racks, benches and trash receptacles.

SECTION 8.08 OUTDOOR AND ROOFTOP SEATING

Outdoor and rooftop seating in the CBD Central Business District are encouraged as a means to create vibrancy in the City center. Seating shall adhere to the following:

- A. A site development plan shall be provided to the Zoning Administrator for review and approval, or the seating area may be reviewed as part of the site plan review and approval process with the Planning Commission.
- B. The area devoted to outdoor seating shall be ancillary to the main use of an indoor restaurant, pub, bakery, coffee shop, delicatessen, specialty food store, or similar establishment.
- C. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of five (5) feet of sidewalk along the curb and leading to the entrance to the establishment shall be maintained free of tables, chairs, and other encumbrances.
- D. The seating area shall be limited to the area directly in front of the permitted use to which the seating area is accessory and shall not extend into adjoining sites.
- E. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the main building.

- F. Outdoor seating areas shall be landscaped and may be required to be walled or fenced off from other activity areas.
- G. Outdoor amplification shall not be disruptive to surrounding uses.
- H. The area devoted to outdoor service shall not encroach upon or extend over any required parking, public alley or right-of-way unless approved by the City Council.
- I. The outdoor seating area shall not obstruct visibility of on-coming pedestrians or vehicular traffic.
- J. The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.
- K. Roof seating shall comply with the building code.

SECTION 8.09 OUTDOOR DISPLAY

- A. A site development plan shall be provided to the Zoning Administrator for review and approval, or the display area may be reviewed as part of the site plan review and approval process with the Planning Commission.
- B. Merchandise sold and/or displayed shall be accessory to the business conducted within the primary structure and shall be owned, leased or operated by the same individual(s) or business(es) occupying the primary structure.
- C. Outdoor display and sales shall not be located in any required parking or circulation area, loading area, access way, required setback, landscaping or applicable clear vision triangle.
- D. Outdoor sales and display shall be prohibited on public land or public right-of-way unless approved by the City Council.
- E. Display areas shall maintain adequate clear area for safe pedestrian circulation along any pedestrian route.
- F. The area devoted to outdoor display shall be kept in a neat and orderly manner at all times.
- G. No items shall be stored, displayed, or stacked above a height of five (5) feet.

SECTION 8.10 PERMITTED SIGNS

- A. The following signs are permitted in the C-1 and CBD Commercial Districts:

1. One (1) non-illuminated real estate sign not exceeding twenty-four (24) square feet in area per lot.
 2. On-site political signs not exceeding twenty four (24) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within ten (10) days of the election.
 3. One (1) projecting sign of up to 16 square feet per lot.
 4. Wall signs of up to ten (10) percent of the area of front face of the first floor of the building. The wall sign allotment may be placed on any building face. Awning signs shall be considered as part of the wall sign allotment.
 5. Roof signs are prohibited.
- B. In the C-3 and C-4 Districts One free standing sign. Such signs shall not exceed twenty (20) feet in height as measured from the average grade of the road or roads upon which the business fronts and shall have a maximum surface area of thirty-two (32) square feet.
- C. See also Section 13.11-13.14 for sign regulations applicable to all Districts.

CHAPTER 9 PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 9.01 STATEMENT OF PURPOSE

The purpose of the PUD District is to permit coordinated development on larger sites in order to achieve the following:

- A. Permit flexibility in the regulation of land development allowing for higher quality of projects through innovation in land use, variety in design, layout, and type of structures constructed.
- B. Provide the opportunity to mix compatible uses or residential types.
- C. Allow clustering of residential units to preserve common open space, or natural features.
- D. Ensure compatibility of design and function between neighboring properties.
- E. Promote efficient provision of public services, utilities and transportation facilities.
- F. Provide convenient vehicular access throughout a development and minimize adverse traffic impacts.
- G. Provide complete non-motorized circulation to, from and within developments.
- H. Provide adequate housing and employment opportunities.
- I. Encourage development of convenient recreational facilities as an integral part of residential developments.
- J. Ensure the type, scale and mass of uses and structures will relate harmoniously to each other and to adjoining existing and planned uses.
- K. Encourage development that is consistent with the goals stated within the City of Muskegon Heights Master Plan.

These Planned Unit Development regulations are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the City, assure a superior quality of development. If this improved quality is not clearly apparent upon City review, a site shall not qualify for the modifications allowable under this Chapter.

SECTION 9.02 ELIGIBILITY CRITERIA

- A. To be eligible for Planned Unit Development approval, the applicant shall demonstrate that all of the following criteria will be met:
 - 1. The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district:
 - a. Preservation of significant natural features or historic resources.

- b. Preservation of open space.
 - c. A complementary mixture of uses or a variety of housing types.
 - d. Common open space for passive or active recreational use.
 - e. Redevelopment of a nonconforming site where creative design can address unique site constraints.
2. Landowners involved in a proposed Planned Unit Development shall provide to the City a signed agreement among all involved parties, which is approved by the City's attorney that indicates all such landowners' agreement with the PUD development.
 3. When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of users of the open space community and the residents of the surrounding area.

SECTION 9.03 TYPES OF PUDS

An application meeting the eligibility criteria may be rezoned to the PUD District based on the requirements shown in the following table and appropriate requirements contained elsewhere in this Ordinance. The rezoning shall be concurrent with the approval of a preliminary PUD plan. The PUD designation shall be noted in the application and on the Official Zoning Map upon approval.

The Planning Commission shall make a recommendation to the City Council, regarding a list of permitted uses that shall be finalized by the City Council and incorporated as part of the PUD agreement, based upon the provisions of the following table and this Chapter.

PUD DESCRIPTIONS				
PUD District	Minimum PUD Size	Locations Allowed	Permitted Uses	Percentage Open Space Required
Residential (RPUD) Standards under Sec. 9.04	5 acres	Where pre-PUD zoning is a R-1	Residential uses permitted in the pre-PUD zoning district with additional uses as provided in this Chapter.	20%
Mixed Use (MPUD) Standards under Sec. 9.05	None	Where pre-PUD zoning is CBD	Residential, commercial, office, recreational, and additional uses provided in this Chapter.	10%

SECTION 9.04 RESIDENTIAL PUD (RPUD) STANDARDS

- A. The purpose of the RPUD is to promote neighborhood development which provides a variety of single-family housing opportunities in addition to small scale multiple family uses. RPUD developments are intended to integrate pedestrian and cyclist links among neighborhoods and to public facilities.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the City Council (upon recommendation of the Planning Commission) shall determine appropriate lot dimensions and building and lot requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD.
- C. The PUD may also include any Special Land Uses permitted in the R-1 Zoning District. The list of allowed uses shall be established in the PUD agreement.
- D. Design Standards
 - 1. Public dead-end or cul-de-sac streets are to be discouraged; however, they are acceptable on private streets. Eyebrow, court, or stub streets are preferred for public streets.
 - 2. Where adjoining areas are not subdivided, the arrangement of streets within the proposed RPUD shall be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
 - 3. The Planning Commission may recommend and the City Council may require that the development provide such amenities as bus stops or bus turnouts.
 - 4. Open space areas shall adhere to the requirements of Section 9.07.
 - 5. See also Chapter 13 for appropriate development standards.
- E. Adaptive Reuse PUDs (see table following)

The Intent of pre-zoned planned unit development (PUD) districts is to facilitate the appropriate redevelopment of sites that may no longer be needed for their original purpose, yet they have great potential for adaptive reuse. In particular, is the desire of the City to redevelop historic schools because of their importance to community character and their role in "place making". Excess land on school campuses may be utilized for certain kinds of housing, but it is the desire of the City to maintain outdoor playground areas for residents.

School structures are hereby declared to meet the design standards of Section 7.06.

Table of Uses	PUD-1 Roosevelt	PUD-2 Glendale	PUD-3 Central	PUD-4 Grace Loftis	PUD-5 Lindbergh	PUD-6	PUD-7 MFC	PUD-8
Single Family Homes and townhouses	P	P	P	P	P	P	P	P
Convalescent or nursing home	P	P	P	P	P	P	P	NP
Elderly housing (apartments)	P	P	P	P	P	P	NP	NP
Elementary, middle & high school	P	P	P	P	P	P	P	NP
Park, playground or non-profit community center	P	P	P	P	P	P	P	NP
Medical or dental clinics, fitness center & associated facilities	P	P	P	P	P	P	P	P
State licensed residential facility <i>Large Group Home Care Facility</i>	P	P	P	P	P	P	P	NP
Homeless Shelter except a halfway house	NP	NP	NP	NP	P	NP	P	NP
Human Service Center	P	P	P	P	P	P	P	NP
Commercial business incubator and farmers market	NP	P	P	NP	P	P	NP	P
Non-offender, single room occupancy dorms with on-site, 24- hour supervision	NP	P	NP	NP	P	NP	NP	NP
Existing auto services	NP	NP	NP	NP	NP	NP	P	NP
Day Care Center	P	P	P	P	P	P	P	P
Multi-family development and all uses permitted in the CBD	NP	P	P	P	P	P	NP	P
Small scale businesses that service the neighborhood (dry goods, office use, personal service establishments, etc.)	P	P	P	P	P	P	P	P
Industrial Uses	NP	NP	NP	NP	NP	P	NP	NP

SECTION 9.05 MIXED USE PUD (MPUD)

- A. A Mixed Use PUD shall include a mixture of uses that are considered to be consistent with the Master Plan. A minimum of forty percent (40%) of the PUD land area shall be occupied by residential or recreational uses. The list of uses allowed shall be established in the PUD approval.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission shall make a recommendation and the City Council shall determine the appropriate lot dimensions and building and yard requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD.
- C. Site Design Standards
 - 1. The applicant shall demonstrate that the proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.
 - 2. Dead-end or cul-de-sac streets serving the development are discouraged. Eyebrow, court, or stub streets are preferred.
 - 3. Where adjoining areas are not subdivided, the arrangement of streets within the proposed MPUD may be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
 - 4. To encourage a true integration of mixed uses and improved efficiency in land use, the overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips.
 - 5. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be located within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.
 - 6. The Planning Commission may recommend, and the City Council may require, that the development provide amenities such as bus stops or bus turnouts.
 - 7. Open space areas shall adhere to the requirements of Section 9.07.
 - 8. Building design shall meet the standards of the underlying District.
- D. Driveway Access and Circulation
 - 1. Access may be limited to one (1) major entrance along any major street, excluding any entrance designed solely for truck traffic. Additional access points shall only be considered if spaced at least five hundred (500) feet apart and a traffic impact study is

provided to the City that demonstrates overall traffic operations and safety will be improved.

2. Main access points shall be spaced from existing signalized intersections to ensure proper spacing and efficient flow of traffic if the main access point might be signalized in the future.
3. The site design shall direct traffic flow to use the main access points. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes without conflict to inbound or internal circulation. Interior drives shall provide adequate circulation between uses.
4. Additional road right-of-way may be required by the City to accommodate improvements to the existing arterial roadway system that are planned or required to mitigate traffic associated with the PUD.

SECTION 9.06 **OPEN SPACE REQUIREMENTS FOR ALL PUDS**

- A. All PUDs shall meet the following requirements for open space.
1. Designated open space shall be set aside through an irrevocable conveyance, approved by the City Attorney, such as a recorded deed restriction, covenants that run perpetually with the land, a conservation easement, or dedication to a land trust. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further use of open space for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require City Council approval, and shall not diminish compliance with the requirements of this Chapter.
 2. Nothing herein shall prevent the conveyance of open space to a public agency or other nonprofit entity for recreational or conservation use.
 3. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
 4. The open space and access to it shall be permanently marked and designed so individuals in the development need not trespass to reach recreational or common open spaces.
 5. The following land areas shall not be included or counted as dedicated open space for the purposes of meeting minimum open space requirements:
 - a. Area proposed as residential lots.
 - b. Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
 - c. The area of any street right-of-way or private street easement.

- d. Surface water, detention or retention basins, unless designed to have the appearance of a natural wetland, in which case they may be counted for up to fifty percent (50%) of the required open space.
 - e. Parking and loading areas except those exclusively associated with a recreation facility or common open space area.
 - f. Open water.
 - g. Any other undeveloped areas not meeting the intent and standards for open space stated in this section, as determined by the Planning Commission.
6. On-site common open space shall be planned in locations visible and accessible to all in the development. The Planning Commission shall determine if the proposed open space is usable and functional. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent uses, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
- a. Any significant natural features.
 - b. At least one-third (1/3) of the required common open space shall be usable open space for the residents of the development.
 - c. Open space, except for where trails and bike paths are located, shall have minimum dimensions of one hundred (100) feet on any side.
 - d. Where an open space preservation development abuts a body of water, at least fifty percent (50%) of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.
 - e. A minimum twenty-five (25) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the City Council may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 - f. Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space developments shall be constructed to allow future interconnection.

SECTION 9.07 PUD REVIEW PROCESS

A. Pre-Application Meeting

- 1. An applicant for a Planned Unit Development shall attend a pre-application meeting with staff members, or consultants if the Zoning Administrator deems advisable. This pre-application meeting shall not constitute a quorum of the Planning Commission.

2. The purpose of the pre-application meeting is to determine general compliance with PUD eligibility and design requirements, and to identify issues of significance regarding the proposed application.
 3. If the applicant proceeds with the PUD application, a report on the findings of the pre-application meeting shall be forwarded to the Planning Commission by the Zoning Administrator.
- B. The applicant shall prepare and submit to the City a request for rezoning to the appropriate PUD designation, including appropriate fees, ten (10) copies of a preliminary PUD site plan meeting the requirements of Chapter 14, and a narrative which details how the plan relates to the Intent and purpose of the PUD District, phases of development, and approximate time frames for each phase. Materials shall be submitted at least forty-five (45) days prior to the meeting at which the Planning Commission shall first review the request.
 - C. During the PUD review process, the Zoning Administrator may recommend, and the City Council or Planning Commission may require additional information from the applicant it determines is reasonably necessary to demonstrate compliance with the review standards of this Chapter. This information may include, but not be limited to, soil reports, hydrological tests, traffic studies or wetland determinations.
 - D. In addition to the pre-application meeting, a workshop may be required by the Planning Commission, or, if not required, the workshop may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal.
 - E. The Planning Commission shall review the PUD rezoning request, the preliminary PUD site plan and conduct a public hearing in accordance with the requirements of the Zoning Act, and the public hearing shall be preceded by public notice as specified Section 17.10.
 - F. The Planning Commission shall review the preliminary PUD site plan in consideration of public hearing comments, technical reviews from City staff, and other comments from consultants and applicable review agencies, and compliance with the standards and requirements of this Ordinance. The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the PUD rezoning request and preliminary site plan.
 - G. The recommendation to the City Council shall be based on the following standards:
 1. The PUD shall satisfy the Statement of Purpose of Section 9.02.
 2. The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area. Architecture should provide coordinated and visually appealing styles, building forms and building relationships.
 3. The PUD shall be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, water supply and sewage facilities.
 4. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.

5. The design of the PUD shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
 6. Natural features shall be preserved, insofar as practical, by removing only those areas of natural vegetation or making those alterations to the topography which are reasonably necessary to develop the site.
 7. Natural drainage ways shall be preserved insofar as practical, by minimizing grading, tree and soil removal in and adjacent to natural drainage swales.
 8. Slopes of over fifteen percent (15%) are protected and maintained in a natural state.
 9. The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural features in comparison to the impacts associated with a conventional development.
 10. The proposed development shall not have an adverse impact on future development as proposed in the Master Plan of the City.
 11. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Zoning Ordinance.
 12. The proposed development shall adequately consider pedestrian and cyclist safety and circulation, and tie sidewalks, paths and trails into public facilities and adjoining properties.
- H. Following receipt of the Planning Commission's recommendation, the preliminary PUD site plan shall be considered by the City Council.
- I. If the application and associated site plan review packet is determined to be insufficient, does not fully respond to Planning Commission issues or more information is required, the City Council may direct the applicant to prepare additional information, revise the PUD plan or direct the City staff or consultants to conduct additional analysis. The application shall not be considered until the information has been submitted.
- J. If the City Council believes there is new information that might modify the recommendation of the Planning Commission or if the City Council does not follow the recommendation of the Planning Commission, the application may be returned to the Planning Commission for the Planning Commission's reconsideration. The Planning Commission shall provide a new recommendation to the City Council within sixty (60) days after the City Council's referral. No additional public hearings are required by the Planning Commission.
1. The City Council shall also hold a public hearing on the PUD rezoning request and the preliminary PUD site plan and shall provide public notice as specified Section 17.10.
 2. Approval or Approval with Conditions
 - a. Upon determination that a PUD and site plan request is in compliance with all of the standards and requirements of this Ordinance and other applicable City

ordinances and laws, the City Council shall approve the PUD rezoning and the preliminary PUD site plan.

- b. The City Council may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. The applicant shall submit to the City a revised PUD site plan that demonstrates compliance with the conditions.
 - c. Approval of the PUD shall constitute approval of the rezoning and the Zoning Map shall be changed to indicate the zoning of the property to the appropriate PUD District.
3. Denial: Upon determination that a PUD rezoning or site plan does not comply with all of standards and regulations set forth in this Ordinance or other City ordinance, or requires extensive revision in order to comply with the applicable standards and regulations, the City Council shall deny the PUD application. Re-submittal of a denied application shall be considered a new application.

SECTION 9.08 FINAL APPROVAL

- A. Final PUD site plans shall be submitted to the City for review and approval in accordance with the Site Plan Review provisions of this Ordinance. If final PUD site plans for at least the first phase of the project are not submitted and approved within a two (2) year period from the approval of the PUD rezoning, the right to develop under the approved PUD preliminary site plan shall terminate and a new application must be filed.
- B. In reviewing a final PUD site plan, the following standards and requirements shall apply:
1. Final PUD site plans shall be in substantial conformance with the approved PUD preliminary plan.
 2. Each final PUD site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this Chapter and the approved PUD preliminary plan regarding layout, density, open space and land use.
 3. Each final PUD site plan submission shall include a map illustrating the site or phase in relation to previously approved plans and the overall PUD.
 4. Any requested amendment to the approved Agreement, as provided for in Section 9.11, shall be submitted for review by the City Attorney and must be approved by the City Council.

SECTION 9.09 TIME EXTENSIONS

The two (2) year time period for the validity of the preliminary PUD approval may be extended for one (1) year, if applied for in writing through the Zoning Administrator by the petitioner prior to the expiration of the PUD preliminary plan approval, and granted by the City Council, provided that the reasons for the delay are beyond the general control of the applicant.

SECTION 9.10 REVISIONS TO APPROVED PUD PLANS

- A. The Zoning Administrator may approve certain minor deviations to an approved PUD site plan when an applicant or land owner who was granted PUD site plan approval notifies the Zoning Administrator of the proposed amendment to the approved PUD site plan in writing, accompanied by a PUD site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.
- B. Within fourteen (14) days of receipt of a request to amend the site plan, the Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.
- C. The Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the Agreement, would not reduce the area devoted to open space, and all applicable regulations of this Ordinance will still be met. The Zoning Administrator shall inform the Planning Commission and City Council of the approval in writing.
- D. The Zoning Administrator shall consider the following when determining a change to be minor:
 - 1. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback.
 - 2. Gross floor area of non-residential buildings may be decreased; or increased by up to ten percent (10%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met and the building does not extend into any required open space or required setback.
 - 3. Floor plans may be changed if consistent with the character of the use.
 - 4. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.
 - 5. Height of buildings may be lowered.
 - 6. Designated woodlands or areas not to be disturbed may be increased.
 - 7. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced at the equivalency of a caliper-per-caliper basis on the site.
 - 8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
 - 9. Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Building Official.
 - 10. Grade change of up to two (2) feet, after review by the City Engineer.

11. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan.
 12. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
 13. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan.
 14. Changes required or requested by the City, county or state for safety reasons.
- E. Where the Zoning Administrator determines that a requested amendment to the approved site plan is major, re-submittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved preliminary PUD site plan, a new preliminary PUD site plan shall be submitted according to the procedures outlined in this Chapter as a new application. In all cases, a change in use to a more intensive use than approved in the preliminary PUD plan shall be considered major and require submission of a new preliminary PUD site plan for review and approval by the City.
- F. Decisions granting PUD approval or denial or any PUD regulatory modifications are not subject to variance or other approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals nor shall an application for a variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance for that particular lot following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan or a matter expressly addressed in the PUD or site plan approval and otherwise meets the review standards applicable to variances in this Ordinance.

SECTION 9.11 DEVELOPMENT AGREEMENT

- A. Prior to any site preparation or the issuance of any zoning approval permit, the applicant shall submit a proposed PUD Development Agreement stating the conditions upon which PUD approval is based, for review and approval by the City. The Agreement, after review by the City Attorney and Planning Commission, and approval by the City Council, shall be entered into between the City and all landowners and be recorded with the County Register of Deeds.
- B. At a minimum, the Development Agreement shall provide:
1. A certified boundary survey of the acreage comprising the proposed development.
 2. Proof of property control and the manner of ownership of the developed land and the manner of the ownership and of dedication common areas in additions to a mechanism to protect any designated common open areas.
 3. Satisfactory provisions to provide a performance guarantee for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development.
 4. Provisions to ensure adequate protection of natural features.

5. A copy of the approved preliminary PUD site plan signed by the applicant and the Mayor or appointed designee.
6. Such other matters as are required by the City.

SECTION 9.12 **PERFORMANCE GUARANTEES**

The City Council may require one or more performance guarantees in accordance with Section 17.04 to insure compliance with the approved PUD.

CHAPTER 10 FLOODPLAIN OVERLAY DISTRICT

SECTION 10.01 STATEMENT OF PURPOSE

It is the purpose of this Chapter to significantly reduce hazards to persons and damage to property as a result of flood conditions in the City of Muskegon Heights and to retain the storm water retention capabilities of existing natural systems helping to prevent the need for significant public investment for man-made drainage systems.

SECTION 10.02 DELINEATION OF THE WATER AND FLOODPLAIN OVERLAY DISTRICT

- A. The Water and Floodplain Overlay District shall overlay existing Zoning Districts delineated on the Official City of Muskegon Heights FEMA Map. The term “Floodplain” as used in this Ordinance shall mean the Water and Floodplain Overlay District and shall be the designated regulatory flood plain.

- B. When a development approval is requested for any use requiring site plan review (e.g., multi-family development, planned unit development or site condominium), the location of the Water and Floodplain Overlay District boundary shall be determined as follows:
 - 1. The City shall be provided with accurate topographic data for the site in addition to information addressing storm water storage and flooding potential of the area. The submitted information shall be sealed by a registered civil engineer.

 - 2. The City Engineer shall advise the City regarding the submitted site information and whether or not relocating the district boundary on the piece of property will negatively affect flooding and storm water storage potential on the subject property or for upstream and downstream properties.

- C. In addition to other requirements of this Ordinance applicable to development in the underlying Zoning District, compliance with the requirements of this Chapter shall be necessary for all development occurring within the Water and Floodplain Overlay District. Conflicts between the requirements of this Chapter and other requirements of this Ordinance or any other Ordinance shall be resolved in favor of this Chapter, except where the conflicting requirement is more stringent and would further the objectives of this Chapter. In such cases, the more stringent requirement shall be applied.

SECTION 10.03 PERMITTED PRINCIPAL USES

Notwithstanding any other provisions of this Ordinance, no building or structure shall be erected, expanded, converted, or structurally altered, and no land and/or structure shall be used in the Floodplain except for one or more of the following uses:

- A. Farming, gardening, and horticulture;

- B. Open recreational uses such as parks, playgrounds, playfields, athletic fields, nature center and nature paths; or
- C. In the area within Water and Floodplain Overlay District, land may be used to supply open space or lot area requirements of a lot partially located outside, provided, however, no building or structure shall be located within the Floodplain.

SECTION 10.04 ACCESSORY USES OF PRINCIPAL AND SPECIAL LAND USES

- A. Within the Water and Floodplain Overlay District, off-street parking is permitted as a use accessory to a main use provided no fill is brought to the site for such parking areas.

SECTION 10.05 USES REQUIRING SPECIAL LAND USE PERMIT

The following uses are allowed in the Water and Floodplain Overlay District when approved as a Special Land Use pursuant to the procedures described herein and as provided in Chapter 16 (Special Land Uses):

- A. In the area within the Water and Floodplain Overlay District, dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the flood plain, the flow and impoundment capacity of the flood plain will be maintained or improved, and unless all applicable state regulations are met.
- B. In the area within the Water and Floodplain Overlay District, the construction or location of bridges, outdoor play equipment, bleachers and similar outdoor equipment and appurtenances is prohibited unless such elements would not cause an increase in water surface elevation, obstruct flow or reduce impoundment capacity of the flood plain. In addition, all equipment shall be anchored to prevent flotation and lateral movement. Approval of a Special Land Use Permit for any of the above shall be subject to an engineering finding by a registered engineer that the above requirements are satisfied.

SECTION 10.06 OFF-STREET PARKING AND LOADING

See parking requirements of the respective uses in the underlying zoning district.

SECTION 10.07 SIGNS

See sign regulations of the respective uses in the underlying zoning district.

SECTION 10.08 UTILITIES

All on-site new and replacement water and sewer systems and appurtenances in the Floodplain shall be located and designed to minimize infiltration of flood waters and constructed to Muskegon County Health Department standards so as to avoid impairment that might otherwise result from flooding.

SECTION 10.09 ALTERATION OF WATERCOURSES

No alteration of any watercourse in the Water and Floodplain Overlay District shall be undertaken unless and until neighboring communities and the Michigan Department of Natural Resources and the Environment (or successor agency) shall have first been notified and provided with detailed plans and specifications prepared by a registered engineer. Such plans shall show full compliance with local ordinances, state statutes, state regulatory agencies, and federal regulations and shall make provisions for maintaining the full carrying capacity of the altered water course.

SECTION 10.10 DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes. Approval of the use of land under this Chapter shall not be considered a guarantee or warranty of safety from flood damage. This Ordinance does not imply that areas outside the Water and Floodplain Overlay District will be free from flood damage. This Ordinance does not create liability on the part of City of Muskegon Heights or any officer or employees thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made.

CHAPTER 11 MANUFACTURED HOME COMMUNITY

SECTION 11.01 INTENT AND PURPOSE

The purpose of this District is to allow for the establishment of manufactured home communities and related accessory uses. A manufactured home community shall comply with all applicable procedures and requirements of the Manufactured Home Commission Act, 419 of 1976, as amended, and the Michigan Administrative Code.

SECTION 11.02 TABLE OF USES

The following abbreviations apply to the Table of Uses for the MHD District:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards in Chapter 16 are met.

Table of Uses

Table of Uses	MHD
Accessory structures and uses as defined in Chapter 2 and subject to Section 3.15	P
Convalescent or nursing home	SLU
Elementary, middle and secondary schools (private)	SLU
Home occupations subject to Section 3.22	P
Manufactured home community	P
Parks, playgrounds and community centers	P
Places of religious worship	SLU
Public and utility service buildings	SLU
Utility substations, transmission lines and switching stations	SLU
Wireless communication towers	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other existing structure, subject to District height restrictions	P

SECTION 11.03 DEVELOPMENT REQUIREMENTS

Application and Review Requirements. Application and review requirements for the MDH District shall be the same as those required for Site Plan Review in Chapter 14. No application shall be accepted unless in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator.

SECTION 11.04 LOT, YARD AND BUILDING REQUIREMENTS

Regulation		Individual Manufactured Home Sites*
Manufactured Home Community	Minimum lot size required for the development – 40 acres	
Industrial Manufactured Home Site	Area/Dwelling Unit	5,000 sq. ft.
	Width (ft.)	40 ft.
Setback Requirements	Front Yard	50 ft. for the park, 5 ft. for individual sites
	Side Yard (1/total of 2)	50 ft. for the park, 10/30 for individual sites
	Rear Yard	50 ft. for the park, 15 ft. for individual sites
Building Requirements	Maximum Building Height (Stories/ft.)	2/35 for community buildings; 1/15 for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

*All other uses shall have a minimum front and rear yard setback of forty (40) feet and side yard setbacks of twenty (20) feet.

SECTION 11.05 PARKING REQUIREMENTS

Use	Parking Requirement Spaces per Unit of Measurement
Residential	
Elementary, middle and secondary school, private	4 per classroom or amount required for the auditorium or place of assembly, whichever is greater; separate areas for student drop off and pickup areas for buses shall be provided
Manufactured home community	2 spaces per manufactured home site, plus 1 space per each 5 home sites for use of visitors, plus 1 space for each 300 sq. ft. UFA in the office area
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Park, playground and community center	10 per each athletic field, plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Wireless communications tower	1 space per tower

A. Location of parking

1. Manufactured Home Community: The off-street parking facilities required for a single home site shall be located on the same lot as the dwelling unit they are intended to serve. Parking is limited to the garage/carport and driveway only. Required parking spaces provided for visitors shall be evenly distributed throughout the development.
2. Non-residential Uses: The off-street parking facilities required for non-residential uses shall not be located in the required front yard area. The respective side and rear yard setback common to an adjacent Residential District or use shall be a minimum of thirty (30) feet of which ten (10) feet nearest the respective property line shall be developed as a buffer strip in accordance with Section 14.04. The buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining the Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining the Residential District or use. The required buffer strip shall incorporate a minimum six (6) foot high vertical screen.

SECTION 11.06 SIGNS

General sign regulations are listed in Section 14.13. The following signs are permitted in the Manufactured Home Community District:

- A. Residential entrance way signs (of up to thirty-two (32) square feet) are permitted for residential developments. One (1) sign for each major public street frontage may be provided. Signs shall not exceed eight (8) feet in height.
- B. Internally illuminated monument signs of up to twenty four (24) square feet for institutional uses such as places of religious worship, schools and parks. Signs shall not exceed eight (8) feet in height.
- C. One (1) non-illuminated sign advertising the sale or rental of the building on the premises not exceeding six (6) square feet in area.
- D. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
- E. On-site political signs not exceeding twelve (12) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and shall be removed within ten (10) days of the election.
- F. See also Section 13.11-13.14 for sign regulations applicable to all Districts.

CHAPTER 12 INDUSTRIAL DISTRICTS

SECTION 12.01 INTENT AND PURPOSE

The regulations of the I-1 District are intended primarily for light industrial uses which do not generate hazardous materials. The district is established to encourage operations which manufacture, compound, process, package, treat and assemble products from previously prepared materials. The I-2 District is intended to isolate intense industrial operations from residential areas.

SECTION 12.02 TABLE OF USES

The following abbreviations apply to the Table of Uses:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards cited in Chapter 16 are met.

NP: Not Permitted: The use is not permitted in the District.

Table of Uses	I-1	I-2
Assembly of paperboard containers, building paper, building board, and bookbinding	P	P
Governmental facilities	P	NP
Laboratories including experimental, film, and testing	P	P
Lumber and wood products including millwork, prefabricated structural wood products and containers	P	P
Manufacturing facilities, including tool and die	P	P
Motor freight transportation/trucking terminal	P	P
Stamping operations	NP	P
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods	P	P
Saw mills	P	P
Sales as part of an industrial operation	P	P
Asphalt, cement or chemical plants	NP	P
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products and warehousing	P	P
Medical Marihuana Facilities	SLU	SLU

SECTION 12.03 LOT, YARD, AND BUILDING REQUIREMENTS

Requirement		I-1	I-2	
Minimum Lot Requirements	Area	1 acre	2 acres	
	Width	100 ft.	100 ft.	
	Maximum width-to-depth ratio	1:3	1:3	
	Maximum Lot Coverage	85%	85%	
Minimum Setback Requirements	Front*	30 ft, 15 of which shall be landscaped	30 ft, 15 of which shall be landscaped	
	Side	Side	10 ft.	10 ft.
		Adjacent to Residential District	20 ft.	20 ft.
	Rear	20 ft.	20 ft.	
Building Requirements	Maximum Height	75 ft.	75 ft.	
Design Requirements	See Industrial Park Restrictive Covenants adopted by the City for Design Requirements		none	

SECTION 12.04 PARKING REQUIREMENTS

Use	Minimum Parking Requirements Spaces per unit of measurement GFA = gross floor area UFA = Usable Floor area
Accessory office areas related to main uses	1 space per each 300 sq. ft. of UFA
All other industrial uses	1 space for each 1,000 sq. ft. or one space for every employee on the largest shift All other industrial uses(whichever is greater) <u>plus</u> those spaces required for offices located on the premises

- A. Parking areas adjacent to the street and adjacent to residential uses or zones shall be screened with either a buffer zone. The buffer shall be fifteen (15) feet commencing from a sidewalk for the entire length of the parking area. The buffer zone shall comply with the standards of Section 14.04 of the ordinance. As an

alternative, the Planning Commission may approve a three (3) foot high wall in a five (5) foot buffer.

- B. The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table and shall meet the dimensional requirements of Chapter 14, in addition to all lighting, loading spaces and landscaping standards.

SECTION 12.05 DEVELOPMENT STANDARDS

See also Chapter 13 for appropriate development standards.

SECTION 12.06 SIGNS

- A. The following signs are permitted in the Industrial District:
 - 1. Signs shall pertain exclusively to the public use carried on the property.
 - 2. Signs may be illuminated, provided that the source of light is directed in a manner that will prevent light from shining directly onto traffic or neighboring properties.
 - 3. Monument and electric message board signs are permitted of up to fifty (50) square feet. In a campus setting, one sign may be permitted per street frontage.
 - 4. Signs shall not exceed six (6) feet in height.
 - 5. Signs shall be setback from the street right-of-way a minimum of five (5) feet and from side property lines a minimum of ten (10) feet.
 - 6. A sign attached to a mansard shall be considered a wall sign.
- B. See also Section 13.11-13.14 for sign regulations applicable to all Districts.

CHAPTER 13 DEVELOPMENT STANDARDS

SECTION 13.01 DUMPSTERS AND SITE LIGHTING

A. Dumpsters

1. Outdoor trash containers or dumpsters exceeding one hundred and fifty (150) gallons in capacity shall be permitted only in the Nonresidential Districts and for multiple family uses, provided that they comply with this section, except that these structures may be permitted for reasonable periods on any properties undergoing construction activities. The placement of the container shall be included in the submitted site plan.
2. Adequate vehicular access shall be provided to the containers for truck pickup either via a public alley or vehicular access aisle that does not conflict with the use of off-street parking areas or entrances to or exits from main buildings.
3. A solid, ornamental screening wall or fence shall be provided around all sides of the containers. An access gate shall also be provided and be of the height that completely screens the containers. The maximum height of walls, fence or gate shall be six (6) feet.
4. The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.

B. Site Lighting

1. Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any residential use.
2. Lighting may be required for public safety purposes.
3. Light fixtures shall be no higher than thirty (30) feet and shall be provided with light cut-off fixtures that direct light downward.
4. Lighting attached to buildings or other structures shall not permit light to be directed horizontally.
5. Lights used for canopies for uses such as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.
6. Pedestrian-scale lighting is allowed on site to provide safety for non-motorized transportation.

SECTION 13.02 LANDSCAPING

- A. It is the intent of this Ordinance to protect existing site vegetation as a means of retaining community character. Significant site vegetation, including landmark trees shall be protected as much as practical and noted for protection on the site plan. If existing plant material is labeled “to remain” on a site plan by the applicant or is required by the City, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed prior to grading and construction activities. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved.
- B. At least 10% of any site subject to site plan review shall be landscaped. Protecting existing trees on site may be considered in lieu of required landscaping. Landscaping materials shall contain groundcover and live materials. Pavement gravel or other hard surfaces are not considered landscaping. A required greenbelt shall be a strip at least ten (10) feet in width.
- C. The frontage of any development shall provide minimum of (1) canopy tree, of at least five (5) feet in height for every fifteen (15) feet of length of road frontage.
- D. Green Infrastructure – Stormwater must be stored on site to the extent possible. The addition of bioswales and rain gardens are required to the extent possible before retention ponds can be used. Green roofs and rooftop landscaping are allowed and may be used to meet landscaping requirements when there is not enough room on the ground.
- E. The Planning Commission may permit flexibility in setback areas and required landscape materials where natural amenities, such as landmark trees, are being protected and retained in the site development.
- F. The Planning Commission may alter plant material requirements or may require additional landscaping, berming, wall or a stockade fence in order to provide an effective screen. The purpose of greenbelts is to provide physical and visual separation between potentially incompatible uses.
- G. Ornamentals, shrubbery and perennials shall also be creatively placed in setbacks (including the side and rear setbacks) to accentuate the site (not necessarily to serve as a buffer). Landscaping should be placed to:
 - 1. Define cross-access easements, pedestrian ways and outdoor amenities like seating.
 - 2. Serve as windbreaks where warranted.
 - 3. Provide shade for parking areas.
 - 4. Break up large expanses of building walls without windows.

5. Provide for long term viability (for example, so as not to block the view of on-site signs in the future).
- H. The owner or occupant of property that is required to be landscaped by this Ordinance shall at all times maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced promptly.
- I. Replacement Required: Should any tree required by this ordinance to be preserved or planted die, it shall be the responsibility of the owner/developer to replace the dead tree with two (2) trees for every one tree lost with trees of a minimum of three (3) inches in diameter four and one-half (4 ½) feet above the ground.
- J. The City may require a performance guarantee, per Section 17.04, to ensure the installation of required landscaping.

SECTION 13.03 LOCATION OF PARKING

The off-street parking required by this Chapter shall be provided in accordance with the following requirements.

- A. Multiple Dwellings. The off-street parking facilities for multi-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined elsewhere in this Chapter. In no event shall any uncovered parking space for any multiple-family dwelling be located nearer than ten (10) feet to any main building.
- B. Manufactured Housing Communities. The off-street parking required may be located on each manufactured home site or in parking lots conveniently located and readily accessible to each site. Parking spaces shall meet the minimum area requirements as outlined in this Chapter.
- C. Commercial and Industrial Land Uses. The off-street parking required may be located on each site or in parking lots within three hundred (300) feet of and readily accessible to each site.
- D. Joint Use of Facilities. Provision of common parking facilities for several uses in the same vicinity is encouraged. Where businesses have alternate schedules the Planning Commission may permit reduced total parking provided a deferred parking area is reflected on the approved site plan.
- E. Parking Lot Landscaping: Parking lots exceeding 5,000 square feet (including all parking spaces, lanes, drives and other areas devoted to vehicular use) shall be landscaped with at least one (1) landscape island. For each additional 5,000 square feet (or each additional 20 spaces, whichever is greater) an additional landscape island shall be required. Landscape islands shall be at least 180 square feet in size, with a minimum width of three (3) feet. Landscape islands shall be landscaped with one (1) shade canopy tree and three (3) shrubs for every eight (8) parking spaces. Canopy trees shall be a minimum of twelve (12)

feet in height with a minimum caliper of 2 inches at four and one-half (4 ½) feet above the ground.

SECTION 13.04 PARKING LOT REQUIREMENTS

- A. All parking facilities, access driveways, and business and industrial parking areas shall be constructed of a durable and dust-free surface. Such facilities shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued, unless a performance guarantee has been submitted in accordance with the procedures of Section 17.04.
- B. In all Zoning Districts, the pavement surfacing of the portion of any driveway between the right-of-way, and the edge of the roadway surface shall be asphalt, concrete or a similar impervious pavement; or an acceptable pervious or permeable pavement, as determined by the Zoning Administrator, such as porous asphalt, pervious concrete, permeable interlocking pavers, or a similar material. Loose aggregate, gravel, stone, unreinforced grass or sod, soil, and similar materials shall be prohibited.
- C. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.
- D. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines, or over a sidewalk. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.
- E. Plans for the layout of off-street parking facilities shall be in accordance with the parking space dimensions of this Ordinance. The minimum parking space dimensions for a layout not provided for in the regulations shall be ten (10) feet in width, eighteen feet in length.
- F. Non-motorized transportation requirements: All new buildings must include a plan for non-motorized transportation. The plan must include the following:
 - 1. A complete sidewalk in good condition running the entire length of the property.
 - 2. Bike racks located on public or private property within 300 feet.
 - 3. Pedestrian scaled lighting from the bike rack to the building.

SECTION 13.05 DEFERRED PARKING

If an applicant demonstrates that the required amount of Parking Spaces is excessive, the Planning Commission may defer construction of a portion of the required Parking Spaces for nonresidential uses if the following conditions are met:

- A. Areas shown for deferred parking shall be shown on a site plan and shall be sufficiently large to permit the construction of the total number of Parking Spaces required by this Chapter. Such areas shall not be used for any other purpose required by this Ordinance and shall be kept open.
- B. Alterations to the deferred Parking Area to add Parking Spaces may be initiated by the owner or the Zoning Administrator based on parking needs. Parking Spaces shall be added in accordance with the approved site plan; further approval of the site plan shall not be required.
- C. Deferral of a portion of the otherwise required Parking Area shall not eliminate the need for the owner to comply with all other requirements of this Ordinance.

SECTION 13.06 MAXIMUM PARKING LIMITATIONS.

To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking Lot shall have parking spaces totaling more than an amount equal to twenty percent (20%) greater than the minimum parking space requirements, except as may be approved by the Planning Commission pursuant to a parking need study submitted by the applicant.

SECTION 13.07 PARKING LOT PLANS

Plans for the development, expansion or reconfiguration of any parking lot shall be submitted and approved, in conformance with the site plan review requirements of Chapter 14.

The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance. Such construction shall be completed and approved by the Zoning Administrator before actual use of the property as a parking lot, and before a Certificate of Occupancy is issued.

Aisle Width		Minimum Parking Space Size	
Two-Way	One-Way	Width ¹	Length ²
22 ft.	12 ft.	9 ft.	18 ft.

SECTION 13.08 OFF-STREET LOADING REQUIREMENTS

On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the same lot with such building or addition, 1) an area or means adequate for

maneuvering and ingress and egress for delivery vehicles; and 2) off-street loading spaces in relation to floor areas as follows:

- A. Up to twenty thousand (20,000) square feet = one (1) space required.
- B. Twenty thousand (20,000) square feet or more, but less than fifty thousand (50,000) square feet = two (2) spaces required.
- C. One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.
- D. Loading spaces shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- E. All loading spaces shall be at least ten (10) feet by fifty (50) feet, or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
- F. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
- G. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless surface.

SECTION 13.09 GENERAL SIGN PROVISIONS

- A. General. It shall be unlawful for any person to erect, place, or maintain a sign in the City except in accordance with the provisions of this Ordinance. Any sign that is not expressly allowed under an applicable provision of this Ordinance is prohibited.

- B. Permit. Unless otherwise provided by this Ordinance, no sign may be installed or utilized until and unless the City has issued a zoning compliance permit for it. The application for the zoning compliance permit must include all of the following:
 - 1. The name of the applicant (and owner of the premises, if different than the applicant),
 - 2. The size of the sign,
 - 3. Plans and specifications for the sign,
 - 4. The proposed method of construction, erection, structural alteration, or relocation, and a description of the equipment to be used for such work.
 - 5. The payment of any required fee or fees.

- C. General Setbacks. Unless a different setback is specified for a particular sign elsewhere in this Ordinance, all signs must be set back at least ten (10) feet from a road right-of-way and twenty (20) feet from all other property boundaries

- D. Landscaping. The base portion of a freestanding sign shall be landscaped with low maintenance plants. Such landscaping may be placed in stone, masonry or treated wood bases or containers to achieve a pleasant aesthetic arrangement. Such landscaping shall be reasonably maintained at all times

- E. Traffic Hazards. No sign may be constructed, erected, displayed, maintained, reconstructed or located so that it creates a hazard for vehicle or pedestrian traffic. If the Muskegon County Road Commission or state of Michigan traffic engineers or the City determines that any sign is a traffic hazard, the Zoning Administrator shall notify the owner to remove the sign. In determining whether a sign may be causing a traffic hazard, the Zoning Administrator can consider, but is not limited to, the following:
 - 1. Height, area, supporting structure and distance from ground level of the sign;
 - 2. Lighting of the sign;
 - 3. Location of the sign in relation to roads;
 - 4. Drives, points of ingress and egress, parking areas, sidewalks, and other vehicular or pedestrian access ways;

5. Location of the sign in relation to nearby buildings and structures; and
 6. If it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or be distracting to motorists
- F. Maintenance. All signs shall be properly maintained in good condition and reasonable repair at all times. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts must be replaced in a timely fashion. The Zoning Administrator has the authority to order the repair or removal of any sign that is unsafe, as defined by the Michigan Building Code or its successor code.
- G. Out-of-Business Establishment. If a sign advertises a business, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and the sign faces shall be removed, covered or replaced with blank faces within sixty (60) days after written notification from the city to the sign owner, owner of the property where the sign is located, or other party having control over the sign. Any expense incurred by the city incidental to removal shall be paid by the sign owner, owner of the property or other party having control over the sign. The expenses associated with sign removal may constitute a lien upon the property to be collected in the same manner as real property taxes.
- H. PUD Signs. Only signs approved by the Planning Commission and City Council in authorizing the Planned Unit Development are allowed.
- I. Lawful Nonconforming Signs. The regulations for lawful nonconforming signs are contained in Chapter 4 of this Ordinance.

SECTION 13.10 SIGNS PROHIBITED

- A. The following types of signs are expressly prohibited:
1. Any sign that has flashing, intermittent, or blinking lights or strobes, excluding time and temperature signs and barber pole signs (which are permitted).
 2. Signs imitating or resembling official traffic or governmental signs or signals.
 3. Any sign not expressly permitted by this Ordinance.
 4. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of business advertisement or attraction) hung to draw attention to a business or its merchandise on display.
 5. Banners and portable signs.

6. Abandoned signs, which shall be removed within thirty (30) days of the cessation of the business, use or activity.
 7. A sign that contains an intermittent or sequential flashing light source used to attract attention to a business or other commercial activity.
 8. A rotating or moving sign in which the sign itself or any portion of the sign moves in a revolving or similar manner.
 9. Vehicle signs not used during the normal course of a lawful business that are parked or located for the primary purpose of displaying the advertising copy.
 10. Festoons, pennants, nongovernmental flags, banners, inflatable figures, and streamers and except as expressly permitted in this Chapter.
 11. Snipe signs.
 12. Any sign that obstructs free access to or egress from a required door, window, fire escape, or other required exit from a building or structure.
 13. Any sign which makes use of the words "Stop," "Look," or "Danger," or any other words, phrase, symbols, or characters, in such a manner as to interfere with, mislead, or confuse drivers.
 14. Roof signs.
 15. Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings which are not larger than one-half (1/2) square foot.
 16. Business logos or other advertisements on directional signs.
 17. Off-premise signs, unless expressly permitted in this Ordinance.
 18. Animated signs.
- B. No business vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the road.

SECTION 13.11 EXEMPT SIGNS

The following signs shall be exempt from the provisions of this Chapter.

- A. Governmental signs.
- B. Signs for essential services.
- C. Historical markers.
- D. Memorial signs or tablets.

- E. Political signs provided they meet the size limitations of the district.
- F. Signs with an address and name of the owner or occupant, of not more than one (1) square foot in area, attached to a mailbox, light fixture, or exterior wall.
- G. Temporary yard and garage sale signs of four (4) square feet in size or less, located on the property on which the sale is conducted so long as no lot displays such a sign or signs for more than fourteen (14) days per calendar year.
- H. Window signs provided the total area of all signs within one (1) foot of the window shall not obscure more than fifty (50) percent of the window area.
- I. Flags or insignia of any nation, state, local government, community organization, or educational institution.

SECTION 13.12 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS

- A. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any lands in the City except in accordance with the provisions of this Ordinance.
- B. All signs shall be stationary, securely anchored or fastened to the ground or structure and shall be designed and constructed to withstand a ninety (90) mile per hour ground wind load.
- C. Signs shall pertain only to the business or activity conducted on the premises, except for political signs, community special event signs, and billboards.
- D. Real estate signs shall not exceed four (4) square feet in total area and be removed within thirty (30) days after completion of the sale or lease of the property.
- E. Political signs shall not exceed four (4) square feet in total area and be removed within five (5) days after the election or referendum to which the sign refers.
- F. No sign shall be placed in, or extend into, or obstruct clear vision in any public right-of-way.
- G. The leading edge of the sign shall be a minimum of two (2) feet away from the road right-of-way.
- H. Construction signs are permitted subject to the following restrictions:
 - 1. One (1) construction sign may be erected on the site where work is scheduled to begin.
 - 2. Construction signs shall not be larger than thirty two (32) square feet in total area and shall not exceed eight (8) feet in height.

3. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
 4. Construction signs shall be removed within fifteen (15) days after the issuance of any occupancy permit for the building or structure which is the subject of the construction sign.
- I. Community special event signs shall not exceed sixteen (16) square feet in total area and may be permitted for a period not to exceed thirty (30) days for any single event. No more than five (5) such signs shall be permitted for any single event and such signs shall be removed within two (2) days of the end of the event.
 - J. On-site directional signs shall not exceed four (4) square feet in total area per sign, shall not be higher than three (3) feet, and shall not be located closer than five (5) feet to any right-of-way line. No more than two directional signs per road frontage are permitted for any property or use.
 - K. No wall sign shall project above the roof line.
 - L. Temporary Signs are permitted subject to the following restrictions:
 1. A temporary sign shall only be displayed upon receipt of a permit issued by the Zoning Administrator.
 2. No temporary sign shall be displayed on any one (1) lot or parcel for more than thirty (30) consecutive days for any one (1) permit period and no more than two (2) permits shall be issued for any lot or parcel during any calendar year.
 3. Upon expiration of the permit, the sign shall be removed by the permit holder.
 4. No temporary sign shall exceed thirty-two (32) square feet in total area.
 5. No temporary sign shall be closer than five (5) feet from any right-of-way or property line.
 6. All temporary signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area.

**SECTION 13.13 ACCESS MANAGEMENT OVERLAY REGULATIONS
(Getty and Sherman Avenues)**

The purposes of access management overlay regulations are to coordinate access to Getty and Sherman Avenues in the interest of enhancing traffic safety, reducing congestion, maintaining traffic capacity, and minimizing highway expansion while providing continuing opportunities for growth and development within these highway corridors. It is the intent of this Ordinance that land uses share access, provide cross access or alternative access wherever possible or provide alternative access as means to accomplish these purposes.

The following regulations shall be applicable to all lots abutting on Getty and Sherman Avenues in the City. No building shall be erected or enlarged, no use shall be changed or commenced, and no access shall be constructed or altered except in conformance with the following access management regulations; provided, however, that the enlargement of an existing one-family dwelling shall not require conformance with these regulations.

- A. Access Spacing. The minimum horizontal distance between any two accesses on the same side of the road, whether streets or driveways, as measured from their centerlines, shall be 275 feet. This spacing requirement shall apply to all uses and may be accomplished by any of the following means:
 - 1. By owning sufficient frontage on the roadway to meet the spacing requirement; or
 - 2. By assembling sufficient frontage to meet the spacing requirement; or
 - 3. By sharing access via shared driveways, easements and/or cross access agreements, or
 - 4. In the event the access spacing standards cannot be satisfied on an individual parcel due to frontage deficiencies, one temporary private driveway may be approved, provided an access management plan is submitted by the applicant, and approved by the Planning Commission, that incorporates the principles of shared driveways, cross easements, or alternative. Individual dwellings shall not be required to have an access management plan.

- B. Residential Access. No new private residential driveway access shall be permitted directly to the road unless no other alternative is available. Wherever two or more residential lots are created which have no alternative access, a single shared driveway or road access shall be required.

- C. Existing Individual Driveways. If a lot or use has one or more existing individual driveway accesses to the Highway, said accesses shall be allowed to remain in use provided they are not relocated or altered. In the event such accesses are altered, they shall be made to more fully comply with the access requirements of this section.

- D. Access Design and Approval. The design of any direct access to the roadway shall be as required by the City.
- E. Flexibility permitted. As part of the site plan review process, the actual location of an access may be varied by the Planning Commission if it can be demonstrated that the intent of this section to minimize the number of individual driveways and coordinate accesses is fulfilled in the interests of maintaining highway capacity, reducing congestion, and improving traffic safety.

SECTION 13.14 PRIVATE STREETS

Private Road Review and Development Process:

- A. Private streets are permitted in all zoning districts for residential uses only, subject to the design, construction, and maintenance standards of this section.
- B. Private streets shall be approved by the Planning Commission through the site plan review process and shall include construction specifications for the streets.
- C. Design Standards for private streets shall meet all of the standards of the following table:

Dwellings Served	1-3	4- 15
Right of Way width	66 ft. (Need not be cleared)	66 ft. (Need not be cleared)
Width of traveled surface (centered within ROW)	12 ft. Paved	20 ft. paved
Base	Minimum, 4 inches of 98% compacted MDOT 22A aggregate	Minimum, 4 inches of 98% compacted MDOT 22A aggregate
Maximum grade	7%	7%

- D. Any lot created with frontage on both a public road and private street shall have its driveway access only off the private street.
- E. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private streets.
- F. The private street shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the City to ensure adequate drainage and runoff.
- G. Private streets in excess of two hundred (200) feet in length shall provide a turnaround area for emergency vehicle access.

- H. Water and sewer easements shall be provided as part of the private street approval process.
- I. The private street shall be given a name and road signs shall be installed in accordance with the standards and approval of the City. Private streets shall have a standard stop sign where the private street abuts any public road and/or where two or more private streets abut.
- J. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the City Engineer and any other agency having jurisdiction thereof.
- K. Cul-de-sac or dead end streets are strongly discouraged.
- L. All private streets shall have names approved by the proper county office.
- M. All private streets shall be under the control of an approved and recorded road maintenance agreement and deed restrictions which provide for the perpetual maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. These documents shall be subject to review and approval by the City Attorney before recording and shall contain the following provisions:
 - 1. Method of initiating and financing of such street and/or easements in order to keep the road in a reasonably good and usable condition.
 - 2. A workable method of apportioning the costs of maintenance and improvements.
 - 3. An authorization that if repairs and maintenance are not made, the City Council may exercise a special assessment district to bring the street up to the design standards specified in this Ordinance and assess owners of parcels on the private street for the improvements, plus an administrative fee.
 - 4. A notice that no public funds of the county or City are to be used to build, repair or maintain the private street unless the special assessment district is created.
 - 5. Such other language as is required by the City.
- N. All private streets shall be continuously maintained in a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

CHAPTER 14 SITE PLAN REVIEW

SECTION 14.01 PURPOSE

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

SECTION 14.02 APPLICABILITY

In accordance with the provisions of this Chapter, the Planning Commission shall approve a site plan for the proposed development, activity, or use prior to the issuance of any permits for the creation of a use or the erection of a building in the districts and conditions cited below. The site plan packet shall include any associated documentation and narrative required to assist the reviewers with their task. No use, activity, building, or structure as follows shall be commenced, conducted, expanded, or constructed absent site plan approval by the Planning Commission.

- A. All Uses within any commercial or industrial district.
- B. A Manufactured Housing Community.
- C. All Special Land Uses in any district.
- D. Multi-family residential developments.
- E. Condominiums, site condominiums, and subdivisions (plats) in any district.
- F. Planned unit developments in any district.
- G. Private streets.
- H. Any expansion, enlargement, or change to any of the preceding.
- I. All new construction and new uses: expansion of existing buildings, structures, and uses, except that:

Where a new use is being established in an existing lawful principal structure and is a permitted use (or similar use as determined by the Zoning Administrator) in the underlying zoning district, and will not result in expansion of the footprint, size, or height of the structure, the site plan for the new use may be approved through an administrative review process directed by the Zoning Administrator. The following conditions shall apply:

- 1. The proposed use shall comply with all requirements of this Ordinance except where, in the determination of the Zoning Administrator, strict adherence to the requirements of this Ordinance due to existing

conditions on the subject property cannot reasonably be met. The scope of the project proposed shall be determined in the first instance by the Zoning Administrator, provided however, that the discretion of the Zoning Administrator shall not extend to waiver of conditions which directly relate to the safety and welfare of the general public, or in the use or occupancy of the property.

2. No less than 50% of the minimum number of parking spaces required for the proposed use.
3. Where a mutual agreement on the plan cannot be reached, or where, in the opinion of the Zoning Administrator, the proposed development warrants a more intensive review, the Zoning Administrator shall require formal application for site plan review and approval by the Planning Commission.

The following shall be exempt from site plan review, except that the Zoning Administrator shall review a plan to ensure compliance with this Ordinance.

- A. Single-family detached and two-family dwellings when permitted by right on a lot on which there exists no other building or use.
- B. State licensed residential family care facilities and family day care homes.
- C. Home occupations.
- D. Residential accessory buildings.

SECTION 14.03 SITE PLAN SUBMITTAL

Optional Preliminary Site Plan Review and related matters:

- A. Ten (10) copies of a preliminary site plan may be submitted by the applicant for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
- B. Additional Information. The Planning Commission, prior to granting final approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, traffic study, soil tests and other pertinent information.
- C. Preliminary site plan submittal shall include the information listed below, unless deemed unnecessary by the Zoning Administrator. The Zoning Administrator shall review the site plan packet for completeness. Incomplete site plan packets will not be accepted by the Zoning Administrator or placed on the Planning

Commission’s agenda. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1” = 100’).

- D. Applicants have the option to submit a final site plan review packet without an optional preliminary review.
- E. Site plans shall be prepared by a surveyor or professional engineer, and shall be based on a survey.

Site Plan Submission Requirements	
For both Preliminary & Final Site Plan Review	
1. A general location sketch showing at a minimum, properties, streets and use of land within 1/2 mile of the area.	
2. Legal description of the subject property.	
3. North arrow, and plan scale.	
4. Name and address of the property owner or petitioner and ownership interest.	
5. Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.	
6. Existing zoning and use of all properties abutting the subject property.	
7. All buildings, parking, easements, and driveways within 100 feet of all property lines.	
8. Existing and proposed uses, buildings and structures.	
9. Property lines and dimensions.	
10. Existing adjacent streets and proposed streets.	
11. Parking lots and access points.	
12. General location of utilities, storm water management features, septic systems and wells.	
13. Location of proposed buffer strips or screening.	
14. General topographical features at contour intervals no greater than 5 feet.	
15. Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, landmark trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.	
16. Seal, of the professional individual responsible for the preparation of the site plan.	
17. Narrative: Provide written text describing in general terms:	a. The overall objectives of the proposed development.
	b. Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, streets and drives, and open space.
	c. Dwelling unit densities by type, if applicable.
	d. Proposed method of providing sewer and water service, as well as other public and private utilities.

Site Plan Submission Requirements
Additional Information for <i>Final</i> Site Plan Review
18. Property lines for each site condo unit or lot shown and dimensioned.
19. Buildable area for proposed structures (i.e., setbacks shown) on the subject property for each lot or site condominium unit.
20. Specifications for and location of existing and proposed utilities.
21. All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes serving the site and cross-sections of internal roads serving the development.
22. Location and specifications for curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
23. Location and size of all surface water drainage facilities including storm event data.
24. All existing vegetation noted to be protected and a detailed landscaping plan including data on species, number and size of plant materials to be used.
25. Location of profiles of all proposed fencing and walls.
26. Location of all solid waste disposal facilities, including recycling, and screening.
27. Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
28. Dedicated open space, marked, described and a recordable form to protect such lands in perpetuity.
29. Exterior lighting showing area of illumination (via a photometric chart) and indicating the type and height of fixture to be used.
30. Any signs not attached to the building(s).
31. Elevation drawings of proposed buildings.
32. Location and specifications for trails and sidewalks.
33. Development agreement (as appropriate).
34. Easement descriptions and dedications.
35. Approved road names (as appropriate).
36. Detailed landscape plan, including method of protecting existing vegetation, species, listing, and sizes for new landscaping materials, profile of proposed buffer strips, screening, fence design, and timing of landscaping improvements.

The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

SECTION 14.04 ADMINISTRATIVE FEES

- A. Any Site Plan application shall be accompanied by a non-refundable fee or fees in accordance with the schedule or resolution of fees established by the City Council. Such fee(s) shall be for the purpose of payment of the administrative costs and services expended by the City in the implementation of this Chapter and the processing of the application. No part of such fee(s) shall be refundable to the applicant.
- B. An escrow fee or fees may also be collected by the City pursuant to Section 17.03 of this Ordinance. Such fees are intended to reimburse another party or parties retained by the City to provide expert consultation and advice regarding the application.

SECTION 14.05 CHANGES IN THE APPROVED SITE PLAN

Changes to an approved site plan shall be allowed only under the following circumstances:

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to an approved site plan.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include only the following:
 - 1. Change in any building size, up to five percent (5%) in gross floor area.
 - 2. Movement of buildings or other structure by no more than ten (10) feet.
 - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - 4. Changes in building materials to a comparable or higher quality.
 - 5. Changes in floor plans which do not alter the character of the use.
 - 6. Changes required or requested by the City, the County Road Commission, or other county, state, or federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change determined by the Zoning Administrator not to be minor shall be submitted to the Planning Commission as a site plan amendment, and shall be reviewed in the same manner as the original application, including payment of an application fee. The previously approved site plan shall be provided to the Planning Commission for comparative purposes. Proposed changes shall be noted on the site plan and included in narrative form.

- D. Every use, structure, building, and activity covered by an approved site plan shall fully comply with the approved site plan unless and until the approved site plan is modified by the City to allow such change in use, structure, building, or activity.

SECTION 14.06 REVIEW STANDARDS

The following standards shall be utilized by the Planning Commission in reviewing and approving or denying all site plans. A site plan may not be approved unless all of the following standards are met. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making decisions concerning them.

- A. The uses and configuration proposed will not adversely affect the public health, safety, or general welfare.
- B. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within and adjacent to a development. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- C. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site:
 - 1. Landmark trees and significant vegetation slated for protection shall be marked on site to prevent their damage during construction.
 - 2. A plan for natural feature protection during construction shall be provided.
 - 3. Utilities may be required to be placed underground.
 - 4. Provisions shall be made to accommodate storm water on-site wherever practical.
 - 5. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
 - 6. Direct discharge of storm water into surface waters is prohibited.
 - 7. Infiltration devices such as rain gardens are preferred over large retention basins.
- D. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided within the site.
- E. The minimum number of driveway and access points shall be provided at appropriate locations to maximize convenience and safety.
- F. Paths, drives and streets shall be designed to promote safe and efficient traffic operations within and between developments.

- G. The site shall be developed to create a pleasant, pedestrian paced atmosphere which de-emphasizes the automobile and considers rural character.
- H. The Planning Commission may require traffic calming measures, paved road shoulders, and deceleration or turn lanes when necessary.
- I. The Planning Commission may require shared driveways, cross access easements and pathway cross-connections between developments.
- J. Site amenities like street trees, bike racks, benches and outdoor tables may be required by the Planning Commission.
- K. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
- L. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution. The site shall comply with the requirements of Section 14.0.
- M. All loading and unloading areas and outside storage areas, including areas for the storage of trash, shall be provided in accordance with Section 14.04.
- N. The uses and configuration shall not have significant negative impacts on adjoining properties and uses or the environment.
- O. The general purposes and spirit of this Ordinance and the Master Plan of the City shall be maintained.

SECTION 14.07 CONDITIONS OF APPROVAL

- A. As part of an approval of any site plan, the Planning Commission (or the Zoning Administrator, where applicable) may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest or to meet the review standards.
- B. Such conditions shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. A record of all conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is expressly approved by the City in accordance with this Ordinance.
- E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

- F. The Zoning Administrator may make periodic inspections of developments or properties for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.
- G. All uses, buildings, and structures must fully comply with an approved site plan (and any conditions thereof) for the lot or property involved at all times.

SECTION 14.08 PERFORMANCE GUARANTEE

The Planning Commission may require a performance guarantee or guarantees in accordance with Section 17.04 to insure compliance with any conditions associated with the granting of a site plan approval.

SECTION 14.09 REVOCAION

Every structure, building, land use, or activity covered by or subject to an approved site plan must fully comply at all times with that site plan. If a violation of the site plan (or any conditions of approval attached thereto) occurs, then the Planning Commission shall have the authority to revoke the approved site plan after reasonable notice has been given to the property owner or applicant and a hearing has been held.

CHAPTER 15 SPECIAL LAND USES

SECTION 15.01 SCOPE

This Chapter provides a set of procedures and standards for special uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the City of Muskegon Heights. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, particular Special Land Uses shall conform to the specific standards cited in Section 16.04, as applicable.

SECTION 15.02 APPLICATION AND REVIEW PROCEDURES

- A. An application for a Special Land Use shall be submitted through the Zoning Administrator, accompanied by:
 - 1. The payment of an application fee or fees and any required escrow fee(s) as established by the City Council.
 - 2. A completed application form, as provided by the City.
 - 3. Complete site plans as specified Chapter 14.
 - 4. A narrative describing the proposed use(s).
- B. Applications for a Special Land Use (if complete) shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application (if complete), along with the required site plan, shall be forwarded to the Planning Commission at its next scheduled meeting.
- D. The Planning Commission shall hold a public hearing on the application, noticed in accordance with Section 17.10. The Planning Commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the City's planner, engineer, attorney, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.
- E. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be allowed by the Zoning Administrator after learning of new and significant material facts or substantially changed conditions that might result in favorable action upon re-submittal.
- F. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development or use shall be under

substantial construction within one (1) year after the date of approval of the Special Land Use, except as noted below.

1. The Planning Commission may grant one (1) six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development or use has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.
- G. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable requirements of this Ordinance, or any condition of the Special Land Use approval. Prior to revocation, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

SECTION 15.03 EXISTING SPECIAL LAND USES

Uses of land and/or development projects granted Special Land Use status by the City prior to the adoption of this Zoning Ordinance may continue such approved status provided the rules, regulations, requirements, and conditions under which the Special Land Use was approved are met.

SECTION 15.04 GENERAL STANDARDS

- A. In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Chapter 14. Reasonable conditions may be placed upon a Special Land Use approval (and the accompanying site plan).
- B. No Special Land Use may be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use will:
 1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed.
 2. Be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities.

3. Not create excessive additional requirements at public cost for public facilities and services.
 4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.
 5. The proposed use shall be sufficiently designed to maintain adequate provision for the protection of the health, safety, conveniences, and social and economic welfare of those who will use the special land use, residents and landowners adjacent to the special land use, and the community as a whole.
 6. The proposed use shall be consistent with the intent of this Ordinance and the intent of the Master Plan.
 7. The use shall not create or substantially add to traffic hazards in the area.
 8. The proposed use shall not set precedents for development which could adversely affect the long term plans or policies of the City.
 9. The proposed use shall not have significant adverse environmental, ecological or natural resource impacts.
 10. The proposed use shall not have significant adverse impacts upon adjoining properties or uses.
- C. The Planning Commission may impose additional conditions and safeguards on a Special Land use approval deemed necessary to accomplish the following purposes. Failure to comply with the conditions may result in the revocation of the Special Land Use approval, pursuant to Section 16.02G. Conditions imposed shall be those necessary to ensure that the proposed Special Land Use will:
1. Meet the intent and purpose of the Zoning Ordinance and the Master Plan.
 2. Relate to the standards established in the Ordinance for the land use or activity under consideration.
 3. Ensure compliance with those standards.
 4. Protect the general welfare.
 5. Protect individual property rights.
 6. Ensure that the intent and objectives of this Ordinance will be observed.
- D. The Planning Commission shall adopt a statement of findings and conditions relative to the special land use that specifies the basis for the decision and any conditions imposed.

SECTION 15.05 PERFORMANCE GUARANTEE

The Planning Commission may require a performance guarantee or guarantees in accordance with Section 17.04 to insure compliance with any conditions associated with the granting of a site plan approval.

SECTION 15.06 SPECIAL LAND USE SPECIFIC REQUIREMENTS

The general standards and requirements of Section 16.04 are basic to all Special Land Uses. The specific and detailed requirements set forth hereafter relate to particular uses and are requirements which shall be met by those uses in addition to the foregoing general standards and requirements. Any use listed in this Ordinance not addressed as follows shall be reviewed under the general standards of Section 16.04.

SECTION 15.07 SPECIFIC STANDARDS

- A. Adult foster care, small and large group home
- B. Adult Oriented Businesses
- C. Banquet hall or conference center
- D. Bed and breakfast establishment
- E. Bus passenger or other transit station
- F. Commercial "mini" storage warehouse
- G. Convalescent or nursing home
- H. Convenience stores with gasoline
- I. Day care center (commercial)
- J. Drive-through facilities (banks, credit unions, pharmacies, etc.)
- K. Drive-through restaurant
- L. Elderly housing
- M. Elementary middle and high school (private)
- N. Fraternal or social club or lodge
- O. Funeral home and mortuary
- P. Hotel/Motel
- Q. Kennel
- R. Open air business

- S. Pawn shop
- T. Recreation facility (outdoor)
- U. Recreation facility (indoor)
- V. Salvage or junk yard
- W. Trade or industrial school
- X. Vehicle repair facility
- Y. Vehicle sales
- Z. Vehicle service station
- AA. Vehicle wash facility
- BB. Veterinary hospitals and clinics
- CC. Wind energy conversion systems
- DD. Wireless communication towers
- EE. Medical Marihuana

Specific Requirements by Use

- A. Adult Foster Care, Small and Large Group Home.
 - 1. Non-residential parking setback and screening provisions apply.
 - 2. The facility shall be at least one thousand five hundred (1,500) feet from any other similar facility.
- B. Adult Oriented Businesses.
 - 1. It is the intent of this subsection to provide regulations controlling those uses that are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special regulations of these uses are necessary to insure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood.
 - 2. No adult-oriented business shall be located within five hundred (500) feet of another adult-oriented business. For purposes of this subsection (2), and subsections (3) and (4) below, the distance between a proposed adult-oriented business and (a) another adult-oriented business, (b) the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes, or (c) land used for any single-family, two-family or multiple-family dwelling; City, county or state park; school; library; licensed childcare facility;

playground; church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to (a) the nearest property line of the parcel of land used for the other adult-oriented business, (b) the nearest boundary of the land in the agricultural or any residential zoning district or approved as a planned unit development or a plat for residential purposes, or (c) the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; City, county or state park; school; library; licensed childcare facility; playground; church or place of worship.

3. No adult-oriented business shall be located on a parcel or lot that is within five hundred (500) feet of the boundary of any land in the agricultural or any residential zoning district, or approved as a planned unit development for residential purposes.
4. No adult-oriented business shall be located on a parcel or lot within five hundred (500) feet of any single-family, two-family or multiple-family dwelling; any City, county or state park; school; library; licensed child care facility; playground; church or place of worship.
5. No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.
6. The proposed use shall conform to all requirements of the zoning district in which it is located.
7. The proposed use shall be in compliance with all other ordinances of the City and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals must be obtained.
8. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.
9. Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this Ordinance; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.
10. Entrances to the proposed adult-oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: (a) "Persons under the age of 18 are not permitted to enter the premises," and (b) "No alcoholic beverages of any type are permitted within the premises unless

specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.”

11. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.
12. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.
13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.
14. Any booth, room or cubicle available in any adult-oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:
 - a. Be handicap accessible to the extent required by law;
 - b. Be unobstructed by any floor, lock or other entrance and exit control device;
 - c. Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
 - d. Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
 - e. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.
15. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval as provided herein. A Special Land Use for adult-oriented businesses shall comply with the following requirements:
 - a. Adult uses shall not be allowed within five hundred (500) feet of another existing adult use, or within one-thousand (1,000) feet of

any Residential District, existing church, school, park or playground.

- b. All persons massaging any client or customer shall be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have such other similar qualifications which shall be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the City, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.
- c. Any sign or signs proposed for the adult use business shall comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
- d. Signs shall be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that state:
 - (A) "Persons under the age of 18 years are not permitted to enter the premises."
 - (B) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- e. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining streetway or adjoining property.
- f. A buffer strip may be required to screen the business use from nearby residential or institutional properties. Grass, plant materials, and sight-obscuring fences or walls, of a type approved

by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use the applicable provisions of Section 14.04 when determining screening needs.

C. Banquet Hall or Conference Center.

1. The lot shall have frontage on an approved paved road.
2. The minimum lot size shall be two (2) acres with a minimum of two hundred (200) feet of street frontage.
3. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

D. Bed and Breakfast Establishment.

1. The rooms utilized shall be part of a residential dwelling structure and do not involve alteration or construction not customarily found in single-family dwellings.
2. A scaled floor plan of the premise shall be submitted to the City as part of the application.
3. The bed and breakfast operation shall be the principal residence of the operator and the operator shall reside on the premises.
4. The bed and breakfast shall have eight (8) or fewer sleeping rooms, including sleeping rooms occupied by the operator.
5. Sufficient paved off-street parking shall be provided for residential purposes, at the rate of one (1) parking space per guest sleeping room and two (2) spaces for the resident owner.
6. One (1) non-illuminated sign, not exceeding sixteen (16) square feet in total sign area, is permitted. The placement and design of signs shall not detract from the scenic environment or contribute to general traffic hazards.
7. All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure and shall not be located in the front yard.
8. The conduct of all aspects of activities related to the use shall take place only within the main building.

9. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
10. No premises shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from the premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet.
11. The structure shall remain a residential structure and the kitchen shall not be remodeled into a commercial kitchen.
12. Meals shall be served only to residents and overnight guests.
13. No receptions, private parties or activities for which a fee is paid shall be permitted except for those that involve registered guests.
14. The maximum stay for any occupant of bed and breakfast operations shall be fourteen (14) consecutive days.
15. No guest room shall be located in a basement or cellar.

E. Bus Passenger or other Transit Station.

1. Minimum lot size shall be one (1) acre with at least one hundred and fifty (150) feet of street frontage.
2. The facility shall be located with direct access to a paved street.
3. A vehicle waiting/drop off area of not less than ten (10) spaces shall be provided on-site.
4. Passenger loading areas shall be lighted. Lighting shall be shielded to prevent light from spilling or shining onto any Residential District or use.
5. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

F. Commercial "Mini" Storage Warehouse.

1. The use shall be developed only on lots of at least two (2) acres in size, but not more than five (5) acres in size. No more than sixty percent (60%) of the lot may be used for buildings, parking lots and access.
2. The lot shall abut and gain access from a public arterial street.

3. A six (6) foot, solid fence of a material acceptable to the Planning Commission, shall entirely enclose the area occupied by the use. The fence shall be set back at least thirty (30) feet from the front property line.
4. The front yard, up to the fence, shall be landscaped in accordance with Section 14.04.
5. Minimum side and rear yards as specified for the District shall be maintained.
6. There shall be a minimum of thirty-five (35) feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be twenty-five (25) feet.
7. Traffic direction and parking shall be designated by signs or painting.
8. The lot area used for parking and access shall be provided with a paved surface and shall be drained so as to dispose of all surface water.
9. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.
10. The Planning Commission may require architectural features on the façade of any structure that is visible from a public street to ensure visual compatibility with surrounding uses.

G. Convalescent or Nursing Home.

1. Minimum lot size shall be three (3) acres with at least two hundred (200) feet of street frontage.
2. The lot location shall be such that at least one (1) property line abuts a public arterial or collector street. The ingress and egress for off-street parking areas for guests and patients shall be directly from that thoroughfare.
3. Main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.
4. The facility shall be designed to provide a minimum of five hundred (500) square feet of open space for every bed used or intended bed to be used. This open space shall include landscaping and include off-street parking, driveways, or required yard setbacks.
5. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

H. Convenience Stores with Gasoline

1. The minimum lot size shall be at least one-half (1/2) acre with a street frontage of at least one hundred and fifty feet (150) feet.
2. Sufficient on-site stacking capacity shall be provided for vehicles awaiting fueling. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the site.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
4. Outdoor speakers piping music or other continual sounds are prohibited.
5. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the facility, including measures to separate pedestrian and vehicular traffic.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

I. Day Care Center (Commercial).

1. A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area are separated from any residence by more than three hundred (300) feet.
2. Playground equipment shall not be located in a required side yard.
3. All outdoor play areas shall be located a minimum of fifty (50) feet from a residential district and enclosed with fencing, a minimum of four (4) feet high which cannot be climbed.
4. An off-street drop-off area shall be provided with the capability to accommodate at least two (2) vehicles in addition to the parking normally required for employees.
5. Activities associated with child care shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.
6. There shall be provided on the site a useable outdoor area at the rate of at least sixty-six (66) square feet for each child, or as required by the State of Michigan.

J. Drive-through Facilities (as part of another business), such as Banks, Restaurants, Credit Unions, Pharmacies, etc.

1. The accessory buildings or structures shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line.
2. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
3. Where the site abuts a Residential District, screening shall be provided along that property line.
4. The site shall be designed to provide adequate stacking space.
5. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

K. Drive-through Restaurant.

1. The minimum lot size shall be one-half (1/2) acre with a street frontage of at least one hundred and fifty feet (150) feet.
2. Sufficient stacking capacity on site shall be provided for the drive-through portion of the operation to ensure that traffic does not extend into the public right-of-way. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility. The stacking space requirement may be reduced by the Planning Commission based on the nature of the restaurant, provided sufficient reason is provided as to the reduction, but in no case shall fewer than six (6) spaces be provided.
3. In addition to parking and stacking space requirements, at least two (2) standing or parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
4. Setback areas shall be landscaped in accordance with Section 14.04.
5. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
6. Menu/speaker boards shall be provided that minimize verbal feedback. Speakers shall be located, positioned and controlled to minimize noise impacts.

7. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, including measures to separate pedestrian and vehicular traffic in the areas nearest drive through windows.
8. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

L. Elderly Housing

1. The minimum lot size shall be at least one (1) acre with a minimum of two thousand, four hundred (2,400) square feet of lot area per dwelling unit (18.15 dwelling units per acre).
2. The number of dwelling units in an elderly housing project may exceed the twenty (20) units per building by no more than 50% (10 units per building) if the facility is licensed by the State of Michigan for nursing care or as a home for the aged. If the facility is not licensed by the State of Michigan the number of units may exceed twenty (20) units per building by no more than 25% (5 units per building).
3. All units in the building shall have a minimum of 450 square feet per unit.
4. A covered drop-off and pick-up area shall be provided on-site in close proximity to the main entrance.
5. Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public or private street(s).

M. Elementary, Middle and High School (Private).

1. The minimum lot size shall be one (1) acre with at least one hundred and fifty (150) feet of street frontage.
2. Maximum height of buildings shall not exceed forty-five (45) feet.
3. Front and rear setbacks shall be at least equal to the height of the building. A side yard of at least twenty (20) feet is required on each side of any portion of the building.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

N. Fraternal or Social Club or Lodge.

1. The site shall have at least one (1) property line abutting a public collector street.
2. All vehicular ingress and egress to the site shall be directly from a public thoroughfare, unless otherwise approved by the Planning Commission.
3. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

O. Funeral Home and Mortuary.

1. The minimum lot area shall be one (1) acre with at least one hundred and fifty (150) feet of street frontage.
2. A well-designed and landscaped off-street vehicle assembly area shall be provided on site to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
3. A caretaker's residence may be provided within the main building.
4. The proposed site shall front upon a paved public collector street. All ingress and egress shall be from that thoroughfare.
5. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

P. Hotel

1. The minimum lot area shall be one (1) acre and minimum lot width shall be at least one hundred and fifty (150) feet.
2. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Ingress and egress shall be from a paved major public street.
4. Minimum floor area of each guest unit shall be two hundred and fifty (250) square feet.
5. Maximum building height shall not exceed the height limits of the district.

Q. Kennel

1. The minimum lot size shall be at least two (2) acres for the first ten (10) animals, plus one (1) additional acre for each additional five (5) animals.
2. All buildings or areas in which the animals are kept or exercised shall be set back a minimum of 50 feet from any adjoining property.
3. A screened/landscaped area shall be provided between all buildings or areas in which the animals are kept or exercised, and any adjacent residential use or district.
4. Animal waste shall be managed to prevent odors and other nuisances.
5. A kennel permit shall be obtained from the Muskegon County Animal Control Department or successor public agency.

R. Open Air Business.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and /or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. The Planning Commission may, to ensure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a performance bond in accordance with Section 17.04.
5. The lot area used for parking shall be paved. Display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded so as to properly dispose of all surface water.
6. Ingress and egress shall be provided from a paved public street and shall be at least one hundred (100) feet from an intersection.
7. All lighting shall be shielded from adjacent properties.
8. All loading activities and parking areas shall be provided on the same premises (off-street).
9. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
10. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be

placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

S. Pawn Shop.

1. The lot shall have frontage on a paved public street.
2. The lot shall be located such that it is at least three hundred (300) feet from the lot line of any property on which is situated a public library, public or private school, playground, play field, church or hospital.
3. Outdoor storage is prohibited.
4. The facility shall be properly licensed by the state and adhere to rules promulgated for second-hand stores.

T. Recreation Facility (outdoor).

1. The facility shall be located on a minimum lot size of two (2) acres; plus an additional fifteen thousand (15,000) square feet for each one hundred (100) seating capacity or fraction thereof in excess of one hundred (100) members.
2. The facility shall have a minimum of two hundred (200) feet of street frontage on a paved public collector street.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the centerline of the intersection of any street or fifty (50) feet from any residential driveway.
4. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.
5. Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling or shining over the property line.
6. Where the use abuts property within a Residential District, a transitional strip at least thirty (30) feet in width shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the transition strip.
7. A minimum of one hundred (100) feet shall separate all uses, operation, and structures permitted herein, including fences, from any public street or highway uses for access or exit purposes. This area shall be landscaped in accordance with plans approved by the Planning Commission.
8. Where the site adjoins a Residential District, outdoor loudspeaker systems shall not be used.

9. The intensity level of sounds leaving the site shall not exceed sixty five (55) decibels (dBA) at the lot line of residential uses.
- U. Recreation Facility (indoor).
1. The location, design, and operation of billiard halls, bowling centers, etc. with amusement machines shall not adversely affect the continued use, enjoyment, and development of adjacent properties.
- V. Salvage or Junk Yard.
1. The lot shall be no closer than five hundred (500) feet to any Residential District, public buildings, church, hospital, institution for human care, day nursery or school.
 2. Ingress and egress to the facility shall be only from a public arterial street. The Planning Commission may approve access by other streets if it finds that the access point will further minimize impacts on other properties.
 3. The site shall be a minimum of ten (10) acres in size if there is any outdoor storage and a minimum of two (2) acres in size if all material is stored within a completely enclosed building.
 4. All outdoor storage areas shall be enclosed and set back at least one hundred (100) feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials shall be approved by the Planning Commission in accordance with the requirements of Section 14.04.
 5. Adequate parking and unloading facilities shall be provided on site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
 6. Whenever the use abuts a residential district, a buffer strip at least one hundred (100) feet in width shall be provided between the enclosed area and the adjoining district. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.
 7. An enclosed solid fence, wall or earthen berm at least six (6) feet in height, shall be provided and maintained around the periphery of the site.
 8. The outdoor storage of trash or rubbish shall be screened in accordance with Section 14.04.
 9. All activities shall be confined within the enclosed area. There shall be no stacking of material above the height of any fence, berm or wall, except that movable equipment used on the site may exceed the wall or fence

height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.

10. No open burning shall be permitted, and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
11. All streets, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public streets.
12. The operation shall be licensed by the Michigan Secretary of State to sell any used vehicle parts or tow non-operational vehicles.
13. Any hazardous substances require secondary containment and conformance with all state or federal requirements.

W. Trade or Industrial School.

1. Such schools shall be located on a minimum lot size of two (2) acres and have direct access to a major or minor public arterial street.
2. Access driveways shall be located no less than one hundred fifty (150) feet from the centerline of the intersection of any street or fifty (50) feet from any residential driveway.
3. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.
4. Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling or shining over the property line.
5. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use Section 14.04 when determining screening needs.

X. Vehicle Repair Facility.

1. The minimum lot size shall be one-half (1/2) acre with a minimum of one hundred fifty (150) feet of frontage on a public arterial street.
2. The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Muskegon and the City of Muskegon Heights.
3. All buildings, structures, and equipment shall be located at least twenty (20) feet from any right-of-way line, and not less than twenty (20) feet from any side or rear lot line.

4. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
5. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building and all repair, servicing or other related activities shall take place within the building.
6. Parking and storage areas for disabled, wrecked, or partially dismantled vehicles awaiting repair shall be paved with asphalt or poured concrete, and parking of such vehicles shall not exceed a maximum of three (3) vehicles. This area shall be screened from the view of any abutting property. The Planning Commission shall approve the method of screening.
7. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.
8. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight obscuring wall or fence. No outside storage area shall exceed an area of two hundred (200) square feet. A plan for proper disposal shall be required for all waste products incidental to this use.
9. The rental of trucks, trailers, and any other vehicles on the premises shall not occupy required setbacks or parking areas.
10. All exterior lighting shall be erected and hooded so as to shield the glare of such lights from spilling or shining onto adjacent property.
11. Where the site abuts a Residential District, a minimum twenty (20) foot buffer strip shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use when determining screening needs.
12. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.
13. Hours of operation shall not have an adverse effect on adjoining areas and be subject to Planning Commission review and approval.
14. The use shall be supported by certain infrastructure features, including paved streets, natural gas, public water supply, and public sanitary sewer.
15. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or

leakage, such as: special check valves, drain catch basins and automatic shut off valves.

Y. Vehicle Sales.

1. Such use shall meet all pertinent licensing requirements of the State of Michigan, the County of Muskegon and the City of Muskegon Heights.
2. All buildings, structures, and equipment shall be located at least fifty (50) feet from any right-of-way line, and not less than thirty (30) feet from any side or rear lot line.
3. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.
4. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
5. The minimum lot width shall be two-hundred fifty (250) feet and the minimum lot area one (1) acre.
6. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.

Z. Vehicle Service Station.

1. The lot shall be a minimum of three-quarters (3/4) of an acre with a minimum street frontage of one hundred and fifty (150) feet.
2. The lot shall have direct access to a public arterial street.
3. Vehicle fuel stations and their accessory uses (except parking areas) and buildings shall be located not less than fifty (50) feet from any right-of-way line or from any side or rear lot line abutting a Residential District.
4. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.
5. Accessory vehicle related facilities located on the premises such as wash facilities, and vehicle repair are allowed if they obtain separate Special Land Use approvals pursuant to this Chapter.
6. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
7. All storage of material, merchandise and equipment shall be within an enclosed building.

8. Gasoline or other flammable mixtures shall not be used to wash down the premises.
9. In the event that a vehicle fuel station has been abandoned or not used as a vehicle fuel station for a period of more than one (1) year, any application to operate the premises as a vehicle fuel station shall be considered as an application for a new vehicle fuel station.
10. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.

AA. Vehicle Wash Facility.

1. The minimum lot area shall be one-half (1/2) acre with a minimum street frontage of one hundred (100) feet.
2. The lot shall have immediate access to a public arterial street.
3. Additional vehicle related facilities located on the premises such as motor vehicle service facilities are allowed if approved as a Special Land Use pursuant to this Chapter.
4. All washing activities shall be within a building.
5. The vehicular exit from the building shall be at least seventy-five (75) feet from the driveway egress.
6. Wastewater shall be filtered or otherwise cleansed so as to minimize discharge of soap, wax and solid matter into the public sewer.
7. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
8. Each wash bay shall be provided ample space for required stacking spaces that is not located within the public or private right-of-way and that does not conflict with vehicle maneuvering areas and does not conflict with other activities on the site such as gasoline pumps or vacuums.
9. A by-pass lane around the building is required for automated drive-through wash facilities.
10. No activity shall emit noise that is readily discernible to the average person in any adjacent Residential District providing that air handling equipment in proper working condition deemed to comply with this provision is located on a roof with intervening noise reduction baffles. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the City.

11. The minimum front yard setback for the structure shall be fifty (50) feet; minimum side yard setback shall be twenty-five (25) feet; minimum rear yard setback shall be fifty (50) feet.
12. The entrances and exits of the facility shall not be from an adjoining residential street or alley. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.
13. The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
14. There shall be no above-ground outdoor storage/dispensing tanks on the site.
15. When adjoining a Residential District, a six (6) foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six (6) foot high barrier may be approved by the Planning Commission pursuant to the requirements of Section 14.04.
16. All lighting shall be shielded from adjacent Residential Districts or uses.
17. The outdoor storage of trash or rubbish shall be screened in compliance with Section 14.04.
18. All washing activities shall be conducted within a completely, or partially enclosed structure, except one "tall" vehicle washing area is permitted.
19. Vacuuming activities shall be at least twenty-five (25) feet from any lot line except where the property abuts a Residential District in which case a fifty (50) foot separation shall be maintained.
20. All drains shall be connected to a public sanitary sewer system.
21. Vehicle wash facilities shall not be operated between the hours of 11:00 p.m. and 8:00 a.m.

BB. Veterinary Hospital and Veterinary Clinic.

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas, shall not be located closer than one hundred (100) feet to any Residential District and shall not be located within any required yard area.
2. Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six (6) foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
3. All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.

CC. Wind Energy Conversion System

These facilities may be a principal use or an accessory use on a parcel.

1. Minimum lot size for a commercial WECS shall be ten (10) acres, but a minimum of five (5) acres of site area is required for each WECS proposed within an eligible property. Minimum lot size for a non-commercial WECS shall be two (2) acres.
2. In addition to the requirements for site plan review and approval, the following information shall be include with any application for a Special Land Use for a WECS:
 - a. Location of overhead electrical transmission or distribution lines.
 - b. Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
 - c. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS. The boundaries to include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.
 - d. A proper buffer or greenbelt to screen the use from any adjacent Residential District or use and the public road.
 - e. Existing and proposed setbacks of all structures located on the property in question.
 - f. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
 - g. Access road to the WECS facility with detail on dimensions, composition, and maintenance.
 - h. Planned security measures to prevent unauthorized trespass and access.
 - i. WECS maintenance programs shall be provided that describes the maintenance program used to maintain the WECS, including removal when determined to be obsolete.

3. A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
4. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code. Additionally, WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.
5. No part of a WECS shall be located within or above any required front, side or rear yard setback of the Zoning District in which it is located.
6. WECS towers shall be setback from the closest property line one (2) feet for every one (1) foot of system height.
7. WECS shall not be located within thirty (30) feet of an above ground utility line.
8. The height of a WECS shall be measured from grade to the height of the blade in the vertical position or the highest point of the WECS, whichever is greater. Maximum height for a commercial WESC shall be two hundred (200) feet for a commercial WECS and add maximum height of one hundred and thirty (130) feet for a non-commercial WECS.
9. WESC shall be of monopole design and shall not have guy wires.
10. Colors and surface treatment of the WECS and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structure shall be used for signs or advertising.
11. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, land or tree within a two hundred (200) foot radius of the tower.
12. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
 - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - b. A locked anti-climb device shall be installed on the tower.
 - c. Tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.

13. Each WECS shall have one (1) sign, not to exceed two (2) square feet in area posted at the base of the tower. The sign shall contain the following information:
 - a. Warning high voltage.
 - b. Manufacturer's name.
 - c. Emergency phone number.
 - d. Emergency shutdown procedures.
14. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.
15. WECS shall be designed and constructed so as not to cause radio and television interference.
16. Noise emanating from the operation of WECS shall not exceed sixty-five (65) decibels, as measured on the dBA scale, measured at the nearest property line. Estimates of noise levels shall be provided by applicant for property lines for normal operating conditions.
17. Any proposed WECS shall not produce vibrations humanly perceptible beyond the property on which it is located.
18. The on-site electrical transmission lines connecting the WECS to the public utility electricity distribution system shall be located underground.
19. The WECS shall be located and designed such that shadow flicker will not fall on, or in, any existing residential structure.
20. The City hereby reserves the right upon issuing any WECS special land use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.
21. Any WECS which are not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The City shall require a performance guarantee.

DD. Wireless Communication Tower.

1. The lot size shall be a minimum of twenty thousand (20,000) square feet.
2. The tower shall be of a monopole design unless an alternative design can be presented that blends suitably in the city landscape.

3. The tower shall be set back from all lot lines a minimum distance equal to one-half (1/2) the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the Zoning District.
4. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
5. Where possible, joint use of tower facilities, including City elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the City. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.
6. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half (1/2) mile radius of an existing radio, television, cellular, or wireless communications tower.
7. No signs, except warning or other cautionary signs shall be permitted on the site.

EE. Medical Marihuana

Provisioning Centers are allowed as a special land use permitted in I-1, I-2 and C-3 zoning districts with the following conditions:

1. They may not be located within 500 feet of an active school or church.
2. They may only operate between the hours 8 am and 8 pm.
3. Signage shall be limited to one sign, no larger than 25 square feet and shall not use the word marihuana/marijuana, cannabis or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building. Windows shall remain free and clear of all advertising.
4. The following amenity requirements must be met
 - a. Buildings must have a canopy or decorative awning over the main entrance to the building.
 - b. Metal bars and gates are prohibited over windows. The interior of all windows may have security shutters that give the appearance of shutters or window shades.
 - c. There shall be ornamental lighting on the exterior of the building at all ingress and egress doors.
 - d. Decorative landscaping shall be provided with irrigation. All new construction projects shall require underground sprinkling.
 - e. The building shall be equipped with an activated carbon filtration system for odor control and be maintained in working order.

- f. All activities of a provisioning center shall be conducted within the structure and out of public view. Walk-up and drive thru windows are not permitted.
- g. There must be a security presence in place on the property at all times, either by licensed security guard(s) and/or security cameras. A floor plan with security details is required.

SECTION 15.08 TERMINATION OF A SPECIAL LAND USE APPROVAL

In the event that a special land use approval is granted, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights granted by the special land use approval or any conditions attached thereto or fail to follow or comply with any conditions or requirements thereof. In the event that the use of the property exceeds those rights given by the special land use approval or conditions attached thereto, or the property owner fails to follow the conditions placed upon the special land use or any requirements of this Ordinance, the special land use shall terminate immediately. Alternately, in such cases, the Planning Commission shall also have the authority to terminate a special land use approval after reasonable notice and hearing.

CHAPTER 16

ZONING BOARD OF APPEALS

SECTION 16.01 MEMBERSHIP AND PROCEDURES

- A. The Zoning Board of Appeals for the City of Muskegon Heights (ZBA) shall consist of three (3), five (5), or seven (7) members (with the specific number of members set by the City Council) appointed by the Mayor with the approval of the City Council, who shall serve terms of three (3) years, except for the liaison members who are also on the Planning Commission or City Council, who shall serve only as long as they are members of those bodies. Membership shall be representative of the population distribution and of the various interests present in the City.

- B. One (1) member of the Planning Commission shall be a member of the ZBA, while a member of the City Council may be a member of the ZBA, and the remaining members selected and appointed by the Mayor (with City Council approval) from the electors of the City. A City Council member may not be chairperson of the ZBA.

- C. Meetings shall be held at the call of the Chairperson, and at other times as the ZBA in its rules of procedure may specify. The Chairperson, or in his/her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.

- D. All meetings of the ZBA shall be open to the public. The ZBA shall maintain a record of its proceedings, which shall be filed in the office of the City Clerk, and shall be a public record.

- E. Alternates
 - 1. The Mayor (with the approval of the City Council) may appoint up to two (2) alternate members for the same term as regular members of the ZBA.
 - 2. An alternate member may be called to sit as a regular member of the ZBA to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest or is absent.
 - 3. The alternate members of the ZBA may be called to sit as regular members of the ZBA, if a regular member is absent from one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for reasons of conflict of interest.
 - 4. The alternate member having been called to serve on a case shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the ZBA.
 - 5. The records maintained by the ZBA shall reflect the attendance and participation of an alternate member.

SECTION 16.02 VACANCIES AND REMOVAL

- A. Vacancies: If a vacancy occurs in the membership of the ZBA, the Mayor with the approval of the City Council shall appoint another person to the ZBA for the balance of the unexpired term. Upon expiration of the term of a member of the ZBA, a successor shall be appointed not more than one (1) month after the term of the preceding member has expired.

- B. Removal: A member of the ZBA may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a known conflict of interest constitutes malfeasance in office. Whenever a member of the ZBA has a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, and the member shall not participate in the ZBA's discussion, consideration, deliberation, or decision of the matter.

SECTION 16.03 RULES OF PROCEDURE

The ZBA may adopt rules and regulations for the conduct of its meetings. The ZBA shall elect from its membership a Chairperson, Vice-Chairperson, Secretary and other officers as deemed necessary. The ZBA shall not conduct business unless a majority of all of its members are present. The presence of a majority of its members shall constitute a quorum.

The regular place and time of meetings of the ZBA may be established by the ZBA in its rules and regulations. Except as otherwise specified in the rules and regulations of the ZBA, the procedure in meetings of the ZBA shall be governed by Robert's Rules of Order.

Minutes of proceedings shall be kept for all ZBA meetings. These minutes shall list the members absent and present and shall show the action taken by the ZBA, as well as the vote of each member upon each matter presented to the ZBA.

SECTION 16.04 CONFLICT OF INTEREST

A member of the ZBA shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the ZBA owns land within the City which is significantly affected by a matter presented to the ZBA, or a member has a direct financial interest in the matter presented to the ZBA. A conflict of interest may exist in other circumstances as well.

The members of the ZBA should strive to avoid even the appearance of impropriety. Whenever a member of the ZBA has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, or the circumstances which exist which could be perceived to be a conflict of interest. If the member has a conflict of interest, the

member shall not participate in the ZBA's consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the ZBA's consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the ZBA.

Nondisclosure of a known conflict of interest shall constitute misconduct in office, and nondisclosure of circumstances which exist which could be perceived to be a conflict of interest may also constitute misconduct in office.

If a member of the ZBA fails to disclose any circumstances which could be perceived to be a conflict of interest and the ZBA later becomes aware of such circumstances, or if a member of the ZBA participates in the consideration of a matter in which the member has a known conflict of interest, the ZBA may, upon the vote of a majority of the regular members of the ZBA (other than the member who has failed to make the disclosure or who participated in the consideration of a matter in which the member had a conflict of interest), the ZBA may make a recommendation to the City Council that the member be removed from the ZBA for misconduct in office. If the ZBA makes such a recommendation to the City Council, the City Council shall hold a public hearing to consider the recommendation.

SECTION 16.05 INTERPRETATIONS

The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, appeals involving interpretations of this Ordinance made by the Zoning Administrator, and may make decisions on any other questions on which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this section.

- A. Text Interpretations: The ZBA may hear and decide upon appeals for the interpretation of the provisions of this Ordinance after the Zoning Administrator has rendered an interpretation. In deciding text interpretations, the ZBA shall be governed by the following such rules.
1. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.
 2. Interpretations shall give weight to practical interpretations by the Zoning Administrator if applied consistently over a long period of time.
 3. Records shall be kept of all interpretations.
 4. Where the intent of this Ordinance is unclear and the facts cannot be read to support only one interpretation, the benefit of the doubt shall go to the property owner.
 5. Nothing contained in this section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.

- B. Map Interpretations: When there is any question as to the location of any boundary line between Districts, upon an appeal involving an interpretation of the zoning map from a decision of the Zoning Administrator, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.
- C. Any appeal shall be filed in writing with the City within fourteen (14) days of the date when the Zoning Administrator makes his/her interpretation.

SECTION 16.06 APPEALS

- A. Upon application, the ZBA shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other official or body charged with the administration of this Ordinance. Any person aggrieved may make an appeal to the ZBA. The grounds of every appeal shall be stated in writing as part of the application.
- B. An application for appeal shall be filed with the City within fourteen (14) days after the date of the decision that is the basis of the appeal. The appealing party shall file the notice of appeal with the City on the form required by the City and pay the required fee or fees with the Zoning Administrator. The notice shall specify the nature and grounds of the appeal and the application fee or fees shall be submitted to the City in an amount or amounts as established by the City Council from time to time.
- C. The Zoning Administrator shall transmit to the ZBA all the papers constituting the record upon which the action being appealed was taken.
- D. An appeal stays all proceedings from furthering the action being appealed unless the Zoning Administrator certifies to the ZBA that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court.
- E. The ZBA shall fix a reasonable time for the hearing of the appeal, and give due notice to the applicant and all property owners and occupants within three hundred (300) feet of the subject property via a letter sent first class mail not less than fifteen (15) days before the public hearing the time and place of the hearing. Any party may appear in person or by agent. A public hearing notice shall also be published in a newspaper of general circulation not less than fifteen (15) days before the public hearing. See also, Section 17.10.
- F. Following the public hearing, the ZBA shall decide the matter within a reasonable time. The ZBA may reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination, and to that end, shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.

SECTION 16.07 VARIANCES

- A. Non-Use (Dimensional) Variances: The ZBA may authorize upon written application in specific cases variances from the terms of this Ordinance where, owing to special conditions related to the applicant's property, a literal enforcement of the provisions of this Ordinance would result in a practical difficulty to the applicant. A variance from the terms of this Ordinance shall not be granted by the ZBA unless and until a written application for a variance is submitted and the ZBA finds that all of the following standards are met:
1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:
 - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter;
 - b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 - c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
 - d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
 2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 3. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 5. The variance will not impair the intent and purpose of this Ordinance.
 6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
 7. That the reasons set forth in the application justifies the granting of the variance and that the variance is the minimum variance necessary.

B. Use Variances: Subject to other provisions of this Ordinance, the ZBA shall have the jurisdiction to decide applications for use variances. The ZBA shall not grant a use variance unless it finds that an unnecessary hardship will occur unless the variance is granted. Additionally, the ZBA shall not grant a use variance unless it also finds that all of the following standards below are met:

1. The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.
3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
4. The variance will not impair the intent or purpose of this Ordinance.
5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.
6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the City to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
7. There are exceptional, unique, or extraordinary physical conditions or circumstances which directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.
8. The variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE-a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)
9. As specified above, the ZBA must also find that unnecessary hardship will occur if a use variance is not granted.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the ZBA vote in favor of such use variance. Furthermore, before the members of the ZBA may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The ZBA may take final action regarding such a use variance request once the Planning Commission has forwarded its

recommendation on the particular use variance request to the ZBA or 45 days has elapsed since the referral to the Planning Commission, whichever occurs first.

SECTION 16.08 APPLICATIONS AND HEARINGS

- A. Applications for variances shall be submitted to the Zoning Administrator who will review the application for completeness and validity, then transmit it to the Zoning Board of Appeals is complete. Applications not meeting the requirements shall be returned to the applicant for completion.
- B. A valid application for a variance to the ZBA shall consist of all of the following:
 - 1. Ten (10) copies of a site plan drawn to scale, which is sufficient to describe the nature of the request.
 - 2. A completed application form as provided by the City.
 - 3. Payment of the application fee or fees, in accordance with a fee schedule, as determined by the City Council from time to time.
 - 4. An escrow deposit where applicable.
 - 5. A legal description and/or parcel number of the entire property that is the subject of the request.
 - 6. A statement with regard to compliance with the standards of as applicable.
 - 7. Other materials as may be required by the ZBA or the City.
- C. A public hearing shall be held and noticed pursuant to Section 17.10.

SECTION 16.09 DECISIONS OF THE ZBA

- A. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter. The ZBA shall render its decision upon any appeal or application submitted to it within a reasonable time after the hearing thereon. However, no use variance shall be granted unless at least two-thirds (2/3) of all of the members of the ZBA vote in favor thereof.
- B. The ZBA may require a performance guarantee or guarantees and/or impose reasonable conditions in conjunction with the approval of an appeal, variance, or any other decision that it is required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.
- C. All decisions of the ZBA shall become final at the entry of an order, or at the adoption of the minutes, unless the ZBA shall find, and so certify on the record,

that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.

- D. For each decision of the ZBA, a record shall be prepared including at a minimum, the following items:
 - 1. Description of the applicant's request.
 - 2. The ZBA's motion and vote.
 - 3. A summary or transcription of all competent material and evidence presented at hearing.
 - 4. Any conditions attached to an affirmative decision.
- E. The decision of the ZBA shall be final. However, a party aggrieved by the decision of the ZBA may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the decision of the ZBA, or may remand the decision to the ZBA for further hearings or action.
- F. Period of Validity. No variance granted by the ZBA shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However the applicant may, upon written request, seek up to one (1) twelve (12) month extension of the variance from the ZBA. The ZBA may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were reasonably beyond the control of the applicant.

SECTION 16.10 PERFORMANCE GUARANTEE

The Zoning Board of Appeals may require a performance guarantee or guarantees to ensure compliance with any conditions associated with the granting of a variance.

SECTION 16.11 RE-SUBMISSION

No variance request (or similar request) that has been decided by the ZBA shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the ZBA finds that at least one of the following conditions exists:

- A. That the conditions involving all of the reasons for the original denial have been significantly altered; or
- B. That new conditions or circumstances exist which change the nature of the original request.

SECTION 16.12 LACK OF JURISDICTION

The ZBA is without jurisdiction to hear any appeals or matters involving any of the following:

- A. A planned unit development (PUD).
- B. A special land use.
- C. Site plan decisions.

Notwithstanding the fact that the ZBA generally has no jurisdiction with regard to the above-mentioned matters, the ZBA shall have jurisdiction to entertain variance requests related to subsections A, B, and/or C above, if the City body which makes the final decision regarding the matter (for example, the City Council with regard to a PUD or the Planning Commission with regard to a special land use) expressly grants written permission to the landowner or applicant involved to apply to the ZBA for a variance of one or more of the underlying requirements of the Zoning Ordinance. For example, but not by way of limitation, the Planning Commission could approve a particular special land use request contingent upon the ZBA granting a variance for an otherwise applicable requirement within the Ordinance which would normally prohibit the applicant or landowner from taking advantage of a special land use approval absent a variance.

SECTION 16.13 TERMINATION OF A VARIANCE

In the event that the ZBA grants a variance, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights given by the Zoning Ordinance or the variance or fail to follow any conditions placed thereon by the ZBA. In the event that the use of the property exceeds those rights given by the Zoning Ordinance or the variance, or the property owner fails to follow the conditions placed upon the variance, the variance shall immediately terminate. Alternately, in such case, the ZBA shall also have the authority to terminate a variance after reasonable notice and hearing.

SECTION 16.14 NO ADVISORY OPINIONS

The ZBA shall not give advisory, informal, or hypothetical opinions or decisions.

**CHAPTER 17
ADMINISTRATION,
ENFORCEMENT, AND
MISCELLANEOUS MATTERS**

SECTION 17.01 ADMINISTRATION AND ENFORCEMENT

An administrative official who shall be known as the Zoning Administrator shall be designated by the City Council to administer and enforce this Ordinance. The administrator may be provided with the assistance of other persons as the City Council may direct.

If the Zoning Administrator shall find that any provision of this Ordinance is being violated, he/she shall notify the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of any illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

SECTION 17.02 ZONING ADMINISTRATOR DUTIES AND ZONING COMPLIANCE PERMITS

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance. The Zoning Administrator may attach reasonable conditions to the granting of a zoning compliance permit.
- B. It shall be unlawful to commence a use or change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, or to construct or expand any building or structure, until the Zoning Administrator has determined the change to be in compliance with all applicable provisions of this Ordinance and has issued a zoning compliance permit.
- C. The Zoning Administrator shall evaluate the structure, plans, specification and intended use of any structure that exceeds one hundred (100) square feet. Documented approval shall be provided once the Zoning Administrator has determined that such structure complies in all respects with this Ordinance. Prior to this approval, it shall be unlawful to commence land clearing or excavation for the construction, relocation, or repair of any structure regulated by this Ordinance.
- D. The Zoning Administrator shall not approve the issuance of a zoning compliance permit if all final plans, development agreements, escrow fees and any required performance guarantees are not provided to the City.
- E. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the

- Zoning Administrator has inspected the plans or proposal in detail and found them in compliance with this Ordinance.
- F. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance or any other City ordinance.
 - G. The Zoning Administrator shall refuse to issue a zoning compliance permit if the property is in violation of this Ordinance or any other City ordinance.
 - H. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with all requirements of this Ordinance and all other applicable City, county, and state regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
 - I. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, City Council, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
 - J. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.
 - K. The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
 - L. The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of the Ordinance.
 - M. The Zoning Administrator may not make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.
 - N. The Zoning Administrator shall require every application for a Building Permit for excavation, construction, moving, alteration or change in type of use or type of occupancy, be accompanied by a site plan prepared that demonstrates compliance with the Zoning Ordinance.
 - O. If a proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this Ordinance and in conformance with the provisions of the building code, the Zoning Administrator shall allow a building permit to be issued, provided all other requirements for the permit are satisfied. If the Zoning Administrator does not approve an application for the permit, the reasons for the rejection shall be stated in writing on an appropriate form.
 - P. The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents than those required by this Ordinance in situations where basic clarification is desired before proceeding with the further

technical work; and the Zoning Administrator may on a preliminary submittal indicate tentative denial or tentative approval.

- Q. The Zoning Administrator shall enforce this Ordinance and may issue stop work orders and municipal civil infraction citations/tickets for the violation of this Ordinance.

SECTION 17.03 SCHEDULE OF FEES, ESCROW CHARGES AND EXPENSES

- A. Except as may be provided for otherwise in this Ordinance, the City Council shall determine and set fees to be collected for all applications for zoning matters, permits, and approvals. These fees shall be collected prior to the issuance of any permit or certificate being issued, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the City. Furthermore, City employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the City in full. The fee schedule shall be that adopted by resolution of the City Council as amended from time to time.
- B. In addition to regularly established fees, the City Council at its discretion may also require an applicant to submit to the City, at any time during the zoning review process, an amount of money determined by the City to be a reasonable estimate of the fees and costs which may be incurred by the City in reviewing and acting upon any such application or related matters.
- C. Such costs and expenses to be charged or assessed to the applicant for reimbursement of the City's reasonable costs and expenses, may include but shall not be limited to City attorney fees, City engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the City, costs and fees for studies and reports pertaining to the matters in questions, significant City employee time, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the City for reimbursement of such costs and expenses. Any monies, paid or deposited by an applicant, which are not used or spent by the City pursuant to an escrow fee shall be refunded.
- D. If, for some reason, the applicant does not pay, or the City does not collect, zoning escrow fees during the zoning review process, the City can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the City for the same.

SECTION 17.04 PERFORMANCE GUARANTEES

- A. As a condition of approval of a site plan review, Special Land Use, PUD, zoning compliance permit, variance, or other approvals authorized by this Ordinance, the City Council, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees of sufficient sum to assure compliance with this Ordinance, to assure compliance with a condition of approval or a permit, and to assure the installation of those features or components of the approved activity or construction which are considered

necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.

- B. The features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:
 - 1. Required Improvement:
 - a. Prior to the issuance of a building permit, zoning compliance permit, or other approval or permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.
 - b. The amount of the performance guarantee shall be not more than one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
 - c. The required performance guarantee shall be payable to the City and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the City.
 - d. The Zoning Administrator shall not sign off on the issuance of a zoning compliance permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided.
 - e. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
 - f. When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.

- b. The proposed text amendment would correct an error in the Ordinance.
 - c. The proposed text amendment would address changes to the state legislation, recent case law or opinions from the Attorney General of the State of Michigan.
 - d. The proposed text amendment would promote compliance with changes in other county, state or federal regulations.
 - e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
 - f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
 - g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
 - h. As applicable, the proposed change shall be consistent with the City's ability to provide adequate public facilities and services.
 - i. The proposed change shall be consistent with the City's desire to protect the public health, safety, and welfare of the community.
2. Map Amendment (Rezoning): In making its recommendation to the City Council, the Planning Commission shall consider the following criteria:
- a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the City Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.
 - b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
 - c. Whether, if rezoned, the site is capable of the accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.
3. Other factors deemed appropriate by the Planning Commission.

- C. Consideration of Amendment by City Council: Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Act, the City Council may modify the proposed amendment or adopt it as presented by the Planning Commission. The modified language may be referred back to the Planning Commission for additional comment.
- D. Amendment Procedure
1. Filing of Applications: All petitions for amendments to this Ordinance shall be in writing, signed and filed with 10 copies provided to the Zoning Administrator, who will forward them to the Planning Commission.
 2. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
 - a. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
 - b. The nature and effect of the proposed amendment.
 - c. If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the city, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting districts, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.
 - d. Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
 - e. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
 3. The Zoning Administrator, after examining the submitted materials and approving the application as to form and content, shall refer the request to the Planning Commission for study and report to the City Council.
 4. Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one (1) public hearing. Written notice of the meeting will be given to land owners and occupants three hundred (300) feet of the boundary of the property to be affected application. Notice shall be given in a newspaper of general circulation not less than fifteen (15) days prior to the public hearing. The notice shall include:
 - a. The nature of the request.

- b. The property(s) that are the subject of the request including a listing of all existing street addresses within property(s). If there are no addresses other means of identification may be used.
 - c. Location and time of the hearing.
 - d. Where and when written comments may be received.
5. The Planning Commission shall then refer the proposed amendment to the City Council along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefore.
 6. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements, shall be filed with the City Clerk, and one (1) notice of Ordinance adoption shall be published accordance with the requirements of the Zoning Act.
 7. Within seven (7) days after publication, the amendment to the zoning ordinance shall be filed in the Official Ordinance Book of the City with a certification of the City Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, the change shall be made on the within ten (10) days after enactment of the amendment.
 8. With regard to text amendments to this Ordinance requested by citizens, neither the Planning Commission nor the City Council are required to initiate or pursue any such amendment, but may do so at their sole discretion.

SECTION 17.06 ENFORCEMENT

- A. No property, premise, lot, structure, building, or use shall be used, erected or conducted in such a manner as to cause a nuisance to adjacent property or uses. Any structure, building, lot, or use that violates any provision or this Ordinance shall be deemed to be a nuisance *per se*.
- B. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, *per se*.
- C. A violation of this Ordinance constitutes a municipal civil infraction offense. Any person or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a municipal civil infraction.
- D. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the person admitted responsibility or was

adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

- E. The City Council, the Zoning Administrator, or their duly authorized representative(s) are hereby charged with the duty of enforcing the Ordinance and are hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the District Court or Circuit Court of Muskegon County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the noncompliance or violation. And it is further provided that any person aggrieved or adversely affected by this noncompliance or violation may institute suit and/or join the City in the suit to abate the same.
- F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

SECTION 17.07 ZONING COMPLIANCE PERMIT

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance.
- B. The zoning compliance permit is the permit issued by the Zoning Administrator before any entity or person is allowed to commence or expand a use or begin a new residential or commercial building/ addition/operation in the City. The zoning compliance permit may be applied for through the Zoning Administrator and, if granted, is valid for one year. One extension of a zoning compliance permit for one additional year may be allowed by the Zoning Administrator. A second and final extension of a zoning compliance permit may be granted by the Zoning Administrator if 75% of the overall project is proven to be completed.
- C. In addition to a zoning compliance permit, other permits may be required by various county, state and federal entities, copies of which may be required for the property files by the Zoning Administrator or Building Inspector.

Such permits include, but may not be limited to:

- 1. An approved driveway permit from the Michigan Department of Transportation.
 - 2. Soil Erosion and Sedimentation Control permit from Muskegon County.
 - 3. Electrical, mechanical and plumbing permits.
 - 4. Michigan Department of Environmental Quality Permit for wetland floodplain or inland stream modifications.
- D. Depending on the project, type of development and/or other factors, proof of various inspections and/or certifications of approval and/or completion may also required for the record by the City.

- E. It shall be unlawful to change the type of use of land, or to change or expand the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and has issued a zoning compliance permit.
- F. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, exceeding one hundred (100) square feet in floor area, until the Zoning Administrator has given documented approval of his/her opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- G. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
- H. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance or any other City ordinance.
- I. The Zoning Administrator shall not refuse to issue a zoning compliance permit when the applicant complies with all requirements and conditions imposed by this Ordinance and all other applicable City, county, and state regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- J. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, City Council, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
- K. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.

SECTION 17.08 STOP WORK ORDER

- A. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.
- B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed by the Zoning Administrator to perform to remove a violation, shall be in violation of this Ordinance.

SECTION 17.09 ZONING AGREEMENTS

The City Council recognizes that there are certain instances where it would be in the best interest of the City of Muskegon Heights, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning. Therefore, it is the intent of this section to provide a process by which an applicant seeking a change in zoning districts may propose a Zoning Agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.

- A. The following definitions shall apply to this section:
 - 1. Rezoning Offer - shall mean conditions proposed by the applicant and approved by the City that are processed as part of an approval under this section. These conditions shall constitute permanent requirements for and in connection with the development and/or use of the property approved with a Zoning Agreement.
 - 2. Zoning Agreement - shall mean a written agreement offered by the applicant and approved and executed by the applicant and the City and recorded with the Muskegon County Register of Deeds, incorporating the Rezoning Offer along with any requirements necessary to implement the Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a site plan that illustrates the implementation of the Rezoning Offer. This plan shall not replace the requirement for a site plan as outlined in Chapter 14 or other approvals that may be required by this Ordinance.
- B. Eligibility: An applicant for rezoning may submit a proposed Zoning Agreement with an application for rezoning.
- C. Zoning Agreement
 - 1. The Zoning Agreement shall set forth the Rezoning Offer and shall include those terms necessary to implement the Agreement. In addition, the Zoning Agreement shall include the following acknowledgments and understandings that:
 - a. The Zoning Agreement and the Rezoning Offer were proposed voluntarily by the applicant, and that the City relied upon the Agreement and may not grant the rezoning without the Rezoning Offer and terms spelled out in the Zoning Agreement.
 - b. The Zoning Agreement and its terms and conditions are authorized by all applicable state and federal laws and constitutions, and that the Zoning Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the City.

- c. The property shall not be developed and/or used in any manner that is not consistent with the Zoning Agreement.
 - d. The approval and the Zoning Agreement shall be binding upon the property owner and the City, and their respective heirs, successors, assigns, receivers or transferees.
 - e. If a rezoning with a Zoning Agreement becomes void in accordance with the Zoning Act, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a Zoning Agreement has been approved.
2. Each of the requirements and conditions in the Zoning Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and Zoning Agreement, taking into consideration the changed zoning district classification and the specific use(s), structures, activities, or conditions authorized.
 3. No part of the Zoning Agreement shall permit any activity, use, structure, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new Zoning District.

D. Rezoning Offer

1. The Zoning Agreement shall specify the Rezoning Offer and any requirements necessary to implement it. However, the Rezoning Offer may not authorize uses or developments of greater intensity or density, and/or which are not allowed in the new zoning district; nor may any variances from height, area, setback or similar dimensional requirements in the Zoning Ordinance of the City of Muskegon Heights be allowed unless a variance has been previously granted by the ZBA pursuant to the requirements Chapter 17.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a Special Land Use Permit and/or Site Plan shall be approved as required in Chapter 16 prior to establishment of or commencement of development of the use.

E. Procedure for Application, Review and Approval

1. An application for rezoning shall be the same as outlined in Section 17.05. In addition to the required materials listed, a Zoning Agreement in a recordable format acceptable to the City shall be submitted, along with any plans necessary to illustrate the Rezoning Offer.

2. The application may be amended during the process of City consideration, provided that any amended or additional Rezoning Offers are entered voluntarily by the applicant.
3. The Zoning Agreement shall be reviewed by the City Attorney prior to the required Planning Commission public hearing. The City Attorney shall determine that the Zoning Agreement conforms to the requirements of this section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is an a form acceptable for recording with the Muskegon County Register of Deeds.
4. An escrow fee deposit may be required by the City to cover any and all costs incurred for addressing the Zoning Agreement request.

F. Approval

1. If the rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a Zoning Agreement (i.e., "LR-a"). The City Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
2. Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new zoning district as well as the Zoning Agreement; however, the more restrictive requirements of the Zoning Agreement shall apply, and the Zoning Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
3. The approved Zoning Agreement shall be recorded with the Muskegon County Register of Deeds by the applicant with proof of recording provided to the city.
4. Prior to development, a site plan shall be approved in accordance with Chapter 14, if otherwise required.

G. Continuation

1. Provided that all development and/or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized under the agreement may continue indefinitely, provided that all terms of the Rezoning Offer and the Zoning Agreement continue to be adhered to.
2. Failure to comply with the Zoning Agreement at any time after approval may constitute a breach of agreement, and further use of the property may be subject to legal remedies available to the City.

H. Amendment

1. During the initial two (2) year period, or during any extension granted by the City as permitted above, the City shall not add to or alter the Rezoning Offer in the Zoning Agreement.
2. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement.

SECTION 17.10 NOTICE AND HEARINGS

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Act (for example, where a rezoning, ordinance amendment, Special Land Use, PUD, or ZBA matter is involved), notice of the public hearing shall be published and delivered in accordance with the requirements of this section and the Zoning Act.

- A. The notice of public hearing shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the City.
- B. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the ZBA; and for all planned unit development and Special Land Use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
 1. The applicant;
 2. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application;
 3. The occupants of all dwellings within 300 feet of the property that is the subject of the application; and
 4. All neighborhood organizations, public utility companies, railroads, and other persons that have requested to receive notice.

If the above-described 300-foot radius extends outside of the City's boundaries, then notice must also be provided outside of the City boundaries, within the 300-foot radius, to all persons in the above-stated categories.

- C. The notice of public hearing shall include the following information:
 1. A description of the nature of the application or request.
 2. An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not

need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.

3. A statement of where and when the application or request will be considered.
4. Indicate where and when written comments will be received concerning the application or request.

SECTION 17.11 TIME LIMITS

If a zoning approval or permit under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the City body, commission, or official which granted the initial zoning approval or permit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval or permit shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted only by the body, commission, or official that granted the initial zoning approval or permit.

SECTION 17.12 PROOF OF OWNERSHIP

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a zoning compliance permit or a building permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The City may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a building permit, variances, special land use requests, site plan review, zoning compliance permits, and any other zoning or building code action.

SECTION 17.13 SURVEYS

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the City with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the City to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

SECTION 17.14 REVOCAION OR TERMINATION OF ZONING APPROVALS

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or zoning compliance permit, then the City body, board, or official that granted the zoning approval or permit may terminate the zoning approval or zoning compliance permit. Where a special land use, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

SECTION 17.15 SEVERABILITY CLAUSE

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 17.16 REPEAL

Upon the effective date of this Ordinance, the prior Zoning Ordinance for the City of Muskegon Heights shall be deemed repealed and replaced by this Ordinance.

SECTION 17.17 EFFECTIVE DATE

This Ordinance shall become effective upon the expiration of seven (7) days after the Notice of Adoption or summary for this Ordinance appears in the newspaper as provided by law.

This Zoning Ordinance shall become effective on the 20th day of September, 2019.

I, Sharon Gibbs, the duly appointed clerk for City of Muskegon Heights, do hereby certify that the foregoing Zoning Ordinance was duly adopted at a regular meeting of the Muskegon Heights City Council on April 9, 2019.
