

## CHAPTER 160: ZONING

---

### Section

#### ***General Provisions***

- 160.001 Title
- 160.002 Preamble
- 160.003 Short title
- 160.004 Construction of language
- 160.005 Definitions

#### ***Zoning Districts and Map***

- 160.020 Districts
- 160.021 Boundaries
- 160.022 Zoning of vacated areas
- 160.023 Zoning of annexed areas
- 160.024 Application of district regulations

#### ***R-1A and R-1B, One-Family Residential Districts***

- 160.035 Intent
- 160.036 Principal uses permitted
- 160.037 Uses permitted subject to special conditions
- 160.038 Area and bulk requirements

#### ***R-M, Multiple-Family Residential Districts***

- 160.050 Intent
- 160.051 Principal uses permitted
- 160.052 Uses permitted subject to special conditions
- 160.053 Area and bulk requirements
- 160.054 Required conditions

#### ***MHP, Mobile Home Park District***

- 160.065 Intent
- 160.066 Principal uses permitted
- 160.067 Development standards
- 160.068 Area, height and placement requirements
- 160.069 Campgrounds, travel trailer parks and tent sites

#### ***B-1, Central Business District***

- 160.080 Intent
- 160.081 Principal uses permitted
- 160.082 Uses permitted subject to special conditions
- 160.083 Required conditions
- 160.084 Area and bulk requirements

#### ***B-2, General Business District***

- 160.095 Intent
- 160.096 Principal uses permitted
- 160.097 Uses permitted subject to special conditions
- 160.098 Area and bulk requirements

160.099 Site development standards for planned shopping centers

***W-M, Waterfront Recreation and Marina District***

160.110 Intent

160.111 Principal uses permitted

160.112 Uses permitted subject to special conditions

160.113 Area and bulk requirements

160.114 Required conditions

***I-1, Light Industrial District***

160.125 Intent

160.126 Principal uses permitted

160.127 Uses permitted subject to special conditions

160.128 Required conditions

160.129 Area and bulk requirements

***I-2, Heavy Industrial Districts***

160.140 Intent

160.141 Principal uses permitted

160.142 Area and bulk requirements

***P-1, Vehicular Parking District***

160.155 Intent

160.156 Uses permitted

160.157 Limitation of use

160.158 Entrance and exit

160.159 Minimum distances and setbacks

160.160 Screening and landscaping

160.161 Surface of parking area

160.162 Lighting

160.163 Approval and modifications

***Nautical Mile District***

160.175 Intent

160.176 Principal uses permitted

160.177 Uses subject to special conditions

160.178 Development review and site plans

160.179 Architectural standards and nautical motif

160.180 Off-street parking

160.181 Exterior lighting

160.182 Permitted, special use signage

160.183 Landscaping requirements

***Regulations Schedule***

160.195 Schedule

160.196 Notes to schedule

***General Provisions***

160.210 Conflicting regulations

- 160.211 Scope
- 160.212 Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming uses of structures and premises
- 160.213 Accessory buildings and structures
- 160.214 Off-street parking requirements
- 160.215 Off-street parking space layout, standards, construction and maintenance
- 160.216 Off-street loading and unloading
- 160.217 Uses not otherwise included within a specified use district
- 160.218 Performance standards
- 160.219 Landscaping, screening, greenbelts, buffers, and fencing
- 160.220 Signs
- 160.221 Obscuring walls and fences
- 160.222 Residential entranceway
- 160.223 Corner clearance
- 160.224 Use restriction
- 160.225 Exterior lighting
- 160.226 Waterfront lots
- 160.227 Division of parcels of land and splitting lots
- 160.228 Regulation of condominium developments
- 160.229 Lot limitations
- 160.230 Frontage
- 160.231 Sidewalks along public streets
- 160.232 Permitted exterior wall building materials
- 160.233 On-site use wind systems
- 160.234 Outdoor displays of materials
- 160.235 Outdoor café service
- 160.236 Planned development
- 160.237 Home occupations

***General Exceptions as to Area, Height and Use***

- 160.245 Generally
- 160.246 Essential services
- 160.247 Voting place
- 160.248 Height limit
- 160.249 Lot area
- 160.250 Lots adjoining alleys
- 160.251 Yard regulations
- 160.252 Multiple dwelling side yard
- 160.253 Projections into yards
- 160.254 Fences and walls
- 160.255 Lot coverage
- 160.256 Access through yards
- 160.257 Terrace

### ***Special Land Use Approval Requirements***

- 160.270 Intent
- 160.271 Authority to grant permits
- 160.272 Application and fee
- 160.273 Data, exhibits and information required in application
- 160.274 Public hearings and notices
- 160.275 Required standards and findings for making determinations
- 160.276 Determination and imposition of conditions
- 160.277 Approval and appeal procedures
- 160.278 Voiding of special approval use permit

### ***Administration and Enforcement***

- 160.290 Enforcement
- 160.291 Duties of Building Inspector
- 160.292 Plot plan
- 160.293 Permits
- 160.294 Certificates
- 160.295 Final inspection
- 160.296 Fees
- 160.297 Interpretation, purpose and conflict
- 160.298 Zoning Commission
- 160.299 Planning Commission approval
- 160.300 Site plan review required in specific districts
- 160.301 Changes and amendments
- 160.302 Fees; petition for amendment
- 160.303 Validity
- 160.304 Requirements for traffic impact studies
- 160.305 Public notification
- 160.306 Conditional rezoning

### ***Board of Appeals***

- 160.315 Creation and membership
  - 160.316 Meetings
  - 160.317 Appeal
  - 160.318 Jurisdiction
  - 160.319 Exercising powers
  - 160.320 Notice
  - 160.321 Miscellaneous
  - 160.322 Appeal to Circuit Court
- 
- 160.999 Penalty

#### ***Charter reference:***

*Mandate for zoning ordinance, see § 3.19*

*Zoning authority, see § 2.3(n)*

**Statutory reference:**

*Authority to regulate land use, see M.C.L.A. §§ 125.3101 to 125.3702*

## **GENERAL PROVISIONS**

### **§ 160.001 TITLE.**

An ordinance enacted under Act 207, Public Acts of 1921, as amended [M.C.L.A. §§ 125.3101 to 125.3702, governing the incorporated portions of the City of Marine City, St. Clair County, Michigan, to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings and other structures; to regulate and to determine the size of yards, courts and open spaces; to regulate and limit the density of population, and for said purposes to divide the city into districts and establishing the boundaries thereof providing for changes in the regulations, restrictions and boundaries of the districts, defining certain terms used herein; providing for enforcement, establishing a Board of Appeals, imposing penalties for the violation of this chapter.

(Prior Code, App., Title)

### **§ 160.002 PREAMBLE.**

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City of Marine City by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of land and undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation and other public requirements and by other means, all in accordance with a comprehensive plan.

(Prior Code, App., Preamble)

### **§ 160.003 SHORT TITLE.**

This chapter shall be known and may be cited as the City of Marine City Zoning Ordinance.

(Prior Code, App., § 100)

### **§ 160.004 CONSTRUCTION OF LANGUAGE.**

The following rules of construction apply to the text of this chapter.

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

(Prior Code, App., § 200)

### **§ 160.005 DEFINITIONS.**

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY BUILDING.** A subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land.

**ACCESSORY USE.** A use subordinate to the main use on a lot and used for purposes clearly incidental to those of the main use.

**ADULT FOSTER CARE.** As defined by the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979, as amended): a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis, but who do not require continuous nursing care.

(a) **ADULT FOSTER CARE HOME, FAMILY.** A private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week for 2 or more consecutive weeks. The licensee shall be a member of the household and an occupant of the residence.

(b) **ADULT FOSTER CARE HOME, SMALL GROUP.** An adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care for 5 or more days a week for 2 or more consecutive weeks.

(c) **ADULT FOSTER CARE HOME, LARGE GROUP.** An adult foster care facility with the approved capacity to receive at least 13, but not more than 20 adults to be provided with foster care for 5 or more days a week for 2 or more consecutive weeks.

(d) **ADULT FOSTER CARE CONGREGATE FACILITY.** An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

**AGRICULTURAL LAND.** Substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

**ALLEY.** Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulations.

**ALTERATIONS.** Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as **ALTERED** or **RECONSTRUCTED**.

**APARTMENT.** A dwelling unit in a multiple-dwelling building as defined herein:

(a) **EFFICIENCY APARTMENT.** A dwelling unit consisting of not more than 1 room in addition to kitchen and necessary sanitary facilities.

(b) **ONE-BEDROOM UNIT.** A dwelling unit consisting of not more than 2 rooms in addition to kitchen, dining and necessary sanitary facilities.

(c) **TWO-BEDROOM UNIT.** A dwelling unit consisting of not more than 3 rooms in addition to kitchen, dining and necessary sanitary facilities.

(d) **THREE-BEDROOM UNIT.** A dwelling unit consisting of not more than 4 rooms in addition to kitchen, dining and necessary sanitary facilities.

**AUTOMOBILE REPAIR STATION.** A place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; painting and undercoating.

**AUTOMOBILE SERVICE STATION.** A place where gasoline (stored only in underground tanks) kerosene or motor oil and lubricants or grease (for the operation of motor vehicles) are retailed directly to the public on the premises, including the sale of minor accessories and services for automobiles.

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

**BOARD.** The Board of Zoning Appeals.

**BUILDING.** Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This term shall include tents, awnings or vehicles situated on private property and used for purposes of a building.

**BUILDING HEIGHT.** The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

**BUILDING LINE.** A line formed by the face of the building, and for the purposes of this chapter, a minimum building line is the same as a front setback line.

**BUILDING, MAIN OR PRINCIPAL.** A building in which is conducted the principal use of the lot on which it is situated.

**CHILD CARE ORGANIZATION.** As defined by the Child Care Organizations Act (Public Act 116 of 1973, as amended): a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding that educational instruction may be given. **CHILD CARE ORGANIZATIONS** include organizations, agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, day care group homes, or day care family homes.

(a) **DAY CARE HOME, FAMILY.** A private home in which 1 to 6 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A **FAMILY DAY-CARE HOME** includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

(b) **DAY CARE HOME, GROUP.** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A **GROUP DAYCARE HOME** includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

(c) **CHILD CARE CENTER.** A facility, other than a private residence, receiving 1 or more preschool or school-age children for periods of less than 24 hours a day, and where parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. May also be referred to as a day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

**CHURCH.** A building, the primary use of which is assembly of persons for religious worship or services together with reasonably closely related activities or uses. Such definition may include temples, synagogues, mosques or other similar places of worship.

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

**COMMON ELEMENTS.** The portions of the condominium other than the condominium units.

**CONDOMINIUM ACT.** Public Act 59 of 1978, being M.C.L.A. §§ 559.101 to 559.276, as amended.

**CONDOMINIUM SUBDIVISION.** For the purposes of this chapter, a condominium subdivision shall be equivalent to the term **SUBDIVISION** as used in this Zoning Ordinance and the City Subdivision Control Ordinance. If no City Subdivision Control Ordinance is in effect, the term shall be equivalent to the term **SUBDIVISION** as used in the Subdivision Control Act (Public Act 288 of 1967, as amended).

**CONDOMINIUM SUBDIVISION PLAN.** The site, survey, and utility plans; floor plans and sections, as appropriate (if buildings are proposed), showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, and vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The **CONDOMINIUM SUBDIVISION PLAN** shall include the nature, location and approximate size of common elements.

**CONDOMINIUM UNIT.** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

**CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276.

**CONVERTIBLE AREA.** A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this chapter and the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276.

**DAY CARE HOME, FAMILY.** A private home in which 1 to 6 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A **FAMILY DAY-CARE HOME** includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

**DAY CARE HOME, GROUP.** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A **GROUP DAYCARE HOME** includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

**DISTRICT.** A portion of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

**DRIVE-IN RESTAURANT.** A business establishment for the serving of food and/or beverages so developed that its retail or service character is substantially dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure; or to permit patron self-service and return to motor vehicle.

**DWELLING UNIT.** A building, or a portion thereof, which is used exclusively as a residence and provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**DWELLING, MULTIPLE-FAMILY.** A building, or portion thereof, consisting of 3 or more dwelling units.

**DWELLING, ONE-FAMILY.** A building designed exclusively for occupancy by 1 family.

**DWELLING, TWO-FAMILY.** A building consisting of two dwelling units such as duplex dwelling unit.

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

**ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police callboxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

**EXCAVATION.** Any breaking of ground, except common household gardening and ground care.

**EXCEPTION.** A use permitted only after review of an application by the Board of Appeals or Planning Commission other than the Administrative Official (Building Inspector), the review being necessary because the provisions of this chapter covering condition, precedent or subsequent, are not precise enough to all applications without interpretation, and the review is required by this chapter.

**EXPANDABLE CONDOMINIUM.** A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this chapter and the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276.

**FAMILY.** One or 2 persons or parents, with their direct lineal descendants or adopted children or foster children (and including the domestic employees thereof) together with not more than 2 persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of 2 or less persons living in the housekeeping unit shall be considered a separate family for the purpose of this chapter.

**FLOOR AREA.** For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The **FLOOR AREA** measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

**FLOOR AREA, USABLE.** (For the purposes of computing parking) is 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. The floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities shall be excluded from the computation of **FLOOR AREA, USABLE**. Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. For the purposes of computing parking for those uses not enclosed within a building, the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or clients shall be measured to determine necessary parking spaces.

**GENERAL COMMON ELEMENTS.** The common elements other than the limited common elements.

**GRADE.** A ground elevation established for the purpose of regulating the number of stories and the height of the building. 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.

**HOME OCCUPATION.** An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**IMPROVEMENTS.** Those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of the City of Marine City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

**INTENSITY OF DEVELOPMENT.** The height, bulk, area, density, setback, use, and other similar characteristics of development.

**JUNKYARDS.** An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A **JUNKYARD** includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

**KENNEL.** Any lot or premises on which 4 or more dogs and/or cats, 4 months old or older, are kept either temporarily or permanently for purposes of boarding, breeding, buying, selling, letting for hire, or training for a fee.



**LIMITED COMMON ELEMENTS.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

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

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

**LOT AREA.** The total horizontal area within the lot lines of a lot.

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

**LOT COVERAGE.** That part or percent of the lot occupied by buildings, including accessory buildings.

**LOT DEPTH.** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

**LOT, DOUBLE FRONTAGE.** Any interior lot having frontages on 2 more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

**LOT, INTERIOR.** Any lot other than a corner lot.

**LOT LINES.** The lines bounding a lot as defined herein:

(a) **FRONT LOT LINE.** In the case of an interior lot, the lot line separating said lot from the street. In the case of a corner lot, or double frontage lot, is that line separating the lot from that street which is designated as the front street in the plat and the request for a building permit.

(b) **REAR LOT LINE.** The lot line opposite the front lot line. In the case of a lot pointed at the rear; the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long lying farthest from the front lot line and wholly within the lot.

(c) **SIDE LOT LINE.** Any lot lines other than the front lot lines or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**LOT OF RECORD.** A parcel of land, the dimensions of which are shown on a recorded plat on file with the County Register of Deeds, at the time of adoption of this chapter, or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

**LOT WIDTH.** The straight line distance between the side lot lines measured at the 2 points where the minimum building line, or setback, intersects the side lot lines.

**MAIN BUILDING.** A building in which is conducted the principal use of the lot upon which it is situated.

**MAIN USE.** The principal use to which the premises are devoted and the principal purpose for which the premises exists.

**MAJOR THOROUGHFARE.** An arterial street which is intended to serve as a large volume trafficway for both the immediate city area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with right-of-way width, existing or proposed, of 120 feet or greater shall be considered a **MAJOR THROUGHFARE**.

**MARGINAL ACCESS STREET.** A service street or roadway parallel to a major thoroughfare or arterial street and which provides access to abutting properties and protection from through traffic.

**MASTER DEED.** The condominium document recording the condominium project as approved by the city, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan.

**MASTER PLAN.** The comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof. The plan or part thereof may or may not be adopted by the Planning Commission and/or City Commission.

**MEZZANINE.** An intermediate or fractional story between the floor and ceiling of a main story occupying not more than 1/3 of the floor area of the main story.

**MOTEL.** A series of attached, semi-detached or detached rental units containing bedroom, bathroom, and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public

traveling by motor vehicle.

**NONCONFORMING BUILDING.** A building or portion thereof, existing at the effective date of this chapter, or amendments thereto, and that does not conform to the provisions of this chapter relative to height, bulk, area or yards for the district in which it is located.

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

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

**OFF-STREET PARKING LOT.** A facility other than for single family dwellings providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than 3 vehicles.

**ON-SITE USE WIND ENERGY SYSTEM.** A wind energy system that is intended to primarily serve the needs of the on-site consumer.

**OPEN FRONT STORE.** A business establishment other than a restaurant, bank, automobile service or repair stations, so developed that service to the patron may be extended beyond the walls of the building, not requiring the patron to enter the building.

**PARKING SPACE.** An area of definite length and width, the area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

**PLANNING COMMISSION.** The Planning Commission of the City of Marine City.

**PUBLIC UTILITY.** Any person, firm, corporation, municipal department, board or Commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity; sewage disposal, communication, telegraph, transportation or water.

**SETBACK.** The distance required to obtain the front, side or rear yard open space provisions of this chapter.

**SIGN.** The use of any words, numerals, figures, devices, designs or trademarks by which anything is made known such as are used to show an individual firm, profession or business, and are visible to the general public.

(a) **ACCESSORY SIGN.** A sign which is accessory to the principal use of the premises.

(b) **NON-ACCESSORY SIGN.** A sign which is not accessory to the principal use of the premises.

(c) **GROUND SIGN.** A freestanding sign supported by 1 or more uprights, braces or pylons located in or upon the ground or to something requiring location on the ground including "billboards" or "poster panels" so called.

(d) **PROJECTING SIGN.** A sign which is affixed to any building or part thereof, or structure, which extends beyond the building wall or parts thereof, or structures, by more than 12 inches. A **PROJECTING SIGN** shall not include a ground sign as herein defined.

(e) **RESIDENTIAL ENTRANCEWAY SIGN.** A permanent structure, including but not limited to walls, columns and gates, marking entrances to single family subdivisions or multiple housing projects and identifying the subdivision or project by name, symbol or otherwise.

(f) **ROOF SIGN.** A sign which is erected, constructed or maintained upon, and projects above or beyond the roof or parapet.

(g) **WALL SIGN.** A sign attached to or placed flat against the exterior wall or surface of any building, no portion of which projects more than 12 inches from the wall, but which may or may not project above the roof or parapet.

**SITE CONDOMINIUM.** A subdivision of land created and recorded pursuant to the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276 (Public Act 59 of 1978, as amended), and the provisions of this chapter, containing 2 or more units of land designed and intended for separate ownership and use, and which may or may not contain general and limited common elements. Except as otherwise specifically provided, a condominium unit is not a "lot" or "parcel" as those terms are used in this chapter.

**SITE PLAN.** Includes the documents and drawings required by this chapter to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

**STABLE, PRIVATE.** A stable for the keeping of horses for the noncommercial use of the residents of the principal use and shall not include the keeping of horses for others, or for commercial boarding.

**STABLE, PUBLIC.** A stable other than a private stable.

**STATE LICENSED RESIDENTIAL FACILITY.** A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979 or the Child Care Organizations Act, Public Act 116 of 1973, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

**STORY.** That part of a building, except a mezzanine as defined herein, included between the surface of 1 floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A **STORY** thus defined shall not be counted as a story when more than 50%, by cubic content, is below the height level of the adjoining ground.

**STORY, HALF.** An uppermost story lying under a sloping roof, the usable floor area of which, at a height of 4 feet above the floor does not exceed 2/3 of the floor area in the story directly below, and the height above at least 200 square feet of floor space is 7 feet 6 inches.

**STREET.** A public thoroughfare, other than an alley, which affords the principal means of access to abutting property. Access to property by means of private drive, private roadways or other vehicular access ways (such as private drives in multiple-family developments) and where maintenance is provided by other than the public-at-large shall not be considered as streets under this definition. Except that, in the case of a "site condominium," as defined and as regulated by this chapter, the principal means of access to abutting "units of ownership" shall be considered a street, provided it is constructed and maintained to meet the same standard for public streets within the city, as established by the city. The streets within a "site condominium" may be dedicated to the public or owned and maintained by the association of co-owners.

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

**TEMPORARY USE OR BUILDING.** A use or building permitted by the Board of Appeals to exist during periods of construction of the main building or use, or for special events.

**TRAILER COACH.** Any vehicle designed, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for 1 or more persons.

**TRAILER COURT.** Any plot of ground upon which 2 or more trailer coaches, occupied for dwelling or sleeping purposes are located.

**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.

**UTILITY GRID WIND ENERGY SYSTEM.** A wind energy system that is designed and built to provide electricity to the electric utility grid.

**VARIANCE.**

(a) A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

(b) The crucial points of **VARIANCE** are:

1. Undue hardship;
2. Unique circumstances; and
3. Applying to property.

(c) A **VARIANCE** is not justified unless all 3 elements are present in the case.

**VETERINARY CLINIC.** A place where animals or pets are given medical or surgical treatment with use as a kennel limited to short-time boarding which is incidental to the medical use.

**WIND ENERGY SYSTEM.** A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

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

(a) **FRONT YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

(b) **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

(c) **SIDE YARD.** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

(B) Wherever the term **DURABLE DUSTLESS** shall be used herein, it shall mean a paved hard surface with proper drainage.

(Prior Code, App., § 201) (Ord. passed 9-19-1974; Am. Ord. 89-4, passed 5-4-1989; Am. Ord. 97-2, passed 6-5-1997; Am. Ord. 08-01, passed 5-15-2008; Am. Ord. 13-06, passed 8-1-2013; Am. Ord. 2019-002, passed 2-21-2019)

## ZONING DISTRICTS AND MAP

### § 160.020 DISTRICTS.

For the purposes of this chapter, the city is hereby divided into the following districts:

- (A) R-1A—One-Family Residential District;
- (B) R-1B—One-Family Residential District;
- (C) R-M—Multiple-Family Residential District;
- (D) MHP—Mobile Home Park District;
- (E) B-1—Central Business District;
- (F) B-2—General Business District;
- (G) W-M—Waterfront Recreation and Marina District;
- (H) I-1—Light Industrial District;
- (I) I-2—Heavy Industrial District; and
- (J) P-1—Vehicular Parking District.

(Prior Code, App., § 300) (Ord. 91-4, passed 9-5-1991)

### § 160.021 BOUNDARIES.

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

(A) Unless shown otherwise, the boundaries of the districts are lot lines, the center lines of streets, alleys, roads or the lines extended, and the limits of the city. Where district boundaries are shown coinciding with street, alley or road right-of-way lines, the boundary shall be the center line of the right-of-way.

(B) Where, due to the scale, lack of detail, or illegibility of the Zoning Map accompanying this chapter, there is an uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application to, or upon its own motion, by the Board of Appeals.

(Prior Code, App., § 301)

### § 160.022 ZONING OF VACATED AREAS.

Whenever any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zone district as the property to which it attaches.

(Prior Code, App., § 302)

### § 160.023 ZONING OF ANNEXED AREAS.

Any area annexed to the City of Marine City which has not been zoned pursuant to the master plan or zoning ordinance of any other municipality shall immediately upon the annexation be automatically classified as a temporary R-1B District until a zoning map for the area has been adopted by the City Commission. The Planning Commission shall recommend appropriate zoning for the temporary R-1B District within 3 months after the matter is referred to the Planning Commission by the City Commission. In the case of annexed area which is presently classified as zoned property pursuant to a master plan or zoning ordinance of any other adjacent municipality the property shall retain its present zoning classification upon annexation.

(Prior Code, App., § 303) (Ord. 79-9, passed 10-18-1979)

### § 160.024 APPLICATION OF DISTRICT REGULATIONS.

(A) The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, building, structure, or uses throughout each district.

(B) No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this Ordinance. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.

(C) *Uses in districts.*

(1) *Permitted uses.* Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning district or are similar, as determined by the Planning Commission, to such listed uses.

(2) *Accessory uses and buildings.* Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.

(3) *Special uses.* Special uses are permitted as listed or if similar, as determined by the Planning Commission, to the listed special uses.

(Ord. 2019-002, passed 2-21-2019)

## **R-1A AND R-1B, ONE-FAMILY RESIDENTIAL DISTRICTS**

### **§ 160.035 INTENT.**

The R-1A and R-1B One-Family Residential Districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of medium-density one-family dwelling units along with certain residentially related facilities which serve the residents in the district.

(Prior Code, App., § 400)

### **§ 160.036 PRINCIPAL USES PERMITTED.**

In a One-Family Residential District (R-1A and R-1B), no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(A) One-family detached dwellings;

(B) Agriculture on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than 5 acres, all subject to the health and sanitation provisions of the City of Marine City;

(C) Publicly owned and operated libraries, parks, parkways and recreational facilities;

(D) Cemeteries which lawfully occupied land at the time of adoption of this chapter;

(E) Adult foster care family home;

(F) Family day care home;

(G) Public, parochial and other private elementary, intermediate schools and/or high schools offering courses in general education, not operated for profit. All structures on the site shall be setback from abutting properties zoned for residential use not less than 25 feet;

(H) Churches and other facilities normally incidental thereto on the same property, including secular counseling services, such as family and individual counseling (not including dormitory use), whether provided directly or under lease with other charitable or governmental organizations. All structures on the site shall be set back from abutting properties zoned for residential use not less than 25 feet. Buildings of greater than the maximum height allowed herein, may be allowed provided front, side and rear yards are increased above the 25 feet minimum requirements by 1 foot for each foot of building that exceeds the maximum height allowed;

(I) Temporary buildings and uses for construction purposes for a period not to exceed 1 year;

(J) Accessory buildings, provided that they shall be located as required herein;

(K) Name plates and signs as provided herein; and

(L) Automobile parking space to be provided as required herein.

(Prior Code, App., § 401) (Am. Ord. 2019-002, passed 2-21-2019)

### **§ 160.037 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission:

(A) Adult foster care small group homes. Adult foster care small group homes shall be constructed, maintained, and operated in conformance with applicable local, state, and federal laws.

(B) Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.

(C) Nursery schools, day nurseries and child care centers (not including dormitories); provided that for each child so cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a total minimum area of not less than 5,000 square feet and shall be screened from any adjoining lot in any Residential District.

(D) Private noncommercial recreational areas; institutional or community recreation centers; nonprofit swimming pool, all subject to the following restrictions:

(1) Any use permitted herein shall be developed only on acreage of at least 1 acre in area.

(2) The proposed site for any of the uses permitted herein shall have one property line abutting a major throughfare, and the site shall be so planned as to provide ingress and egress directly onto said major throughfare.

(3) Front, side, and rear yards shall be at least 80 feet wide except when abutting a nonresidential district, and shall be landscaped in trees, shrubs and grass. All such landscaping and planting shall be maintained in a healthy growing condition neat and orderly in appearance.

(4) Buildings erected on the premises shall not exceed 1 story in height except where due to topography a lower level shall be permitted when said lower level is entirely below the grade of the major throughfare abutting the parcel in question.

(5) All lighting shall be shielded to reduce glare and shall be so arranged as to reflect the light away from all residential districts.

(6) Off-street parking shall be provided so as to accommodate at least 1/2 of the member families and/or individual members. By-laws of the organization shall be provided in order to establish the membership involved for computing parking requirements. For a use permitted herein and not requiring formal membership, off-street parking requirements shall be determined by the Planning Commission on the basis of usage.

(7) Wherever the off-street parking lot is adjacent to land zoned for any residential purposes, a continuous obscuring masonry wall 4 feet 6 inches in height or a heavily planted greenbelt 10 feet in width, shall be provided along the sides of the parking area adjacent to the residentially zoned land. The wall or greenbelt shall further be subject to the provisions hereof.

(8) All parking areas shall be surfaced as required herein.

(9) Whenever a swimming pool is involved, the pool area shall be provided with a protective fence 6 feet in height and entry shall be provided by means of a controlled gate or turnstile.

(10) Where storm sewers are nonexistent or capacity is not ample, adequate on site take-off facilities shall be provided and shall be reviewed and approved by the City Commission as being adequate.

(E) Golf courses, which may or may not be operated for profit, subject to the following conditions:

(1) The site shall be so located as to provide all ingress and egress directly onto or from a major throughfare either existing or proposed.

(2) The site plan shall be laid out to achieve a relationship between the major throughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety.

(3) Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any property line of abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.

(4) The minimum number of off-street parking spaces to be provided shall be 6 spaces per hole plus 1 space per employee plus spaces as required hereunder, for each accessory use, such as a restaurant or bar.

(5) Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence 6 feet in height, and entry shall be by means of a controlled gate.

(F) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical, or religious education and not operated for profit, all subject to the following conditions:

(1) Any use permitted herein shall be developed only on sites of at least 40 acres in area, and shall not be permitted on any portion of a recorded subdivision plat.

(2) All ingress to and egress from said site shall be directly on to a major throughfare either existing or proposed.

(3) No building other than a structure for residential purposes shall be closer than 80 feet to any property line when said property line is adjacent to any Residential District.

(G) Public riding and/or boarding stables may be permitted in Residential Districts on special permit issued by the Board of Appeals (renewable each year after review by the Board of Appeals) subject to the following minimum conditions and any other reasonable condition which the Board of Appeals may impose.

(1) Public riding and/or boarding stables may be permitted on unsubdivided parcels of not less than 20 acres.

(2) Stables, paddock areas for instruction or paddock areas for the confinement of horses near stables shall be at least 300 feet from any property line.

(3) Bridle paths, and all other riding areas shall be confined to the site of continuous acreage.

(4) Off-street parking shall be provided on the site in the ratio of 1 space per horse to be stabled on the site.

(5) Lighting for exterior illumination shall be directed away from and shall be shielded from adjacent residential districts.

(6) A plot plan drawn to scale, designating all of the above areas, shall be submitted to the Board of Appeals.

(H) Private stable, as an accessory use, for not more than 1 horse on a lot where the lot is not less than 2 acres in area and provided further, that for each additional horse stabled thereon 1 acre of land shall be provided. All confinement areas and/or stables shall in all instances be located in the rear yard. In no instance shall a horse be confined nearer than 75 feet to any property line. No horse shall be allowed to run at large.

(I) Plant material nurseries and greenhouses subject to the following conditions:

(1) The minimum site size shall be 5 acres and so located as to provide all ingress and egress directly onto or from a major throughfare.

(2) Front, side, and rear yards shall be at least 50 feet wide except when abutting a nonresidential district.

(3) All buildings or structures shall be set back not less than 50 feet from any property line abutting any residential district.

(J) Bed-and-breakfast operations. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, and a use in which transient guests are provided a sleeping room and board in return for payment. The use shall conform to the following conditions:

(1) The dwellings shall be located only in the B-1 and B-2 Business Districts, or R-1 Residential, subject to the following conditions:

(a) A business license is obtained in accordance with Chapter 111 of the code.

(b) The exterior appearance of the structure shall not be altered from its single family character.

(2) The establishment shall be located within a residence which is the principal dwelling unit on the property, and said dwelling is the principal residence of the establishment operator.

(3) Not more than 25% of the total floor area of the dwelling unit shall be used for bed-and-breakfast sleeping rooms.

(4) There shall be no separate cooking facilities used for the bed-and-breakfast sleeping rooms.

(5) A sign identifying the operation may be located on the premises only after the Planning Commission shall have approved its design, size, location and height.

(6) In addition to the parking requirements required for the principal use hereby, 1 additional space shall be provided for each rental room. Such additional spaces as are required shall be located in the side or rear yard and be constructed and enclosed as directed by the Planning Commission. The Planning Commission may require additional space for employee parking.

(K) State-licensed group day-care homes, subject to the following:

(1) the hours of operation shall be limited to the period between 6:00 a.m. and 10:00 p.m.

(2) No sign accessory to the home shall be permitted.

(3) Not less than 1,200 square feet of outdoor play area suitable for play activity shall be provided and maintained on the premises of the group day-care home.

(4) The rear yard of the group day-care home shall be fenced to a height of not less than 4 feet nor more than 6 feet.

(5) There shall be 1 off-street parking space for each nonresident care-giver, and there shall be 2 additional off-street or on-street parking spaces available for ingress and egress.

(6) The zoning lot occupied by the group day-care home shall not be located within 1,500 feet of any of the following:

(a) Another licensed group child care home.

(b) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Public Act 218 of 1979, as amended.

(c) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, Public Act 368 of 1978, as amended.

(d) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

(L) Adaptive reuse and/or mixed use of existing structures. Certain structures, because of unique or peculiar circumstances with regard to location, type or size of building, and/or architectural style may be deemed desirable of preservation by the Planning Commission. Such structures may no longer be useful for the purposes for which they were designed and used because of obsolescence of a previous use, changing land use pattern or changing zoning districts. Certain uses or combination of uses (mixed uses) for the structure may be compatible and desirable if the proposed adaptive reuse of an existing structure is determined by the Planning Commission to be peculiar or unique and cannot otherwise conform with existing district regulations. In addition to all requirements in § 160.270*et seq.*, "Special Land Use Approval Requirements," and other regulations which might apply, the following conditions shall apply to all structures that

are redeveloped as an adaptive reuse of an existing structure:

- (1) A development plan shall be submitted to the Planning Commission containing the following:
  - (a) The building floor plan for all floors and the proposed use of each floor;
  - (b) The proposed use for each portion of floor in the case of a mixed use;
  - (c) The location of all walls;
  - (d) Each room shall be identified for its proposed use;
  - (e) The location of all utilities including electrical, heating, cooling and plumbing;
  - (f) The total square footage of the proposed project. Square footage of each portion of floor proposed for use in mixed-use developments shall also be submitted;
  - (g) The location of all doors and windows, existing and proposed;
  - (h) The location of all parking areas, including the number of parking spaces; and
  - (i) Recent color photographs of all sides of the structures shall be submitted with the site plan and kept by the Planning Commission in the development plan file.
- (2) The structure shall not be enlarged nor shall its exterior be altered so that it is more out of character with surrounding buildings or uses.
- (3) Landscaping elements and existing topographic features shall not be removed or altered so as to change the visual and environmental character of the site. In cases where site modification and improvements for parking, loading, or access require the removal of trees or shrubbery, new trees and shrubbery shall be replanted adjacent to the modified area providing an aggregate diameter or volume equal to the diameter or volume of the trees or shrubbery removed.
- (4) No other principal building or structure shall be constructed except that an accessory building may be allowed, provided that the building is located on the same parcel of land and is not involved in the conduct of any business and provided that the development plan is amended by the applicant and approved in writing by the Planning Commission if the accessory building is proposed for construction after the development plan has been approved.
- (5) Structures determined to have historic significance due to unique architecture, age or culture and are capable of preservation to the exterior shall be preserved and maintained to its current or historic style and condition, whenever possible.
- (6) Parking shall be provided according to regulations of the district that the proposed use most closely resembles in the case of mixed uses. Parking requirements shall apply for each use separate from the district that each is most closely associated with. On-street parking and/or municipal parking lots may be utilized to meet all or part of the parking requirements, provided that said parking is located not more than 300 feet from the subject lot or parcel. The expected use of on-street parking shall not be such that it would cause undue negative impact upon other uses within the immediate vicinity that may rely upon the availability of such parking.
- (7) The applicant shall submit supporting documents demonstrating compliance with the following requirements:
  - (a) Will be harmonious with and in accordance with the general objectives, intent and purpose of this section;
  - (b) Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity;
  - (c) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
  - (d) Will not be hazardous or disturbing to existing or future neighboring uses; and
  - (e) Will not create excessive additional requirements at public cost for public facilities and services.
- (8) Any change in use for any floor or portion of floor shall require that the development plan be amended and said amendment be approved by the Planning Commission.

(9) Prior to acting on a request under this section, the Planning Commission shall obtain a written opinion from the Historic District Commission, or other similar body charged with historic preservation responsibilities within the city.

(Prior Code, App., § 402) (Ord. 77, passed 3-6-1975; Am. Ord. 84-6, passed 5-17-1984; Am. Ord. 87-10, passed 5-21-1987; Am. Ord. 88-8, passed 10-20-1988; Am. Ord. 88-10, passed 1-5-1989; Am. Ord. 89-3, passed 4-6-1989; Am. Ord. 89-4, passed 5-4-1989; Am. Ord. 07-08, passed 1-17-2008; Am. Ord. 10-02, passed 6-3-2010; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.038 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.



(Prior Code, App., § 403)

## **R-M, MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

### **§ 160.050 INTENT.**

The R-M Multiple-Family Residential Districts are designed to provide sites for multiple-dwelling structures which will generally serve as zones of transition between the business or industrial districts and lower density single-family districts. The Multiple-Family District is further provided to serve the limited needs for the apartment-type of unit in an otherwise single-family residential community.

(Prior Code, App., § 500)

### **§ 160.051 PRINCIPAL USES PERMITTED.**

(A) In the R-M Multiple-Family Residential Districts, no building or land, except as otherwise provided in this chapter, shall be erected or used except for 1 or more of the following specified purposes and shall be permitted subject to the review and approval of the site plan by the Planning Commission.

(B) The review of the site plan is required in order to minimize the possibility of adverse effects upon adjacent property; and, furthermore, to find proper relationships between the following development features as they relate to traffic safety, service roads, driveways, parking areas; accessory buildings and uses, and open space:

- (1) All uses permitted and as regulated in the R-1B One-Family Residential Districts;
- (2) Two-family dwellings, provided such dwellings shall be served by public sewer and water systems;
- (3) Multiple-family dwellings, provided such dwellings shall be served by public sewer and water systems; and
- (4) Accessory buildings and uses customarily incident to any of the above uses.

(Prior Code, App., § 501)

### **§ 160.052 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission:

(A) General hospitals, except those for criminals and those solely for the treatment of persons who are mentally ill or have a contagious disease, not to exceed 4 stories, when the following conditions are met:

- (1) All such hospitals shall be developed only on sites consisting of at least 5 acres in area.
- (2) The proposed site shall have at least 1 property line abutting a major thoroughfare, and all ingress and egress for the site shall be directly from said major thoroughfare.
- (3) The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 100 feet for front, rear, and side yards for all 2-story structures. For every story above 2, the minimum yard distance shall be increased by not less than 10 feet.
- (4) Ambulance and delivery areas shall be obscured from all residential view with a continuous and obscuring masonry wall 6 feet in height and the wall shall be further subject to the requirements hereof.

(B) Housing for the elderly, adult foster care large group homes and adult foster care congregate facilities, not to exceed a height of 2 stories, when the following conditions are met:

- (1) All housing for the elderly shall be provided as a planned development consisting of at least 5 acres and may provide for the following:
  - (a) Cottage type dwellings and/or apartment type dwelling units.
  - (b) Common services containing, but not limited to: Central dining rooms, recreational rooms, central lounge, and workshops.
- (2) All dwellings shall consist of at least 350 square feet of floor area per unit (not including kitchen and sanitary facilities).
- (3) Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25% of the total site exclusive of any dedicated public right-of-way.
- (4) Housing for the elderly, adult foster care large group homes and adult foster care congregate facilities shall be constructed, maintained, and operated in conformance with applicable local, state, and federal laws.

(C) Convalescent homes, not to exceed a height of 2 stories, when the following conditions are met:

- (1) The site shall be developed as to create a land to building ratio on the lot or parcel whereby for each 1 bed in the convalescent home there shall be provided not less than 1,500 square feet of open space. The 1,500 square feet of land area per bed shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements and

space required for accessory uses. The 1,500 square feet requirement is over and above the building coverage area.

(2) No building shall be closer than 40 feet from any property line.

(D) Boarding, rooming or lodging house.

(E) Accessory buildings and uses customarily incident to any of the above uses.

(F) Adaptive reuse and/or mixed use of existing structures. Certain structures, because of unique or peculiar circumstances with regard to location, type or size of building, and/or architectural style may be deemed desirable of preservation by the Planning Commission. Such structures may no longer be useful for the purposes for which they were designed and used because of obsolescence of a previous use, changing land use pattern or changing zoning districts. Certain uses or combination of uses (mixed uses) for the structure may be compatible and desirable if the proposed adaptive reuse of an existing structure is determined by the Planning Commission to be peculiar or unique and cannot otherwise conform with existing district regulations. In addition to all requirements in § 160.270*et seq.*, "Special Land Use Approval Requirements," and other regulations which might apply, the following conditions shall apply to all structures that are redeveloped as an adaptive reuse of an existing structure:

(1) A development plan shall be submitted to the Planning Commission containing the following:

(a) The building floor plan for all floors and the proposed use of each floor;

(b) The proposed use for each portion of floor in the case of a mixed use;

(c) The location of all walls;

(d) Each room shall be identified for its proposed use;

(e) The location of all utilities including electrical, heating, cooling and plumbing;

(f) The total square footage of the proposed project. Square footage of each portion of floor proposed for use in mixed-use developments shall also be submitted;

(g) The location of all doors and windows, existing and proposed;

(h) The location of all parking areas, including the number of parking spaces; and

(i) Recent color photographs of all sides of the structures shall be submitted with the site plan and kept by the Planning Commission in the development plan file.

(2) The structure shall not be enlarged nor shall its exterior be altered so that it is more out of character with surrounding buildings or uses.

(3) Landscaping elements and existing topographic features shall not be removed or altered so as to change the visual and environmental character of the site. In cases where site modification and improvements for parking, loading, or access require the removal of trees or shrubbery, new trees and shrubbery shall be replanted adjacent to the modified area providing an aggregate diameter or volume equal to the diameter or volume of the trees or shrubbery removed.

(4) No other principal building or structure shall be constructed except that an accessory building may be allowed, provided that the building is located on the same parcel of land and is not involved in the conduct of any business and provided that the development plan is amended by the applicant and approved in writing by the Planning Commission if the accessory building is proposed for construction after the development plan has been approved.

(5) Structures determined to have historic significance due to unique architecture, age or culture and are capable of preservation to the exterior shall be preserved and maintained to its current or historic style and condition, whenever possible.

(6) Parking shall be provided according to regulations of the district that the proposed use most closely resembles in the case of mixed uses. Parking requirements shall apply for each use separate from the district that each is most closely associated with. On-street parking and/or municipal parking lots may be utilized to meet all or part of the parking requirements, provided that said parking is located not more than 300 feet from the subject lot or parcel. The expected use of on-street parking shall not be such that it would cause undue negative impact upon other uses within the immediate vicinity that may rely upon the availability of such parking.

(7) The applicant shall submit supporting documents demonstrating compliance with the following requirements:

(a) Will be harmonious with and in accordance with the general objectives, intent and purpose of this section;

(b) Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity;

(c) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

(d) Will not be hazardous or disturbing to existing or future neighboring uses; and

(e) Will not create excessive additional requirements at public cost for public facilities and services.

(8) Any change in use for any floor or portion of floor shall require that the development plan be amended and said amendment be approved by the Planning Commission.

(9) Prior to acting on a request under this section, the Planning Commission shall obtain a written opinion from the Historic District Commission, or other similar body charged with historic preservation responsibilities within the city.

(Prior Code, App., § 502) (Am. Ord. 07-08, passed 1-17-2008; Am. Ord. 2019-002, passed 2-21-2019)

### **§ 160.053 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted, and providing minimum yard setback requirements.

(Prior Code, App., § 503)

### **§ 160.054 REQUIRED CONDITIONS.**

Roadways within multiple family developments. In multiple-family housing developments where internal roadways are provided to serve attached or detached dwelling units which have individual driveways leading to or serving as the parking area for each dwelling unit, the roadways shall be designed and constructed to meet the standards set forth in the City Code for subdivision streets.

(Prior Code, App., § 504) (Ord. 97-2, passed 6-5-1997)

## **MHP, MOBILE HOME PARK DISTRICT**

### **§ 160.065 INTENT.**

This district is designed to create a residential zoning district which will permit and encourage single-family development in mobile homes. Unlike the typical one-family subdivision in which the individual lot provides the open space and amenities for family living, the overall development pattern would be similar to that of multifamily development. The mobile home park will be managed, organized, and regulated by the developer. Streets, utilities, open space, recreation and amenities will be provided and regulated by the developer. As a result, the City of Marine City has recognized the need to locate such zoning districts along major transportation routes and in areas of adequate utilities and public services. Similar to multiple-family developments, the mobile home parks would be designed to provide adequate space and land use separation consistent with the city's other zoning districts. The rules and regulations as promulgated by the State of Michigan Mobile Home Commission shall be applicable, except as modified by the following sections.

(Prior Code, App., § 500.1) (Ord. 91-4, passed 9-5-1991)

### **§ 160.066 PRINCIPAL USES PERMITTED.**

In all MHP Districts, no building or land except as otherwise provided in this chapter, shall be erected or used except for 1 or more of the following specified uses.

(A) Mobile home parks, subject to the requirements as established and regulated by 1987 Public Act 96, being M.C.L.A. §§ 125.2301 to 125.2350, as amended, and all applicable codes and ordinances of the City of Marine City;

(B) Mobile home condominium projects;

(C) Accessory commercial uses such as manager's offices, laundry and dry cleaning facilities, and other services for the residents of the park shall be permitted. Adequate parking for such services shall be provided as required by the Michigan Mobile Home Commission (Rules 925 and 926). The park proprietor or management may display for-sale mobile homes and accessories (provided the accessories are contained within a mobile home or an approved permanent structure for such purpose). The sales are allowed to permit the development of the park and are not intended to be a retail operation. The sales shall cease with the total development of the park;

(D) One sign, not larger than 32 square feet in area, for identification of the premises and use (without additional advertising), may be placed at the main entrance of the mobile home park. One sign, not larger than 10 square feet limited to the same identification contained on the entrance sign, may be erected on any secondary entrance to the mobile home park adjoining a public road. The identification sign shall be a part of a permanent decorative entranceway and shall be compatible with the surrounding area. In addition, individual homeowners or their agents may place "For Sale" signs no larger than 16 square feet in area upon their lots or on their homes. All signs shall observe the requirements cited herein.

(Prior Code, App., § 501.1) (Ord. 91-4, passed 9-5-1991)

### **§ 160.067 DEVELOPMENT STANDARDS.**

(A) *Minimum site size.* Each mobile home park must have a site of not less than 10 acres of land.

(B) *Maximum heights.* The maximum height of any service buildings, signs or other structures shall not exceed 2 stories or 35 feet.

(C) *Paving.* All roads, drives and parking areas within a mobile home park shall be hard surfaced in accordance with the provisions of Rule 920(1)(a) and Rule 922 of the Michigan Mobile Home Commission. Roadway drainage shall be

appropriately designed such that storm water from the roadway will not drain onto the mobile home lots. All main access drives shall be maintained free of on-street parking.

(D) *Sidewalks.* Sidewalks shall be required along the streets and roads and those leading to service facilities such as the clubhouse, laundry, parking areas or recreation facilities. All sidewalks shall be constructed of concrete and be no less than 3 feet in width. When located adjacent to an access drive, the sidewalk shall be placed no less than 3 feet from the edge of the roadway curb.

(E) *Plumbing, electrical and TV.* All electrical and telephone wiring shall be underground. Where a master antenna is provided, service shall be constructed and maintained with underground leads servicing each mobile home site.

(F) *Parking.* A minimum of 2 off-street parking spaces shall be provided for each mobile home unit. The spaces may be provided side by side on the individual site or may be grouped in parking lots.

(G) *Screening and screening belt.* When the mobile home park adjoins a site zoned R-1A, R-1B, R-M, W-M, or a site improved and presently used for one-family residential use, a screening or greenbelt as provided hereunder shall be installed on the park site along the boundary line of the residential site.

(H) *Storage and skirting.* There shall be no storage of any kind permitted under a mobile home. All mobile homes shall be skirted. The skirting shall be installed upon the mobile home within 90 days after its placement upon a lot.

(I) *Occupancy requirements.* No person shall occupy a mobile home until such time as a building permit and a certificate of occupancy shall be issued.

(J) *Fuel tanks.* Individual fuel oil, liquid petroleum or other fuel tanks shall not be permitted in a mobile home park. The park operator may determine whether or not outdoor gas grills will be permitted.

(K) *Storage.* No personal property shall be stored outside or under any mobile home. Storage sheds may be used to store property but need not be supplied by the owner of the mobile home development.

(L) *Site plan.* In accordance with M.C.L.A. § 125.2311 of the Mobile Home Commission Act, as amended, a person desiring to develop a mobile home park shall submit a preliminary plan to the Planning Commission for review and approval. The preliminary plan shall include the location, layout, general design and a general description of the project. The Planning Commission shall work with the proprietor and his or her architect to preserve the natural resources where possible and to encourage a good circulation system, building groupings and adequate recreation and parking.

(M) *Storage parking.* If boats, boat trailers and utility trailers are permitted to be parked within the mobile home park, adequate parking spaces for the vehicles in a central or collective parking area shall be provided. This area shall be in addition to the parking requirements herein.

(N) *Smoke alarms.* Smoke alarms shall be installed and maintained in workable condition in each mobile home.

(O) *Water supply and sanitary system.* Each mobile home occupied as a dwelling unit upon a lot within a mobile home park shall be connected to the Marine City water supply and sewage disposal system and approved by the Michigan Department of Public Health.

(P) *Anchoring.* Each mobile home shall be anchored by an anchoring system meeting the standards and specifications of Rule 125.1605 of the Michigan Administrative Code.

(Prior Code, App., § 502.1) (Ord. 91-4, passed 9-5-1991)

## **§ 160.068 AREA, HEIGHT AND PLACEMENT REQUIREMENTS.**

The following regulations shall apply to each mobile home site:

(A) *Lot size.*

(1) The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20% provided that the individual site shall be equal to at least 4,400 square feet.

(2) For each square foot of land gained through a reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open and distance requirements be less than that required under Rule 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

(B) *Setbacks.* No mobile home or any other buildings shall be closer than 50 feet to a public right-of-way, or 30 feet to any adjacent property owner's property line.

(C) *Floor space.* There shall be not less than 750 square feet of floor area within each mobile home. The floor area of any porch, sun deck or other structure above the roof or outside the floor or walls of the mobile home shall not be used to meet the 750 square foot requirement.

(Prior Code, App., § 503.1) (Ord. 91-4, passed 9-5-1991)

## **§ 160.069 CAMPGROUNDS, TRAVEL TRAILER PARKS AND TENT SITES.**

The following uses shall be permitted, subject to conditions imposed for each use and subject further to the review and

approval of the Planning Commission:

Campgrounds, travel trailer parks and tent sites as regulated in the W-M Waterfront Recreation and Marina Districts.

(Ord. 11-07, passed 10-6-2011)

## **B-1, CENTRAL BUSINESS DISTRICT**

### **§ 160.080 INTENT.**

The B-1 Central Business District is designated to serve as the major shopping center for the trade area of Marine City in addition to serving as a shopping center for tourist trade. This district is typified by uses which are compatible one to another and are not interrupted by automotive uses or facilities creating a break in the continuity of stores which would be caused by driveway cuts for self service types of stores or services. It is the intent of this chapter to provide for such uses which cause interruption of the continuity of the B-1 District in other districts.

(Prior Code, App., § 600)

### **§ 160.081 PRINCIPAL USES PERMITTED.**

(A) Office buildings and uses including medial offices and hospitals;

(B) Any generally recognized retail business which supplies commodities on the premises, such as but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods and notions, hardware, furniture and clothing;

(C) Any personal service establishment which perform services, on the premises, such as: shoe repair, tailor shops, beauty parlors, or barbershops or any service establishments of an office showroom or workshop nature of an electrician, decorator, dressmaker, baker, printer, upholsterer, dry cleaners or establishments doing radio, television or home appliance repair, photographic reproduction and similar establishments that require a retail adjunct;

(D) Hotels, motels, restaurants and taverns wherein such establishment does not extend as an integral part of, or accessory thereto, any service of a drive-in nature;

(E) Theaters, auditoriums, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings;

(F) Banks, with drive-in facilities permitted when the drive-in facilities are incidental to the principal function;

(G) Publicly owned and operated parks and recreational facilities; municipal or governmental office buildings and post office;

(H) Newspaper office;

(I) Churches and other facilities normally incidental thereto on the same property, including secular counseling services, such as family and individual counseling (not including dormitory use), whether provided directly or under lease with other charitable or governmental organizations. Buildings of greater than the maximum height allowed herein, may be allowed.

(J) Other uses similar to the above uses;

(K) Public or private parking lots;

(L) Accessory structures, uses and accessory signs customarily incidental to the above permitted uses, subject to the following restrictions:

(1) Accessory signs as permitted herein and only when pertaining to the sale, rental or use of the premise on which it is located or to goods sold or activities conducted thereon.

(2) All lighting for parking areas or for the external illumination of buildings shall be directed away from and shall be shielded from adjacent residential districts; and

(M) Residential units, provided they are an integral part of the structure containing a permitted use, and the residential use is subordinate to the other permitted use.

(Prior Code, App., § 601) (Am. Ord. 2019-002, passed 2-21-2019)

### **§ 160.082 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

Under such conditions as the Planning Commission, after hearing, finds the use as not being injurious to the B-1 District and environs and not contrary to the spirit and purpose of this chapter and subject further to the conditions hereinafter imposed for each use, the following uses may be permitted:

(A) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations with service yards, but without storage yards; water and sewage pumping stations;

(B) Business schools or private schools operated for profit including, but not limited to: dance studios, music and voice schools and art schools;

(C) Arcades, as defined and as licensed pursuant to this code of ordinances, provided that, so as to prevent an undue concentration of such facilities, another licensed arcade is not located within 350 feet. Curfew requirements for persons under 16 years of age, as set forth in this code of ordinances, shall apply to the operation of any arcade approved under this section.

(Prior Code, App., § 602) (Ord. passed 5-16-1974; Am. Ord. 87-15, passed 8-20-1987; Am. Ord. 99-2, passed 2-4-1999; Am. Ord. 2018-006, passed 11-1-2018; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.083 REQUIRED CONDITIONS.**

(A) (1) All business establishments shall be retail or service establishments dealing directly with consumers.

(2) All goods produced on the premises shall be sold at retail on premises where produced.

(B) All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, except that approved by the Planning Commission, per § 160.082(D).

(C) The outdoor storage of goods or materials shall be prohibited.

(D) All business establishments shall close for business between the hours of 2:30 a.m. and 6:00 a.m. 7 days per week excepting those days where the Michigan Liquor Control laws allow for service to be extended beyond 2:30 a.m.

(Prior Code, App., § 603) (Ord. 87-15, passed 8-20-1987; Am. Ord. 90-10, passed 8-2-1990)

#### **§ 160.084 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting height and bulk of buildings and minimum size of lot by permitted land use.

(Prior Code, App., § 604)

### **B-2, GENERAL BUSINESS DISTRICT**

#### **§ 160.095 INTENT.**

The B-2 General Business District is designed to furnish areas served by the B-1 Central Business District with a variety of automobile services and goods incompatible with the uses in such B-1 Central Business District. The B-2 General Business District is characterized by More diversified business types and is located to serve transient traffic in addition to tourist accommodations and services.

(Prior Code, App., § 700)

#### **§ 160.096 PRINCIPAL USES PERMITTED.**

(A) All principal and special conditions uses permitted and as regulated in the B-1 Districts except as hereinafter modified;

(B) Auto laundries, when completely enclosed in building;

(C) Bus passenger stations;

(D) New car sales showrooms and garages and Marine sales.

(E) Governmental office or other governmental use; public utility offices, exchanges, transformer stations, pump stations, and service yards but not including outdoor storage;

(F) Greenhouses and florist provided there shall be no outdoor growing of plant material or outdoor storage permitted;

(G) Private clubs or lodge halls, fraternal organizations;

(H) Retail cold storage establishments;

(I) Bowling alley, billiard hall, indoor archery range, indoor skating rink, and similar forms of indoor commercial recreation;

(J) Other uses similar to the above uses;

(K) Accessory structures, uses and accessory signs customarily incidental to the above permitted uses subject to the requirements hereof; and

(L) Planned shopping centers.

(Prior Code, App., § 701) (Am. Ord. 04-07, passed 8-19-2004)

#### **§ 160.097 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

Under such conditions as the Planning Commission, after hearing, finds the use as not being injurious to the B-2 District and environs, and not contrary to the spirit and purpose of this chapter, and subject further to the conditions hereinafter imposed for each use, the following uses may be permitted:

(A) Outdoor sales space for exclusive sale of automobiles, house trailers, or boats subject to the following:

- (1) All lighting shall be shielded from adjacent residential districts.
- (2) Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any 2 streets.
- (3) A 4-foot obscuring wall or obscuring fence shall be provided when abutting districts are zoned for residential use.
- (4) No major repair or major refinishing shall be done on the lot except in enclosed buildings provided for this purpose.

(B) Motel or hotel, subject to the following:

- (1) Provided that it can be demonstrated that all points of ingress and egress do not conflict with adjacent business uses and are directly onto a major thoroughfare.
- (2) A 4-foot obscuring wall or obscuring fence shall be provided where abutting districts are zoned for residential use.
- (3) Each unit shall contain not less than 200 square feet of floor area.

(C) Business in the character of a drive-in, or open front store subject to the following:

- (1) A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
- (2) Ingress and egress points shall be located at least 60 feet from the intersection of any 2 streets.
- (3) All lighting shall be shielded from adjacent residential districts.
- (4) A 4-foot completely obscuring wall or obscuring fence shall be provided where abutting districts are zoned for residential use.

(D) Commercially used outdoor recreational space for children's amusement parks, carnivals, miniature golf courses, subject to the following:

- (1) Children's amusement park must be fenced on all sides with a 4-foot wall or fence.
- (2) Adequate parking shall be provided off the road right-of-way and shall be fenced with a 4 foot wall or fence where adjacent to the use.

(E) Mortuary establishments subject to the following:

- (1) The minimum lot area shall be 20,000 square feet and so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
- (2) The site shall be so located as to have at least 1 property line abutting a major thoroughfare and all ingress and egress for the site shall be directly onto the major thoroughfare, or a marginal access service drive thereof.
- (3) Points of ingress and egress for the site shall be so laid out as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
- (4) No building shall be located closer than 25 feet to the outer perimeter (property line) of the district when the property line abuts any residential district.
- (5) A caretakers residence may be provided within the main building of the mortuary establishment.
- (6) Loading and unloading area used by ambulance, hearse, or other such service vehicles shall be obscured from all residential view with a wall or fence 6 feet in height and the wall or fence, plus any other required wall or fence shall be further subject to the requirements hereof.

(F) Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed main building and provided further that no abutting property be zoned in any residential classification.

(G) Gasoline service station for sale of gasoline, oil and minor accessories only, and where no repair work is done, other than incidental service, but not including steam cleaning and subject to the following:

- (1) The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection or from adjacent residential districts.
- (2) The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.
- (3) There shall be provided, on those sides abutting or adjacent to a residential district, a 4 foot completely obscuring wood or masonry wall.
- (4) All lighting shall be shielded from adjacent residential districts.

(Prior Code, App., § 702)

**§ 160.098 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting the height and bulk of buildings and minimum size of lot by permitted land use.

(Prior Code, App., § 703)

### **§ 160.099 SITE DEVELOPMENT STANDARDS FOR PLANNED SHOPPING CENTERS.**

(A) A **PLANNED SHOPPING CENTER** is hereby defined as a grouping of retail and service uses on a single site with common parking facilities.

(B) The following development standards shall apply to all sites developed as planned shopping centers as defined above and are in addition to any of the applicable requirements of this section:

(1) Building facades greater than 100 feet in length shall incorporate recesses and projections along at least 20% of the length of the facade. Windows, awnings and arcades must total at least 60% of a facade length abutting a public street.

(2) Architectural interest shall be provided through the use of repeating patterns of changes of color, texture and material modules. At least 1 of these elements shall repeat horizontally. All elements should repeat at intervals of no more than 50 feet, either horizontally or vertically.

(3) There shall be variations in roof lines to reduce the massive scale of the structure and to add visual interest. Roofs shall have at least 2 of the following features:

- (a) Parapets concealing flat roofs and rooftop equipment;
- (b) Overhanging eaves;
- (c) Sloped roofs; and
- (d) Three or more roof surfaces.

(4) Each principal building with an anchor tenant shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls and integral planters.

(5) Facade colors shall be of a low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

(6) Building trim may consist of brighter colors, but neon tubing as a building accent is prohibited.

(7) Loading docks, trash collection, outdoor storage and similar facilities and functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets. Use of screening materials that are different from or inferior to the principal materials of the building and landscape is prohibited. No delivery, loading, trash removal, exterior property maintenance, or similar operations are permitted between the hours of 9:00 p.m. and 7:00 a.m., except in special circumstances and where steps are taken to reduce noise impacts.

(8) Each planned shopping center must contribute to the establishment or enhancement of the community and public spaces by providing at least 2 community amenities such as a patio/seating area, water feature, clock tower, pedestrian plaza with benches, public art and the like.

(C) Retail stores with a gross floor area of 50,000 square feet or more shall be developed in accordance herewith, as stated in this section.

(Ord. 04-07, passed 8-19-2004)

## **W-M, WATERFRONT RECREATION AND MARINA DISTRICT**

### **§ 160.110 INTENT.**

The waterfront of the City of Marine City is a limited community resource; therefore, it is the intent of the Waterfront Recreation and Marina District, aside from residential use, to allow only those recreational, public and business uses which are related to the waterfront and which, therefore, cannot feasibly be located elsewhere. Such districts are intended to encourage safe and efficient development of waterfront areas and facilitate navigation.

(Prior Code, App., § 800) (Ord. 98-3, passed 3-19-1998)

### **§ 160.111 PRINCIPAL USES PERMITTED.**

(A) Public or private facilities for the berthing, launching, handling or servicing of recreational boats, except as otherwise provided in this subchapter;

(B) Public beaches and recreation areas directly related to the waterfront;

(C) Retail businesses which supply products primarily and directly for persons using the facilities of the district, such as sale of boats, equipment and accessories, fishing equipment and bait and other similar items;

(D) Indoor storage of boats in a permanent structure;

(E) Accessory uses and buildings as follows:



(1) Private launching ramps;

(2) Outdoor storage of recreational boats on the paved off-street parking surface required herein. No parking lot shall be occupied by stored boats during the months of June, July and August. All such storage shall be arranged in an orderly manner and at least 1/2 of the parking area shall be conveniently available for customer parking by May 15;

(3) Other approved accessory uses and buildings when located on the same lot as a principal use, provided that such accessory use or building shall be clearly incidental to the permitted use; and

(4) Temporary buildings and uses for construction purposes for a period not to exceed 1 year.

(Prior Code, App., § 801) (Ord. 98-3, passed 3-19-1998)

#### **§ 160.112 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission.

(A) Boat fuel stations;

(B) Clubs, lounges or restaurants;

(C) Engine and hull repair shops;

(D) Marine construction and maintenance equipment use and storage;

(E) Municipal or private facilities for the berthing, launching, handling or servicing of commercial boats;

(F) Any use permitted in any residential district, which is part of a planned development, provided that such use shall comply with all of the zoning regulations of the highest residential district in which it is first allowed;

(G) Hotels or other such facilities to provide temporary home-port accommodations; and

(H) Stack storage.

(I) Campgrounds, travel trailer parks and tent sites, subject to the following:

(1) Minimum parcel size shall be 2 acres. The parcel shall provide vehicular access to a public road.

(2) One off-street parking space shall be provided for each camping site.

(3) Camping sites shall be located no closer to a property line than the minimum yard setback distance. Within a side yard, a lesser distance may be approved by the Planning Commission where a 6-foot masonry wall is constructed along the property line.

(4) The purpose of the campground or travel trailer park shall be to provide temporary recreational sites and opportunities and not intermediate or long term housing. Occupancy within the park shall be limited to between April 1 and December 1.

(5) Trailers shall be removed from camping sites between December 1 and April 1 but may be stored on-site within a storage area designated as such on the site plan.

(6) No retail sales shall be permitted to operate on the parcel, except that a convenience goods shopping building may be provided on a parcel containing more than 80 sites. Convenience goods sold shall be primarily for the benefit of the campground users and not the general public, unless allowed by the special conditional use permit.

(7) All sanitary facilities shall be designed and constructed in strict conformance to all applicable St. Clair County health regulations.

(8) All campgrounds shall be licensed by the State of Michigan and shall comply with all applicable state and county rules and regulations, including Part 125 of the Public Health Code (PA 368 of 1978).

(Prior Code, App., § 802) (Ord. 98-3, passed 3-19-1998; Am. Ord. 11-07, passed 10-6-2011)

#### **§ 160.113 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting the height and bulk of buildings, and minimum size of lot by permitted land use.

(Prior Code, App., § 803) (Ord. 98-3, passed 3-19-1998)

#### **§ 160.114 REQUIRED CONDITIONS.**

(A) All open areas, setback and all other portions of the site not used for approved boat storage, parking, driveways, buildings and launching shall be provided with landscaping, approved by the Planning Commission, and so maintained in attractive condition.

(B) Lighting of the site shall be as approved by the Planning Commission in accordance herewith and as specified for each district, and shall not include floodlighting, building-mounted or otherwise (except as may be permitted by the

Commission on a finding that such lighting produces no adverse effects to neighboring properties and rights-of-way).

(C) All dredging, construction, bulkheading or development shall be subject to the requirements of codes and ordinances of City of Marine City; St. Clair County, and applicable state and federal laws and rules.

(D) The addition or alteration of slips, boathouses, moorings on the shoreline shall require site plan review.

(E) Slip dimensions shall be in accordance with the following maximum requirements:

|                              |    |    |    |    |    |    |    |    |      |
|------------------------------|----|----|----|----|----|----|----|----|------|
| Slip length (ft):            | 25 | 30 | 35 | 40 | 45 | 50 | 55 | 60 | 65 + |
| Width, floating slips (ft.): | 10 | 11 | 12 | 14 | 15 | 17 | 18 | 18 | 19   |
| Width, fixed slips (ft):     | 11 | 12 | 14 | 16 | 18 | 19 | 19 | 20 | 22   |

(F) Permitted outside storage of boats and equipment necessary and accessory to the principal use shall comply with the following conditions:

(1) All storage or parking shall be set back as specified in § 160.113 and be at least 25 feet from any adjacent residential district.

(2) Equipment storage areas shall be continuously maintained.

(3) Whenever a different material is to be stored than that agreed upon in the original request, a new approval shall be required from the Planning Commission.

(4) The Planning Commission shall also find, before granting this approval, it will not tend to further:

- (a) Impair the adequate supply of light and air to the adjacent property;
- (b) Increase in hazard from fire, flood and other dangers to the site or adjacent property;
- (c) Diminish the market value of adjacent land and buildings;
- (d) Increase the congestion on the public streets; and
- (e) Otherwise impair the public health, safety, comfort and general welfare.

(5) The most appropriate method of screening the stored materials from view, such as solid masonry wall, landscaped earth berm and the like will be determined by the Planning Commission, as provided herein.

(G) Facilities shall be provided at the marina for disposal of refuse from boat holding tanks in a sanitary manner. Each marina shall provide suitable, safe and sanitary toilet refuse facilities within buildings designed for this purpose. No less than 1 toilet shall be provided for each 50 boat spaces or less within not more than 1,000 feet of walking distance of each boat space. Refuse and garbage containers shall be provided and kept in clean and sanitary condition for the use of boat owners within not more than 150 feet of walking distance of each boat space. All such facilities shall be subject to the approval of the St. Clair County Health Department.

(H) Public launchings permitted in any marina having a public launching ramp shall be limited as follows: The number of public launchings permitted shall be limited to the number of parking spaces available to the general public for the parking of vehicles and boat carriers in any such marina. The number of public launchings shall be limited in direct proportion to the available harbor spaces in any such marina as hereinafter required, whichever number of parking spaces or harbor spaces is the smaller. Parking spaces for vehicles with boat trailers shall not be less than 12 feet in width and 49 feet in length. Any such spaces shall be in addition to other required off-street parking.

(I) Any marina having a public launching ramp shall provide harbor space or spaces directly connected with such marina, capable of accommodating as many boats as there are parking spaces for vehicles and boat carriers on the lands of such marina. The foregoing requirements as to harbor space are to assure protection to boats launched at such public ramp from the turbulent waters caused by storms or high winds. Before any use shall be made of the public launching ramp, an application shall be filed with the Zoning Administrator to determine if all the provisions of this section have been complied with. Based upon the Zoning Administrator's findings, special approval may be granted or denied by the Planning Commission.

(J) Signs and off-street parking improvements shall be provided in accordance with this code of ordinances.

(K) There shall be no year-round occupancy of any moored watercraft in any marina, and the uses permitted under this subchapter do not contemplate any use of a moored watercraft as a residence or dwelling. Overnight occupancy of any moored watercraft is prohibited at all times during the off-season (beginning November 1 and ending March 31). All marina operators shall maintain a log book documenting all overnight stays, which shall be available and open to inspection by the city. Any occupancy of a moored watercraft for a cumulative total of more than 30 days during the boating season (beginning April 1 and ending October 31) shall be deemed to be in violation of this restriction and shall subject the watercraft owner and the occupant of the moored watercraft to the penalties as provided herein, except as provided as follows:

(1) For reasons of extreme hardship, such as mechanical failure or damage to the watercraft or for other meritorious reasons, a watercraft owner may make written application to the City Manager for an extension of time in which to comply with the above restriction.

(2) The application shall be made only by the individual watercraft owner, on his or her own behalf, and shall state the reasons which would require an extension of time beyond the period limited herein. The application shall be accompanied by a permit fee payable to the City Clerk, in accordance with the following schedule:

- (a) For the first 30-days' extension: \$50 permit fee.
- (b) For the second 30-days' extension: \$100 permit fee.
- (c) For the third 30-days' extension: \$150 permit fee.
- (d) No fourth extension is authorized without specific approval of the City Commission.

(3) The City Manager is hereby granted discretion to grant or deny said application for good cause shown, but shall not extend the waiver beyond 90 days additional, but shall refer any such further application to the City Commission for a determination.

(Prior Code, App., § 804) (Ord. 98-3, passed 3-19-1998)

## **I-1, LIGHT INDUSTRIAL DISTRICT**

### **§ 160.125 INTENT.**

(A) The I-1 Light Industrial Districts are designed so as to primarily accommodate wholesale and warehouse activities, and industrial operations whose external, physical effects are restricted to the area of the districts and in no manner affect in a detrimental way any of the surrounding districts. The I-1 District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material. It being the intent of this section that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted.

(B) The following regulations shall apply to all I-1 Districts and no building, structure or premises, except as otherwise provided in this chapter, shall be erected, altered, or used except for 1 or more of the following uses.

(Prior Code, App., § 900)

### **§ 160.126 PRINCIPAL USES PERMITTED.**

(A) Any of the following uses when the manufacturing, compounding or processing is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding or processing shall be totally obscured by a wall or obscuring fence not less than 5 feet in height, on those sides abutting any residential district, and on any front yard abutting a public thoroughfare. In I-1 Districts the extent of such wall may be determined by the Planning Commission on the basis of usage.

(1) The manufacture, compounding, processing, packaging or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool; die, gauge and machine shops;

(2) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials; bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills) and yarns;

(3) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas;

(4) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other small moulded rubber products;

(5) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs;

(6) Laboratories: experimental, film or testing;

(7) Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like;

(8) Warehouse and wholesale establishments and truck terminal facilities;

(9) Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumer at retail; and

(10) All public utilities, including buildings, necessary structures, storage yards and other related uses.

(B) Trade or industrial schools;

(C) Truck rental and leasing (S.I.C. Code 7513), provided all display areas are paved and properly drained in accordance with the City Code;

(D) Any use charged with the principal functions of basic research, design and pilot or experimental product development;

(E) Accessory structures and uses customarily incident to the above permitted uses;

(F) Nonaccessory, freestanding signs; and

(G) Other uses of a similar and no more objectionable character to those principal uses permitted.

(Prior Code, App., § 901) (Ord. 98-4, passed 5-21-1998)

#### **§ 160.127 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.**

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission.

(A) Restaurants or other places serving food or beverage except those having the character of a drive-in so called, automobile service stations, newsstands and tobacco shops, which in the opinion of the Planning Commission are intended to serve the convenience needs of persons working in the I-1 District, subject to the regulations applicable to such uses;

(B) Automobile repair station, automobile or other machinery assembly plants, painting and varnishing shops, undercoating shops;

(C) Storage facilities for building materials, sand, gravel, stone lumber, open storage or construction contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting any residential district and on any front yard abutting a public thoroughfare. In I-1 Districts the extent of such wall may be determined by the Planning Commission on the basis of usage. Such wall shall be not less than 5 feet in height and may, depending upon land usage, be required to be 8 feet in height, and shall be subject further to the requirements hereof;

(D) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances; and

(E) Other uses of a similar and no more objectionable character, and which will not be injurious or have an adverse effect on adjacent areas, any may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.

(Prior Code, App., § 902)

#### **§ 160.128 REQUIRED CONDITIONS.**

Any use established in the I-1 District after the effective date of this chapter shall be operated so as to comply with the performance standards set forth hereinafter.

(Prior Code, App., § 903)

#### **§ 160.129 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting the height and bulk of buildings and the minimum size of lot by permitted land use.

(Prior Code, App., § 904)

## **I-2, HEAVY INDUSTRIAL DISTRICTS**

#### **§ 160.140 INTENT.**

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

(B) The following regulations shall apply to all I-2 Districts and no building, structure or premises, except as otherwise provided in this chapter, shall be erected, altered or used, except for 1 or more of the following uses.

(Prior Code, App., § 1000)

#### **§ 160.141 PRINCIPAL USES PERMITTED.**

(A) Any use first permitted in an I-I District;

(B) Heating and electric power generating plants, and all necessary uses;

(C) Any production, processing, cleaning, servicing, testing, repair, or storage of materials, goods or products which shall conform with the performance standards as set forth herein, (except such uses specifically excluded from the City of Marine City by Ordinance), and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or particulate matter, toxic and noxious materials, odors, fire or explosive hazards or glare or heat;

(D) Junkyards, provided such are entirely enclosed within a building or within a 10 foot obscuring wall of sufficient strength, to serve as a retaining wall, and provided further that all property lines shall abut the I-2 District. There shall be no outdoor burning on the site and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building. There shall be no stocking of any material above the height of the wall, except that movable equipment used on the site may exceed the wall height; and

(E) Accessory structures and uses customarily incidental to the above permitted uses.

(Prior Code, App., § 1001)

#### **§ 160.142 AREA AND BULK REQUIREMENTS.**

See § 160.195 limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.

(Prior Code, App., § 1002)

### **P-1, VEHICULAR PARKING DISTRICT**

#### **§ 160.155 INTENT.**

The P-1 Vehicular Parking Districts are designed to accommodate the off-street parking for those uses which are not able to provide adequate space within their own district boundaries.

(Prior Code, App., § 1100)

#### **§ 160.156 USES PERMITTED.**

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

(Prior Code, App., § 1101)

#### **§ 160.157 LIMITATION OF USE.**

(A) The parking area shall be accessory to and for use in connection with 1 or more business or industrial establishments, or in connection with 1 or more existing professional or institutional office buildings or institutions;

(B) Parking area shall be used solely for parking of private passenger vehicles, for periods of less than 1 day;

(C) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area;

(D) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area;

(E) No building other than those for shelter of attendants shall be erected upon premises and they shall not exceed 15 feet in height;

(F) Such parking lots shall be contiguous to a B-1, B-2, I-1 or I-2 District, and in all cases shall be adjacent successive lots from the above mentioned use districts. There may be a private driveway or public street or public alley between the above stated Districts and the P-1 District.

(Prior Code, App., § 1102)

#### **§ 160.158 ENTRANCE AND EXIT.**

(A) Adequate entrance and exit for vehicles to premises used as a parking area shall be provided and shall be by means of streets or alleys adjacent to or extending through B-1, B-2, I-1 or I-2 Districts, or by means of private roadways extending through such districts. All such roadways shall be surfaced in a manner at least equivalent with that which is hereinafter provided for the parking area.

(B) Each entrance and exit to and from such parking lot shall be at least 20 feet distant from any adjacent property located in any residential district.

(Prior Code, App., § 1103)

#### **§ 160.159 MINIMUM DISTANCES AND SETBACKS.**

(A) *Side yards.* Where the P-1 District is contiguous to side lot lines of premises within a residentially zoned district, the required wall or obscuring fence shall be located on the property line.

(B) *Front yards.* Where the P-1 District is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for the residential district, or a minimum of 25 feet, or whichever is the greater. The required wall, or obscuring fence shall be located on this minimum setback line.

(Prior Code, App., § 1104)

## **§ 160.160 SCREENING AND LANDSCAPING.**

(A) The parking area shall be provided with a continuous and completely obscuring wood or masonry wall or obscuring fence, 4 feet in height measured from the surface of the parking area. This wall or obscuring fence shall be provided on all sides where the next zoning district is designated as a residential district. Whenever such wall or obscuring fence is required, all land between the wall or obscuring fence and boundaries of the P-1 District shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees, and shall conform with the requirements hereof. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy growing condition, neat and orderly in appearance.

(B) All planting plans shall be submitted to the Planning Commission for approval as to suitability of planting material and arrangement thereof, in accordance with the provisions of the preceding paragraph, and in accordance herewith.

(Prior Code, App., § 1105)

## **§ 160.161 SURFACE OF PARKING AREA.**

(A) The parking area shall be provided with a durable and dustless surface and shall be graded and drained as to dispose of all surface water accumulated within the area.

(B) The parking area shall be surfaced within 1 year of occupancy of the use it is to serve if it is for a new use, and within 6 months of the effective date of rezoning for P-1 Vehicular Parking use if the parking area is to serve an existing use or uses.

(Prior Code, App., § 1106)

## **§ 160.162 LIGHTING.**

Where lighting facilities are provided, they shall be so arranged as to reflect the light away from all residential districts.

(Prior Code, App., § 1107)

## **§ 160.163 APPROVAL AND MODIFICATIONS.**

(A) The Board of Appeals, upon application by the property owner of the parking area, may modify the yard and wall requirements where, in unusual circumstances no good purpose would be served by compliance with the requirements of this section.

(B) In all cases where a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than 10 feet from such alley line in order to permit a wider means of access to the parking area.

(Prior Code, App., § 1108)

# **NAUTICAL MILE DISTRICT**

## **§ 160.175 INTENT.**

(A) The nautical mile is of special public interest because of its unique location along the St. Clair River as a focal point of community redevelopment activities. The Nautical Mile District (NMD) is intended to encourage the redevelopment of the Nautical Mile in a compatible mixture of housing, recreation, entertainment, commercial, office, cultural, public and hotel uses through the flexible application of land regulatory standards. Such uses may be located in various combinations of mixed-use and single-use development. It is also the intent of the District to encourage a high quality of private development with reasonable public amenities to improve the overall living, working, shopping and recreational environment of the Nautical Mile. The Nautical Mile encompasses property within the DDA District and as designated by the City's Zoning Map. Special district objectives. The Zoning Enabling Act, Public Act 110 of 2006, as amended, allows for the creation of special land development regulations to address problems and needs in specific areas. Accordingly, the Nautical Mile was established to address the special land management and redevelopment needs of the Nautical Mile.

(B) The establishment of special development regulations is designed to achieve the following objectives:

(1) Ensure that development is guided by provisions of the Marine City Master Plan, the Coastal Zone Management Plan, the Downtown Development Plan and other documents supporting the overall redevelopment program of the Nautical Mile;

(2) Encourage the development of public parks and recreation facilities which recognize and enhance the unique waterfront location, public needs and amenities of Nautical Mile;

(3) Provide commercial activity which will serve as an attraction draw to the regional trade area and meet the needs of local residents for convenient shopping;

(4) Ensure that all new construction and renovation is designed and located in a manner which capitalizes upon the unique waterfront environment;

(5) Provide for unification of the area through landscaping, signage, lighting and street furniture; and

(6) Ensure that the location, design, visual appearance and construction of individual buildings and structures is consistent with overall design objectives and redevelopment efforts.

(Prior Code, App., § 2000) (Ord. 88-1, passed 3-17-1988; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.176 PRINCIPAL USES PERMITTED.**

(A) The following land uses are permitted in the Nautical Mile District—NMD.

(B) The uses shall conform to standards set forth in this chapter and other applicable portions of the City Zoning Ordinance listed below:

- (1) Residential, R-1A, R-1B, R-M Residential; and
- (2) Commercial, B-1 Central Business District.

(Prior Code, App., § 2001) (Ord. 88-1, passed 3-17-1988)

#### **§ 160.177 USES SUBJECT TO SPECIAL CONDITIONS.**

(A) The special condition uses specified in R-1A, R-1B, R-M and B-1 Central Business Districts shall be permitted, subject to the conditions imposed by each use and subject further to the review and approval of the Planning Commission.

(B) The following uses shall not be permitted in this zone:

- (1) Junkyards and other mobile home parks;
- (2) Storage or parking or use of moving vans and the like;
- (3) Outdoor storage or parking of wrecked or partially dismantled vehicles;
- (4) Drive-in theaters;
- (5) Drive-in restaurants; and
- (6) Automotive wash establishments.

(Prior Code, App., § 2002) (Ord. 88-1, passed 3-17-1988)

#### **§ 160.178 DEVELOPMENT REVIEW AND SITE PLANS.**

(A) Prior to the issuance of a building permit for any multifamily and commercial building to be built or modified, a site plan shall be approved as provided for hereunder. Site plans shall be required for all permitted uses hereunder and all uses subject to special conditions.

(B) The site plan submission shall contain the following information:

(1) Existing topography recorded at a minimum contour interval of 2 feet showing all natural features, such as trees, rivers and open areas; all features shall be identified as to which remain and which will be removed or altered. Topography shall extend 50 feet beyond all property lines;

- (2) General soils information;
- (3) Location and size of buffer areas;
- (4) Use and general class of each different type of structure;
- (5) The site plan shall be at a scale of not greater than 1 inch equals 20 feet nor less than 1 inch equals 50 feet;
- (6) The site plan shall show all signage and provisions for pedestrian circulation, both on the site and to and from it;
- (7) Name and address of all property owners, as listed by the City Assessor or the county's Register of Deeds;

(8) Statement of interest in the property, including conditions for sale or purchase of parcel, such as deed restrictions, reservations of land for other uses or other conditions which may have bearing on the total land development;

(9) Vicinity map of all property within 300 feet of the proposed development, showing streets, zonings and land uses at a scale no greater than 1 inch equals 200 feet;

(10) Elevation drawings of typical proposed structures and improvements, including signs, except for single-family detached homes;

(11) Proposed agreements, deed restrictions, bylaws or articles of incorporation which relate to the preservation or maintenance of open space and associations created to preserve and maintain the open space;

- (12) Proposed grading shall show 1-foot contour intervals;
- (13) All existing vegetation 4-inch caliper and over must be located on the plans;
- (14) Total amount of open space required by this chapter;

(15) Total amount of landscape area required by this chapter;

(16) A map showing the drainage area of all land which drains onto or across the site and estimated runoff of the entire drainage area. Show existing runoff and estimated runoff after construction;

(17) Location and dimension of all curb cuts; and

(18) The Zoning Commission may refer requests for special approval land uses or site plans to professional consultants and other public bodies for review and comment.

(Prior Code, App., § 2003) (Ord. 88-1, passed 3-17-1988)

#### **§ 160.179 ARCHITECTURAL STANDARDS AND NAUTICAL MOTIF.**

(A) Wherever possible, new or remodeled buildings shall incorporate building designs consistent with the nautical theme. The styles should be similar to those design recommendations presented within the Nautical Mile Coastal Zone Plan and within the plans developed by the Downtown Development Authority.

(B) In an NMD Nautical Mile District, no exterior portion of any commercial building or structure (including walls, fences, light fixtures, steps, pavement or other appurtenant features) or aboveground utility structures shall be erected, altered, restored, moved or demolished without the review of the Planning Commission prior to the issuance of a building permit.

(C) The review of the Planning Commission shall be advisory to the Building Inspector in the issuance of a building permit. The purpose of the Planning Commission review is to advise on actions which may or may not be compatible with the desirable nautical theme, architectural or cultural aspects of the District. The Planning Commission may consider Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings, prepared by the U.S. Department of Interior, for reviewing actions within the NMD.

(D) The provisions of this section shall not be construed to prevent the ordinary maintenance or repair of any exterior feature in an NMD district. Further, the provisions of this section shall not prevent the construction, alteration, restoration or demolition of any feature which the Building Inspector certifies is required because of a threat to public safety.

(Prior Code, App., § 2004) (Ord. 88-1, passed 3-17-1988)

#### **§ 160.180 OFF-STREET PARKING.**

Off-street parking facilities shall be provided as specified herein.

(Prior Code, App., § 2005) (Ord. 88-1, passed 3-17-1988)

#### **§ 160.181 EXTERIOR LIGHTING.**

(A) The requirement for exterior lighting is intended to protect the security and safety of pedestrians and motorists using public plazas, pedestrian corridors, off-street parking areas and other spaces open to the public located on private property.

(B) This section is also intended to regulate the spillover of light and glare on operators of motorized and nonmotorized vehicles, pedestrians and land uses in the proximity of the light source.

(1) Whenever plazas, pedestrian corridors, off-street parking areas and other spaces open to the public are provided on private property, the site plan shall incorporate exterior lighting concepts as set forth in the Marine City Coastal Zone Management Plan and provisions adopted by the Downtown Development Authority;

(2) The site plan shall illustrate the location and type of lighting fixtures, amount of illumination provided and direction of illumination;

(3) Exterior lighting shall provide sufficient illumination to ensure public safety and security; and

(4) Exterior lighting shall be located and directed in a manner which does not produce a glare which is a nuisance to nearby land uses or a safety hazard to motorized and non-motorized vehicles or pedestrians.

(Prior Code, App., § 2006) (Ord. 88-1, passed 3-17-1988)

#### **§ 160.182 PERMITTED, SPECIAL USE SIGNAGE.**

(A) The requirement for signage is intended to protect public safety, maintain quality in the visual appearance of the Nautical Mile, protect the value and economic stability of adjacent land use and allow for the conduct of competitive commerce. The intent of this section is to regulate the height, area, number, location and style of signs within the Nautical Mile District. It is also the intent to encourage signs erected in the District to be designed in a nautical concept.

(B) Application of sign requirements:

(1) No sign may be erected or altered without the issuance of a zoning compliance permit.

(2) When a site plan is required by this chapter, a scaled drawing illustrating sign details, including design, color, area and height shall be submitted. The location of all signs shall be illustrated on the site plan. Sign details and location shall be considered part of site plan review and approval.



(3) When a site plan is not required by this chapter, the Building Inspector shall require a zoning compliance permit for signs erected or altered in the Nautical Mile District. The application for the zoning compliance permit shall be accompanied by a scaled drawing illustrating sign details, including design, color, area and height. The Building Inspector shall submit the application and scaled drawing to the Planning Commission for review and approval. The Planning Commission shall follow the same procedure as required for site plan review.

(C) General provisions:

(1) No sign, except those established and maintained by the city, county, state or federal governments, shall be located in, project into or overhang a public right-of-way or dedicated public easement, except as established in this section.

(2) All directional signs required for the purpose of orientation, when established by the city, county, state or federal government shall be permitted.

(3) Signs used for advertising land or buildings for rent, lease or sale shall be permitted, provided such signs are located on the property intended to be rented, leased or sold. Such signs shall conform to height and area provisions.

(4) The repainting and preventive maintenance of signs shall not be considered an alteration requiring a zoning compliance permit.

(5) Projecting signs shall be permitted within the Nautical Mile Overlay District for all structures other than single-family detached dwellings, subject to the following requirements:

(a) Projecting signs shall not extend more than 4 feet from the wall of the building, and shall not be closer than 3 feet from the back of curb line.

(b) Minimum height. No portion of any sign which extends over the public right-of-way shall be less than 8 feet from the surface below.

(c) All projecting signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws. In no case shall any projecting sign be secured with wire, strips of wood or nails. The method of attachment shall be stated on the permit application. All plans for the erection of signs shall be submitted to the Building Inspector for review and approval and shall be further subject to all codes and ordinances of the city.

(D) Sign requirements for all structures except single-family detached dwellings:

(1) Each structure shall be permitted 1 accessory or monolith sign and 1 of the following additional accessory sign types: Wall-mounted, projecting or graphic (on private property). For multiple uses, such as shopping centers, office complexes and mixed-use developments, the Planning Commission may permit 1 wall-mounted, projecting or graphic accessory sign for each individual use within the development.

(2) Structures which abut more than 1 public street shall be permitted 1 additional accessory ground or monolith sign located along such abutting public street.

(E) Prohibited signs:

(1) Flashing, animated or moving signs, other than those signs which convey noncommercial information, such as time and temperature requiring periodic change;

(2) Exterior spinners, streamers or string lights, except those used for holiday decorations;

(3) Any sign not permanently anchored to the ground or building, except those signs used to temporarily advertise land or buildings for rent, lease or sale; and

(4) Any sign which is not electrically or structurally safe.

(Prior Code, App., § 2007) (Ord. 88-1, passed 3-17-1988; Am. Ord. 11-04, passed 8-4-2011)

### **§ 160.183 LANDSCAPING REQUIREMENTS.**

(A) The owner of a parking lot or vehicular use area which abuts a public right-of-way shall install and maintain landscaping between such area and such right-of-way, unless the parking lot or vehicular use area is visually screened by a building or structure or existing landscaping which meets the buffering requirements.

(B) Where an off-street parking lot or vehicular use area in the NMD zoning district abuts a public right-of-way, screening shall be placed at all locations, excluding sidewalks and driveways, which are between any portion of the right-of-way and the parking lot or vehicular use area visible from the right-of-way as follows:

(1) A strip of land at least 5 feet in width located between the abutting right-of-way and the parking or vehicular use area exposed to the abutting right-of-way.

(2) One tree per 50 feet lineal, or fraction thereof, located between the abutting right-of-way and parking or vehicular use area.

(3) A hedge wall, berm, change of grade or any combination of these landscape elements forming a continuous screen at least 3 feet in height. If a wall or fence is used, a minimum average of 1 shrub or vine per 10 lineal feet of wall length shall be provided.

(4) Grass or ground cover shall be planted and maintained on all portions of the required landscape strip not occupied by other landscape material or existing vegetation.

(5) In cases where the parking areas or vehicular use areas are 50 feet or more from the public right-of-way, and provided that such an area has trees and shrubs which serve to buffer the parking area or vehicular use area, buffering (as required in this section) may be reduced, provided the intent of this section is carried out to the satisfaction of the Building Inspector.

(Prior Code, App., § 2008) (Ord. 88-1, passed 3-17-1988)

## REGULATIONS SCHEDULE

### § 160.195 SCHEDULE.

Table follows below.

#### SCHEDULE LIMITING HEIGHT, BULK DENSITY AND AREA BY ZONING DISTRICT

|  | Minimum Zoning Lot Size Per Unit             |               | Maximum Height of Structures |         | Minimum Yard Setback (per lot in feet) |  |         | Minimum Floor Area Per Unit (sq. ft.) |  | Max. % of Lot Area Coverage by All Buildings |
|--|--|---------------|------------------------------|---------|--|--|---------|---------------------------------------|--|--|
|  | Minimum Zoning Lot Size Per Unit             |               | Maximum Height of Structures |         | Minimum Yard Setback (per lot in feet) |  |         | Minimum Floor Area Per Unit (sq. ft.) |  | Max. % of Lot Area Coverage by All Buildings |
| Zoning District                        | Area in sq. ft.                              | Width in feet | In Stories                   | In Feet | Front                                  | Each Side                                    | Rear    |                                       |  |  |
| R-1A One-family Res.                   | 7,200(a)                                     | 60(B)         | 2                            | 25      | 25 (c,o)                               | 8(d,0)                                       | 40(o)   | (e)                                   |  | 35%  |
| R-1B One-family Res.                   | 9,600(a)                                     | 80            | 2                            | 25      | 30(c)                                  | 10(d)  | 40      | (e)                                   |  | 35%  |
| R-1D Duplex Res.                       | 9,600  | 80            | 2                            | 25      | 30(c)                                  | 10(d)  | 40      | (e)                                   |  | 35%  |
| R-M Multiple-family Res.               | (a,f)  | (f)           | 2                            | 25      | 30(g)                                  | 30(g)  | 30(g)   | 1 BR=500                              |  | 35%  |
|  |  |               |                              |         |  |  |         | 2 BR=700                              |  |  |
|  |  |               |                              |         |  |  |         | 3 BR=900                              |  |  |
|  |  |               |                              |         |  |  |         | 4 BR=1,100                            |  |  |
| B-1 Central Business                   | —  | —             | 3                            | 40      | —                                      | (h)  | (i)     | —                                     |  | —  |
| B-2 General Business                   | —  | —             | 3                            | 40      | 25(j)                                  | (j,h)  | (j,i)   | —                                     |  | —  |
| W-M Waterfront and Recreational Marina | 15,000                                       | 100           | 3                            | 40      | 25(j)                                  | (j,m)  | (j,k,n) | —                                     |  | —  |
| I-1 Light Industrial                   | —  | —             | —                            | 40      | 50(j)                                  | 20(j,l)                                      | (j,l,i) | —                                     |  | —  |
| I-2 Heavy Industrial                   | —  | —             | —                            | 60      | 50(j)                                  | 20(j,l)                                      | (j,l,i) | —                                     |  | —  |
|  | <b>Minimum Floor Area Requirements</b>       |               |                              |         |  |  |         |                                       |  |  |
|  | <b>With Basement of At Least 440 Sq. Ft.</b> |               |                              |         |  | <b>With Basement of Less Than 40 Sq. Ft.</b> |         |                                       |  |  |
| 1 Story                                | 1,040 sq. ft.                                |               |                              |         |  | 1,120 sq. ft.                                |         |                                       |  |  |
| 1-1/2 Story 1st Floor                  | 880 sq. ft.                                  |               |                              |         |  | 960 sq. ft.                                  |         |                                       |  |  |
| 1-1/2 Story 2nd Floor                  | 212 sq. ft.                                  |               |                              |         |  | 212 sq. ft.                                  |         |                                       |  |  |
| 2 Story 1st Floor                      | 720 sq. ft.                                  |               |                              |         |  | 800 sq. ft.                                  |         |                                       |  |  |
| 2 Story 2nd Floor                      | 720 sq. ft.                                  |               |                              |         |  | 720 sq. ft.                                  |         |                                       |  |  |

(Prior Code, App., § 1200) (Ord. 83-5, passed 7-7-1983; Am. Ord. 87-11, passed 5-21-1987; Am. Ord. 98-3, passed 3-19-1998; Am. Ord. 99-1, passed 2-4-1999; Am. Ord. 2019-002, passed 2-21-2019)

**§ 160.196 NOTES TO SCHEDULE.**

(A) The minimum lot area requirement per dwelling unit in those areas with neither City Commission approved public sewer nor water systems shall be at least 15,000 square feet with a minimum width of 100 feet, when either one or the other approved systems is available the minimum lot area shall be at least 12,000 square feet with a minimum frontage of 100 feet.

(B) Corner lots shall be platted not less than 75 feet in width.

(C) In residential districts where lots border on a lake, river, or canal, the established water or shoreline may be considered the front of such lots. A setback of 30 feet for all principal and accessory structures shall be provided on the street side of any lot or parcel of land. The setback from the water or shoreline shall equal the average setback of those buildings on abutting properties or where no building exists on abutting properties the setback shall equal the average of those existing in the block or as established by the Board of Appeals.

(D) In the case of a rear yard abutting a side yard, or when a side yard is adjacent to a front yard across a common separating street, the side yard abutting a street shall not be less than the minimum front yard of the district in which located. In the case of a common rear yard relationship, the side yard abutting upon a street shall not be less than 10 feet.

(E) The following minimum floor area requirements shall apply to each residence hereafter erected. Tri-levels shall be computed using the total square footage of the two upper most levels. Bi-levels shall be computed using the total square footage of that floor at or above the approximate grade of the address street. The total square footage so computed for the tri-levels and bi-levels shall be equal to at least the minimum square footage requirements for 1 story residence in their respective districts.

(F) (1) In an R-M Multiple-Family District the total number of rooms of 80 square feet or more (not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel in square feet divided by 1,200. All units shall have at least 1 living room and 1 bedroom, except that not more than 10% of the units may be of an efficiency apartment type. In an R-M District for the purpose of computing the permitted number of dwelling units per acre the following room assignments shall control:

- (a) Efficiency: 1 room;
- (b) One bedroom: 2 rooms;
- (c) Two bedroom: 3 rooms;
- (d) Three bedroom: 4 rooms; and
- (e) Four bedroom: 5 rooms.

(2) Plans presented showing 1, 2 or 3 bedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purpose of computing density.

(3) In an R-M District, the area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.

(G) In an R-M District front, side, or rear yards need not refer to spacing between building for a planned development for 2 or more buildings on the same parcel. In such cases of 2 or more buildings on a single parcel the minimum distance between any 2 buildings on the parcel shall be regulated as follows:

| <b>Minimum Distance Between Buildings</b> |            |
|---|------------|
| Building Relationship                     | (1)        |
| Front to front                            | 60 feet(2) |
| Front to rear                             | 80 feet(2) |
| Front to side                             | 50 feet(2) |
| <b>Minimum Distance Between Buildings</b> |            |
| Rear to rear                              | 50 feet(3) |
| Rear to side                              | 30 feet(3) |
| Side to side                              | 20 feet(3) |
| Corner to corner                          | 15 feet(3) |
| Corner to front, side or rear             | 40 feet(2) |

(1) Distance between any 2 buildings shall be measured horizontally at right angles from the nearest point of one building to the nearest point of the other building.

(2) No parking shall be permitted to occupy any required minimum distance between buildings. Parking may be located

between buildings provided the area to be used for parking is in addition to the required minimum distance between buildings. In no instance shall there be less than 15 feet of yard space between the parking area and multiple family building.

(3) Parking may be permitted to occupy the minimum distance between buildings provided that there shall be not less than 10 feet of yard space between the parking area and the multiple family building. The "front" and "rear" of the multiple family building shall be considered to be the faces along the longest dimensions of the building. The "front" of the building shall be considered to be the direction faced by the living rooms of the dwelling units in said building; the "rear" of the building shall be considered to be the direction faced by the kitchen and/or service entrance of the dwelling units in the building and the sides of the building shall be considered to be the face along the narrowest dimensions of the building. In order to preserve the general open character of the district, multiple family buildings shall be limited to 180 feet in length.

(H) (1) No side yards are required along the interior side lot lines of the District, except as otherwise specified in the Building Code, provided that if walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than 10 feet shall be provided.

(2) On a corner lot which borders on a residential district there shall be provided a setback of 20 feet on the side or residential street. On an exterior side yard abutting a residential district there shall be provided a setback of 10 feet in width.

(I) Off-street loading space shall be provided in the rear yard in the ratio of at least 1 space per each establishment and shall be provided in addition to any required off-street parking area. Off-street loading space shall further meet the requirements hereof.

(J) Parking shall be permitted in required yard space after approval of the parking plan layout and points of access by the Planning Commission.

(K) Site plan review by the Planning Commission shall be required to determine proper setback in the case of rear yards. For those lots or parcels bounded on opposite sides by a waterway, the rear yard shall be considered that yard abutting the waterway for setback purposes.

(L) No building or structure shall be located closer than 50 feet to the outer perimeter (property line) of the district when the property line abuts any residential district. A completely obscuring wall not less than 6 feet in height or a 6-foot chain link type fence and a 20-foot wide greenbelt planted in accord with the minimum requirements as provided herein, shall be provided when side or rear yards are abutting land zoned for residential use. Required side yard may be used for off-street parking or loading and unloading provided that in such instances the Planning Commission shall review and approve the proposed parking and site plan to determine that sufficient access to the rear of the building is provided for fire fighting or other emergency type equipment.

(M) Side yard: 10 feet. Every lot on which a structure is erected shall be provided with a side yard on each side of the lot. Each side yard shall be increased by 1 foot for each 10 feet, or part thereof, by which width of the structure exceeds 50 feet in overall dimension facing the street lot line. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than 50 feet on the side abutting the residential district.

(N) Yard setback from the established fill or bulkhead line for buildings and other uses, except as provided in this paragraph, shall be 20 linear feet. No building or uses, except covered boat wells, slips or berths, shall be less than 15 feet from the waters edge. Launching ramps and docks may be constructed to the waters edge and into the water, where appropriate.

(O) Reduced setbacks for nonconforming lots of record (and for lots that are otherwise conforming but have a depth of less than 120 feet) located in the R-1A District and which were lawfully created prior to the effective date of this chapter shall be permitted in accordance with the following schedule:

(1) For lots having a depth of less than 120 feet, and for corner lots having a width of less than 75 feet, the minimum required front yard setback may be reduced to 20% of the average depth of the lot provided that:

(a) It shall not be less than the average of the front setbacks of principal structures on adjacent lots fronting on the same street (or the average front setbacks of principal structures in the block fronting on the same street).

(b) In no instance shall it be less than 15 feet.

(2) For lots having a depth of less than 120 feet the minimum required rear yard setback may be reduced to 1/3 of the average depth of the lot provided that:

(a) In no instance shall it be less than 25 feet except as provided below.

(b) In computing the depth of a rear yard for any building where the rear line of the lot adjoins an alley, 1/2 of the width of such alley may be included as rear yard depth; provided, that the rear yard depth actually on the lot shall not be less than 15 feet.

(3) For lots having a width of less than 60 feet, and for corner lots having a width of less than 75 feet, side yard setbacks may be reduced to 10% of the lot width provided that in no instance shall it be less than 5 feet.

(Prior Code, App., § 1200) (Ord. 98-3, passed 3-19-1998; Am. Ord. 99-1, passed 2-4-1999)

## GENERAL PROVISIONS

## **§ 160.210 CONFLICTING REGULATIONS.**

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

(Prior Code, App., § 1300)

## **§ 160.211 SCOPE.**

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

(Prior Code, App., § 1301)

## **§ 160.212 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES.**

### **(A) *Intent.***

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

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

(3) Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(5) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

### **(B) *Nonconforming lots.***

(1) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Board of Appeals.

(2) If 2 or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or occupied which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(C) *Nonconforming uses of land.* Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

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

(1) No such structure may be enlarged or altered in a way which increases its nonconformity, for example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.

(2) Should such structure be destroyed by any means to an extent of more than 60% of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. This provision shall not apply to nonconforming residential structures provided the residential structure is rebuilt in the exact location and manner in which it was originally constructed as determined by the Building Official. If the Building Official determines the proposed reconstruction is substantially different than that of the original structure, all applicable requirements of the ordinance shall be met. If the structure was located within the existing dedicated public right-of-way or easement, the structure shall not be reconstructed in that location.

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

(E) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted in this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. This provision shall not apply to nonconforming residential structures provided the residential structure is rebuilt in the exact location and manner in which it was originally constructed as determined by the Building Official. If the structure was located within the existing dedicated public right-of-way or easement, the structure shall not be reconstructed within the existing right-of-way or easement.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(3) In any "B", "W-M" or "I" District if no structural alterations are made, any nonconforming use of structure or structure and premises, may be changed to another nonconforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter. Where a nonconforming use of a structure, land or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for 6 consecutive months or for 18 months during any 3 year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

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

(G) *Uses under exception provisions not nonconforming uses.* Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(H) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses.

(Prior Code, App., § 1302) (Am. Ord. 11-05, passed 8-4-2011)

## **§ 160.213 ACCESSORY BUILDINGS AND STRUCTURES.**

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

(A) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.

(B) Accessory buildings shall not be erected in any required yard, except a rear yard.

(C) An accessory building not exceeding 1 story or 14 feet in height may occupy not more than 25% of a required rear yard, plus 40% of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.

(D) No detached accessory building shall be located closer than 10 feet to any main building nor shall it be located closer than 3 feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than 2 feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

(E) No detached accessory building in an R-1A, R-1B, R-M, B-1 or P-1 District shall exceed 1 story or 14 feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts.

(F) (1) When an accessory building is located on a corner lot, the exterior side lot line of which is substantially a continuation of the front lot line of the lot to its rear, or is adjacent to a front lot line across a common separating street, the building shall not project beyond the front yard line required on the lot in rear of the corner lot.

(2) An accessory building shall in no case be located nearer than 10 feet to a street right-of-way.

(G) When an accessory building in any Residential or Business District is intended for other than the storage of private motor vehicles, the construction will conform to existing conventional construction of other buildings on the property and in the immediate area.

(H) A building permit shall be obtained prior to the erection of any accessory building, unless it is exempted from permit requirements per the Building Code, in which case such accessory building shall only require a zoning compliance permit.

(I) Satellite receiving dish installations.

(1) A **SATELLITE RECEIVING DISH** is defined as being any dish-shaped antenna designed to receive direct satellite signals.

(2) A building permit shall be obtained for the installation of a satellite receiving dish.

(3) Location of a satellite receiving dish shall be subject to all setback requirements of this chapter and shall in no instance be installed closer to a side or rear lot line than a distance equal to its height as measured from the ground to its highest vertical extension.

(4) The receiving dish shall be securely mounted and anchored in accordance with the requirements of the manufacturer and the Marine City Building Code.

(5) A satellite receiving dish shall not be mounted in any front or side yard.

(Prior Code, App., § 1303) (Ord. 83-6, passed 7-7-1983; Am. Ord. 84-25, passed 1-3-1985; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.214 OFF-STREET PARKING REQUIREMENTS.**

(A) There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces.

(B) The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy as hereinafter prescribed.

(1) Off-street parking may be located within any non-required yard and within the rear yard setback unless otherwise provided in this chapter. Off-street parking shall not be permitted in a required front or side yard setback unless otherwise provided in this chapter.

(2) Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by applicant.

(3) Residential off-street parking spaces shall consist of a permanent hard surface parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Off-street parking for single-family and two-family dwellings shall further be subject to the following:

(a) Off street parking shall not be permitted within the front yard, except within such parking strip, parking bay, driveway, garage, or combination thereof. This requirement shall not apply to parking for temporary special events normally associated with the residential use of the property such as graduation and holiday parties.

(b) Within the front yard, the total surface area for any parking strip, parking bay, driveway or combination thereof

shall not exceed fifty percent (50%) of the total front yard area.

(4) Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.

(5) Off-street parking existing at the effective date of this chapter in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

(6) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

(7) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.

(8) The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited.

(9) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers is similar in type.

(10) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including 1/2 shall be disregarded and fractions over 1/2 shall require 1 parking space.

(11) For the purpose of computing the number of parking spaces required, the definition of **USABLE FLOOR AREA** shall govern.

(12) The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule except that said schedule shall not apply to the erection, alteration or extension of any use or building within the developed business district bounded by Broadway Street on the north, the St. Clair River on the east, Bridge Street and the centerline of same projected easterly to the St. Clair River on the south, and the centerline of Market Street on the west; except as required in division (B)(5) above. Further, in any District where off-street parking areas have been provided through special assessments the required number of spaces as required hereinafter may be reduced by the Board of Appeals by that number of spaces which can be prorated to the use which was specially assessed.

| <b>Use</b>  | <b>Number of Minimum Parking Spaces Per Unit of Measure</b>  |
|---|--|
| <b>Use</b>  | <b>Number of Minimum Parking Spaces Per Unit of Measure</b>  |
| <i>Business and Commercial</i>  |  |
| Planned commercial or shopping center located in any "B" district   | One for each 100 square feet of usable floor area.   |
| Auto wash   | One for each 1 employee. In addition, reservoir parking spaces equal in number to 5 times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash shall be provided. Maximum capacity of the auto wash for the purpose of determining the required reservoir parking shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each was line by 20. |
| Beauty parlor or barbershop   | Three spaces for each of the first 2 beauty or barber chairs, and 1-1/2 spaces for each additional chair.  |
| Bowling alleys  | Five for each 1 bowling lane.  |
| Dance halls, pool or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats  | One for each 3 persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.  |
| Establishments for sale and consumption on the premises, of beverages, food, or refreshments  | One for each 100 square feet of usable floor space.  |
| Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses | One for each 800 square feet of usable floor area. (For that floor area used in processing, 1 additional space shall be provided for each 2 persons employed therein.)   |
| Automobile service stations   | Two for each lubrication stall, rack, or pit, and 1 for each gasoline pump.  |



|  |   |
|--|---|
| Laundromats and coin-operated dry cleaners               | One for each 2 machines.  |
| Miniature or "par-3" golf courses                        | Three for each 1 hole plus 1 for each 1 employee.   |
| Mortuary establishment                                   | One for each 50 square feet of assembly room usable floor space, parlors and slumber rooms One for each 1 occupancy unit plus 1 for each 1 employee.  |
| Motel, hotel, or other commercial lodging establishments | One for each 1 occupancy unit plus 1 for each 1 employee  |
| Motor vehicle sales and service establishments           | One for each 200 square feet of usable floor space sales room and 1 for each 1 auto service stall in the service room.  |
| <i>Industrial</i>  |   |
| Industrial or research establishments                    | Five plus 1 for every 1-1/2 employees in the largest working shift, or 1 for 550 square feet of usable floor space, or whichever is determined to be the greater. Space on-site shall also be provided for all construction workers during periods of plant construction. |
| Wholesale establishments                                 | Five plus 1 for every 1 employee in the largest working shift, or 1 for every 1,700 square feet of usable floor space, whichever is greater.  |

(Prior Code, App., § 1304) (Ord. 92-8, passed 9-17-1992; Am. Ord. 98-3, passed 3-19-1998; Am. Ord. 2018-03, passed 4-5-2018)

**§ 160.215 OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE.**

Whenever the off-street parking requirements in §160.214 require the building of an off-street parking facility, or where P-1 Vehicular Parking Districts are provided, the off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

(A) No parking lot, parking strip, parking bay or driveway shall be constructed unless and until a permit therefor is issued by the Building Inspector. Applications for a permit shall be submitted to the Building Department in such form as may be determined by the Building Inspector and shall be accompanied with 2 sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

(B) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

| <b>Parking Pattern</b> | <b>Maneuvering Lane Width</b> | <b>Parking Space Width</b> | <b>Parking Space Length</b> | <b>Total Width of One Tier of Spaces Plus Maneuvering Lane</b> | <b>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</b> |
|------------------------|-------------------------------|----------------------------|-----------------------------|--|---|
| 0° (parallel parking)  | 12 ft.                        | 8 ft.                      | 23 ft.                      | 20 ft.   | 28 ft.  |
| 30° to 53°             | 12 ft.                        | 8 ft. 6 in.                | 20 ft.                      | 32 ft.   | 52 ft.  |
| 54° to 74°             | 15 ft.                        | 8 ft. 6 in.                | 20 ft.                      | 36 ft. 6 in.   | 58 ft.  |
| 75° to 90°             | 20 ft.                        | 9 ft.                      | 20 ft.                      | 40 ft.   | 60 ft.  |

(C) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.

(D) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single family residential use shall not be across land zoned for single family residential use.

(E) All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit 2-way movement.

(F) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from adjacent property located in any single family residential district.

(G) (1) The off-street parking area shall be provided with a continuous and obscuring wall not less than 4 feet 6 inches in height measured from the surface of the parking area on all sides where the next zoning district is designated as a single family residential district.

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

(H) The entire parking area, including parking spaces and maneuvering lanes, required under this section, shall be provided with a durable and dustless surface and shall be graded and drained so as to dispose of all surface water in accord with the requirements and subject to the review and approval of the City Engineer.

(I) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

(J) In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than 10 feet from such alley line in order to permit a wider means of access to the parking area.

(K) The Board of Appeals, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section.

(L) Whenever a durable and dustless parking area, as defined by this chapter, is required by this section, the owner shall execute and deliver to the Planning Commission an approved performance bond guaranteeing that the parking area will be hard surfaced as required within 1 year after occupancy. Delivery of the bond shall be a condition precedent to the site plan approval.

(M) Pedestrian walkways within parking lots. For the safety of pedestrians, in large (100 spaces or more) high-turnover parking lots, separate raised pedestrian walkways connecting the main building perimeter sidewalk with existing or proposed sidewalks along street rights-of-way shall be provided. This requirement shall not apply to uses within an Industrial District. Not less than 1 such walkway shall be provided for each street frontage. The walkways shall be constructed of concrete, asphalt, stone, brick, or other hard surface material. The walkways shall be not be less than 6 feet in width and shall be enhanced with landscaping along both sides, to help separate them from traffic and distinguish them from the parking area. The walkways must be integrated with the city's overall plan for pedestrian improvements where applicable. Parked cars shall not be permitted to overhang pedestrian walkways. The land used for this connecting sidewalk shall be countable in the computation of the required percentage of landscape area as provided in § 160.219(F).

(Prior Code, App., § 1305) (Ord. 84-24, passed 11-15-1984; Am. Ord. 04-03, passed 5-6-2004; Am. Ord. 2018-03, passed 4-5-2018)

**§ 160.216 OFF-STREET LOADING AND UNLOADING.**

(A) On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise except the business district described in § 160.214, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated rights-of-way.

(B) The space shall be provided as follows:

(1) All spaces shall be provided as required in §160.195 note after minimum rear yards, except as hereinafter provided for "I" Districts.

(2) All spaces shall be laid out in the dimension of at least 10 feet by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a permanent, durable and dustless surface. All space in "I" Districts shall be provided in the following ratio of space to floor area.

| <b>Gross Floor Area (in square feet)</b> | <b>Loading and Unloading Space Required in Terms of Square Feet of Usable Floor Area</b> |
|--|--|
| 0—1,400                                  | None   |
| 1,401—20,000                             | 1 space  |
| 20,001—100,000                           | 1 space, plus 1 space for each 20,000 square feet in excess of 20,001 square feet        |
| 100,001 and over                         | 5 spaces   |

(Prior Code, App., § 1306)

**§ 160.217 USES NOT OTHERWISE INCLUDED WITHIN A SPECIFIED USE DISTRICT.**

(A) Because the uses hereinafter referred to possess unique characteristics making it impractical to include them in a specific use district classification, they may be permitted by the Board of Appeals under the conditions specified, and after public hearing. These uses require special consideration since they service an area larger than the city and require sizable land areas, creating problems of control with reference to abutting use districts.

(B) Reference to those uses falling specifically within the intent of this section is as follows:

(1) Kennels:

(a) Kennels shall be permitted as a special land use only in industrially zoned districts, either I-1 Light Industrial or I-2 Heavy Industrial.

(b) The number of animals to house within a kennel shall be directly proportionate to the facility in which they are housed; the size and number of exterior runs, and the size of the property on which the kennel is located.

(c) The method in which waste material is handled shall be clearly noted and subject to review by the city. Exterior runs shall be cleaned regularly and shall not be allowed to accumulate waste material.

(d) The means of managing noise from both the kennel and exterior runs shall be clearly noted and subject to review by the city. These means may include, but are not limited to landscaping, fencing, additional setback, and special building materials as determined by the city. The city may limit the hours of outdoor activity to limit any inconvenience to surrounding properties.

(e) Any medications or vaccines on the premises shall be kept in a locked location.

(f) Adequate parking shall be indicated on the site plan.

(g) No kennels or outdoor runs shall be located in the front yard.

(h) Any and all necessary state and/or county permits shall be obtained by the kennel operator and kept current. Copies of all necessary permits and licenses shall be provided to the city to ensure compliance.

(2) Soil excavation and filling: The removal of topsoil, subsoil, sand, gravel, rock, aggregates, earth and other similar materials and the depositing and dumping of sand, gravel, earth, rock, stone, concrete minerals and other similar materials shall be subject to the following:

(a) The Board of Appeals shall first seek the findings and recommendations of the Planning Commission clearly demonstrating that the removal, depositing or dumping of the above materials will not permanently impair the intended land use potential of the property in question.

(b) The Board of Appeals may issue a permit and only after a proper notice shall have been made and only after a public hearing shall have been had.

(c) The Board of Appeals may establish standards, operating requirements, applications and review procedures, bonds and other such conditions, restrictions, and safeguards as may be deemed necessary in the interest of public health, safety, and welfare.

(3) Outdoor theaters: Because outdoor theaters possess the unique characteristic of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted within an "I" Industrial District and only when the site in question is surrounded by an "I" District. Outdoor theaters shall further be subject to the following conditions:

(a) The proposed internal design shall receive approval from the Building Inspector and the City Engineer as to adequacy of drainage, lighting, screening and other technical aspects.

(b) Outdoor theaters shall abut directly upon a major thoroughfare and points of ingress and egress shall be available to the outdoor theater only from the major thoroughfares and shall not be available from any residential street.

(c) All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.

(d) The area shall be laid out so as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within, and directed unto, the premises of the outdoor theater site.

(e) The proposed outdoor theater shall be subject further to the review and approval of the City Commission.

(4) Television and radio towers: Television and radio towers and their attendant facilities shall be permitted in any "I" District and only when the site in question is surrounded by an "I" District, subject further to the following conditions:

(a) The use shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the base of the tower to all points on each property line.

(b) The proposed site plan shall receive approval from the City Engineer as to adequacy of drainage, lighting, general safety and other technical aspects.

(5) Airports and related uses: Airports, landing fields and platforms, hangers, masts and other facilities for the operation of aircraft, shall be permitted in "I" Industrial Districts, and shall be subject to the following conditions:

(a) The plans for such facility shall be given approval by the Federal Aviation Agency prior to submittal to the Board of Appeals for review and action.

(b) The standards for determining obstructions to air navigation as announced in the FAA Technical Order –18, April

26, 1950 (as amended July 30, 1952) and any other amendments thereto shall be complied with. These standards shall be applied by the class of airport as determined by the FAA.

(c) The area of the clear zone (see FAA definition) shall be provided for within the land area under airport ownership.

(d) To enable the Board of Appeals to determine that the above conditions have been satisfactorily complied with all applications for such uses shall submit detailed site plans showing the location of the site, clear zones and proof of ownership of the land designated as the clear zone.

(e) The proposed airport or related use shall be subject further to the review and approval of the City Commission.

(Prior Code, App., § 1307) (Ord. 91-10, passed 10-17-1991; Am. Ord. 13-06, passed 8-1-2013)

#### **§ 160.218 PERFORMANCE STANDARDS.**

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy, and operations, which standards are hereby established as the minimum requirements to be maintained within the area.

##### **(A) *Smoke.***

(1) It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringlemann Chart, provided that the following exceptions shall be permitted: Smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringlemann Chart for a period, or periods, aggregating 4 minutes in any 30 minutes.

(2) For the purpose of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the Umbrascop readings of smoke densities may be used when correlated with Ringlemann's Chart.

##### **(B) *Dust, dirt and fly ash.***

(1) No person, firm or corporation shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using the process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air, which is operated in conjunction with the process, furnace or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500°F.

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

(C) *Glare and radioactive materials.* Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electro-magnetic radiation such as x-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(D) *Fire and explosive hazards.* The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the State Rules and Regulations as established by Public Act 1941, as amended, [M.C.L.A. §§ 29.1 *et seq.*], and shall conform with all codes and ordinances of the City of Marine City.

(E) *Noise.* Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

(F) *Odors and fumes.* Creation of offensive odors and fumes shall be prohibited.

(G) *Wastes.* No waste shall be discharged in the public sewer system which is dangerous to the public health and safety. The following standards shall apply at the point wastes are discharged into the public sewer.

(1) Acidity or alkalinity shall be neutralized within an average pH range of between 5-1/2 to 7-1/2 as a daily average on the volumetric basis, with a temporary variation of pH 4.50 to 10.0.

(2) Wastes shall contain no cyanides. Wastes shall contain no chlorinate solvents in excess of 0.1 ppm; no fluorides shall be in excess of 10 ppm; and shall contain no more than 5 ppm of hydrogen sulphide and shall contain not more than 10 ppm of sulphur dioxide and nitrates, and shall contain not more than 25 ppm of chromates.

(3) Wastes shall not contain any insoluble substance in excess of 10,000 ppm or exceed a daily average of 500 ppm or fail to pass number eight standard sieve or have a dimension greater than 1/2 inch.

(4) Wastes shall not have chlorine demand greater than 15 ppm.

(5) Wastes shall not contain phenols in excess of .05 ppm.

(6) Wastes shall not contain any grease or oil or any oily substance in excess of 100 ppm or exceed daily average of 25 ppm.

(Prior Code, App., § 1308)

#### **§ 160.219 LANDSCAPING, SCREENING, GREENBELTS, BUFFERS, AND FENCING.**

(A) *Intent.* The intent of this section is to promote the public health, safety and general welfare by: minimizing noise, air and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between incompatible land uses; regulating the appearance of property abutting public rights-of-way; protecting and preserving the appearance and character of the community; promoting the conservation of property values and natural resources; and preventing soil erosion. Landscaping and greenbelts are capable of enhancing the visual environment, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual disruption related to intensive uses. Screening, buffers and fencing are important to protect less-intensive uses from the noise, light, traffic, litter, and other impacts of intensive nonresidential uses.

(B) *Scope of application, modification or waiver of requirements*

(1) These requirements shall apply to all uses for which site plan review is required under §160.300, except that said requirements shall not apply within the B-1, Central Business District.

(2) In cases where a lot or parcel, which was lawfully created prior to the adoption of this section, does not contain sufficient land area to reasonably accommodate all of the requirements contained herein, the Planning Commission may modify or waive 1 or more of these requirements when, in the opinion of the Planning Commission, it would be impractical to fully comply and the difficulty is not self-created.

(3) No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this section.

(4) Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved.

(5) A certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in § 90.162, "Performance Bonds".

(6) In cases where an existing building is to be structurally altered or enlarged, or when the use lawfully changes to a different use, or an existing building is structurally altered or enlarged, all of the standards set forth herein shall be met.

(C) *Landscape plan required.* A separate detailed landscape plan shall be submitted as part of the site plan. The landscape plan shall include, but not necessarily be limited to, the following items:

(1) The landscape plan shall be prepared by or under the direction of a landscape architect and shall bear the seal of landscape architect licensed to practice in the State of Michigan. This requirement may be waived by the Planning Commission when, in the opinion of the Planning Commission, the size, scope or mature of the landscaping improvements is not sufficient to warrant professional design and when the value (as determined by the Planning Commission) of landscaping improvements (labor and material) is less than \$5,000;

(2) Minimum scale: 1 inch = 60 feet;

(3) Existing and proposed contours on-site and 50 feet beyond the site at intervals not to exceed 2 feet;

(4) Location, spacing, size, and root type (bare root (BR) or balled and burlaped (BB)) and descriptions for each plant type proposed for use within the required landscape area;

(5) Typical straight cross section including slope, height and width of berms and type of ground cover, or height and type of construction for all proposed walls and fences, including footings;

(6) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns;

(7) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials;

(8) Identification of existing vegetative cover, stands, groupings, and groves of existing trees. In addition, all individual trees having a caliber of 6 inches or more, shall be identified as to species and located accurately on a topographic survey. The plan shall indicate areas of existing vegetative cover and those stands, groupings, and groves, and all individual specimen trees to be preserved. The plan shall also indicate the method of protection for existing trees as required in this section and the scheduling for said protection during construction;

(9) Identification of grass and other ground cover and method of planting;

(10) Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this section; and

(11) An irrigation plan showing the design of an underground sprinkler system conforming to the requirements of this

section.

(D) *Review of landscape plan by Planning Commission* The Planning Commission, upon receipt of a written report and recommendation from the Zoning Administrator and/or City Planner shall review said landscape plan relative to:

(1) The proper spacing, placement and location of plant materials relative to the length, width and general configuration of the required landscape element so as to ensure that the intended landscaping effect, including the necessary horizontal and vertical obscuring of proposed land uses, will be achieved;

(2) The choice and selection of plant materials so as to ensure that the root system will not interfere with public utilities and that fruit and other debris will not constitute a nuisance within the public right-of-way, or to abutting property owners;

(3) The proposed relationship between deciduous and evergreen plant materials so as to ensure that the intended landscaping effect, including maximum obscuring effect where appropriate, will be maintained;

(4) The size of plant materials (both starting and ultimate) to ensure adequate maturity and optimum screening and/or shading effect of proposed plant materials.

(E) *Landscape design standards.*

(1) *Quality.* Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to St. Clair County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

(2) *Composition.* A mixture of plant material, such as evergreen, deciduous trees and shrubs is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

(3) *Plant material sizes and spacing.*

(a) Plant materials shall not be placed closer than 4 feet from the fence line or property line, unless specifically modified by the Planning Commission.

(b) Where plant materials are planted in 2 or more rows, plantings shall be staggered in rows.

(c) Evergreen trees shall have a starting size of at least 6 feet in height. When planted in informal groupings, they shall be spaced not more than 20 feet on center. When planted in rows, they shall be spaced not more than 12 feet on center.

(d) Narrow evergreens shall have a starting size of at least 5 feet in height. When planted in informal groupings shall be spaced not more than 10 feet on center. When planted in rows, they shall be spaced not more than 5 feet on center.

(e) Large deciduous trees shall have a minimum starting size of 2-1/2 caliper inches. They shall be planted not more than 30 feet on center when placed in informal groupings.

(f) Small deciduous trees shall have a minimum starting size of at least 2 caliper inches. They shall not be spaced more than 15 feet on center when placed in informal groupings.

(g) Large shrubs shall have a starting size of at least 30 inches in height. They shall be placed not more than 6 feet on center when placed in informal groupings and not more than 4 feet on center when planted in rows.

(h) Small shrubs shall have a starting size of not less than 24 inches in height or spread and shall be planted not more than 4 feet on center.

(4) *Suggested plant materials.* The following list of plant materials is not intended to be all-inclusive, but rather suggests certain material which is suitable for landscaping purposes:

(a) *Evergreen trees.* Juniper, Hemlock, Pine, Spruce, Douglas Fir, Fir.

(b) *Narrow evergreens.* Column Honoki Cypress, Blue Columnar Chinese Juniper, Pyramidal Red-Cedar, Swiss Stone Pine, Pyramidal White Pine, Hicks Yew, Irish Yew, Douglas Arborvitae, Columnar Giant Arborvitae, Pyramidal Japanese.

(c) *Large deciduous trees.* Oak, Linden, Hackberry, Hop Hornbeam, Ginkgo (male), Hard Maples, Sweet Gum, Honey Locust (seedless, thornless), Birch, Beech, Sycamore, Ash (seedless).

(d) *Small deciduous trees.* Hornbeam, Serviceberry, Mountain Ash, Russian Olive, Hawthorn(thornless), Magnolia, Redbud, Rose of Sharon, Flowering Crabapple, Flowering Dogwood(disease resistant), Flowering Cherry, Plum, Pear.

(e) *Large shrubs.* Honeysuckle, Mock-orange, Buckthorn, Pyracantha, Mugo Pine, Lilac, Euonymus, Ninebark, Barberry, Savin Juniper, Viburnum, Forsythia, Dogwood (Red Osier & Grey), Sargent Crabapple, Sumac, Flowering Quince, Weigela, Cottoneaster (Peking & Spreading), Hazelnut, Border Privet (hedge planting), Pfitser Juniper, Yew, Tall Hedge (hedge planting).

(f) *Small shrubs.* Regal Privet, Potentilla, Dwarf Mungo Pine, Low Spreading Junipers (Hughes, Tamarix, and the like), Cottoneaster (Cranberry, Rockspray), Fragrant Sumac, Compact Burning Bush, Spreading Yews, Japanese Quince,

Big Leaf Winter Creeper, Euonymous varieties, Brown's, Wards's Sebion Yews, Dwarf Winged.

(g) *Ground cover.* Periwinkle, Baltic Ivy, Euonymous varieties, Hall Honeysuckle, Pachysandra.

(h) *Vines.* Euonymous varieties, Virginia Creeper, Baltic Ivy, Wisteria.

(i) *Trees not permitted.* Box Elder, Catalpa, Cottonwood, Soft Maples (Red-Silver), Elms, Poplars, Willows, Horse Chestnut (nut bearing), Tree of Heaven.

(F) *General landscaping.* In addition to any interior parking lot landscaping and/or screening/buffer between land uses required by this section, not less than 10% of the site area, excluding existing thoroughfare rights-of-way, shall be landscaped. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed 5% of the site area.

(1) All portions of the landscaped area shall be planted with grass, ground cover, shrubbery, or other suitable plant material, except that paved patios, terraces, sidewalks, and similar site features may be incorporated with Planning Commission approval.

(2) A mixture of evergreen and deciduous trees shall be planted at the rate of 1 tree for each 3,000 square feet or portion thereof of required landscaped open-space area.

(3) Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.

(4) A portion of the required general landscaping, acceptable to the Planning Commission, shall be provided immediately adjacent to principal buildings. Said landscaping shall be of a size and extent proportionate with the building it is intended to enhance and soften. Larger and taller plant materials, such as deciduous, evergreen, and ornamental trees must comprise a significant portion of the required landscaping adjacent to larger structures or monotonous expanses of a building's exterior wall. The location, width, and configuration of planting beds as well as the number, size, type, and spacing of plant materials shall be subject to the review and approval of the Planning Commission. For buildings having a height of 14 feet or less, the average width of the planting beds shall not be less than 5 feet. When the height of the building exceeds 14 feet, the average minimum width of the planting beds shall be increased an additional 1 foot for each additional 2 feet of building height, up to a maximum required minimum average width 15 feet.

(5) The total landscaped area shall be the basis for determining the required number of trees or shrubs, irrespective of the portion of the site, which is devoted to patios, terraces, sidewalks, or other site features.

(6) Areas used for storm drainage purposes, such as but not limited to drainage courses, detention ponds, and retention ponds shall be landscaped with a mixture of evergreen and deciduous trees and shrubs in a manner acceptable to the Planning Commission. In the case of ponds or drainage courses that are required to be fenced, trees and shrubs shall be provided along the exterior side of said fencing so as to substantially obscure the fencing. For unfenced ponds or drainage courses, landscaping shall be arranged so as to provide a natural, rather than formal, planting effect. In addition, detention or retention ponds, which may be likely to retain water for an extended period of time, insofar as is practical, shall be designed and constructed to have a natural rather than a regular or rectangular shape.

(G) *Interior parking lot landscaping.*

(1) In off-street parking areas containing greater than 20 spaces, interior parking lot landscaping shall be provided in accordance with the following schedule:

(a) In an I-1 or I-2 District, 1 deciduous tree for each 4,000 square feet of the total of the paved driveway and parking lot surface is required.

(b) In all other districts, 1 deciduous tree shall be required for each 3,000 square feet of paved driveway and parking lot surface, provided that no less than 2 trees are provided.

(2) Trees shall be distributed evenly throughout the parking area. Whenever possible, parking lot landscaping shall be arranged to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

(3) Parking lot landscaping shall be no less than 5 feet in any single dimension and no less than 150 square feet in any single area. Landscaping shall be protected from parking areas with continuous raised reinforced concrete curbing to prevent vehicular encroachment onto the landscaped areas.

(4) A minimum of 1 deciduous tree having a clear trunk height of at least 6 feet shall be planted in each landscaped area.

(5) A minimum of 3 feet shall be established between trunk of the proposed tree and the backside of the curb or edge of the pavement for protection.

(6) The landscape plan shall designate the sizes, quantities, and types of plant material to be used in parking lot landscaping.

(7) All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs, or other appropriate landscape treatment. Sand, stones, gravel, or other pavement shall not be considered appropriate landscape treatment.

(8) Required landscaping elsewhere on the parcel shall not be counted in meeting parking lot landscaping requirements.

(9) Landscaped islands within the parking area shall be designed and placed so as not to unduly interfere or impede the removal of snow. Adequate areas shall be provided on-site for the disposition and storage of snow.

(H) *Perimeter parking lot landscaping.* The purpose of perimeter landscaping requirements is to define parking areas, shield views of parked cars to passing motorists and pedestrians, and prevent 2 adjacent lots from becoming 1 large expanse of paving. The provision of perimeter landscaping between adjacent parking lots shall not preclude the need to provide vehicular access between lots. Landscape strips shall be provided around the perimeter of lots as follows:

(1) Perimeter landscape strips separating parking lots and driving lanes from abutting rights-of-way:

(a) General requirements. Whenever an off-street parking lot or driving lane abuts a right-of-way, public or private, a perimeter landscape strip shall be created which meets the minimum standards established in this section. The perimeter strip shall extend along the length of the boundary between the edge of the planned right-of-way and the parking lot or driving lane. Accessways from public rights-of-way through required landscaped strips shall be permitted, but such accessways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirements set forth in this section.

(b) The strip meet shall be landscaped and planted in 1 of the following approved methods:

1. A 15 foot wide strip planted with 1 deciduous tree and 10 shrubs for each 35 feet of frontage;
2. A berm that is at least 2-1/2 feet higher than the finished elevation of the parking lot planted with 1 deciduous tree and 5 shrubs for each 35 feet of frontage;
3. An 8 foot wide landscaped strip with a minimum 3 foot grade drop from the right-of-way to the parking lot planted with 1 deciduous tree and 5 shrubs for each 35 feet of frontage;
4. An 8 foot wide buffer strip with a 3 foot high wall of brick, stone, or decorative finished concrete to screen the lot with 1 deciduous tree for each 35 feet of frontage planted between the wall and the right-of-way; or
5. If existing woodlands are available, the applicant may preserve a 25 foot wide strip in lieu of the landscaping requirement.

(c) For divisions 1 through 4 above, 2 ornamental or 2 evergreen trees may be substituted for each required deciduous tree.

(2) Other perimeter landscaping strips. In addition to the perimeter landscaping required in division (1) above, perimeter landscaping strips shall be required along the remaining boundaries of a parking lot or driving lane as follows:

(a) A landscaped strip at least 8 feet wide planted with 1 deciduous tree and 3 shrubs for each 35 feet of perimeter. For small, shallow, narrow, or unusually shaped lots, the Planning Commission may reduce the required width, modify the plantings required, or waive this requirement upon demonstration that compliance with this section would cause an undue hardship.

(b) If existing woodlands are available, the applicant may preserve a 25 foot wide strip in lieu of the landscaping requirement.

(I) *Buffers between conflicting land uses.* All landscaping plans shall conform to all applicable provisions of §160.221 entitled "Obscuring Walls and Fences". Notwithstanding the requirements of § 160.221, the Planning Commission may permit the substitution of a landscaped greenbelt, a landscaped greenbelt with fence, or a landscaped earth berm in the place of a required masonry obscuring wall provided that, in the opinion of the Planning Commission, an alternate buffer type will provide an equally suitable form of separation and screening, and provided that the following conditions can be met:

(1) All other pertinent provisions of this section are met, including but not limited to the following sections entitled: "Intent", "Scope of Application, Modification or Waiver of Requirements", and "Landscape Design Standards";

(2) A landscape plan is submitted for review and approval in compliance with the following sections entitled: "Landscape Plan Required", and "Review of Landscape Plan by Planning Commission";

(3) It can be clearly demonstrated in the landscape plan that the completed screening will provide a minimum visual obstruction of 60% in the winter and 80% in the summer to the minimum height of that specified for the required masonry obscuring wall.

(J) *Landscaping of balance of developed site.* In addition to the minimum required landscaping elements and areas set forth above, all developed areas of the site which are not devoted to buildings, parking lots, driveways, sidewalks, patios, terraces, or other approved site features shall be planted with grass, ground cover, shrubbery, or other suitable plant material and shall be maintained in a healthy growing condition, free of weeds and debris, and neat and orderly in appearance.

(K) *Existing trees.*

(1) Existing vegetative cover and existing stands, groupings, and groves of existing trees, and all trees having a caliber of 6 inches or more shall be retained preserved and maintained to the maximum extent feasible and practical, as determined



by the Planning Commission.

(2) If existing plant material is labeled "To Remain" on site plans by the applicant or required by the city, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the city.

(3) In the event that healthy trees which are used to meet the minimum requirements of this section or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the city, the owner shall replace them with trees which meet section requirements.

(L) *Berms.*

(1) Where required or utilized under this section, berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded crest a minimum of 2 feet in width at the highest point of the berm, extending the length of the berm. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm. A berm shall be designed and placed so as not to impede storm drainage.

(2) The berm shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.

(3) A minimum of 1 deciduous or evergreen tree shall be planted for each 30 linear feet or portion of required berm.

(4) Eight shrubs per tree may be planted as a substitute of the trees required division (3) above.

(5) Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.

(6) For the purpose of determining required plant material, required berm length shall be measured along the exterior periphery of the berm.

(7) The height of berms, except where otherwise specified in this chapter, shall not be less than 4 feet, 6 inches. The Planning Commission may, in a specific instance, require additional height when necessary to achieve the desired obscuring effect and when this section does not clearly specify a particular height.

(M) *Regulations pertaining to landscaping areas used for sight distance* When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility. Shrubs located in the triangular area shall not be permitted to grow to a height of more than 30 inches above the pavement grade at the edge of the pavement. Portions of required berms located within sight distance triangular areas shall not exceed 30 inches above the pavement grade at the edge of the pavement. Trees may be maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of 8 feet above the roadway surface. Landscaping, except grass or ground cover, shall not be located closer than 3 feet from the edge of a driveway. The triangular areas referred to above are:

(1) The area formed at the corner of a public right-of-way and a driveway, 2 sides of the triangle area being 10 feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these 2 sides;

(2) Two sides of the triangular area being 25 feet in length measured along the abutting public rights-of-way lines and the third side being a line connecting these 2 sides.

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

(O) *Maintenance.* The owner of property, required to be landscaped by this section, shall maintain such landscaping in a reasonably healthy condition, free from weeds, refuse and debris. All unhealthy and dead material shall be replaced within 1 year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas, including parking lot islands, shall be irrigated by means of a properly maintained and operated underground sprinkler system with automatic timing controls.

(P) *Fencing and screening.* Unless otherwise specified or determined by the Planning Commission, Zoning Administrator, or Zoning Board of Appeals, fencing and screening is to be 6 feet in height. Gateposts and other superstructures over site entrances and exits may be up to 12 feet in height. Fencing and screening materials of a height greater than 3 feet are not to be located within a required front yard setback or side setback adjacent to a street.

(1) Mechanical equipment. (This section does not apply to single-family residential uses or to any use in an Industrial District except if it abuts a residential district or use). When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment as follows:

(a) *Roof-mounted equipment.* To be screened by architectural features from the view of abutting streets and parcels.

(b) *Equipment at grade.* When located on the ground adjacent to a building, mechanical equipment is to be screened

by landscaping, a solid wall or fencing from the view of the street or surrounding properties.

(2) Outdoor storage. To be screened on all sides by a solid wall or fence.

(3) Trash receptacles. Developments located within the Commercial Districts which have off-street parking lots containing 250 or more parking spaces, shall provide trash receptacles, of a design approved by the Planning Commission, at evenly dispersed locations throughout the parking area at a ratio of 1 receptacle per each 50 spaces for use by patrons. All trash enclosures and trash receptacles shall be kept in good repair and maintained in a clean and orderly manner.

(4) Materials for fencing and screening may consist of the following:

(a) Solid board fences with posts not less than 4 inches by 4 inches and solid board cover not less than 1 inch (nominal) thick.

(b) Masonry piers may be substituted for wood posts.

(c) Posts or piers shall be spaced not more than 8 feet on center.

(d) The finished side of the wood shall face abutting properties.

(e) Stockade type fencing is not permitted.

(Ord. 04-03, passed 5-6-2004)

## § 160.220 SIGNS.

(A) This section regulates signs in Marine City that are on lands open to the public, visible from public road rights-of-way, private roads, public facilities, trails open to the public, and navigable waterways. It is a basic tenet of this division that unrestricted signing does not benefit either private enterprise or the community-at-large. Depending on their size, numbers, and character, signs may attract or repel visitors, affect the visual quality enjoyed by daily residents, affect the safety of vehicular traffic, and define the character of the area. Thus aesthetic considerations impact economic values as well as public health, safety, and welfare. Therefore this division of this section sets standards for the following purposes:

(1) Maintain and enhance the visual quality of the community.

(2) Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and directional or warning signs.

(3) Support and complement the land use objectives of the City Master Plan and this ordinance.

(4) Protect and enhance economic viability by assuring that the city will be a visually pleasant place to visit or live.

(5) Protect property values and private/public investments in property.

(6) Protect views of the natural landscape and sky.

(7) Avoid personal injury and property damage from structurally unsafe signs.

(8) Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.

(9) Reflect the primary purpose of signing as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.

(10) Avoid excessive signing in order to give each business or use optimum visibility to passer-by traffic and if possible, prevent clutter, and to prevent 1 sign from blocking the view of another sign.

(11) Achieve some uniformity and balance in the size, number and placement of signs.

(12) Accommodate special circumstances or events that may create a need for temporary signs for a limited and reasonable time period.

(B) It is, therefore, within the health, safety and welfare responsibility of the city that this section is promulgated.

(1) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**SIGN.** Any announcement, declaration, display, billboard, illustration and insignia when designed and placed so as to attract general public attention. **SIGN** shall include any banner, bulbs or other lighting devices, streamer, pennant, inflated or deflated membrane device, propeller, flag and any similar device of any type or kind whether bearing lettering or not.

1. **AWNING SIGN.** Any sign that is part of, or attached to, a canopy, awning or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area and which does not extend vertically or horizontally beyond the limits of the canopy. For the purposes of this definition, a canopy shall be defined as a shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework.

2. **BALLOON SIGN.** A temporary sign that is lighter-than-air or gas-filled attached by means of a rope or tether or other device to a definite or fixed location.

3. **BANNER SIGN.** A temporary sign of lightweight fabric or similar material that is attached to a building or other structure.

4. **GROUND SIGN.** A permanent display sign supported by 1 or more columns, uprights or braces or mounted directly in and upon the ground surface and having a height not in excess of 6 feet.

5. **MARQUEE SIGN.** A sign on or attached to a permanent overhanging shelter that projects from the face of the building and is supported entirely by the building.

6. **MURAL.** A work of art or architectural detail, generally directly painted on a portion of a permanent structure.

7. **PERMANENT SIGN.** A sign intended to be used indefinitely, or used indefinitely without change, in the same state or place.

8. **PORTABLE SIGN.** A sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another or from one location to another on the site on which it is located. The sign may or may not have wheels, changeable lettering and/or hitches for towing. Portable signs shall include signs designed in an A-frame fashion, having back-to-back sign faces, or similar signs which are located outside of a business on a daily basis and which are not permanently attached to the ground.

9. **PROJECTING SIGN.** A sign which is affixed to any building or structure, other than a marquee, and any part of which extends beyond the building wall or structure more than 15 inches.

10. **POLE SIGN.** A display sign supported by 1 or more columns, uprights or braces in the ground surface and having a height in excess of 6 feet.

11. **TEAR DROP FLAG.** A temporary sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. **TEAR DROP FLAGS** are generally a single sign attached to a support post and typically having a dimensional ratio of at least 4 high to 1 wide. Such signs are also known as feather flags, windfeather flags, or bow flags.

12. **TEMPORARY SIGN.** A sign, display or other informational device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, which is intended for a limited period of display.

13. **WALL SIGN.** A display sign which is painted on or attached directly to the building wall.

**SIGN, ACCESSORY.** A sign which pertains to the principal use of the premises.

**SIGN, NONACCESSORY.** A sign which does not pertain to the principal use of the premises.

**SIGN ALTERATION.** The changing, enlarging or relocating of any sign, excluding the changing of movable parts of an approved sign that is designed for such changes or the repainting or reposting of original display matter, shall be deemed an alteration.

**ERECT.** To build, construct, attach, hang, place, suspend, affix or paint.

(2) *General requirements for all signs.* The following conditions shall also apply to all signs erected or located in any use district:

(a) All signs shall conform to all codes and ordinances of the city and, where required, shall be approved by the Building Inspector and a permit issued.

(b) No sign, except those established and maintained by the city, county, state or federal governments, shall be erected, located or placed in, project into or overhang a public right-of-way or dedicated public easement. The owner of any sign which has been removed by the city from the right-of-way because it is in violation of this provision shall pay to the city the actual costs of removal and storage or charges of \$5 per day, whichever is greater. If the sign is not claimed within 5 days, it shall be destroyed.

(c) No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located.

(d) No sign above a height of 2 feet shall be located within, project into or overhang the triangular area formed at the intersection of street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(e) Accessory signs shall be permitted in any use district and may be located in the required front yard except as otherwise provided herein.

(f) Non-accessory signs shall be permitted only in I districts.

(g) Illumination of signs shall be directed or shaded downward so as not to interfere with driver visibility, become hazardous to traffic or the vision of persons on adjacent streets or property. Flashing or intermittent type signs shall not be permitted.

(h) Any sign, including framing, now or hereafter existing, which no longer advertises a bona fide business conducted or a product or entertainment, service or commodity offered or sold on the lot, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign shall be found within 30

days after written notice from the Building Inspector. Notice shall be sent to the property owner of record, as indicated in city tax rolls, by certified mail. The owner may petition the Zoning Board of Appeals for temporary approval to install blank sign faces when it can be demonstrated that the sign structure is likely to be reused by a future business and the sign framework is in sound structural condition.

(i) Connections to an energy source for lighting shall be in accord with all codes of the city and shall not be exposed in any way that may constitute a safety hazard to the public.

(j) A minimum of five (5) feet of unobstructed pedestrian access along the sidewalk shall be maintained at all times.

(3) *Exempt signs.*

(a) Signs not exceeding four (4) square feet in area and four (4) feet in height, measured from grade, when located along the edge of a driveway and intended to be visible from a public road. Only one such sign may be allowed at each driveway access to a public road and no such sign shall be allowed within the public right-of-way.

(b) Signs not exceeding two (2) square feet in area and six (6) feet in height, measured from grade, when located along the edge of, and intended to be visible from, an internal access driveway, internal pedestrian walkway, or off-street parking space.

(c) Non-illuminated wall signs, not exceeding two (2) square feet in display surface area and not exceeding one (1) per street frontage.

(d) Memorial signs or tablets which are either cut into the face of a masonry surface or constructed of bronze or other noncombustible material when located flat on the face of a building.

(e) Traffic, or other municipal signs, also private traffic control signs which conform to the requirements of the Michigan *Manual of Uniform Traffic Control Devices*

(f) Signs located on properties registered as a National or State Historic Site, when in compliance with the Michigan State Historic Preservation Office's standards for National or State Historic Site plaques.

(g) Signs located on properties owned or controlled by essential service providers and generally required by federal or state laws or for public safety purposes.

(h) Signs required to be erected to meet federal or state laws when in compliance with the sign design and placement specifications of such federal or state laws.

(i) Non illuminated window signs, each not exceeding six (6) square feet in display area. Illuminated window signs, not exceeding two (2) square feet in display area and not more than two (2) such signs per frontage, may also be allowed. The total area of all window signs in a single window shall not cover more than twenty-five (25) percent of the area of such window.

(j) Flags, provided no more than three (3) flags are allowed per property and no single flag shall exceed fifteen (15) square feet in area. Flags may either be attached to ground-mounted flag poles anchored in concrete or affixed to a building. The height of the flag pole shall not exceed the height restriction of the zoning district in which it is located. Flags, whether ground-mounted or wall-mounted, shall be grouped in a single area of the site or building.

(k) Decorative holiday displays.

(l) Public artwork or murals with no commercial message.

(4) *Permitted signs by zoning district.*

(a) *R-1 A, R-1B, R-M and MHP district sign types allowed.*

1. One (1) wall and one (1) ground sign, or combination thereof, may be permitted for any permitted non-residential use or lawful nonconforming use within a residential district. Such sign shall not exceed twenty (20) square feet in surface area and six (6) feet in height.

2. One (1) sign per street frontage may be permitted by Zoning Administrator approval to be placed flat against a building within an apartment complex provided that it shall not exceed twelve (12) square feet in surface display area. Such a sign may be illuminated provided that the source of the light is not visible beyond the property lines of the parcel upon which it is located.

3. permanent ground sign may be permitted by Zoning Administrator approval for each separate street frontage occupied by a subdivision, apartment, multi-family development or condominium complex or for each means of entrance to the subdivision, apartment, multi-family development or condominium complex from a public road, provided that the sign and structure shall be harmonious and appropriate in appearance with the existing and intended character of the general vicinity. No such sign shall exceed twenty (20) square feet in area and six (6) feet in height.

(b) *B-1, B-2, W-M and P-I district sign types allowed.*

1. *Ground sign.*

a. One ground sign shall be permitted per lot. However, if a lot fronts on 2 or more collector or arterial streets, a ground sign may be permitted for each such frontage, provided that such signs are separated by a minimum distance of 150

feet at any point on the sign.

b. Except as permitted above, not more than 1 ground sign may be erected accessory to any one development, regardless of the number of buildings, separate parties, tenants or uses contained therein.

c. For any frontage where a ground sign is permitted, such ground sign may be used in lieu of a pole sign, but not in addition to a pole sign.

d. Except as provided below, a ground sign shall have a sign area of not more than 1 square foot of sign area (per sign face) for each 3 lineal feet of street frontage up to a maximum of 50 square feet for a single face and 100 square feet for a total of all sign faces.

e. A ground sign shall not exceed 6 feet in height above the average grade of the immediately adjacent land upon which it is located.

f. The distance measured between the principal sign faces of any ground sign shall not exceed 18 inches at any point.

g. A ground sign shall be at least 10 feet from a building wall.

h. The minimum required setback for a ground sign from the property line separating the lot from the street shall be as follows:

| <b>Height of ground sign</b>         | <b>Setback</b> |
|--------------------------------------|----------------|
| Less than 2 feet                     | 3 feet         |
| At least 2 feet but less than 3 feet | 6 feet         |
| At least 3 feet but less than 4 feet | 9 feet         |
| At least 4 feet but less than 5 feet | 12 feet        |
| At least 5 feet but less than 6 feet | 15 feet        |

i. A ground sign shall be setback at least 3 feet from all other property lines, except that when abutting a residential district or residential use, it shall be setback a distance not less than its height.

j. Ground signs may be substituted for an equal number of pole signs. In such cases, ground signs may be increased in area by up to 20% from that permitted above.

k. Ground signs may be illuminated as required by division (B)(2)(i).

### 2. *Awning and marquee signs.*

a. Such signs may not project more than six feet into the public right-of-way nor be erected closer than three feet to any street curbline.

b. Any text, logos or other graphic representation qualifying as a sign which is placed on a canopy or marquee shall be included within the calculation of total permissible wall sign area.

c. A minimum clearance of eight (8) feet for canopies and ten (10) feet for marquees shall be maintained from ground level.

d. Canopies and marquees shall be permitted to be backlit only on those sides of the building which contain a public entryway or those having a pedestrian sidewalk immediately adjacent to the building.

e. Letters on a canopy or marquee sign shall not exceed twelve (12) inches in height.

f. The entire canopy shall be considered a wall sign when a translucent fabric canopy with signage is internally illuminated.

### 3. *Pole sign.*

a. Not more than 1 pole sign may be erected accessory to any 1 development regardless of the number of buildings, separate parties, tenants or uses contained therein.

b. It shall be unlawful to erect any pole sign to a height greater than 30 feet above the level of the street upon which the sign faces. The distance from the ground to the bottom shall be not less than 8 feet, and the sign shall be so erected as not to obstruct traffic vision.

c. Pole signs may be illuminated as required by division (B)(2)(i).

d. All pole signs shall be securely built, constructed and erected upon posts and standards at least 42 inches below the material surface of the ground and shall be embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment.

e. All letters, figures, characters, items or representations in cutout or irregular form maintained in conjunction

with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure. Loose or missing letters, figures, characters or items shall constitute a maintenance violation.

f. The distance measured between the principal faces of any pole sign shall not exceed 18 inches.

g. Sign height, setback and size for pole signs.

| <b>Maximum Height (feet)</b> | <b>Minimum Setback Required (feet)</b> | <b>Maximum Area* of Single Sign Face (in square feet)</b> |
|------------------------------|--|---|
| 13                           | 13                                     | 50  |
| 14                           | 18                                     | 56  |
| 15                           | 20                                     | 62  |
| 16                           | 22                                     | 68  |
| 17                           | 24                                     | 74  |
| 18                           | 26                                     | 80  |
| 19                           | 28                                     | 86  |
| 20                           | 30                                     | 92  |
| 21                           | 32                                     | 98  |
| 22                           | 34                                     | 104   |
| 23                           | 36                                     | 110   |
| 24                           | 38                                     | 116   |
| 25                           | 40                                     | 122   |
| 26                           | 42                                     | 128   |
| 27                           | 44                                     | 134   |

#### 4. Wall signs.

a. Wall signs may be provided on all street sides, front sides or parking lot sides of a building, and the total surface area of all wall signs shall not exceed 10% of the area of the front elevation (including doors and windows) of the principal building or 3 square feet for each lineal foot of building frontage, or 100 square feet, whichever is less. Where a single principal building is devoted to 2 or more commercial uses, the operator of each such use may install a front wall sign. The maximum area of each such sign shall be determined by determining the proportionate share of the front face (including doors and windows) of the principal building occupied by each such use and applying the proportion of the total sign area permitted from the front wall of the building; or the per cent agreed to by the occupants, total not to exceed the above area limitations. It is the responsibility of the applicant to provide the required information when applying for a sign permit.

b. The sign may be illuminated as required by division (B)(2)(i).

c. All wall signs of a greater area than 50 square feet shall have a surface or facing of noncombustible material.

d. Limitation on placement. No wall sign shall cover wholly or partially any wall opening nor project beyond the ends or top of the wall which attached.

e. No wall sign shall have a greater thickness than 12 inches measured from the wall to which it is attached to the outermost surface. Wall signs may project over the public right-of-way not to exceed 12 inches, provided clearance of not less than 7 feet 6 inches is maintained below the sign if the sign projects more than 4 inches. The sign shall not project above the roof line.

f. All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails. The method of attachment shall be stated on the permit application. All plans for the erection of signs shall be submitted to the Building Inspector for review and approval and shall be further subject to all codes and ordinances of the city.

5. *Mural signs.* Mural signs which contain commercial messages, or images or messages which are associated with or related to a business, may be allowed after review and approval by the Planning Commission and are further subject to the following:

a. Only one wall of a building or structure may be used for the mural. The portion of the wall occupied by the mural shall not be greater than twenty-five percent (25%) of the total wall area.

b. Murals shall only be permitted on the side or rear walls of buildings.

- c. Murals shall be allowed only on building walls that do not contain wall signs on the same wall as occupants of the building.
- d. Murals depicting offensive or obscene materials, or partially nude or seminude persons, shall be prohibited.
- e. Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained.
- f. The unauthorized inscribing, spraying of paint, or making symbols using chalk, dye, ink, paint, spray paint or similar materials on public or private places, structures, or other surfaces shall not be permitted.

(c) *I-1 and I-2 District sign types allowed.* All sign types allowed and as controlled for business districts, plus the following: non-accessory signs shall be permitted but shall not be located closer than 200 feet to any public right-of-way line or district zoned for residential use and provided further that there shall be not less than 1,000 feet between signs located on the same side of a right-of-way. In any I-1 District non-accessory signs shall not exceed 150 square feet in size on any one face, nor likewise, 350 square feet in any I-2 District. The height of any sign shall not exceed 30 feet.

(d) *NM-Nautical Mile District.* In addition to the requirements of this section, for uses located in the Nautical Mile overlay district, signs shall also conform to the provisions set forth herein.

(5) *Prohibited signs.* The following signs are prohibited within the city:

- (a) String lights used in connection with business premises, other than holiday decorations;
- (b) Any sign unlawfully installed, erected or maintained;
- (c) Signs erected on any post tree, utility pole, public right-of-way or dedicated public easement or other object within any area, whether public or private;
- (d) Any sign or banner erected upon or across any public right-of-way or dedicated public easement except by permission of the City Commission;
- (e) Signs which incorporate in any manner any flashing lights;
- (f) Any sign or other advertising structure upon which is displayed any obscene, indecent or immoral matter;
- (g) Rotating signs;
- (h) Signs on park-type benches;
- (i) Any sign on the roof of any building;
- (j) *Vehicles used as signs:* any sign on a motor vehicle or trailer which is parked in front of or at a business, or in such a manner that is visible from a public street or from a residential zoning district; and
- (k) Any sign type that is not defined within this chapter shall be subject to review and approval by the city.

(6) *Temporary and portable signs.*

(a) Temporary signs, as defined herein, may be allowed within the R-IA, R-1B, R-M and MHP Districts, provided the following requirements are met. Portable signs, as defined herein, are not allowed within the R-IA, R-1B, R-M and MHP Districts.

1. No more than one (1) temporary sign may be allowed per street frontage. Additional temporary signs are allowed during certain time periods, as follows:

- a. During the time period starting when an election ballot has been certified by the County Clerk and extending 7 days after an election, up to 3 additional signs may be allowed.
- b. During the time period noted on a building permit issued by Marine City allowing for construction activities to occur on the site, 1 additional temporary sign per street frontage is allowed.
- c. During the time period where the property is actively listed for sale, 1 additional temporary sign per street frontage is allowed.

2. Temporary signs shall not exceed 6 square feet of display area and 4 feet in height.

3. Temporary signs must be safely affixed, properly maintained and not allowed to become unsightly through disrepair or action of the elements.

4. The location of any sign permitted by this section shall not interfere with pedestrian traffic, driver safety, or handicap access.

(b) Temporary signs, as defined herein, may be allowed within the B-1, B-2, W-M, P-1, I-1 and I-2 Districts, provided the following requirements are met:

1. No more than 1 temporary sign may be allowed per street frontage. Additional temporary signs are allowed during certain time periods, as follows:

a. During the time period starting when an election ballot has been certified by the County Clerk and extending 7 days after an election, up to 3 additional temporary signs may be allowed.

b. During the time period noted on a building permit issued by Marine City allowing for construction activities to occur on the site, 1 additional temporary sign per street frontage is allowed.

c. During the time period where the property is actively listed for sale, 1 additional temporary sign per street frontage is allowed.

2. Temporary signs shall not exceed 9 square feet of display area and 4 feet in height.

3. Temporary signs must be safely affixed, properly maintained and not allowed to become unsightly through disrepair or action of the elements.

4. The location of any sign permitted by this section shall not interfere with pedestrian traffic, driver safety, or handicap access.

5. Additional requirements for specific temporary sign types: The following specific sign types shall require permit approval by the Zoning Administrator for specified time periods which, in total, do not exceed 60 days in any one calendar year:

a. Banners, provided they are affixed to a building wall, over a permanent sign, or by other means necessary so long as the banner is stationary and safely supported. In no case shall more than 1 banner sign be allowed per street frontage.

b. Balloon signs, provided no more than 1 balloon sign shall be allowed per street frontage.

c. Tear drop flags, provided they do not exceed 12 feet in height measured from grade. In no case shall more than 1 tear drop flag be allowed per street frontage.

d. At any given time, no more than 1 of the above temporary sign types is allowed on a single premises.

(c) Portable signs, as defined herein, may be allowed within the B-1, B-2, W-M, P-1, I-1 and I-2 Districts, provided the following requirements are met:

1. Such signs may be located outside for display only during regular business hours.

2. No more than 1 portable sign may be allowed per street frontage.

3. Portable signs shall not exceed 9 square feet of display area and 4 feet in height.

4. Portable signs must be properly maintained and not allowed to become unsightly through disrepair or action of the elements.

5. The location of portable signs shall not interfere with pedestrian traffic, driver safety, or handicap access.

(7) *Nonconforming signs.*

(a) All existing signs that do not conform to the provisions of this chapter shall be permitted to continue as nonconforming signs until such time as they are removed or until any changes are necessary, at which time they shall conform to the provisions of this chapter. The provisions of this division shall not apply to electrical maintenance and repainting.

(b) A nonconforming use shall not be permitted to add additional signs to the building or premises other than those existing. Signs on nonconforming uses shall be maintained in good repair or be removed, and such removal shall be conditional to divisions (B)(9) and (10) hereof.

(c) No permits for the installation, erection or placement of any new signs shall be issued while a nonconforming sign or an unlawful sign remains in use upon the same premises.

(8) *Enforcement.* This section shall be enforced by the Building Inspector or any employee designated by the City Commission.

(9) *Unsafe, damaged and unlawful signs.* Signs shall be subject to inspections, and when the condition of a sign is questionable, the owner or occupant shall obtain a professional engineer's report, certifying the condition of the sign. Failure to submit the report and make any specified corrections is a direct violation which will result in court action and order for the sign removal.

(10) *Sign maintenance.* The Building Inspector may forward to the prosecutor a violation report seeking a court order for the maintenance of the sign.

(a) *Maintenance.* All signs, including those for which a permit is not required, together with all their supports, braces, guys and anchors, shall be maintained in good working order and when not galvanized or constructed of approved corrosion resistant, noncombustible materials shall be painted when necessary to prevent corrosion. The exteriors of all signs, supporting members, painted surfaces, advertising materials and lettering shall be kept painted and in good repair so as to present a neat and orderly appearance and so as not to create visual blight within the city. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign, must be well and in good



repair. Loose or missing letters, figures, characters or items shall constitute a maintenance violation. Signs which lack maintenance shall be removed.

(b) *Housekeeping.* It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a clean, sanitary and healthful condition.

(11) *Sign permits required.* It shall be unlawful for any person to erect, repair, paint, alter or relocate any sign within the city, as defined in this section, without first obtaining a permit from the Building Inspector, with the exception of the following:

(a) *Signs for which a permit is not required.*

1. Exempt signs listed in division (B)(3).
2. Temporary signs as regulated by division (B)(6), unless otherwise specified therein.

(b) *Application for sign permit.* Applications for permits shall be made upon forms provided by the Building Inspector and shall contain or have attached thereto the following information.

1. Name, address and telephone number of the applicant;
2. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;
3. Position and location of the sign or other advertising structure in relation to nearby buildings or structures;
4. Two blueprints or drawings of the plans and specifications and methods of construction and attachment to the building or in the ground;
5. Name of person, firm, corporation or association erecting the structure and as required by division (B)(2)(a) above;
6. Written consent of the owner where the sign is to be erected on vacant land;
7. In all cases where wiring is to be used in connection with the structure, it shall comply with the city's Electrical Code. The Electrical Inspector shall approve and affix his or her signature to the permit if it is deemed necessary by the Electrical Inspector;
8. Insurance policy or bond as required by division (B)(2)(a) of this section; and
9. Such other information as the Building Inspector shall require to show full compliance with this section and all other ordinances of the city.

(c) *Sign permit fee.* It shall be unlawful for any person to erect or alter any sign, except those signs specifically exempted herein, unless a permit shall first have been obtained from the Building Inspector for such erection or alteration and a permit fee paid to the city according to the schedule as shall be established from time to time by resolution of the City Commission.

(d) *Sign permit revocable at any time.* All rights and privileges accrued under the provisions of this section or any amendment thereto are mere licenses and may be revoked upon the violation of any of the conditions contained herein. If the work authorized under an erection permit has not been completed within 6 months after the date of issuance the permit shall become null and void and a new permit shall be necessary to continue the project. Partially completed signs, if abandoned, shall be removed by the erector upon notice from the Building Inspector.

(e) *Permit number.* Every sign hereafter erected shall have placed in a conspicuous place thereon, in letters not less than 1/2 inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(12) *Substitution clause.* The owner of any sign which is otherwise allowed under this section may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a lot or allow the substitution of an off-site commercial message in place of an on-site commercial message.

(13) *Severability clause.* If any part, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this section is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the section.

(Prior Code, App., § 1310) (Ord. 97-4, passed 8-7-1997; Am. Ord. 08-05, passed 10-2-2008; Am. Ord. 11-04, passed 8-4-2011; Am. Ord. 2018-007, passed 9-20-2018)

## **§ 160.221 OBSCURING WALLS AND FENCES.**

(A) For those Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring masonry wall as set out below:

| <b>Minimum Wall or Fence Use</b>  | <b>Height Required</b>                             |
|---|--|
| P-1 Vehicular Parking District  | 6' high masonry wall                               |
| Off-Street Parking Area (Other than P-1 Districts and not including One-Family Residential Districts)   | 6' high masonry wall                               |
| B-1, B-2, or W-M Districts  | 6' high masonry wall                               |
| I Districts—Open storage area, loading or unloading areas, service areas  | 6' to 8' high masonry wall                         |
| Hospital, ambulance and delivery areas  | 6' high masonry wall                               |
| Utility buildings, stations and/or substations except that in cases where all equipment is contained within a building or structure constructed so as to be similar in appearance to the residential building in the surrounding area, the board of appeals may waive the wall requirements | 6' high masonry wall                               |
| All sites located in the R-M, B-1, B-2, W-M, I-1 and I-2 Districts shall enclose all trash collection sites utilizing dumpsters and/or 4 or more trash containers   | 6' high masonry wall with enclosed gate for access |

(B) Required walls and fences shall be located on the lot line except where utilities interfere and except in instances where this chapter requires conformance with front yard setbacks. Required walls may, upon approval of the Board of Appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Board of Appeals in reviewing the request.

(C) (1) The walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except the openings as may be approved by the Building Inspector. All walls herein required shall be constructed of materials approved by the Building Inspector, to be durable, weather resistant, rust proof and easily maintained and wood or wood products shall be specifically excluded.

(2) Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below a grade approved by the Building Inspector and shall be not less than 4 inches wider than the wall to be erected.

(3) Masonry walls may be constructed with openings above 32 inches above grade provided such openings are not larger than 64 square inches and do not comprise more than 1/3 of the total area of that part of the wall located more than 32 inches above grade.

(D) (1) The Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than 4 feet in height.

(2) In consideration of requests to waive wall requirements between nonresidential and residential districts, the Board shall refer the request to the Planning Commission for a determination.

(3) In such cases as the Planning Commission determines the residential district to be a future nonresidential area, the Board may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determination as hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the Board.

(E) A permit shall be required prior to the erection of an obscuring wall or fence in accordance with §156.20 of this code.

(Prior Code, App., § 1311) (Ord. 83-9, passed 11-3-1983; Am. Ord. 87-5, passed 5-7-1987; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.222 RESIDENTIAL ENTRANCEWAY.**

In all "R" Districts, so called entranceway structures, including but not limited to walls, columns, and gates, marking entrances to single family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in § 160.223; corner clearance, provided that the entranceway structures shall comply to all codes and ordinances of the City of Marine City, be approved by the Building Inspector and a permit issued.

(Prior Code, App., § 1312)

#### **§ 160.223 CORNER CLEARANCE.**

No fence, wall, shrubbery, sign or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(Prior Code, App., § 1313)

### **§ 160.224 USE RESTRICTION.**

(A) No portion of a lot or parcel once used in complying with the provisions of this chapter for yards, lot area per family, density as for a development in the multiple family district, or percentage of lot occupancy, in connection with an existing or proposed building or structure, shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.

(B) Uses not expressly permitted under this chapter are prohibited in all districts.

(Prior Code, App., § 1314) (Am. Ord. 11-06, passed 10-6-2011; Am. Ord. 14-01, passed 3-20-2014)

### **§ 160.225 EXTERIOR LIGHTING.**

(A) All lighting for parking areas or for the external illumination of buildings or grounds or for the illumination of signs shall be directed away from and shall be shielded from adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares.

(B) Within all developments, the height of light standards shall not exceed 30 feet for parking lots and private roadways nor 15 feet for pedestrian walkways. These restrictions shall not apply in the Industrial Districts where, except as otherwise permitted, the height of light standards shall be limited to the height limit for structures in the district. When necessary to determine compliance, the Planning Commission may require the submission of an exterior illumination plan.

(Prior Code, App., § 1315) (Am. Ord. 04-03, passed 5-6-2004)

### **§ 160.226 WATERFRONT LOTS.**

All lots or parcels which border on a lake, river or canal shall be considered as waterfront lots. The setback from the shoreline shall equal the average setback of principal buildings located on abutting properties or where no buildings exist on abutting properties the setback shall equal the average of those existing in the same block or as established by the Board of Appeals.

(Prior Code, App., § 1316)

### **§ 160.227 DIVISION OF PARCELS OF LAND AND SPLITTING LOTS.**

The division of any parcel of land or the splitting of any lot in a recorded plat may be permitted and shall be subject to and comply with the following provisions and restrictions:

(A) The applicant shall be owner of the parcel or lot, including the fee title owner if the owner is a land contract purchaser.

(B) The applicant shall submit to the Building Inspector 4 copies of the sketch of the proposed division or split, together with the following information:

- (1) Name and address of the applicant;
- (2) The date of the sketch, north arrow and the scale;
- (3) Boundary lines and area of the parcel or parcels to be split;
- (4) Names of all streets, rights-of-ways and roadways of all existing or proposed streets within or abutting the parcel or parcels proposed to be split;
- (5) All existing structures and physical features which would influence the layout and design of the proposed lot split;
- (6) Location, width and purpose of existing and proposed easements;
- (7) Legal description of existing parcels to be split; and
- (8) Proposed legal description of each parcel.

(C) The Building Inspector and the city's Planning Commission shall jointly approve the application provided it is in conformance with all ordinances, including the zoning ordinance, and administrative rules and regulations of the City of Marine City.

(D) Approval of the application, or disapproval thereof with reasons therefor, shall be delivered promptly to the City Commission for final action thereon by appropriate resolution.

(E) The applicant shall pay a fee as set by resolution of the City Commission upon the filing of any application or revised application.

(F) This chapter shall be effective 10 days after publication thereof.

(Prior Code, App., § 1317) (Ord. 65, passed 11-18-1971; Am. Ord. 81-17, passed 1-7-1982; Am. Ord. 06-02, passed 4-6-2006)

### **§ 160.228 REGULATION OF CONDOMINIUM DEVELOPMENTS.**

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

(A) *Initial information.* Concurrently with notice required to be given City of Marine City pursuant to § 71 of Public Act 59 of 1978, as amended (the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276), a person, firm or corporation intending to develop a condominium project shall provide the following information:

(1) The name, address and telephone number of:

(a) All persons, firms or corporations with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee or land contract vendee);

(b) All engineers, attorneys, architects, planners or registered land surveyors associated with the project; and

(c) The developer or proprietor of the condominium development.

(2) The legal description of the land on which the condominium development will be developed together with appropriate tax identification numbers;

(3) The acreage content of the land on which the condominium development will be developed;

(4) The purpose of the development (for example, residential, commercial, industrial and the like);

(5) Approximate number of condominium units to be developed on the subject parcel;

(6) Whether or not a community water system is contemplated; and

(7) Whether or not a community septic system is contemplated.

(B) *Information to be kept current.* The Initial Information shall be furnished to the City Zoning Administrator and shall be kept updated until such time as a certificate of occupancy has been issued, pursuant to § 160.294 of this chapter.

(C) *Site plans for new projects.* Prior to recording of the Master Deed, required by § 72 of Public Act 59 of 1978, being M.C.L.A. §§ 559.101 to 559.276, as amended, the condominium development shall undergo site plan review and approval, pursuant hereto. In addition, the city shall require appropriate engineering plans, including as-built drawings and inspections, prior to the issuance of any certificates of occupancy.

(D) *Site plans for expandable or convertible projects.* Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval, pursuant hereto.

(E) Master deed, restrictive covenants and "as-built" survey to be furnished. The condominium development developer or proprietor shall furnish the Zoning Administrator with the following: 1 copy of the recorded Master Deed; 1 copy of all restrictive covenants, and 2 copies of an "as-built survey." The "as-built survey" shall be reviewed by the City Engineer for compliance with city ordinances. Fees for this review shall be established by resolution of the City Commission.

(F) *Monuments required.*

(1) *All condominium projects.* All condominium projects shall be marked at their boundaries with monuments meeting the requirements of division (F)(2)(a) below.

(2) *Site condominium projects.* All condominium developments, which consist in whole or in part of condominium units which are residential, commercial, or industrial building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this division.

(a) All monuments used shall be made of solid iron or steel bars at least 1/2 inch in diameter and 36 inches long, and completely encased in concrete at least 4 inches in diameter.

(b) Monuments shall be located in the ground: at all angles in the boundaries of the condominium development, at the intersection lines of streets, at the intersection of the lines of streets with the boundaries of the condominium development, and at the intersection of alleys with the boundaries of the condominium development, at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys, and at all angles of an intermediate traverse line. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(c) If the required location of a monument is in an inaccessible place or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.

(d) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2 inch in diameter shall be drilled and grouted into solid rock to a depth of at least 8 inches.

(e) All required monuments shall be placed flush with the ground where practicable.

(f) All unit corners, all intersections in the boundary or boundaries of all limited common elements, and all interesections in the boundary or boundaries of common elements shall be monumented, in the field, by iron or steel bars or iron pipes at least 18 inches long and 1/2 inch in diameter, or other approved markers.

(g) The City Commission may waive, for a reasonable time, not-to-exceed 1 year, the placing of any of the required monuments and markers, on the condition that the proprietor deposits, with the City Clerk, in an amount to be established by the City Commission, by resolution: cash, a certified check, or irrevocable bank letter of credit to the City of Marine City, whichever the proprietor selects. The cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate, issued by a surveyor, that the monuments and markers have been placed as required and within the time specified.

(G) *Compliance with federal, state and local laws.* All condominium developments shall comply with federal and state statutes and local ordinances.

(H) *Occupancy.* The Zoning Administrator may allow occupancy of the condominium development before all improvements, required by this chapter are installed, provided that cash, a certified check or an irrevocable bank letter of credit is submitted, sufficient in amount and type, to provide for the installation of improvements before the expiration of the temporary occupancy permit and without expense to the city.

(I) *Site condominiums.*

(1) *Review procedures.* Pursuant to authority conferred by § 141 of the Condominium Act, Act 59 of 1978, being M.C.L.A. §§ 559.101 to 559.276, as amended, before condominium units may be sold or site improvements initiated, all condominium subdivision plans must be approved by the City Commission, following review and recommendation for approval by the Planning Commission. In determining whether to recommend a condominium subdivision plan for approval to the City Commission, the Planning Commission shall consult with the Zoning Administrator, City Attorney, City Engineer and City Planner regarding the adequacy of the Master Deed, deed restrictions, utility systems and streets, development layout, and design and compliance with all requirements of the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276 and City Zoning Ordinance. The review process shall consist of 2 steps:

(a) *Preliminary plan review.* In the preliminary plan review phase, the Planning Commission shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans with all applicable provisions of the Marine City Zoning Ordinance and Master Plan. Plans submitted for preliminary review shall include information specified herein.

(b) *Final plan review.* Upon receipt of preliminary plan approval, the applicant should prepare the appropriate engineering plans and apply for Final Review by the Planning Commission. Final plans shall include information as required hereby. The plans shall be reviewed by the City Planner, City Attorney, and City Engineer. Further, the plans shall be submitted for review and comment to all applicable local, county and state agencies as may be appropriate, and as determined by the Planning Commission. The City Commission may grant approval of the final plans after receiving the recommendation of the Planning Commission, and following expiration of the time allotted to other parties to review and comment on the plans.

(2) *Exhibits required.* In addition to the requirements of § 66 of the Condominium Act, being M.C.L.A. §§ 559.101 to 559.276 and the requirements for site plans contained herein, all plans for site condominium projects presented for approval shall contain the following information:

(a) Survey of the condominium subdivision site;

(b) A survey or drawing delineating all natural features on the site including, but not limited to: ponds, streams, lakes, drains, floodplains, wetlands and woodland areas;

(c) The location size, shape, area and width of all condominium units and common elements, and the location of all proposed streets;

(d) A generalized plan for the provision of utilities and drainage systems;

(e) A copy of the Master Deed and a copy of all restrictive covenants to be applied to the project;

(f) A utility plan showing all sanitary sewer, water, and storm drainage improvements, including all easements to be granted to the City for repair and maintenance of all utilities;

(g) A street construction, paving and maintenance plan for all streets within the proposed condominium subdivision;

(h) A storm drainage and stormwater management plan, including all lines, swales, drains, basins and other facilities; and

(i) A mechanism contained in the Master Deed and/or Bylaws providing for the continued maintenance of all common elements.

(3) *Compliance with Zoning Ordinance.* A site condominium development, whether intended for residential, commercial or industrial use shall be subject to all of the requirements and standards of the applicable Zoning District in which the development is located.

(4) *Streets.* The design of streets within a site condominium project shall be subject to the same Design Layout Standards as established for subdivisions as set forth in the subdivisions chapter of the Code of Ordinances of the City of Marine City, except as may otherwise be provided by this chapter. All newly created streets, regardless of whether they are to be in public or private ownership, shall conform to at least all minimum requirements of the general specifications and typical cross sections, including bituminous or concrete paving standards, as set forth herein. All streets which are not

dedicated to the public shall be properly maintained. The road surface shall be kept in good repair. Accumulations of snow and ice shall be promptly removed. The master deed shall contain adequate mechanisms to insure that streets will be properly maintained. The provisions shall be reviewed and approved by the City Engineer and City Attorney.

(5) *Condominium units.* Condominium units within site condominium developments shall conform to the following standards:

(a) The unit size, width, depth and shape of any site condominium shall be appropriate for the location and type of development contemplated.

(b) Condominium unit areas and widths and building setback lines shall conform to at least the minimum lot and setback requirements of the Zoning Ordinance for the District in which the site condominium is proposed.

(c) Condominium units situated on corners in residential condominium subdivisions shall be at least 10 feet wider than the minimum lot width permitted by the Zoning Ordinance. In instances where the minimum required lot width is greater than 100 feet, this requirement shall not apply.

(d) Excessive condominium unit depth in relation to width shall be avoided. A depth-to-width ratio of 3 to 1 shall normally be considered a maximum.

(e) Condominium units intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setbacks, and other requirements in accordance with the Zoning Ordinance.

(f) Every condominium unit shall front or abut on a street for the full width of the unit. The measurement of unit width shall be determined in the same manner as prescribed in the Zoning Ordinance for "lots".

(g) Side condominium unit lines shall be at right angles or radial to the street lines.

(h) Residential condominium units abutting major thoroughfares or collector streets, where marginal access streets are not desirable or possible to attain, shall be situated with reverse frontage condominium units or with side condominium unit lines parallel to the major traffic streets.

(i) Condominium units shall have a front-to-front relationship across all streets where possible.

(j) Where condominium units border upon bodies of water, the front yard may be designated as the waterfront side of the condominium unit, provided the buildable area of the condominium unit has sufficient depth to provide adequate setback on the street side to maintain a setback for all structures equal to the front setback on the street side as well as on the waterfront side.

(6) *Blocks.*

(a) Maximum length for blocks shall not exceed 1,400 feet in length, except where, in the opinion of the Planning Commission, conditions may justify a greater distance.

(b) Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.

(7) *Natural resources.* The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, water courses and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the provision of adequate barriers, where appropriate, shall be required.

(8) *Provision of common elements (excluding roads).* In the case of residential developments, not less than 5% of the gross land area of the parcel to be developed as a "site condominium" shall be designated as a general common element. The common element shall be permanently reserved for use as active or passive recreational areas or natural resource preserve or a combination of both.

(9) *Sidewalks.* Sidewalks shall be installed by the developer in all site condominium developments. Sidewalks shall be a minimum of 5 feet in width along both sides of collector and minor streets and 6 feet in width along all major thoroughfares. Sidewalks shall be placed within the street right-of-way and shall be located 1 foot from the edge of the right-of-way. Sidewalks shall also be constructed within the public right-of-way along existing public roadways on the side or sides of the roadway abutting the site condominium development. In instances where the right-of-way of an adjacent public roadway is not sufficient to construct said sidewalk, the developer shall dedicate such additional land as may be necessary to properly accommodate the sidewalk. Pedestrian access to all general common areas shall be provided. Upon review of the site plan, the Planning Commission may approve alternate locations for the sidewalks or may waive the sidewalk requirement if it would not serve the purpose of providing adequate pedestrian circulation. Notwithstanding the above, in instances where the average width of condominium units is greater than 100 feet, sidewalks along internal streets shall not be required.

(10) *Utilities.*

(a) *Storm drainage.* An adequate storm drainage system, including necessary storm sewers, catch basins, manholes, culverts, bridges and other appurtenances, as approved by the City Engineer, shall be required in all developments. Adequate provision shall be made for proper drainage of storm water from the rear yards of condominium units. Drainage of each yard shall be self-contained and shall be drained from rear to front except where topography or other natural features require otherwise. The City Commission may require that all storm sewers be installed within the public rights-of-way or

within the general common elements and dedicated to the City when, in the opinion of the City Commission, dedication of the same would be in the best interest of the city.

(b) *Sewage disposal.* A sanitary sewer system including all appurtenances shall be required in all developments which shall connect and outlet into a city sanitary sewer system.

(c) *Water supply.* A water supply system including appurtenances shall be required in all developments which shall be connected to a city water supply system.

(d) *Requirements for underground wiring.* The proprietor shall make arrangements for all lines for telephone, electric, television, and other similar services, distributed by wire or cable, to be placed entirely underground throughout the development area; and the conduits or cables shall be placed within private easements provided to the service companies by the developer, or within dedicated public ways; provided, only, that overhead lines may be permitted upon written recommendation of the City Engineer and the approval of the Planning Commission at the time of site plan approval, where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design and character of the development. All such facilities, placed in dedicated public ways, shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations, which traverse privately held property, shall be protected by easements granted by the proprietor.

(11) For the purpose of insuring proper response by emergency vehicles, road name signs and traffic control signs shall be installed at all street intersections within or abutting the condominium development in accordance with the city standards. Street names shall be designated in a manner so as not to duplicate or be confused with preexisting streets within the city or postal zone. For private streets, in addition to the above requirements, a sign, meeting city standards, with the words "Not a Public Street", shall be installed and maintained at all points where private streets meet public streets.

(12) *Street lighting.* For the purpose of protecting public safety, street lights meeting the standards of the Marine City County Road Commission and the public utility providing such lighting shall be installed and maintained within the condominium development at all street intersections. The association of co-owners shall be responsible for the full cost of operation of street lights.

(13) *Street trees and landscaping.*

(a) Street trees shall be provided in the ratio of at least 1 per dwelling unit, shall be placed along the right-of-way, and shall not be less than 8 feet in height. This requirement may be waived by the Planning Commission in cases where the site contains substantial woodlands which are to be preserved, and where, in the opinion of the Planning Commission, no useful public purpose would be served. Unless otherwise approved by the city, street trees, when required, shall be planted in the strip between the sidewalk and the curb.

(b) The following trees are prohibited:

1. Box elder;
2. Soft maples (red, silver);
3. Elms;
4. Poplars;
5. Willows;
6. Horse chestnut (nut bearing);
7. Tree of Heaven; and
8. Catalpa.

(c) All unimproved surface area of the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape materials, except that patios, terraces, decks, and similar site features may be allowed.

(14) *Maintenance bond.* Prior to acceptance by the city of any improvements which are to be dedicated to the city, a 2 year maintenance bond in an amount set by the City Commission, upon recommendation from the City Engineer, shall be posted by the proprietor.

(15) *Final documents to be provided.* After submittal of the condominium plan and bylaws as part of the master deed, the proprietor shall furnish to the city a copy of the site plan on a Mylar sheet of at least 13 inches by 16 inches with an image not to exceed 10-1/2 inches by 14 inches.

(Prior Code, App., § 1318) (Ord. 97-2, passed 6-5-1997)

## **§ 160.229 LOT LIMITATIONS.**

In the R-1A and R-1B zoning districts only 1 single-family dwelling shall be constructed on a lot. In the case of a licensed mobile home park or in the case of a "site condominium" where no "subdivision" of land under Public Act 288 of 1967 (the Subdivision Control Act), as amended, has taken place, and where the land therefore remains as 1 "lot or parcel," this restriction shall not apply; however, in this instance, not more than 1 single-family dwelling shall be constructed upon an

individual "unit of ownership" within a site condominium development.

(Prior Code, App., § 1319) (Ord. 97-2, passed 6-5-1997)

#### **§ 160.230 FRONTAGE.**

Every dwelling or principal building shall be located upon a lot which shall front upon a public street for the minimum required width of the lot. Modification of this requirement may be permitted by the Zoning Commission of Appeals after recommendation from the Planning Commission in cases where unusual topographic or geographic conditions exist. Except that, in the case of a "site condominium", which has been approved by the city, a dwelling unit may be constructed upon an individual "unit of ownership" that has the required frontage upon an approved street, regardless of whether the street has been dedicated to the city or remains under the ownership and control of the association of co-owners.

(Prior Code, App., § 1320) (Ord. 97-2, passed 6-5-1997)

#### **§ 160.231 SIDEWALKS ALONG PUBLIC STREETS.**

(A) *Applicability.* For all developments which occur in the R-M, MHP, B-1, B-2, W-M, I-1 and I-2 Districts, and for all developments, except single-family and two-family residences, in the R-1A and R-1B Districts, a concrete sidewalk shall be constructed across all public street frontages on the side or sides of the roadway abutting the development. The provision of sidewalks within a subdivision which is submitted for approval shall be governed by the City of Marine City Subdivision Regulations Ordinance. All construction plans for sidewalks shall also be approved by the City Engineer, County Road Commission or Michigan Department of Transportation as applicable.

(B) *Width.* For major thoroughfares and collector thoroughfares (as shown on the city's Thoroughfare Plan) the width of said sidewalk shall be 6 feet. The width of the sidewalk may be reduced to 5 feet when located along a local thoroughfare. The sidewalks shall be increased to 8 feet in width (and may, when part of the proposed bicycle path network, be constructed of asphalt) in order to safely accommodate bicycle traffic, when such additional width is indicated on a plan for the area as adopted or accepted by the Planning Commission or City Commission, or if located on a major thoroughfare with a planned right-of-way width of 100 feet or more and determined by the Planning Commission to be necessary to serve anticipated levels of pedestrian and non-motorized traffic.

(C) *Location.* Unless otherwise approved by the Planning Commission, all sidewalks shall be located within the right-of-way at a distance of 1 foot from the edge of the right-of-way. In cases where the width of the planned right-of-way is greater than the width of the existing right-of-way, the sidewalk may be located 1 foot from the edge of the planned right-of-way, provided that an easement is granted to the applicable road agency for sidewalk purposes.

(Prior Code, App., § 1321) (Ord. 98-2, passed 3-19-1998; Am. Ord. 04-03, passed 5-6-2004)

#### **§ 160.232 PERMITTED EXTERIOR WALL BUILDING MATERIALS.**

(A) *Purpose.* These regulations are established to promote the consistent, orderly development of the community, to preserve property values and to protect and enhance the character of the city's visual environment. The requirements of this section are not intended to regulate structural quality, workmanship or the various performance and maintenance characteristics of the various materials listed in the following schedule.

(B) *Applicability.* All exterior wall materials installed in the Zoning Districts listed below shall comply with the Schedule Regulating Exterior Wall Building Materials. For purposes of this Schedule the Zoning Districts shall be grouped in the following categories.

(1) All exposed exterior surfaces of a building, inclusive of window and door surfaces, shall be included in the calculation to determine the total exposed building wall facade area. That total area shall represent 100% of the exterior building wall facade.

(2) If variation in color and pattern of the material is used in order to articulate the building's facade, up to 100% of this material may be used.

(3) Includes all common types of aluminum siding and all other aluminum, porcelain, stainless steel, steel or other pre-finished metal siding.

(4) Chimneys located on exterior walls of a multiple-family residential structure shall be treated with face brick or stone on 100% of all exposed surfaces. The Planning Commission may grant an exception when the brick or stone would, in the opinion of the Planning Commission, be incompatible with or detract from the overall architectural design.

(5) On the side of the structure where the garage door is located the exterior wall surface above the garage door shall be treated with the same material as the remainder of the wall adjacent to the door.

(6) The rear elevation of all multiple-family residential structures shall provide at least 1 horizontal offset of at least 4 feet to provide for three-dimensionality to the facade. The rear-roofline configuration shall also provide similar vertical offsets.

(7) (a) There shall be a minimum of 50% face brick, granite, marble or limestone on all multiple-family residential, commercial and office structures.

(b) The office portion of an industrial/warehouse building shall be constructed of high quality masonry materials which



shall include a minimum of 75% face brick, jumbo brick and/or structural brick units. An exception to the minimum brick/stone requirement may be granted for structures which meet the criteria specified as follows: Where the developer is proposing homes which reproduce specific historical periods in order to create a theme (e.g. traditional New England Colonials or Saltbox, Victorian, Queen Anne, Early American Bungalow or Farmhouse Styles), the Planning Commission may vary the standards in this schedule in order to create a unique and creative design theme (see division (B)(8)(a)).

(8) (a) Where the developer is proposing homes which reproduce specific historical periods in order to create a theme (e.g. traditional New England Colonials or Saltbox, Victorian, Queen Ann, Early American Bungalow or Farmhouse Styles), the Planning Commission may vary the standards in this schedule in order to create a unique and creative design theme.

(b) For commercial, office and industrial buildings and/or developments, the Planning Commission may approve modifications to these standards to achieve a specific architectural objective as demonstrated by the project sponsor in meeting the overall development objectives of the community.

(9) Scored block shall not be construed to be included in the category of shadow pattern or split face block. Scored block may be used for architectural accents only and shall not exceed 10% of the exposed exterior surfaces of a building.

(04-04, passed 5-6-2004)

### **§ 160.233 ON-SITE USE WIND SYSTEMS.**

(A) *Intent.* An on-site use wind energy system (see § 160.005 for definition) is intended to primarily serve the needs of the consumer. A utility grid wind energy system (see § 160.005 for definition) is not a permitted use under this section.

(B) *General requirements in all zoning districts.*

(1) *Connection.* Shall not be connected to utility grid. The commercial sale of surplus energy is prohibited.

(2) *Noise.* Sound pressure levels shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

(3) *Setback.* The base of tower shall be set back a distance of not less than 1-1/2 times the height of tower from the nearest property line. In addition, no part of the wind energy system structure, including guy wire anchors, may extend closer than 10 feet to the nearest property line.

(4) *Safety.*

(a) *Vertical clearance.* The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor. Blade or rotor arc must be demonstrated to be a safe and reasonable distance from any separate building, structure, utility wire, or tree.

(b) *Guy wire visibility.* If a wind energy system tower is supported by guy wires, the wires shall be clearly visible to a height of at least 6 feet above the guy wire anchors.

(c) *Rotor or blade integrity protection.* An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.

(d) *Lightning.* All wind energy system towers shall have lightning protection.

(5) *Construction codes, towers, and interconnection standards.* On-site use wind energy systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use wind energy systems, including towers, shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and local jurisdiction airport overlay zone regulations.

(6) *Wiring.* All wiring between the tower and the principal building shall be underground.

(C) *Residential districts.* When located in R-1A, R-1B, R-M, and MHP Districts, the following additional regulations shall apply:

(1) An on-site use wind energy system shall be located only in a rear yard; and

(2) The height of the tower above the average grade of the lot shall not exceed 35 feet to the top of the blade in its vertical position.

(D) *Business districts.* When located in B-1, B-2, or W-M Districts, the following additional regulations shall apply: the height of the tower above the average grade of the lot shall not exceed 50 feet to the top of the blade in its vertical position.

(E) *Industrial districts.* When located in I-1 or I-2 Districts, the following additional regulations shall apply: the height of the tower above the average grade of the lot shall not exceed 65 feet to the top of the blade in its vertical position.

(Ord. 08-01, passed 5-15-2008)

### **§ 160.234 OUTDOOR DISPLAYS OF MATERIALS.**

The outdoor display of products or materials intended for retail sale or rental, outdoor seating, and/or planters may be permitted only in the B-1, Central Business District, B-2, General Business District, W-M, Waterfront Recreation and Marina

District, and NMD, Nautical Mile District, subject to the following conditions. Outdoor display shall not include any signage in addition to that permitted with the permitted use:

(A) *General Standards.*

- (1) An outdoor display shall be considered as an accessory use to the principal use conducted on the premises.
- (2) The exterior of the premises shall be kept clean, orderly and maintained.
- (3) The City shall not be held liable or responsible for any type of damage, theft or personal injury that may occur as a result of an outdoor display.
- (4) An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.
- (5) An outdoor display shall comply with the corner clearance requirements of §160.223.
- (6) Approval for the outdoor display is to be reviewed and completed administratively by the Zoning Administrator.
- (7) In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where, in the sole discretion of the Zoning Administrator, the site conditions may create difficulty in adherence to the standards contained herein.
- (8) Outdoor displays, seating and /or planters are prohibited from December 1, through and including March 31.

(B) *Standards within the B-1, W-M and Nautical Mile Districts.*

- (1) An outdoor display may be located in front or adjacent to the principal use establishment. An outdoor display that extends beyond the property lines of the principal use property shall require the written permission of the affected property owners.
- (2) If an outdoor display is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained at all times. An outdoor display on a public sidewalk shall be confined to normal business hours. Fences, barricades or similar enclosures which may damage the public sidewalk are prohibited.

(C) *Standards within the B-2 Districts.* An outdoor display may be located within any required yard but shall not be located within any public road right-of-way.

(D) *Building materials, nursery stock and garden supplies.*

- (1) Outdoor sales areas shall not be located within the required front setback, except for sales of living nursery stock. Ornamental displays associated with the sale of nursery stock shall be permitted; however, in no case shall the outdoor storage or sale of bulk materials, such as topsoil, mulch or gravel, whether packaged or not, be permitted within the front yard setback.
- (2) Outdoor sale and display areas that abut residentially zoned or used property shall be screened in accordance with § 160.219(I) and § 160.221.

(Ord. 2018-006, passed 11-1-2018)

**§ 160.235 OUTDOOR CAFÉ SERVICE.**

An outdoor cafe service operated by an eating or drinking establishment which sells food or drink for immediate consumption may be permitted in the B-1, Central Business District, B-2, General Business District, W-M, Waterfront Recreation and Marina District, and NMD, Nautical Mile District, subject to the following conditions:

- (A) A sketch plan depicting the location and layout of the café facility shall be required. Approval for the use is to be reviewed and completed administratively by the Zoning Administrator. A permit shall remain in effect, unless there is a change in ownership, a material change in the sketch plan, or the operation of the café fails to meet the standards contained herein.
- (B) An outdoor café may be located in the front yard of or adjacent to the principal use establishment. An outdoor café that extends beyond the property lines of the principal use property shall require the written permission of the affected property owners.
- (C) Within the B-1, W-M and NMD Districts, an outdoor café may be located on a public sidewalk, provided:
  - (1) A minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained.
  - (2) The outdoor café shall be designed and maintained to ensure that this required unobstructed space is free of all obstructions and trip hazards.
  - (3) A minimum clearance height of eight (8) feet shall be provided from the sidewalk surface and any overhead projection associated with the outdoor café, such as an umbrella.
  - (4) Adequate space shall be provided for vehicle entry between on-street parking spaces and the sidewalk café.
  - (5) Fences, barricades or similar enclosures which may damage the public sidewalk are prohibited.

(6) No outdoor café shall be located within the triangular area formed at the intersection of any street edge with another street edge or driveway edge by a line drawn between the street or driveway edges at a distance along each line of 10 feet from their point of intersection.

(7) Additional restrictions may be placed, or exceptions to the above restrictions may be granted, by the Zoning Administrator to ensure that the use of the city sidewalk is conducted in a safe manner.

(D) An outdoor café shall comply with the corner clearance requirements of §160.223.

(E) An outdoor cafe shall be allowed only during normal operating hours of the principal use establishment.

(F) The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside of the premises of the principal use establishment. There shall be no food cooking or preparation within the designated outdoor café space.

(G) The City shall not be liable or responsible for any type of damage, theft or personal injury, which may occur as a result of a public sidewalk café operation.

(H) All outdoor cafes shall comply with applicable regulations of the County Health Department and the State, including the Michigan Liquor Control Commission where any form of alcohol service is proposed.

(I) Any outdoor café operation shall be disclosed to the insurance carrier for the principal use establishment and shall be insured accordingly. The Zoning Administrator reserves the right to confirm insurance coverage for the café.

(J) Outdoor displays, seating and /or planters are prohibited from December 1, through and including March 31.

(Ord. 2018-006,passed 11-1-2018)

### **§ 160.236 PLANNED DEVELOPMENT.**

(A) *Purpose.* The purpose of this Section is to permit flexibility in the regulation of land development; encourage innovation in land use and variety of design, layout and type of structures constructed; achieve efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better housing, employment, and shopping opportunities particularly suited to the needs of residents in the City in accordance with § 503 of Public Act 110 of 2006, as amended.

(B) *Authority.* The City Commission shall have the authority to approve, deny, or approve with conditions applications for a Planned Development Project (PDP).

(C) *Amendment required.* The approval of a PDP shall require an amendment to the Zoning Ordinance to revise the official Zoning Map to designate the subject property as a PDP. Approval granted under this Section (including the development agreement, all aspects of the final plan, and any conditions imposed on it) shall constitute an inseparable part of the zoning amendment.

(D) *Qualifying conditions.* In order to qualify for Planned Development Project (PDP) consideration, the following conditions shall be met to the satisfaction of the City Commission.

(1) *Recognizable benefits.* The PDP shall result in recognizable and substantial benefits to the ultimate users of the project and to the community, where such benefits would otherwise be unlikely to be achieved under the regulations of the underlying zoning districts. The following benefits shall accrue from the PUD:

(a) The permanent protection and preservation of open space, valuable natural resources, and wildlife habitat.

(b) Efficient use of land and natural resources.

(c) The efficient arrangement of utilities and design of traffic circulation systems including limitations on the number of vehicular access points along the existing road network, thus minimizing traffic conflicts while satisfying emergency needs.

(d) Structures are sited so as to preserve important visual, ecological, recreational, cultural and historic resources.

(e) Residential amenities to serve residents of the PDP, such as playground areas, hiking trails, tennis courts and other outdoor recreational facilities.

(2) *Site area and control.* The minimum site area necessary to be considered for a PDP shall be 5 acres. If the PDP consists of multiple parcels, they must be contiguous. The existence of a public road dividing parcels or lots included in the proposed development shall not be a basis for the disqualification of contiguity. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Ordinance and the specifications of the PDP approval.

(3) *Mixed use.* The PDP shall consist of at least two land uses authorized in this Ordinance. Two or more different types of housing, including, but not limited to, single-family dwellings and multiple family dwellings, may qualify as a PDP.

(E) *Project design standards.*

(1) *Applicable base regulations.* Unless otherwise waived or modified as part of an approval in accordance with Subsection (E),(2) below, all yard and bulk, parking, loading, landscaping, lighting, and other standards for the districts listed below shall be applicable for uses proposed in a PDP:

- (a) Single family residential uses shall comply with the regulations applicable in the R-1B District.
- (b) Multiple family residential uses shall comply with the regulations applicable in the R-M District.
- (c) Retail commercial uses and office uses shall comply with the regulations applicable in the B-2 District.
- (d) Industrial uses shall comply with the regulations in the I-1 District.
- (e) Mixed uses shall comply with the regulations applicable for each individual use.

(2) *Regulatory flexibility.* The City Commission may consider and permit flexibility in the regulation of land development to: encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, available infrastructure, natural resources, energy, and the provision of public services and utilities while continuing to meet goals and objectives of the city's Master Plan; encourage useful open space; provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the city; and/or respond to market conditions provided any variation granted would also result in the overall design being compatible with neighboring development and zoning. In such instances, building and/or site improvement requirements and standards need not be uniform with regard to each type of land use provided. Such variation(s) shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

(3) *Residential density.* Increases in the density of residential development may be permitted by the City Commission upon determination that the desired density will not adversely impact water and sewer services, storm water drainage, road capacity, traffic flow, parks and recreation services, fire and police services, schools, character of the area, and any planned public or private improvements in the area. Such increased density may be interspersed throughout the development. To qualify for density increases, the applicant must present and describe examples of benefits to the residents of the development and/or the citizens of the city. By way of example, such benefits may include one or more that:

- (a) Augment the recognizable benefit standards required by the City Commission as outlined in Subsection (E),(1), (a)-(e) above.
- (b) Provide economic, environmental, or social benefits apart from those required by this Ordinance.
- (c) Enhance new or ongoing cultural activities.
- (d) Provide opportunities for the enhancement of public education.
- (e) Implement the Leadership in Energy and Environmental Design (LEED) green building principles in the design, construction, and operation of structures.

(4) *Open space requirements.* Planned development projects containing a residential component shall provide and maintain usable open space as shown on the approved PDP plan. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the PDP plan and never changed to another use. Such conveyance shall:

- (a) Provide for maintenance of the privately owned open space by private property owners with an interest in the open space.
- (b) Provide maintenance standards and a schedule.
- (c) Provide for assessment of the private property owners by the City for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.

(5) *Compatibility with the Master Plan.* The proposed PDP shall be consistent with the City's Master Plan.

(6) *Availability and capacity of public Services.* The proposed type and density of use shall not exceed the capacity of existing public services, facilities and utilities.

(7) *Pedestrian and vehicular circulation.* A pedestrian circulation system shall be provided throughout the project that is insulated from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing streets, sidewalks, and bicycle pathways in the vicinity of the site.

(8) *Privacy for dwelling units.* The design of a PDP shall provide visual and sound privacy for any and all dwelling units within and surrounding the development. Fences, walks, and landscaping shall be used in the site design to protect the privacy of dwelling units.

(9) *Utilities.* All new utilities serving a planned development, including electric, telephone, and cable television lines, shall be placed underground.

(10) *Emergency access.* The configuration of buildings, driveways, and other improvements shall allow convenient and direct emergency vehicle access.

(11) *Design integration.* Signage, lighting and building materials shall reflect an integrated development.

(12) *Phasing.* Where a project is proposed for construction in phases, it shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PDP and residents of the surrounding area.

(F) *Application procedure.* Application shall be made to the City for rezoning as a Planned Development Project. Applications for planned development zoning shall include applicable data required for site plan review as specified in § 160.300, and the following:

(1) A written statement explaining in detail the full intent of the applicant indicating the specifics of the site plan as it relates to the type of dwelling units contemplated and resultant population; the extent of nonresidential development and the resultant traffic generated and parking demands created; and providing supporting documentation such as but not limited to: market studies supporting the land use request, traffic studies, and the intended scheduling of development, as may be appropriate for the specific project submitted.

(2) *Overall PDP plan.* The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, square footage or acreage allocated to each use, approximate locations of each principal structure and use in the development, setbacks, and typical layouts and elevations for each type of use. The overall plan shall clearly delineate each type of residential use; office, commercial, and other non-residential use; each type of open space; community facilities and public areas; and other types of land uses.

(3) *Traffic data and information concerning traffic generated by the proposed PDP.* Sufficient information shall be provided to allow the City to evaluate the impact of the proposed development on adjoining roads. The following traffic related information shall be provided:

- (a) Estimates of the volume of traffic generated by each use.
- (b) The peak hour volume of traffic expected to be generated by the proposed development.
- (c) A schematic drawing indicating vehicular movement through the site, including anticipated turning movements.
- (d) Measures being proposed to alleviate the impact of the development on the circulation system.

(4) *Fiscal impact.* Analysis of the fiscal impact of the proposed planned development on the City of Marine City and the school district.

(5) *Market study.* Evidence of market need for the proposed use(s) and the feasibility of completing the project in its entirety. This requirement may be waived by the City Commission upon making the determination, based on existing evidence and knowledge about the local economy, that market support does exist for the proposed uses.

(6) *Legal documentation of single ownership or control.* The documentation shall be in the form of agreements, contracts, covenants, and deed restriction which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained at public expense will continue to be operated and maintained by the developers or their successors.

(7) *Schedule.* A schedule of the development and construction details, including specific phasing dates and timing of all proposed improvements.

(8) *Documents.* A draft of ownership and governance documents is required. These documents shall include the following:

- (a) Deeds.
- (b) Warranties guaranteeing ownership conveyed and described in the deeds.
- (c) A list of covenants, conditions, and restrictions that are conditions of ownership upon the purchasers and owners in the planned development.
- (d) Association bylaws (for example, condominium association by-laws) that describe how the association is organized; the duties of the association to operate, manage, and maintain common elements of the planned development; and, the duties of individual shareholders to manage and maintain their own units.
- (e) A draft PDP agreement.

(G) *Preliminary review procedure.* The following procedures and requirements provide for preliminary review of PDP proposals by City officials.

(1) *Submission of a completed plan.* The planned development application materials, required fees, and sufficient copies of the completed plan, prepared in the manner specified in this Section, shall be submitted to the city for review.

(2) *Review by city officials.* The Zoning Administrator and other appropriate city officials and review committees shall review the site plan and application materials pursuant to the project design standards outlined in this section, and shall prepare a written review, which shall specify any deficiencies in the site plan and make recommendations as appropriate.

(3) *Submission of a revised plan and planned development application.* The applicant shall revise the plan and application materials, based on the recommendations set forth in the City's review. The applicant shall then submit sufficient copies of the revised plan for further review by staff and the Planning Commission at the same time.

(H) *Planning Commission review and recommendation to the City Commission.* The following procedures and requirements provide for detailed review of PDP proposals by the Planning Commission.

- (1) *Acceptance for processing.* After all application materials have been received and review fees paid, the Zoning

Administrator shall forward copies to the Planning Commission for review and action.

(2) *Public hearing.* The Planning Commission shall hold a public hearing with notice as provided in §160.305 of this Zoning Ordinance.

(3) *Review and action.* Following the public hearing, the Planning Commission shall review the PDP application pursuant to the project design standards of this Section, requested modifications, and consistency with the purposes and intent of this section.

(4) *Plan revision.* If the Planning Commission determines that revisions are necessary to bring the PDP proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised plan. Following submission of a revised plan, the planned development proposal shall be placed on the agenda of the next available scheduled meeting of the Planning Commission for further review and possible recommendation to the City Commission.

(5) *Planning Commission recommendation.* The Planning Commission shall review the application for a PDP, together with the public hearing findings and reports and recommendations from the City officials and other appropriate reviewing bodies. The Planning Commission shall then make a recommendation to the City Commission. The Planning Commission may recommend approval, approval with conditions, or denial as follows:

(a) *Approval.* Upon determination by the Planning Commission that the final plan for planned development is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning Commission may recommend approval to the City Commission.

(b) *Approval with conditions.* The Planning Commission may recommend that the City Commission impose reasonable conditions with the approval of a PDP proposal, to the extent authorized by law, for the following purposes:

1. To ensure that public services and facilities affected by the proposed development will be capable of accommodating increased service loads caused by the development.
2. To protect the natural environment and conserve natural resources and energy.
3. To ensure compatibility with adjacent uses of land.
4. To promote the use of land in a socially and economically desirable manner.
5. To protect the public health, safety, and welfare of the individuals in the development and those immediately adjacent, and the community as a whole.
6. To achieve the purpose and intent of this Ordinance.

In the event that the planned development is approved subject to conditions, such conditions shall become a part of the record of approval, and shall be modified only as provided herein.

(c) *Denial.*

1. Upon determination by the Planning Commission that a PDP proposal does not comply with the standards and regulations set forth in this ordinance, fails to comply with the purpose and intent of this section, or otherwise could be injurious to the public health, safety, welfare, and orderly development of the City, the Planning Commission shall recommend denial.

2. The Planning Commission shall prepare and transmit a recommendation to the City Commission stating its conclusions and findings, the basis for a recommendation regarding the creation of a PDP zone, and any recommended conditions relating to an affirmative decision.

(l) *Preparation of final development agreement.* Upon the approval recommendation of a PDP plan by the Planning Commission, the applicant shall prepare a written agreement setting forth any and all conditions upon which approval was based. The Zoning Administrator shall review the agreement, with assistance from the City Attorney and other advisors. After approval of the ordinance granting the zoning map amendment and development agreement by the City Commission, the agreement shall be recorded in the Office of the St Clair County Register of Deeds at the expense of the applicant. The agreement shall, at a minimum:

- (1) Incorporate by reference the final approved site plan.
- (2) If open space or common areas are indicated in the project for use by the residents, the open space or common areas shall be conveyed in fee or otherwise committed by dedication to the residents, and the use shall be irrevocably dedicated for use as open space for park, recreation or other common uses.
- (3) Detail a program and related financing mechanisms for maintaining common areas, amenities and features, such as walkways, signs, lighting and landscaping.
- (4) Assure that any natural features will be preserved as shown on the site plan.
- (5) Assure the financing for the construction and maintenance of all roadways and necessary utilities (including public water, waste water collection and treatment) through a performance bond or other means, for any and all phases of the project. In the case of phased project, this requirement shall be reviewed for compliance at the time of construction plan

approval for each phase of the project.

(6) Address any other concerns or conditions placed on the approval by the Planning Commission or the City Commission.

(J) *Final action by City Commission.* The following procedures and requirements provide for final action on PDP proposals by the City Commission.

(1) After the Planning Commission makes its recommendation, the applicant shall make any required revisions and submit sufficient copies of the revised site plan and supporting materials for City Commission review.

(2) *Public hearing.* Upon receipt of the PDP plan and Planning Commission recommendation, the City Commission, solely at their option, may schedule an additional public hearing

(3) *City Commission determination.* The City Commission shall make a determination based on review of the final plan together with the findings of the Planning Commission, and the reports and recommendation from the City officials and other appropriate reviewing bodies. Following completion of its review, the City Commission shall approve, approve with conditions, or deny a PDP proposal along with its related map change and development agreement in accordance with the guidelines described for the Planning Commission in subsection (H)(5) above.

(4) Upon approval by the City Commission of the ordinance amendment, the PDP plan shall become an integral part of the zoning amendment, and for purposes of city record keeping, shall be referred to as "Planned Development Project No. \_\_\_\_\_," which number shall correspond to the number of the amending ordinance.

(5) All approved plans and records shall be filed with the City Clerk.

(K) *Required conditions.* Planned development projects shall be subject to the following required conditions:

(1) Approval of a PDP shall constitute an amendment to the Zoning Ordinance. All improvements and land uses of the site shall be in conformity with the planned development project plan, any conditions imposed, and the approved development agreement. Changes to the approved PDP that are not considered minor by the Zoning Administrator shall be reviewed in accordance with the procedure for the original application.

(2) Approval of a principal use, and building and/or site improvement plans as part of the rezoning, shall be effective for a period of 12 months, except that the Planning Commission may, at its discretion and upon application by the land owner and/or his representative and for cause shown, grant an extension for an additional 12 months. At the end of the 24 month period, if the development is not completed, the Planning Commission shall review the progress to date and make a recommendation to the City Commission as to action relative to permitting continuation under the original approval for an additional time period. In the event an extension is not granted by the City Commission past the 24 month period, the approval and allowances, including the PDP development agreement, site plan, zoning designation, and any conditions imposed pursuant to this Section shall become null and void and of no further force and effect. In the event that an approved planned development plan becomes null and void, the City Planning Commission shall initiate proceedings to amend the zoning classification of the site.

(3) Plans for building and/or site improvements of the proposed PDP shall be in accordance with all other requirements of this Ordinance.

(L) *Minor changes.*

(1) Minor changes may be approved by the Zoning Administrator, subject to a finding that:

(a) The proposed changes will not affect the basis upon which approval was granted.

(b) The proposed minor changes will not adversely affect the overall planned development in light of the purpose and intent of this Section.

(c) The proposed changes will not affect the character nor the intensity of use, the general configuration of a buildings and uses on the site, vehicular or pedestrian circulation, drainage patterns, or the demand for public services.

(2) Examples of minor changes include, but shall not be limited to additions or alteration to the landscape plan or landscape materials; alterations to the internal layout of an off-street parking lot, provided that the total number of spaces does not change; relocation of a trash receptacle changes in locations or tree types on an approved landscape plan, or location of designated parking spaces; or an increase in floor area of less than twenty percent (20%) of the initial total floor area, up to 5,000 square feet maximum.

(M) *Performance guarantee.* The City Commission may require the applicant to deposit a performance guarantee in accordance with § 90.162 of the Marine City Code.

(N) *Fees.* Fees for legal, engineering, and planning review of plans shall be established for resolution of the City Commission in an amount sufficient to cover the actual costs incurred by the city.

(O) *Zoning Board of Appeals Authority.* The ZBA shall have no authority to consider any appeal of a decision by the City Commission concerning a PDP application.

(Ord. 2019-002, passed 2-21-2019)

## § 160.237 HOME OCCUPATIONS.

(A) *Permitted home occupations.* The following uses shall be permitted as home occupations within any zoning district, subject to compliance with the requirements of this section:

- (1) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, realtors, accountants, computer programmers, writers, salespersons and similar occupations.
- (2) Personal services, including barber shops, beauty parlors, manicure and pedicure shops, grooming, catering, and chauffeuring services.
- (3) Music, dance, art and craft classes, tutoring, and studios for artists, sculptors, musicians and photographers.
- (4) Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, model making, cabinetry, and wood-working.
- (5) Repair services, limited to watches and clocks, small appliances, instruments, computers, electronic devices, and similar small devices.
- (6) Telephone answering or telemarketing.
- (7) Any other use determined by the Zoning Administrator to be similar to, and compatible with, the above listed uses.

(B) *Prohibited home occupations.* The following uses are expressly prohibited as a home occupation:

- (1) Automobile truck, recreation vehicle, boat, motorcycle or small engine repair, bump and paint shops, salvage or storage yards.
- (2) Kennels or veterinary clinics.
- (3) Medical or dental clinics.
- (4) Retail sales of merchandise.
- (5) Eating and/or drinking establishments.
- (6) Undertaking and funeral homes.
- (7) Adult uses and sexually-oriented businesses.

(C) *Use standards.*

- (1) A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes. No more than 25% of the floor area of the dwelling and 25% of the floor area of any accessory structure shall be devoted to a home occupation.
- (2) A home occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.
- (3) A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.
- (4) A home occupation shall not generate sewage or water use in excess of what is normally generated from a single family dwelling in a residential area.
- (5) No employees shall be permitted other than members of the immediate family resident in the dwelling unit.
- (6) All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a home occupation.
- (7) No signage beyond that which is allowed for single-family dwellings within the zoning district shall be permitted.
- (8) No vehicular traffic shall be permitted for the home occupation, other than that which is normally generated for a single dwelling unit in a residential area, both as to volume and type of vehicles.
- (9) Exterior storage of equipment, accessory items or outdoor display of any kind are prohibited in connection with a home occupation.
- (10) The establishment of a home occupation shall not necessitate exterior modification, except as may be required to accommodate physically handicapped persons, or as may be required by the building code.
- (11) Customer or client visits, and deliveries associated with the home occupation shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.

(D) *Permits.*

- (1) A permit must be obtained to lawfully operate a home occupation. Application shall be made to the Zoning Administrator, who shall approve such requests which demonstrate compliance with the requirements of this Section. In the



administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

(2) Should a lawfully established home occupation no longer meet the conditions outlined above or other conditions stipulated for approval, a violation shall be cited against the operator of the home occupation. The operator of the home occupation shall have 10 working days to correct the referenced violations. If the violations are not corrected within that time, the permit to operate the home occupation shall be revoked and all related activities must cease.

(3) Home occupation permits shall be limited to the applicant who legally resides in the residence.

(Ord. 2019-002, passed 2-21-2019)

## **GENERAL EXCEPTIONS AS TO AREA, HEIGHT AND USE**

### **§ 160.245 GENERALLY.**

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

(Prior Code, App.)

### **§ 160.246 ESSENTIAL SERVICES.**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city; it being the intention hereof to exempt such essential services from the application of this chapter.

(Prior Code, App., § 1400)

### **§ 160.247 VOTING PLACE.**

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

(Prior Code, App., § 1401)

### **§ 160.248 HEIGHT LIMIT.**

The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided, however, that the Board of Appeals may specify a height limit for any such structure when the structure requires authorization as a use permitted on special approval or under § 160.217.

(Prior Code, App., § 1402)

### **§ 160.249 LOT AREA.**

Any lot existing and of record at the time this chapter became effective may be used for any principal use, other than uses permitted on special approval for which special lot area requirements are specified in this chapter, permitted in the district in which the lot is located whether or not such lot complies with the lot area requirements of this chapter; provided that all requirements other than lot area requirements prescribed in this chapter are complied with; and provided that not more than 1 dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.

(Prior Code, App., § 1403)

### **§ 160.250 LOTS ADJOINING ALLEYS.**

In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this chapter, 1/2 the width of the alley abutting the lot shall be considered as part of the lot.

(Prior Code, App., § 1404)

### **§ 160.251 YARD REGULATIONS.**

When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where their application cannot be determined on lots existing and of record at the time this chapter became effective, and on lots of peculiar shape, topography or due to architectural or site arrangement, the regulations may be modified or determined by the Board of Appeals.

(Prior Code, App., § 1405)

### **§ 160.252 MULTIPLE DWELLING SIDE YARD.**

For the purpose of side yard regulations, a two-family, a terrace, a row house, or a multiple-dwelling shall be considered as 1 building occupying 1 lot.

(Prior Code, App., § 1406)

### **§ 160.253 PROJECTIONS INTO YARDS.**

Architectural features, not including vertical projections, may extend or project into a required side yard not more than 3 inches for each 1 foot of width of the side yard and may extend or project into a required front yard or rear yard not more than 3 feet. Architectural features shall not include those details which are normally demountable.

(Prior Code, App., § 1407)

### **§ 160.254 FENCES AND WALLS.**

Fences and walls may occupy a required rear or side yard.

(Prior Code, App., § 1408)

### **§ 160.255 LOT COVERAGE.**

Structures 4 feet in height or less shall not be considered in computing maximum percent of lot coverage.

(Prior Code, App., § 1409)

### **§ 160.256 TRAILER OR BOAT STORAGE.**

Repealed by Ord. of 9-19-1974.

(Prior Code, App., § 1410)

### **§ 160.257 ACCESS THROUGH YARDS.**

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

(Prior Code, App., § 1411)

### **§ 160.258 TERRACE.**

An open unenclosed paved terrace may project into a front yard for a distance not exceeding 10 feet, but this shall not include or permit fixed canopies.

(Prior Code, App., § 1412)

## **SPECIAL LAND USE APPROVAL REQUIREMENTS**

### **§ 160.270 INTENT.**

The formulation and enactment of this chapter is based upon the division of the city into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts, but because of their actual or potential impacts on neighboring uses or public facilities there is a need to carefully regulate them with respect to their location for the protection of the community. These uses, due to their peculiar locational need or the nature of the service offered, may have to be established in a district where they cannot be reasonably allowed as a permitted use.

(Prior Code, App., § 2100) (Ord. 98-10, passed 10-15-1998)

### **§ 160.271 AUTHORITY TO GRANT PERMITS.**

The Planning Commission, as set forth herein, shall have the authority to grant special approval use permits, subject to such conditions of design, operation, and safeguards as may be determined for all special approval uses specified in the various provisions of this chapter.

(Prior Code, App., § 2101) (Ord. 98-10, passed 10-15-1998)

### **§ 160.272 APPLICATION AND FEE.**

Application for any special approval use permit permissible under the provisions of this chapter shall be made to the Planning Commission through the City Clerk by filing an official special approval use permit application form; exhibits and information; and depositing the required fee as established by resolution of the City Commission.

(Prior Code, App., § 2102) (Ord. 98-10, passed 10-15-1998)

### **§ 160.273 DATA, EXHIBITS AND INFORMATION REQUIRED IN APPLICATION.**

An application for a special approval use permit shall contain the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved; a site plan in

accordance herewith and a statement of supporting data, exhibits, information, and evidence regarding the required findings set forth in this chapter.

(Prior Code, App., § 2103) (Ord. 98-10, passed 10-15-1998)

#### **§ 160.274 PUBLIC HEARINGS AND NOTICES.**

Upon receipt of an application for a special land use which requires a decision on discretionary grounds, a public hearing shall be held thereon by the Planning Commission with notice as provided in § 160.305 of this Zoning Ordinance.

(Prior Code, App., § 2104) (Ord. 98-10, passed 10-15-1998; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.275 REQUIRED STANDARDS AND FINDINGS FOR MAKING DETERMINATIONS.**

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a use on the proposed site, lot, or parcel meets the following requirements:

(A) Will be in accordance with the general objectives, intent, and purposes of this chapter;

(1) Will be consistent with maintenance of the public health, safety, and welfare.

(2) Will be of such location, size and character that it will be in harmony with all applicable regulations of the zoning district in which it is to be located.

(B) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that persons or agencies responsible for establishment of the proposed use shall be able to provide adequately any service.

(C) Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contacts in residential districts.

(D) Will be compatible with adjacent uses of land and the natural environment.

(1) Will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood.

(2) Will be designed such that the location, size, intensity, site layout and periods of operation of any such proposed use shall eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights.

(3) Will be designed such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings.

(4) Will not cause substantial injury to the value of other property in the neighborhood in which it is located.

(E) Will promote the use of land in a socially and economically desirable manner.

(F) Will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the city.

(Prior Code, App., § 2105) (Ord. 98-10, passed 10-15-1998)

#### **§ 160.276 DETERMINATION AND IMPOSITION OF CONDITIONS.**

(A) If the facts in the case establish that the findings and standards set forth in this chapter apply to the proposed use, and have been met, the Planning Commission shall grant special approval. In granting a special approval use permit, the Planning Commission may impose such reasonable conditions of use as is determined necessary to protect the best interest of the city and the surrounding property, and to achieve the objectives of this chapter.

(B) Conditions imposed shall meet all of the following requirements:

(1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

(3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(C) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the

approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

(Prior Code, App., § 2106) (Ord. 98-10, passed 10-15-1998)

#### **§ 160.277 APPROVAL AND APPEAL PROCEDURES.**

(A) *Approval, grant of permit.* Upon holding a public hearing, and findings that the requirements of this chapter have been satisfactorily met by the applicant, the Planning Commission shall within 30 days grant special approval. The Planning Commission's decision on a special approval use shall be incorporated in a statement containing the conclusions relative to the special approval under consideration which specifies the basis for the decision, and any conditions imposed. Upon approval, a special approval permit shall be issued to the applicant. The Planning Commission shall forward a copy of the permit to the applicant, Clerk, and Zoning Administrator. This record shall be on file in the Clerk's Office as well as being made a part of the site plan or building records for that parcel. The statement of conditions will be recorded in the County Register of Deeds.

(B) *Appeal to Circuit Court.* Decisions of the Planning Commission with respect to special land uses are final. However, a person having an interest affected by a special land use decision of the City Planning Commission may appeal to the Circuit Court.

(Prior Code, App., § 2107) (Ord. 98-10, passed 10-15-1998)

#### **§ 160.278 VOIDING OF SPECIAL APPROVAL USE PERMIT.**

(A) Any approval given by the Planning Commission, under which premises are not used or work is not started within 18 months or when such use or work has been abandoned for a period of 6 months, shall lapse and cease to be in effect. The Planning Commission may grant the applicant 1 or more 6-month extensions of time if good cause is shown.

(B) A violation of a requirement, condition, or safeguard shall be considered a violation of this chapter and grounds for the Zoning Administrator to suspend the special approval use permit until review by the Planning Commission. The Planning Commission shall determine if a violation has indeed occurred. In the case of a violation, the Planning Commission shall direct such corrective action as it determines is necessary to bring conformance with this chapter, or the Planning Commission shall cancel the special approval use permit in question.

(Prior Code, App., § 2108) (Ord. 98-10, passed 10-15-1998)

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 160.290 ENFORCEMENT.**

The provisions of this chapter shall be administered and enforced by the Building Inspector, or the Chief of Police, or by such deputies of his department as the Chief of Police may delegate to enforce the provisions of this chapter. The Zoning Administrator is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the City of Marine City Municipal Ordinance Violations Bureau).

(Prior Code, App., § 1500) (Ord. 95-13, passed 2-1-1996)

#### **§ 160.291 DUTIES OF BUILDING INSPECTOR.**

(A) The Building Inspector shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this chapter. It shall be unlawful for the Building Inspector to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he or she has inspected such plans in detail and found them to conform with this chapter; provided, however, that all site plans, except for single-family residential uses, shall have been first approved by the Planning Commission.

(B) The Building Inspector and/or such other officers or departments as shall be designated by the Commission, shall record in duplicate, 1 copy of which shall be filed with the City Clerk, all nonconforming uses of land existing at the effective date of this chapter for the purpose of carrying out the provisions hereof.

(C) The Building Inspector is under no circumstances permitted to make changes in this chapter nor to vary the terms of this chapter in carrying out his or her duties as Building Inspector.

(D) The Building Inspector shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of the permit.

(Prior Code, App., § 1501) (Ord. passed 6-6-1974)

#### **§ 160.292 PLOT PLAN.**

The Building Inspector shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

(A) The actual shape, location, and dimensions of the lot;

(B) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;

(C) The existing and intended use of the lot and of all such structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate; and

(D) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(Prior Code, App., § 1502)

#### **§ 160.293 PERMITS.**

The following shall apply in the issuance of any permit:

(A) *Permits not to be issued.* No building permits shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this chapter.

(B) *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(C) *Permits for new use of building.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a building permit is first obtained for the new or different use.

(D) *Permits required.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for the work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City Building Code, Housing Law of Michigan, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.

(Prior Code, App., § 1503)

#### **§ 160.294 CERTIFICATES.**

(A) No land, building or part thereof, shall be occupied by or for any use until a certificate of occupancy shall have been issued for such new use.

(B) The following shall apply in the issuance of any certificate:

(1) *Certificates not to be issued.* No certificates of occupancy pursuant to the Building Code of the City of Marine City shall be issued for any building, structure or part thereof or for the use of any land, which is not in accordance with all the provisions of this chapter.

(2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

(3) *Certificates including zoning.* Certificates of occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.

(4) *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land are in conformity with the provisions of this chapter. Certificates of occupancy may be issued for business buildings in B-1 and B-2 zones existing at the effective date of this chapter which change occupancy and which do not provide sufficient parking as required hereunder, provided there is no decrease in the number of spaces existing at the effective date of this chapter.

(5) *Temporary certificates.* Nothing in this chapter shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of 6 months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this chapter.

(6) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of a Building Inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(7) *Certificates for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

(8) *Application for certificates.*

(a) Application for certificates of occupancy shall be made in writing to the Building Inspector on forms furnished by the city, and such certificates shall be issued within 10 days after receipt of such application if it is found that the building or

structure, or part thereof, or the use of land is in accordance with the provisions of this chapter.

(b) If such certificate is refused for cause, the applicant therefore shall be notified of the refusal and cause thereof, within the aforesaid 10 day period.

(Prior Code, App., § 1504)

#### **§ 160.295 FINAL INSPECTION.**

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure or part thereof, shall notify the Building Inspector immediately upon the completion of the work authorized by the permit, for a final inspection.

(Prior Code, App., § 1505)

#### **§ 160.296 FEES.**

Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of this chapter, may be collected by the Building Inspector in advance of issuance. The amount of the fees shall be established by resolution of the City Commission and shall cover the cost of inspection and the supervision resulting from enforcement of this chapter.

(Prior Code, App., § 1506)

#### **§ 160.297 INTERPRETATION, PURPOSE AND CONFLICT.**

In interpreting and applying the provisions of this chapter they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such ordinance or agreements, the provisions of this chapter shall control.

(Prior Code, App., § 1507)

#### **§ 160.298 ZONING COMMISSION.**

The City Planning Commission is hereby designated as the Commission specified in § 301 of Act 110 of the Public Acts of 2006, and shall perform the duties of the Commission as provided in the statute in connection with the amendment of this chapter.

(Prior Code, App., § 1508) (Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.299 PLANNING COMMISSION APPROVAL.**

(A) In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this chapter the applicant shall furnish such surveys, plans or other information as may be reasonably required by the Commission for the proper consideration of the matter.

(B) The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.

(C) The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this chapter.

(D) Any approval given by the Planning Commission, under which premises are not used or work is not started within 6 months or when the use or work has been abandoned for a period of 6 months, shall lapse and cease to be in effect.

(Prior Code, App., § 1509)

#### **§ 160.300 SITE PLAN REVIEW REQUIRED IN SPECIFIC DISTRICTS.**

(A) Site plan review and approval of all developmental proposals within specific zoning districts is required by the following provisions. The intent of this section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effect upon the surrounding land uses.

(B) Through the application of the following provisions, the attainment of the Master Plan will be assured and the city will develop in an orderly fashion.

(1) *Site plan review required.* A site plan shall be submitted to the Planning Commission for review and approval for the

following:

(a) Any uses (except for single- or two-family dwellings, buildings and uses accessory to single- or two-family dwellings, and farm buildings) within the following districts: RM - Multiple-Family Residential, WM - Waterfront Recreation and Marina, MHP - Mobile Home Park, B-1 - Central Business, B-2 - General Business, I-1 - Light Industrial, I-2 - Heavy Industrial, P-1 - Vehicular Parking District.

(b) All special uses in single-family districts such as, but not limited to, churches, schools and public facilities.

(c) All site condominium or condominium projects.

(d) Any use or development for which the submission of a site plan is required by any provisions of this chapter.

(e) Any change and/or conversion of use as permitted and regulated by this chapter within the same zoning district.

(f) Any addition to an existing principal or accessory building within districts listed above and subject to the following provisions:

1. Wherein the proposed addition constitutes an increase of 500 square feet or 10% or more as compared to the existing building or use whichever is less.

2. Wherein the proposed addition or expansion would require a variance from the provisions of this chapter no matter what size the addition or expansion.

(2) *Site plan review criteria.* The site plan shall be reviewed and approved by the Planning Commission upon finding that the following conditions are met:

(a) The proposed use will not be injurious to the surrounding neighborhood.

(b) There is a proper relationship between thoroughfares and proposed service drives, driveways, and parking areas.

(c) The location of buildings, outside storage receptacles, parking areas, screen walls, and utility areas is such that the adverse effects of such uses will be minimized for the occupants of that use and the occupants of surrounding areas.

(d) It provides for proper development of roads, easements, and public utilities and protects the general health, safety, welfare and character of the city.

(e) It meets city requirements and standards for grading and surface drainage and for the design and construction of storm sewers, storm water holding facilities, water mains, sanitary sewers, and driveway approaches.

(f) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

(g) Natural resources are preserved by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, and woodlands.

(h) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, or nearby water bodies.

(i) The location of buildings, parking, drives, landscaping and other improvements on the site is appropriate for the lot size and configuration.

(j) Landscaping, including trees, shrubs and other vegetative material, is provided to maintain and improve the aesthetic quality of the site and the area.

(k) The proposed use is in compliance with all city ordinances and any other applicable laws.

(3) *Information required on site plan.*

(a) Plans submitted for site plan approval shall contain all of the following data prior to approval of such plans by the Planning Commission. Final construction plans must be submitted to the Building Department and such construction plans must be reviewed and approved prior to obtaining a building permit.

(b) Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" by 36" with plan view drawn to a minimum scale of 1".20' if the subject property is less than 3 acres and 1'1=50' if 3 acres or more. Included on the site plan will be all dimensions and the following:

(a) General information.

1. Proprietors name, address, and telephone number;

2. Date (month, day, year), including revisions;

3. Title block;

4. Scale;

5. North point;

6. Location map drawn at a scale of 1"=2,000' with north point indicated;
7. Architect, engineer, surveyor, landscape architect, or planner's seal;
8. Existing lot lines, building lines, structures, parking areas and the like on the parcel, and within 100 feet of the site;
9. Proposed lot lines, property lines and all structures, parking areas and the like within the site, and within 100 feet of the site;
10. Centerline and existing and proposed right-of-way lines;
11. Zoning classification of petitioner's parcel and all abutting parcels;
12. Gross acreage figure; and
13. Proximity to major thoroughfare and/or section corners.

(b) *Physical features.*

1. Proposed locations of access drives, street intersections, driveway locations, sidewalks, signs, curbing, and acceleration, deceleration, and passing lanes;
2. Location of existing and proposed service facilities above and below ground, including: storage, loading and disposal areas for chemicals, hazardous substances, salt, and fuels water main, hydrants, pump houses, standpipes, and building services and sizes; sanitary sewers and pumping stations; stormwater control facilities and structures including storm sewers, swales, retention and detention basins, drainageways, and other facilities, including calculations for sizes; location of all easements;
3. All buildings with dimensioned floor plans, setback and yard dimensions, and typical elevation views of proposed structures;
4. Dimensioned parking spaces and calculations, drives and method of surfacing;
5. Exterior lighting locations and illumination patterns;
6. Location and description of all existing and proposed landscaping, berms, fencing and walls;
7. Sidewalks and bike paths;
8. Trash receptacle pad location and method of screening;
9. Transformer pad location and method of screening;
10. Dedicated road or service drive locations;
11. Entrance details including sign locations and size;
12. Designation of fire lanes; and
13. Any other pertinent physical features.

(c) *Natural features.*

1. Existing topography with a maximum contour interval of 2 feet indicated. Topography on the site and beyond the site for a distance of 100 feet in all directions shall be indicated;
2. A grading plan showing finished contours at a maximum interval of 2 feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading;
3. Location of existing drainage courses, lakes, ponds, wetlands, rivers and streams, including their water surface elevation, floodplain elevation, and ordinary high water mark; and
4. Location of other natural resource features, including woodlands.

(d) *Additional requirements for Multiple-Family, and PUD Developments.*

1. Density calculations by type of unit by bedroom count;
2. Designation of units by type of unit in each building;
3. Carport locations and details where proposed;
4. Specific amount of space and locations;
5. Type of recreation facilities to be provided in recreation space; and
6. If proposed, details of community building and fencing of swimming pool.

(e) *Additional requirements for commercial and industrial developments.*



1. Loading/unloading areas;
2. Gross and useable floor area; and
3. Number of employees in peak usage.

(f) The Planning Commission may waive any of the above required site plan information, when such information is determined to be not pertinent to the proposed development.

(4) *Application procedure.* An application for site plan review shall be processed in the following manner.

(a) All site plans shall be submitted to the Zoning Administrator at least 21 days prior to the next regularly scheduled meeting of the Planning Commission and must contain the following to be accepted:

1. A signed and complete application;
2. Ten copies of the site plan;
3. All items as required hereby shown on the site plan; and
4. Required fees.

(b) Upon acceptance of the site plan, the Zoning Administrator shall:

1. Forward a copy of the site plan and application to the City Planner or Engineer for review;
2. Place review of the site plan on the next Planning Commission agenda; and
3. Forward a copy of the site plan and application to each Commission member.

(5) *Planning Commission review.* The Planning Commission shall approve, approve with conditions, or deny the site plan within 90 days of the date of the Planning Commission meeting at which the site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.

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

(a) In lieu of a complete site plan prepared in accordance with subsection (3), a sketch plan may be submitted for the uses or activities identified below.

1. Accessory uses incidental to a conforming existing use where said use does not require any variance or further site modifications.
2. Expansion and/or addition of 1,500 square feet or less to an existing conforming structure or use.
3. Alterations to off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or ADA requirements.
4. Improvements or installation of walls, fences, lighting or trash containers/enclosures.
5. Approval for establishment of a home occupation.
6. Change of use to a permitted use in any zoning district, limited to a use not exceeding 2,500 square feet.

(b) *Procedure.*

1. The procedure for administrative approval of a sketch plan shall involve the submittal of a sketch plan meeting the requirements of this subsection. Additionally, the required application form and fee shall be submitted. The Zoning Administrator shall review the sketch plan in accordance with the standards of subsection (2). The Zoning Administrator shall make a report of administrative sketch plan reviews to the Planning Commission.

2. The Zoning Administrator retains the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a complete site plan is required, the Zoning Administrator shall inform the applicant to submit a set of plans in accordance with this article within 14 days of receipt of the application. The Zoning Administrator shall also have authority to refer any site plan eligible for administrative review to any consultants employed by the city for the purposes of site plan review.

(c) Sketch plan information required.

1. Details of the proposed changes to the use or structure in question.
2. Proprietors', applicants', and owners' names, addresses and telephone numbers.

3. Location map with north point indicated.
4. Locations of existing landscaping, lighting, parking, if applicable, including the proposed method of refuse collection.
5. Gross acreage and building figures.
6. Zoning classification of petitioners' parcel and all abutting parcels.
7. Estimated cost of proposed site improvements including roadways, lighting, utilities, sidewalks, drainage, fences, walls, and landscaping.

(7) *Effect of approval.* When an applicant receives final site approval, he or she must develop the site in complete conformity with the approved site plan. The site plan approval shall be valid for a period of 1 year. If the project is not under construction with a building permit at the expiration of the approval time, the site plan approval becomes null and void and the developer shall make a new application for approval. Time extension to site plan approval may be granted by the Planning Commission.

(8) *Amendment of approved site plan.* The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing (s) be submitted showing such minor changes, for purposes of record.

(9) *Modification of plan during construction.* All improvements shall conform to the final site plan. Any changes, which result in a material alteration of the site plan approved by the Planning Commission, shall require resubmittal to the Planning Commission. The Planning Commission, or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

(Prior Code, App., § 1509A) (Ord. 97-5, passed 10-2-1997; Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.301 CHANGES AND AMENDMENTS.**

(A) (1) The City Commission may, from time to time, change the district boundaries or the regulations herein provided, however, that before any amendment shall become effective, 1 public hearing shall be held thereon by the Planning Commission with notice as provided in § 160.305 of this Zoning Ordinance. The City Commission shall require a report from the Planning Commission on any proposed amendment before taking final action thereon. The Planning Commission shall submit its final report, which shall include a summary of comments submitted at the public hearing. The City Commission may hold additional public hearings if it considers it necessary.

(Am. Ord. 07-04, passed 7-19-2007)

(2) The City Commission shall grant a public hearing on a proposed amendment to an interested property owner who requests a hearing by certified mail, addressed to the City Clerk. A public hearing under this subsection is not subject to the requirements as provided in § 160.305, except that notice of the hearing shall be given to the interested property owner as specified in the Zoning Enabling Act, Public Act 110 of 2006.

(B) If the owner of 20 or more percent of the frontage in the area proposed to be altered or the owners of 20 or more percent of the frontage of property abutting the area proposed to be altered, or either of such groups shall file a written protest at or before the time of the hearing in this section provided, then and in such event such amendment shall not be passed except by a 3/4 vote of the entire membership of the City Commission then holding office and qualified to vote.

(C) (1) If a parcel of land is owned by the entireties, by joint tenants, by tenants in common or by legal and equitable owners, then one of such owners may sign the protest for the parcel so owned.

(2) The term **ABUTTING PROPERTY** as used in this section shall mean the property immediately adjoining the area proposed to be changed either in the rear or at the side thereof and also the frontage directly opposite the frontage proposed to be changed.

(3) The term **FRONTAGE**, as used herein, shall mean frontage on the street; provided, however, that a corner lot shall not be considered to have frontage on both streets, but only on the street where the lot has a smaller number of feet frontage. In determining abutting property, there shall be included all the property in a common ownership used as a single unit.

(Prior Code, App., § 1510) (Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.302 FEES; PETITION FOR AMENDMENT.**

Upon presentation of petition for amendment of the Zoning Ordinance by the owner of real estate to be affected, or by owners of real estate within 300 feet of any part of the premises to be affected the petition shall be accompanied by a deposit of a sum as set by the City Commission by resolution, which amount shall be placed in the General Fund to partly defray the expense of publishing the required notices of public hearings, and the expenses of the public hearing.

(Prior Code, App., § 1511) (Ord. 82-9, passed 8-5-1982)

**§ 160.303 VALIDITY.**

(A) This chapter and the various parts, sections and clauses thereof are hereby declared to be severable.

(B) If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby.

(Prior Code, App., § 1512)

**§ 160.304 REQUIREMENTS FOR TRAFFIC IMPACT STUDIES.**

(A) *Traffic Impact Study Defined.* A traffic impact study is a complete analysis and assessment of traffic generated by a proposed development, and of the impact on the surrounding transportation system. The study shall be completed and sealed by a licensed professional engineer

(B) *When Required.* A traffic impact study is required for any proposed development expected to generate over 100 peak hour directional trips. The following table gives examples of land use that is expected to meet or exceed the 100 peak hour directional trip threshold. The City Zoning Administrator will inform the developer of the required impact study.

| <b>Examples of Land Use Size Thresholds Based on Trip Generation Characteristics</b> |                                  |
|--|----------------------------------|
| <b>Land Use</b>  | <b>100 Peak Hour Directional</b> |
| <b>Examples of Land Use Size Thresholds Based on Trip Generation Characteristics</b> |                                  |
| <b>Land Use</b>  | <b>100 Peak Hour Directional</b> |
| Residential  |                                  |
| Single-family  | 150 units                        |
| Apartments   | 245 units                        |
| Condominiums/Town houses   | 295 units                        |
| Mobile Home Park   | 305 units                        |
| Shopping Center (GLA)  | 15,500 sq. ft.                   |
| Fast Food Restaurant w/drive-in (GFA)  | 5,200 sq. ft.                    |
| Gas Stations & Convenience Store w/gas (GFA)   | 1,300 sq. ft. or 5 pumps         |
| Banks w/drive-in (GFA)   | 4,400 sq. ft.                    |
| Hotel/Motel  | 250 rooms                        |
| General Office   | 55,000 sq. ft.                   |
| Medical/Dental Office  | 37,000 sq. ft.                   |
| Research & Development   | 85,000 sq. ft.                   |
| Light Industrial   | 115,000 sq. ft.                  |
| Manufacturing  | 250,000 sq. ft.                  |

(C) *Review and approval.* When required, the traffic impact study shall be reviewed and approved by the Planning Commission prior to approval of the site plan for the development. The Planning Commission shall engage the services of a professional traffic engineer to review the traffic impact study and make comments and recommendations indicating any changes and improvements that will be necessary for the protection of the health, safety, convenience, and welfare of the general public. The applicant shall bear all reasonable expenses incurred by the City in relation to such review.

(D) *Contents of study.* A traffic impact study should include:

(1) A narrative summary at the beginning of the report, including but not limited to:

- (a) The applicant and project name;
- (b) A location map;
- (c) The size and type of development; and

(d) Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers publication *Trip Generation* (current edition).

(2) Project phasing identifying the year of development activities per phase and proposed access plan for each phase.

(3) A transportation system inventory, which describes the physical, functional and operational characteristics of the study area highway system and where appropriate, locate transit services. The description should provide, where pertinent, data on:

- (a) Peak-hour volumes (existing and projected);
- (b) Number of lanes;

- (c) Cross-section;
- (d) Intersection traffic signals and configuration;
- (e) Traffic signal progression;
- (f) Percentage of heavy trucks;
- (g) adjacent access point locations;
- (h) Jurisdiction; and
- (i) Grades.

(4) Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation or St. Clair County Road Commission standards and guides, as applicable.

(5) Capacity analysis shall be performed at each access point. Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within 1/2 mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing. A time-space diagram should also be included.

(6) A traffic impact study shall be analyzed with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes.

(a) The traffic volumes for the development shall assume a total build out.

(b) The completed analysis shall be summarized in a table showing all the Measures of Effectiveness (MOE) for all of the above conditions.

(7) Required operational changes shall be part of the site plan approval and driveway permit approval process. All required traffic improvements, determined by the study to be necessary to accommodate or alleviate impacts of the development, shall be fully constructed and completed prior to the issuance of a certificate of occupancy. All cost incurred for the review and construction of the required improvements shall be the sole responsibility of the developer.

(Ord. 04-05, passed 5-20-2004)

#### **§ 160.305 PUBLIC NOTIFICATION.**

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, P.A. 110 of 2006 and the other provisions of this section with regard to public notification.

(A) *Responsibility.* When the provisions of this chapter or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City of Marine City and mailed or delivered as provided in this section.

(B) *Content.* All mail, personal and newspaper notices for public hearings shall:

(1) *Describe the nature of the request.* Identify whether the request is for a rezoning, text amendment, special approval use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

(2) *Location.* Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

(3) *When and where the request will be considered.* Indicate the date, time and place of the public hearing(s).

(4) *Written comments.* Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

(5) *Handicap access.* Include information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(C) *Personal and mailed notice.*

(1) *General.* When the provisions of this chapter or state law require that personal or mailed notice be provided, notice shall be provided to:

(a) The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

(b) Except for rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the City of Marine City. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification

need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(c) All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to division (E), Registration to receive notice by mail.

(2) *Notice by mail/affidavit.* Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

(D) *Timing of notice.* Unless otherwise provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006, or this chapter where applicable, notice of a public hearing shall be provided on an application for a rezoning, text amendment, special approval use, planned unit development, variance, appeal, or ordinance interpretation: not less than 15 days before the date the application will be considered for approval.

(E) *Registration to receive notice by mail.*

(1) *General.* Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to division (C), Personal and mailed notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

(2) *Requirements.* The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register every other year to continue to receive notification pursuant to this section.

(Am. Ord. 07-04, passed 7-19-2007)

## **§ 160.306 CONDITIONAL REZONING.**

(A) *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of § 405 of Public Act 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(B) *Application and offer of conditions.*

(1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

(3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(5) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.

(6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this ordinance may only be commenced if a variance for such use or development is ultimately granted by the Board of Appeals in accordance with the provisions of this ordinance.

(7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.

(8) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Commission provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(C) *Planning Commission review.* The Planning Commission, after public hearing and consideration of the standards for

approval set forth in Subsection (E), may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(D) *City Commission review.* After receipt of the Planning Commission's recommendation, the City Commission shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Commission's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in Subsection (E). Should the City Commission consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Commission shall, in accordance with Public Act 110 of 2006, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Commission and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(E) *Factors.* In reviewing an application for the rezoning of land where there is an offer of conditions, factors that should be considered by the Planning Commission and the City Commission shall include the following:

(1) Whether the proposed rezoning is consistent with the goals, policies and Future Land Use Map of the City of Marine City Master Plan;

(2) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values;

(3) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning. Consideration of impact on drains and roads is specifically required; and,

(4) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

(F) *Approval.*

(1) If the City Commission finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Commission to accomplish the requested rezoning.

(2) The statement of conditions shall:

(a) Be in a form recordable with the Register of Deeds of St Clair County or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the City Commission.

(b) Contain a legal description of the land to which it pertains.

(c) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.

(d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(e) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof shall be recorded with the Register of Deeds of St Clair County by the owner with a copy of the recorded document provided to the city within 45 days of its recording.

(f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(3) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(4) The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of St Clair County. The owner shall provide a copy of the recorded document to the city within 45 days of the date of its recording. The City Commission shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(G) *Compliance with conditions.*

(1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a

violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(2) No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable statement of conditions.

(H) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Commission if: (1), it is demonstrated to the City Commission's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and (2), the City Commission finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and (3) the written request shall be made to the City Commission requesting the extension within 6 months of the end of the 36 month period.

(I) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection (H) above, then the land shall revert to its former zoning classification as set forth in Public Act 110 of 2006, as amended. The reversion process shall be initiated by the City Commission requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(J) *Subsequent rezoning of land.* When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection (I) above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of St. Clair County a notice that the statement of conditions is no longer in effect.

(K) *Amendment of conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to subsection (H) above or during any extension thereof granted by the City Commission, the city shall not add to or alter the conditions in the statement of conditions.

(2) The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

(L) *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this Section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and Public Act 110 of 2006, as amended.

(M) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.

(Ord. 2019-002, passed 2-21-2019)

## **BOARD OF APPEALS**

### **§ 160.315 CREATION AND MEMBERSHIP.**

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act of 2006 (M.C.L.A. §§ 125.3101 to 125.3702) and in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done. The Board shall consist of 5 members appointed by the City Commission, one of whom may be a member of the City Commission and one of whom may be a member of the Planning Commission. The Terms of office for members appointed to the Zoning Board of Appeals shall be for 3 years except for members serving because of their membership on the City Commission or Planning Commission, whose terms shall be limited to the time they are members of those bodies. Each member of the Board of Appeals shall be a resident of the city and shall be a qualified and registered elector on the date of appointment and throughout his or her tenure of office. A member of the Board of Appeals may be removed from such office as provided for in the Zoning Enabling Act. Any appointive vacancies shall be filled by the City Commission for the remainder of the unexpired term. The Board of Appeals shall annually elect its own Chairperson, Vice-Chairperson and Secretary, however, the City Commission member of the Board may not serve as Chairperson. The compensation of the appointed members of the Board of Appeals shall be fixed by the City Commission. The City Commission may appoint alternate members as provided in the Zoning Enabling Act. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or City Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or City Commission. However, the member may consider and vote on other unrelated matters involving the same property.

(Prior Code, App., § 1600) (Ord. 78-10, passed 1-4-1979; Am. Ord. 07-04, passed 7-19-2007; Am. Ord. 2019-002, passed 2-21-2019)

### **§ 160.316 MEETINGS.**

All meetings of the Board of Appeals shall be held at the call of the chairperson and at such times as such Board may

determine. All hearings conducted by said Board shall be open to the public and notice of same shall be published in a newspaper of general circulation within the city not less than 15 days before the meeting. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Three members of the Board shall constitute a quorum for the conduct of its business. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(Prior Code, App., § 1601) (Ord. 78-10, passed 1-4-1979; Am. Ord. 07-04, passed 7-19-2007)

#### **§ 160.317 APPEAL.**

(A) An appeal may be taken to the Board of Appeals by any person, firm or corporation, or by any office, department, board or bureau aggrieved by a decision of the Building Inspector. The appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Building Inspector and the Board of Appeals a notice of appeal, specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

(B) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due course shown.

(C) The Board shall select a reasonable time and place for the hearing of the appeals and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

(D) The City Commission shall, from time to time, determine by resolution the fee which shall be paid to the Secretary of the Board of Appeals at the time that notice of appeal is filed, which the Secretary shall forthwith pay over to the City Treasurer to the credit of the General Fund of the city.

(Prior Code, App., § 1602) (Am. Ord. 2019-002, passed 2-21-2019)

#### **§ 160.318 JURISDICTION.**

The Board of Appeals shall have the following powers and it shall be its duty:

(A) To hear and decide on all matters referred to it upon which it is required to pass under this chapter.

(B) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Building Inspector in the enforcement of this chapter.

(C) In hearing and deciding appeals the Board of Appeals shall have the authority to grant such variance therefrom as may be in harmony with their general purpose and intent so that the function of this chapter be observed, public safety and welfare secured, and substantial justice done, including the following:

(1) Interpret the provisions of the chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.

(2) Permit the erection and use of a building or use of premises in any use district for public utility purposes.

(3) Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.

(4) Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.

(5) Permit temporary buildings and uses for periods not to exceed 2 years in undeveloped sections of the city and for periods not to exceed 6 months in developed sections.

(D) To hear and decide variance requests as set forth in section M.C.L.A. § 125.3604 of the Zoning Enabling Act. However, this shall not include the authority to grant use variances.

(E) In consideration of all appeals and all proposed variations to this chapter, the Board of Appeals shall, before making any variations from the chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City. The concurring vote of 3 members of the Board of Appeals shall be necessary to reverse any order, requirements, decision, or determination of the Building Inspector, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.



(F) Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the Zoning Ordinance or the Zoning Map, such power and authority being reserved to the City Commission of the City of Marine City in the manner provided by law.

(G) To obtain a variance from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, off-street parking and loading space regulations, sign regulations and other similar requirements as specified in this Ordinance, the applicant must submit an affidavit indicating that a "practical difficulty" exists by demonstrating all of the following:

(1) That the strict enforcement of the provisions of the Zoning Ordinance would cause practical difficulties and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district or render conformity with such restrictions unnecessarily burdensome.

(2) That the conditions and circumstances are unique to the property and are not similarly applicable to other properties in the same zoning district.

(3) That the conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.

(4) That the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.

(5) That the requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.

(Prior Code, App., § 1603) (Ord. 78-10, passed 1-4-1979; Am. Ord. 07-04, passed 7-19-2007; Am. Ord. 2019-002, passed 2-21-2019)

### **§ 160.319 EXERCISING POWERS.**

In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Building Inspector from when the appeal is taken.

(Prior Code, App., § 1604)

### **§ 160.320 NOTICE.**

The Board of Appeals shall grant no variance except in a specific case and after a public hearing conducted by the Board. Upon receipt of a written request seeking an interpretation of the zoning ordinance, an appeal of an administrative decision, or a variance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the city and shall be sent by mail or personal delivery to the person requesting the interpretation or to the owners of property for which variance approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. The notice shall be given not less than 15 days before the date the publication will be considered for approval and shall conform to the requirements of M.C.L.A. § 125.3101 of the Zoning Enabling Act.

(Prior Code, App., § 1605) (Ord. 78-10, passed 1-4-1979; Am. Ord. 79-1, passed 5-3-1979; Am. Ord. 07-04, passed 7-19-2007)

### **§ 160.321 MISCELLANEOUS.**

(A) No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than 1 year, unless a building permit for the erection or alteration is obtained within the period and the erection or alteration is started and proceeds to completion in accordance with the terms of the permit.

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

(Prior Code, App., § 1606) (Ord. 78-10, passed 1-4-1979)

### **§ 160.322 APPEAL TO CIRCUIT COURT.**

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court. An appeal from a decision of the Zoning Board of Appeals shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals.

(Ord. 2019-002, passed 2-21-2019)

### **§ 160.999 PENALTY.**

(A) *Violations.* Any firm, corporation or person who violates any provision of this zoning ordinance is responsible for a municipal civil infraction as defined in § 10.99, and is subject to payment of a civil fine of not less than \$50, plus costs and other sanctions, for each infraction. Repeat offenses under this chapter shall be subject to increased fines as provided in § 10.99. The civil fine set forth herein may be amended from time to time by resolution of the City Commission.

(B) *Public nuisance, per se.* Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(C) *Rights and remedies.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(D) *General responsibilities.* The City Commission or its duly authorized representative is hereby charged with the duty of enforcing the Ordinance and the Commission is hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of St. Clair County, Michigan, or any other court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this chapter, and to correct, remedy and/or abate the non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by such a non-compliance or violation may institute suit and/or join the City Commission in such a suit to abate the same.

(Prior Code, App., § 1513) (Ord. 95-13, passed 2-1-1996; Am. Ord. 07-06, passed 11-1-2007)