



# City of Marlette

## Zoning Ordinance

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The City of Marlette Zoning Ordinance was updated in 2012-2014 by the City of Marlette. The Zoning Ordinance was adopted on July 14, 2014, by the City Council of the City of Marlette.

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With assistance from:



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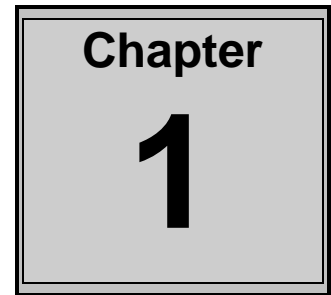
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## **Chapter 1: General Provisions**

### **Title and Purpose**

**The City of Marlette, Sanilac County, Michigan, ordains:**

This Ordinance is enacted pursuant to P.A. 207 of 1921, as amended, (being the City and Village Zoning Act, M.C.L. 125.581 et. seq.) governing the City of Marlette, Sanilac County, Michigan. The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this Ordinance shall be done pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et. seq.) hereinafter referred to as the "Zoning Act."

#### **SECTION 101. SHORT TITLE.**

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

#### **SECTION 102. PURPOSE.**

It is the general purpose of this Ordinance to promote and protect the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City of Marlette. To accomplish this purpose, the Ordinance will address the following objectives:

1. Protect and conserve the character and social and economic stability of the residential, commercial, industrial and other use areas;
2. Secure the most appropriate use of land;
3. Prevent overcrowding of the land and undue congestion of population;
4. Provide adequate light, air and reasonable access;
5. Facilitate adequate and economical provisions of transportation, water, sewers, schools, recreation and other public requirements, and by other means, all in accordance with a comprehensive master plan;
6. 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;

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7. Regulate and limit the height and bulk of buildings and other structures;
8. Regulate and to determine the size of yards and open spaces;
9. Regulate and limit the density of population; and for said purposes to divide the municipality into districts and establishing the boundaries thereof;
10. Provide for changes in the regulations, restrictions and boundaries of such districts;
11. Define certain terms used herein;
12. Provide for enforcement;
13. Establish a board of appeals;
14. Impose penalties for the violation of this ordinance.

### **SECTION 103. INTERPRETATION.**

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.

### **SECTION 104. RELATIONSHIP TO OTHER ORDINANCES OR AGREEMENTS.**

This Ordinance is not intended to abrogate or annul any ordinance, rule, regulation, permit, easement, covenant, or other private agreement previously adopted, issued or entered into and not on conflict with the provisions of this Ordinance.

However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than other such ordinances, rules, regulations, permits, easements, covenants or other private agreements, the requirements of this Ordinance shall govern.

### **SECTION 105. VESTED RIGHT.**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.



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**SECTION 106. SEVERANCE CLAUSE.**

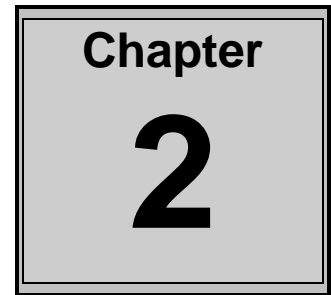
Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

**SECTION 107. REPEAL OF PRIOR ORDINANCE.**

The Zoning Ordinance adopted by the City of Marlette, known as Ordinance No. 204 and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**SECTION 108. EFFECTIVE DATE.**

This Ordinance shall take effect upon August 8, 2014, the date specified by the City of Marlette City council at its meeting of July 14, 2014.



## Chapter 2: Definitions

### SECTION 201. RULES APPLYING TO THE TEXT.

For the purpose of this Ordinance, certain rules of construction apply to the Text, as follows:

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

**SECTION 202. DEFINITIONS.**

ACCESSORY BUILDING. A building subordinate to and serving a principal building or principal use and subordinate in area, extent or purpose to the principal building or principal use served; and contributing to the comfort, convenience or necessity of occupants of the principal use served and located on the same zoning lot as the principal building or principal use served.

ACCESSORY USE OR ACCESSORY. An “accessory use” is a use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related. When “accessory” is used in the text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

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

ADDITION. An extension or increase in floor area or height of a building or structure.

ADULT FOSTER CARE FACILITY. A governmental or non-governmental establishment having its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, mentally ill, developmentally disabled or physically handicapped who require supervision on an ongoing basis but do not require continuous nursing care. Adult foster care facility does not include the following: a nursing home, or hospital as defined by Act 368 of 1978; a hospital for the mentally ill as defined by Act 258 of 1974; a county infirmary as defined by Act 280 of 1939; a child caring institution, children’s camp, foster family home or foster family group home for children as defined by Act 166 of 1973, as amended being sections 722.111 to 722.128 of the Michigan Compiled Laws; an establishment commonly described as an alcohol or a substance abuse rehabilitation center;

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a Veterans facility as defined by Act 152 of 1885; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home, a hotel or rooming house; a residential facility licensed by the State to care for four (4) or fewer minors.

ADULT FOSTER CARE FAMILY HOME. A private residence with approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

ADULT FOSTER CARE LARGE GROUP HOME. An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care.

ADULT FOSTER CARE SMALL GROUP HOME. An adult foster care facility with the approved capacity to receive at least seven (7) but not more than twelve (12) adults who shall be provided foster care.

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

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

APARTMENTS. A room or suite of rooms in a multiple-family building used for a family.

ARCHERY: The shooting of arrows or bolts from a bow.

ARCHITECTURAL FEATURES. Architectural features of a building or structure shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

ASSISTED LIVING FACILITY. A residential facility, licensed by the State of Michigan, with a homelike setting that provides an array of coordinated supportive personal and health care services, available twenty-four (24) hours per day, to residents who have been assessed under Michigan Department of Health or Michigan Department of Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

1. specified services of intermittent nursing care;
2. administration of medication; or
3. support services promoting resident's independence and self-sufficiency.

An assisted living facility does not include:

1. a residential facility for persons with a disability; or
2. adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

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AUTOMOBILE REPAIR SHOP. An establishment being housed in a building or portion thereof, together with the necessary equipment used for the general repair of automobiles, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service and painting or undercoating of automobiles.

AUTOMOBILE SERVICE STATION. A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair. An automobile service station use shall not include the parking or storage or dismantled, wrecked, non-licensed or non-mobile motor vehicles of any kind, unless ordered by a law-enforcement agency.

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

BED & BREAKFAST. A dwelling where lodging and meals are provided for compensation and where one (1) or more rooms are occupied by persons by prearrangement for definite periods of not greater than one (1) week. A bed & breakfast is to be distinguished from a boarding house, a hotel, a motel or a convalescent or nursing home.

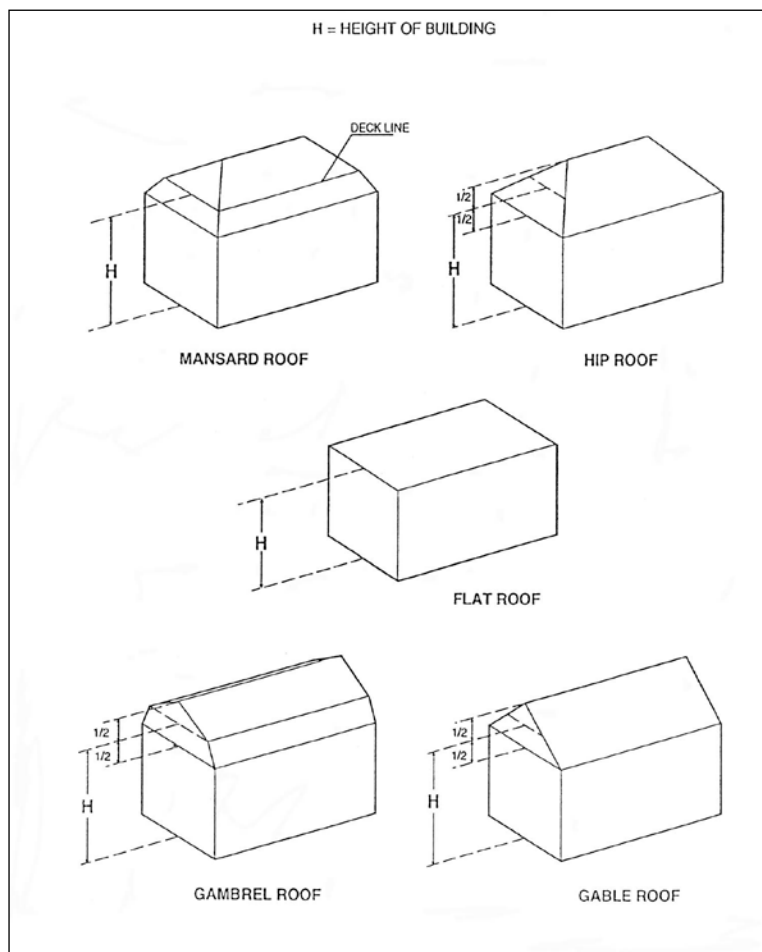
BLOCK. The property abutting one side of a street and extending laterally between the two nearest intersecting streets, (crossing or terminating) or between the nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, or unsubdivided acreage; or between any of the foregoing and any other barrier to the continuity of development or corporate boundary lines of the municipality.

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

BUILDING. A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels is a building. This shall include tent structures, awnings, greenhouses and sheds. When any portion thereof is completely separated from every other part by division of wall from the ground up, and without opening, each portion of such building shall be deemed a separate 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 crown of the street grade.

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



**CITY COUNCIL.** City of Marlette City Council.

**CLINIC.** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.

**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.

**COMMERCIAL VEHICLE.** Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

1. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
2. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

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3. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
4. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, Subtitle B, chapter I, subchapter C.

**COMPLETE STREET.** A Complete Street is one that allows pedestrians, bicyclists, transit riders, and motorists of all abilities to safely travel between destinations. In addition to providing facilities for bicyclists, pedestrians, and transit users, Complete Streets encourage sound land use decisions and policies that foster environments that appeal to people traveling by foot and bicycle: minimal building setbacks, wayfinding signs, landscaped corridors, benches and other amenities, etc.

**CONVALESCENT OR NURSING HOME.** A building wherein infirm or incapacitated persons are furnished shelter, care, food, lodging and needed attention for a compensation as regulated by State ordinance.

**COURTS.** Open unoccupied spaces, other than yards, on the same lot with a building.

1. COURT, INNER. An open, unoccupied space not extending to the street or front or rear yard.
2. COURT, OUTER. An open, unoccupied space opening upon a street, alley, yard or setback.

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

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

**DRIVE-IN.** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicle so as to serve patrons while in the motor vehicle rather than within a building or structure.

**DWELLING UNIT.** A building, or portion thereof, designed exclusively for occupancy by one (1) family for residential purposes and having cooking facilities.

**DWELLING, MULTIPLE FAMILY.** A multiple family dwelling is a residential building designed for or occupied by three (3) or more families with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, ONE-FAMILY.** A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having interior cooking facilities.

**DWELLING, TWO-FAMILY.** A two family dwelling is a detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families. These may also be known as duplexes.

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**EARTH BERM.** A mound of earth, planted with ground cover, grass, trees or other landscaping material intended to minimize the view between land uses and to reduce noise and dust from adjacent uses and passersby.

**EDUCATIONAL AND SOCIAL INSTITUTIONS.** Public and private elementary and secondary schools and institutions PROVIDED that none are operated for profit. Auditoriums and other places of assembly and centers for social activities, including charitable and philanthropic activities other than activities conducted as a gainful business or of a commercial nature.

**ERECTED.** Any operations on the premises which requires the construction, excavation, fill, drainage and alteration of the physical site.

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

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

**EXOTIC PET (OR EXOTIC ANIMAL).** An unusual creature kept as a pet, sometimes for the express purpose of having a pet which is unique. Includes any unique- or wild-looking pet, such as common domestic animals like the ferret and the domestic rat. Alligators, wolves and wolf/dog hybrids, wild cat cubs (lions, tigers, ocelots, etc.), snakes, tortoises, spiders, scorpions, and rare birds are among the species typically considered as exotic pets. The term is also used for a species which is non-indigenous to the owner or prospective owner's locale.

**FAMILY.** One or more persons occupying a premises and living as a single housekeeping unit, in a domestic relationship, whether or not related to each other by birth or marriage, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

**FENCE.** Any permanent partition, structure or gate erected as a dividing marker, barrier or enclosure. A hedge row, landscape berm or other natural plant shall not be considered a fence.

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

**FINANCIAL INSTITUTION.** A building designed to perform one or more services, including, but not limited to, the safeguarding of money and other valuables, the lending of money, the executing of bills of exchange such as checks, drafts and money orders, the issuance of notes, and the receipts of funds. The term "financial institution" includes, but is not limited to, banks, savings and loan operations, and credit unions.

**FIREARM:** A weapon, including pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

**FLOOR AREA, GROSS.** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building shall not include the basement floor area except when more than one-half (½) of the basement height is above grade. "Floor-area" shall



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include elevator shafts and stairwells at each floor, floor space used for the mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies and mezzanines. Any space devoted to off-street parking or loading shall not be included in "floor area."

FLOOR AREA, RESIDENTIAL. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor areas measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and open porches.

FLOOR AREA, USABLE. That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used, or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "usable floor area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

GARAGE, PRIVATE. A space or structure suitable for the storage of motor vehicles having no public shop or service in connection therewith, for the use solely of the owner or occupant of the principal building on a lot, or of his family or domestic employees not to exceed four (4) domestic passenger vehicles.

GARAGE, SERVICE. Any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

GARBAGE. Refer to RUBBISH.

GRADE. The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the dwelling.

GREENBELT. An open, landscaped area intended to act as a buffer for noise and/or sight relief.

HOME OCCUPATION. An accessory use of a dwelling that constitutes, either entirely or partly, the livelihood of a person living in the dwelling. See Section 308 for provisions.

HOSPITAL. An institution providing health services, primarily for in-patients and medical and surgical care of the sick or injured, including as an integral part of the institution such related facilities, central service facilities and staff offices.

HOUSEHOLD PETS. Animals ordinarily permitted in Michigan residences and kept for the company or pleasure of Michigan residents, such as domesticated dogs, domesticated cats, and domesticated birds. Household pets also include tropical fish, amphibians, reptiles, or invertebrates of a number that do not constitute a health hazard or nuisance, and can be safely and humanely kept in aquariums, cages, or enclosures, the cumulative size of which shall not exceed fifty (50) cubic feet per household. Household pets shall not exceed four (4) dogs or cats or combination thereof over the age of four (4) months, nor more than six (6) birds. Furthermore, household pets shall not include exotic, pygmy, or dwarf variations of animals

**CITY OF MARLETTE ZONING ORDINANCE**

defined as either wild animals or livestock, including but not limited to miniature horses, pygmy goats, and Vietnamese pot-bellied pigs.

**INCOMBUSTIBLE MATERIAL.** Any material which will not ignite at or below a temperature of twelve hundred degrees (1,200) Fahrenheit and will not continue to burn or glow at that temperature.

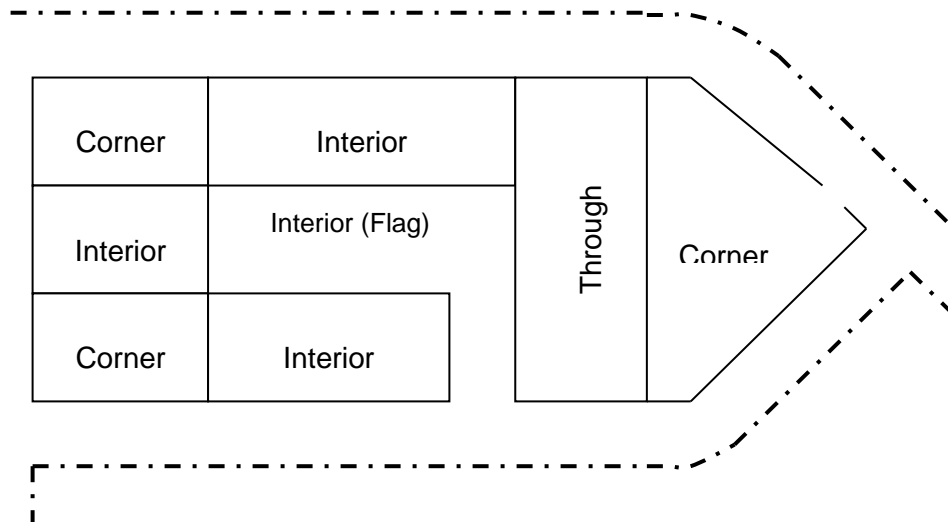
**INSTITUTIONS FOR HUMAN CARE.** Hospitals, sanitariums, nursing or convalescent homes, homes for the aged and philanthropic and charitable institutions, but excluding institutions for drug and alcohol rehabilitation.

**JUNKYARD.** A place where junk, waste, used or second-hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled; including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes automobile wrecking yards; and two (2) or more inoperative, unlicensed vehicles shall be construed to be a junk yard.

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

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

1. **CORNER LOT.** A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended form an interior angle of less than one hundred thirty-five (135) degrees.
2. **FLAG LOT.** A land parcel having the configuration of an extended flag and pole. The pole represents access to the site which is usually located to the rear of another lot fronting a main street.



**CITY OF MARLETTE ZONING ORDINANCE**

- 3. INTERIOR LOT. Any lot other than a corner lot.
- 4. THROUGH LOT. Any interior lot having frontage on two (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.

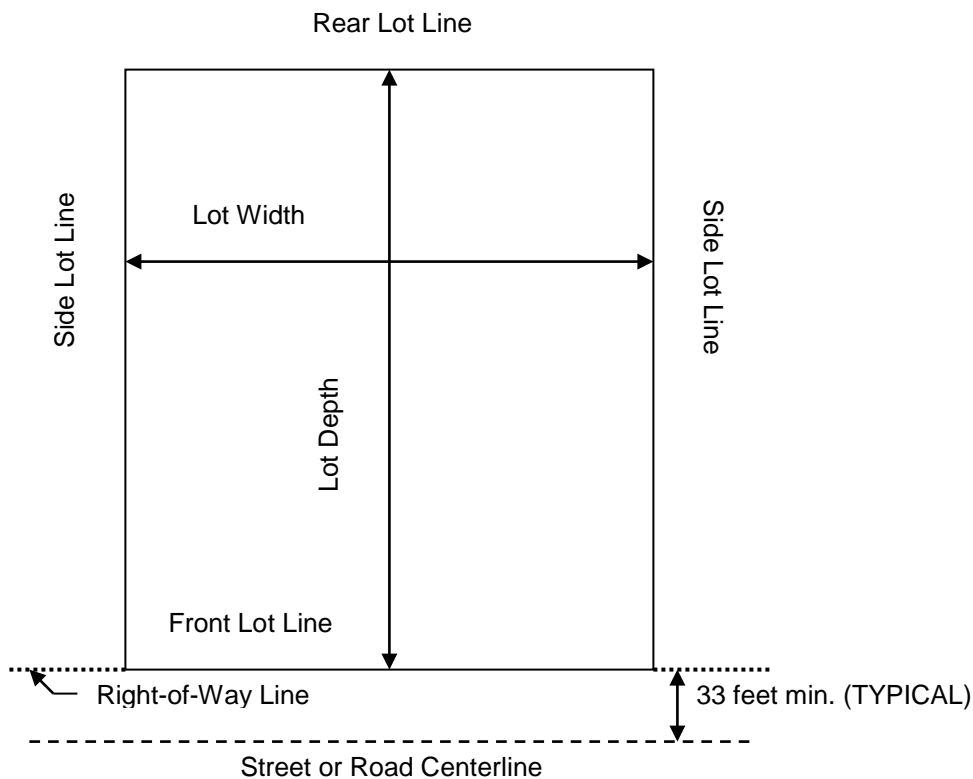
LOT AREA. The total horizontal area within the lot lines of the lot.

LOT COVERAGE. The part or percent of the lot occupied by buildings including accessory buildings.

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

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

- 1. Front Lot Line: In the case of an interior lot, is that line separating said lot from the street. In the case of a corner lot, or double frontage lot, is that line separating said lot from either street.
- 2. Rear Lot Line: That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
- 3. Side Lot Line: Any lot line other than the front lot line or rear lot line A side lot line separating a lot from another lot or lots is an interior side lot line.



## CITY OF MARLETTE ZONING ORDINANCE

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

**LOT WIDTH.** The horizontal distance between the side lot lines, measured at the two (2) points where the building line, or setback line, intersects the side lot lines.

**LOT, ZONING.** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one (1) or more lots of record.

**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 exist.

**MAJOR THOROUGHFARE.** An arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, expressway or equivalent term on the City's Street Classification Report as provided to the Michigan Department of Transportation.

**MANUFACTURED HOME.** A manufactured home is a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a residential dwelling with permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure, the construction of which shall comply with the U.S. Department of Housing and Urban Development (HUD) Mobile Home Construction and Safety Standards, CFR 24, Part 3280, which have been designed for and are intended to be employed as dwellings for residential occupancy on an extended, rather than transient basis. Manufactured homes are not considered recreational vehicles or mobile travel trailers.

**MANUFACTURED HOME PARK.** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual no recreational basis and which is offered to the public for the purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

**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 unity or part of such plan and any amendment to such plan or parts thereof.

## CITY OF MARLETTE ZONING ORDINANCE

MEZZANINE. The intermediate floor in any story occupying not-to-exceed one-third ( $\frac{1}{3}$ ) of the floor area of such story.

MINI STORAGE FACILITY. (also known as Self storage) A building or group of buildings and associated external areas containing separate, individual, and private storage spaces available for lease or rent for the purpose of inactive storage only and which are not accessory structures to residential uses.

MOBILE HOME. Refer to MANUFACTURED HOME.

MUNICIPAL BUILDING. A building owned by the City of Marlette and used in conjunction with the business and operation of the City.

MUNICIPALITY. The City of Marlette.

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

NONCONFORMING LOT. Any lot, outlot or other parcel of land which does not meet the land area or dimension requirements of this Ordinance.

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

NUISANCE FACTORS. An offensive, annoying, unpleasant or obnoxious object or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, or (o) invasion of nonabutting street frontage by traffic.

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

NURSERY SCHOOL (CHILD CARE CENTER). A public or private school, kindergarten or child care facility wherein day care or day care and education is provided for five (5) or more minors under the age of seven (7) years.

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

OFF-STREET PARKING LOT. A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

## CITY OF MARLETTE ZONING ORDINANCE

OPEN AIR BUSINESS USES. Open air business uses as used herein shall be deemed to include any of the following businesses when said business is not conducted from a wholly enclosed building:

1. Bicycle, trailer, motor vehicle, boats or home equipment sale or rental services.
2. Outdoor display and sale of garages, swimming pools and similar uses.
3. Retail sale of trees, fruits, vegetables, shrubbery, plants, seed, topsoil, humus, fertilizer, trellis, lawn furniture, playground equipment and other home garden supplies and equipment.
4. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

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

OPEN STORAGE. All outdoor storage of any kind whatsoever.

OUTDOOR WOOD FURNACES. Any furnace, stove, boiler or similar device, designed and intended to burn wood, pellets, corn or other combustible material, for the purpose of heating the principle structure or other accessory structure on the premises. These types of furnaces typically look like a small utility building with a smoke stack, which are used to heat a home, farm building, swimming pool, hot tub, or to produce domestic hot water.

OUTDOOR STORAGE. Any articles not concealed from public view in an enclosed structure, including accessory buildings. Placement of an article under a carport or porch, where it is visible from the street or public right-of-way shall be considered outdoor storage.

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

PERSONAL SERVICE ESTABLISHMENT. A personal service establishment primarily serves the needs of individual people or families, including, but not limited to, hair or skin care, grooming, dry cleaning, millinery or tailoring, shoe repair and repair of small appliances, watches or jewelry.

PLANNING COMMISSION. City of Marlette Planning Commission.

PORCH, ENCLOSED. A covered projection on a building or structure containing a floor which is totally enclosed with glass, solid material or screening and projects out from the main wall of said building or structure, and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN. A covered projection on a building or structure containing a floor which is open except for columns supporting the porch roof, projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

## CITY OF MARLETTE ZONING ORDINANCE

POOLS. Refer to Swimming Pools.

PRINCIPAL USE. The main use to which the premises are devoted and the principal purpose for which the premises exists.

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

RECREATIONAL VEHICLE. Recreational vehicle includes motor home, camper, travel trailer, trailer coach, snowmobile, motorcycles, dune buggies, all terrain vehicles, boats, other personal watercraft and similar vehicular-type portable structures that lack a permanent foundation. A recreational vehicle can be towed, hauled or driven and is principally designed to be used for private recreation purposes or recreational travel uses. Any trailer which is principally used for transporting any of the above shall also be considered a recreational vehicle.

RELIGIOUS INSTITUTIONS. A structure or place in which worship, ceremonies, rituals, activities and education pertaining to a particular system of beliefs are held.

### RESTAURANT.

1. Standard Restaurant: Any establishment whose principal business is the sale of foods, ice cream, yogurt, Italian ice, cakes, etc., or beverages to the customer in a ready-to-consume state and whose design or principal method of operation includes one (1) or both of the following characteristics:
  - a. Customers, normally provided with an individual menu, are served their foods, desserts or beverages by a restaurant employee at the same table or counter at which said items are consumed.
  - b. A cafeteria type of operation where foods, desserts or beverages generally are consumed within the restaurant building.
2. Carry-Out Restaurant: Any establishment whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state and whose design or method of operation includes the following characteristics:
  - a. Foods, desserts or beverages usually served in edible containers or in paper, plastic or other disposable containers.
  - b. The consumption of foods, desserts or beverages within the restaurant building or within a motor vehicle parked upon the premises, at other facilities on the premises outside the restaurant building or off the premises.
3. Fast-Food Restaurant: Any establishment whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises outside the restaurant building or off the premises.
  - a. Foods, desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.

## CITY OF MARLETTE ZONING ORDINANCE

- b. The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
4. Drive-in Restaurant: A drive-in restaurant is any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state and whose design, or method of operation, includes one or both of the following characteristics:
  - a. Foods, desserts or beverages are served directly to the customer in a motor vehicle, either by a carhop, or by other means which eliminates the need for the customer to exit the motor vehicle.
  - b. The consumption of foods, frozen desserts or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is permitted.

**RIGHT-OF-WAY.** A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**ROAD RIGHT-OF-WAY.** The line which forms the outer limits of a road right-of-way or easement and which forms the line from which all setbacks and front yards are measured, unless otherwise specified in this Ordinance.

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

**RUBBISH.** The miscellaneous waste material resulting from housekeeping, mercantile enterprises, trades, manufacturing of offices, including ashes, tin cans, glass, scrap metals, rubber, paper and rags.

**SERVICE-ESSENTIAL.** The construction, alteration or maintenance by private companies or public departments or agencies of the various transmissions, distribution or disposal systems that are essential for the preservation of the public health, safety or general welfare such as gas, electricity, telephone, water and sewer. Also, this term includes all poles, wires, mains, drains, sewers, pipes, cables, traffic signals, hydrants and other similar equipment or accessories reasonably necessary to provide adequate services of said companies or agencies; but, the term shall not include buildings or utility substations. This definition shall not include sanitary landfills, recycling centers, or non-public utility transfer stations or buildings not reasonably necessary to house the foregoing.

**SETBACK.** The distance required to obtain front, side or rear yard open space provisions of this Ordinance. Also refer to YARDS.

**SHOOTING CLUB:** A public or private facility designed for the purpose of providing a place for the discharge of archery equipment for recreation, skill development and training. This ordinance does not allow shooting ranges for firearms, air guns or other such equipment.



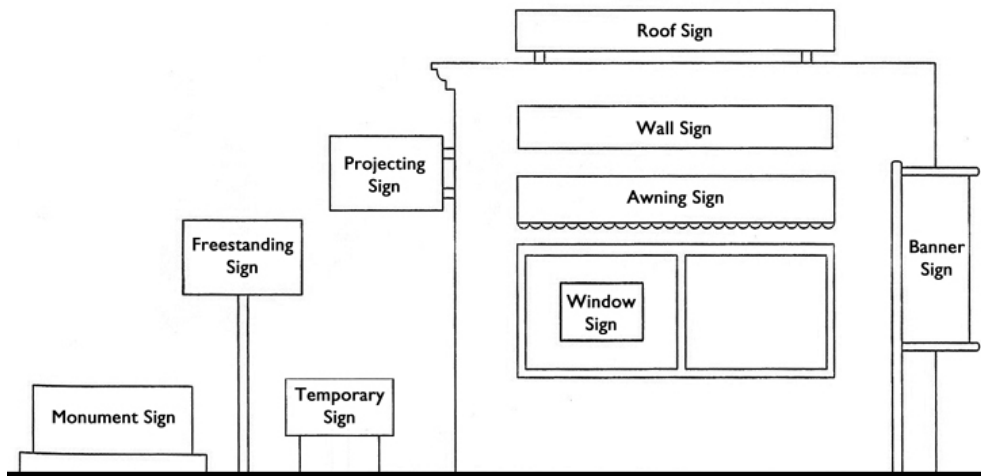
## CITY OF MARLETTE ZONING ORDINANCE

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

1. "Billboard sign" shall mean a sign upon which a display is posted, installed, painted or otherwise affixed in a manner which may be readily changed and the face of which is greater than fifty (50) square feet but no more than three hundred (300) square feet. A billboard sign is to be distinguished from a freestanding sign.
2. "Display area" shall mean the area that is bounded by a series of curved or straight lines that are tangent to the outer boundaries of the sign.
3. "Flashing lighted sign" shall mean a sign which is illuminated and which intermittently and repeatedly flashes on and off or creates an illusion of a flow of lights.
4. "Freestanding sign" shall mean a freestanding sign completely or principally supported by and anchored directly to the ground. A freestanding sign is to be distinguished from a billboard sign.
5. "Marquee" or "Canopy" Sign: A sign attached to or hung from a marquee, canopy or other structure projecting from and supported by the building and extending beyond the building wall, building line or street lot line.
6. "Monument" Sign: A decorative Freestanding Sign where the base of the sign structure is permanently in the ground or integrated into landscaping or other solid structural features.
7. "Political sign" shall mean a sign solely for the purpose of providing information relating to the election of a person to a public office, or relating to a political party, or relating to a matter to be voted upon at an election called by a public body, or any other public issue.
8. "Portable sign" shall mean any sign freestanding sign not permanently anchored or secured to either a building or the ground, such as, but not limited to, "A" frames, "T" shaped, inverted "T" shaped signs and signs that are inflated and temporarily anchored to a building.
9. "Projecting sign" shall mean any sign attached to or erected on the exterior wall or surface of any building which projects twelve (12) inches or more from the wall or surface.
10. "Roof sign" shall mean any sign mounted on or over the roof of a building which is wholly or partially supported by such building.
11. "Sign erector" shall mean a person, firm, corporation or association permitted by the city to install, attach or erect a permissible sign under the provisions of this chapter.

**CITY OF MARLETTE ZONING ORDINANCE**

- 12. "Temporary sign" shall mean a display, sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign, intended for a limited period of display.
- 13. "Wall sign" shall mean a sign which is in any manner affixed to or placed flat against the exterior wall or surface of a building or structure, no portion of which projects more than twelve (12) inches from the building or structure wall.
- 14. "Window sign": A sign placed inside or upon a window facing the outside which is intended to be seen from the right-of-way or the outdoors.



SIGN, ACCESSORY. A sign which is accessory to the principal use of the premises.

SIGN, NONACCESSORY (OFF PREMISES). A sign which is not accessory to the principal uses of the premises.

SOIL REMOVAL. The removal of any kind of soil or earth matter, including top soil, sand or other type of soil matter or combination thereof, except common household gardening and ground care.

SPECIAL USE. The term applied to a use which may be permitted by the application for an issuance of a Special Use Permit by the Planning Commission. Specified procedures and requirements, as outlined in cited sections, must be complied with prior to issuance of said permit.

STATE EQUALIZED VALUATION. The value shown on the City Assessment Roll as equalized through the process of state and county equalization.

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

## CITY OF MARLETTE ZONING ORDINANCE

**STORY, HALF.** An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches. For the purpose of this Ordinance, the usable floor area is only that area having at least four (4) feet clear height between floor and ceiling.

**STREET.** A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

**STRUCTURAL ALTERATION.** Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, girders, or any change in the width or number of exits, or any substantial change in the roof.

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

**SUBDIVISION.** The division of a lot, tract or parcel of land into five (5) or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land wherein the resultant parcels are ten (10) acres or more in area.

**SWIMMING POOL.** An artificially constructed portable or nonportable pool or container designed for swimming, wading or bathing or any combination thereof, and not located entirely within a permanently enclosed and roofed building and designed to hold two thousand five hundred (2,500) gallons or more of water, or to have a depth of two (2) feet or more at any point. This definition shall include all outside hot tubs, Jacuzzis and spas.

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

**TENTS.** Tents as used in this Ordinance shall mean a shelter of canvas or the like, supported by poles and fastened by cords or legs driven in the ground, and shall not include those types of tents used solely for children's recreational purposes.

**TOWNHOUSES.** A multiple dwelling in which each dwelling unit shares a common wall with at least one (1) other dwelling unit and in which each dwelling unit has living space on the ground floor and has a separate ground floor entrance.

**UNLICENSED VEHICLE.** A vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

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

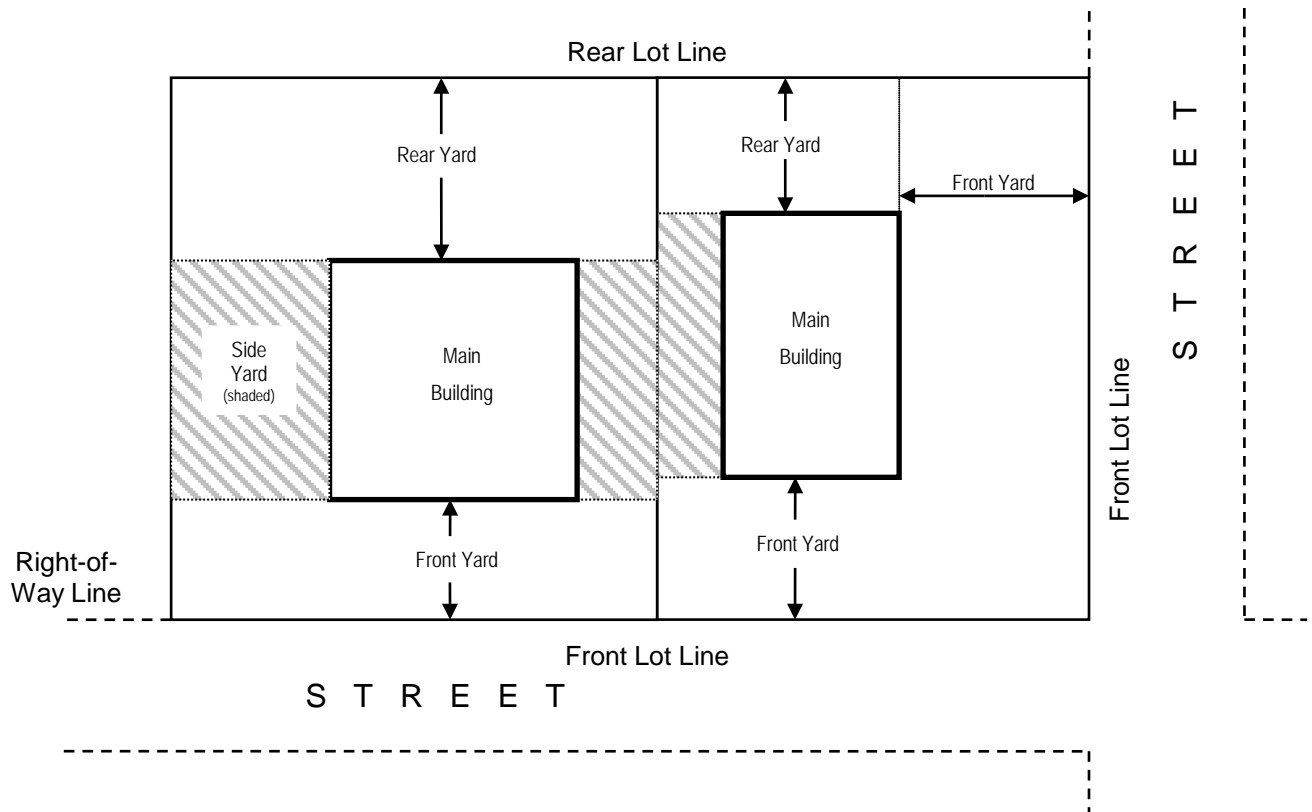
**WALL, SCREENING.** A wall used to screen such uses as parking lots, incompatible land uses and certain activities on a specific property. A screening wall shall be constructed of solid masonry with face brick on both sides or a hollow clay load-bearing brick with a width that exceeds five (5) inches.

**WASTE MATTER, OTHER.** Slag, stone, or broken concrete, or any combination thereof.

**CITY OF MARLETTE ZONING ORDINANCE**

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

1. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. In the case of a corner lot, the front yard may be opposite either street frontage.
2. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the front yard may be opposite either street frontage.
3. **Side Yard:** An open space between a main building and the side lot line, extending from the front yards to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.



**ZONING ADMINISTRATOR.** The person or persons administering and enforcing this Ordinance shall be known as the Zoning Administrator. Said Zoning Administrator shall have the power of a public officer in the enforcement of this Ordinance.

**ZONING BOARD OF APPEALS.** The words "Zoning Board of Appeals" shall mean the Board provided for in the Michigan Zoning Enabling Act, being Act No. 110 of the Public Acts of 2006, as amended, with powers and duties as defined therein, except as modified herein, and shall mean the Zoning Board of Appeals for the City of Marlette.

## CITY OF MARLETTE ZONING ORDINANCE

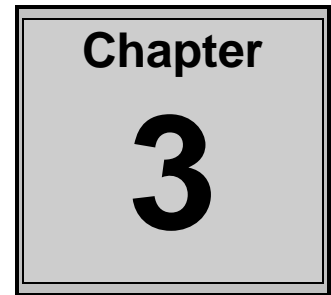
ZONING DISTRICT. A zoning district is a portion of the City of Marlette within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established by this Ordinance.

### ZONING EXCEPTIONS AND VARIANCES.

1. Exception: An exception is a use permitted only after review of an application by the Zoning Board of Appeals other than the Zoning Administrator, such review being necessary because the provisions of this Ordinance covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by this Ordinance.
2. Variance: A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals pursuant to Section 1910.
3. The “exception” differs from the “variance” in several respects. An exception does not require “unique hardship” in order to be allowable. The exceptions that are found in this Ordinance appear as “special approval” by City Council, Legislative Body, or Zoning Board of Appeals. These land uses could not be conveniently allocated to one zone or another, or the affects of such uses could not be definitely foreseen as of a given time.

The general characteristics of these uses include one (1) or more of the following:

- a. They require large areas,
- b. They are infrequent,
- c. They sometimes create an unusual amount of traffic,
- d. They are sometimes obnoxious or hazardous,
- e. They are required for public safety and convenience.



## Chapter 3: General Requirements

### SECTION 301. NONCONFORMING USES.

It is the intent of this Section to permit the continuation of any lawful use of a building or land existing as of the effective date of this Ordinance. However, it is hereby declared that nonconformance with the provisions of this Ordinance is contrary to the best interests of the citizens of the City and ought to be discontinued as circumstances permit.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be expanded or enlarged after passage of this Ordinance, and may be changed, repaired or reconstructed only as prescribed by this Section.

1. **AUTHORITY TO CONTINUE.** Except as otherwise provided in this article, any nonconforming lot, use or structure lawfully existing on the effective date of this Ordinance, as amended, may be continued so long as it remains otherwise lawful. All nonconformities shall be encouraged to convert to conformity wherever possible and shall be required to convert to conformity status as required to convert to conformity as required by this chapter. The burden of establishing that any nonconformity is a legal nonconformity, as defined by this chapter, shall, in all cases, be upon the owner of such nonconformity and not upon the City of Marlette.
2. **LEGALITY OF NONCONFORMITIES.** Nonconformities will be classified as “legal” or “illegal”, based on the following guidelines. Regulation of nonconformities will vary based on their legality.
  - a. **ILLEGAL** nonconformities are those that have been developed in conflict with zoning regulations. Illegal nonconformities are required to cease immediately.
  - b. **LEGAL** are presumed to have existed before the adoption of zoning regulation in the City of Marlette. Legal nonconformities are defined and/or characterized by at least one of the following:
    - i. It complied with the District Regulations of the previous zoning ordinance, or existed through a special use permit or variance.
    - ii. Nonconforming Setback of Lot Size only: The nonconformity resulted from land acquisition by a government agency, such as for a road right-of-way.

3. **ABANDONMENT.** When a nonconforming use of a structure or land is discontinued or abandoned for one (1) year, the structure or land thereafter shall not be used for any use other than a conforming use of the district which it is located within.
4. **REPAIRS AND MAINTENANCE.** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50) percent 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 Ordinance, shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

5. **CHANGING USES.**

- a. The Board of Appeals may authorize a change from one non-conforming use to another non-conforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the non-conforming use which is being replaced. Whenever a non-conforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to another non-conforming use unless such change shall be more nearly conforming.
- b. **Transfer of Ownership and Use.** Any non-conforming use status may be transferred with the same rights guaranteed the new owners as those belonging to the owners of record on the effective date of this Ordinance.

6. **PRIOR CONSTRUCTION APPROVAL.** Nothing in this Ordinance shall prohibit the completion of construction and use of a non-conforming building for which a building permit has been issued prior to the effective date of this Ordinance, provided that construction is commenced within ninety (90) days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one (1) year after the issuance of the permit.

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

8. **NONCONFORMING USES OF LAND.** Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance, as amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

## CITY OF MARLETTE ZONING ORDINANCE

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
  - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
  - c. If such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land must conform to the regulations specified by this Ordinance for the district in which such land is located.
9. **NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- a. No such structure may be enlarged, or altered in a way which increases its nonconformity.
  - b. Any lawful non-conforming use damaged by fire, explosion, an act of God, or by other causes may be restored, rebuilt or repaired provided that the reconstruction or restoration work does not increase the gross floor area or value of the structure to more than that which is permitted in other sections of this part.
  - c. 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.
10. **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 Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- a. No existing structure devoted to a use not permitted by this Ordinance 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.
  - b. 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 Ordinance, but no such use shall be extended to occupy any land outside such building.
  - c. 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.



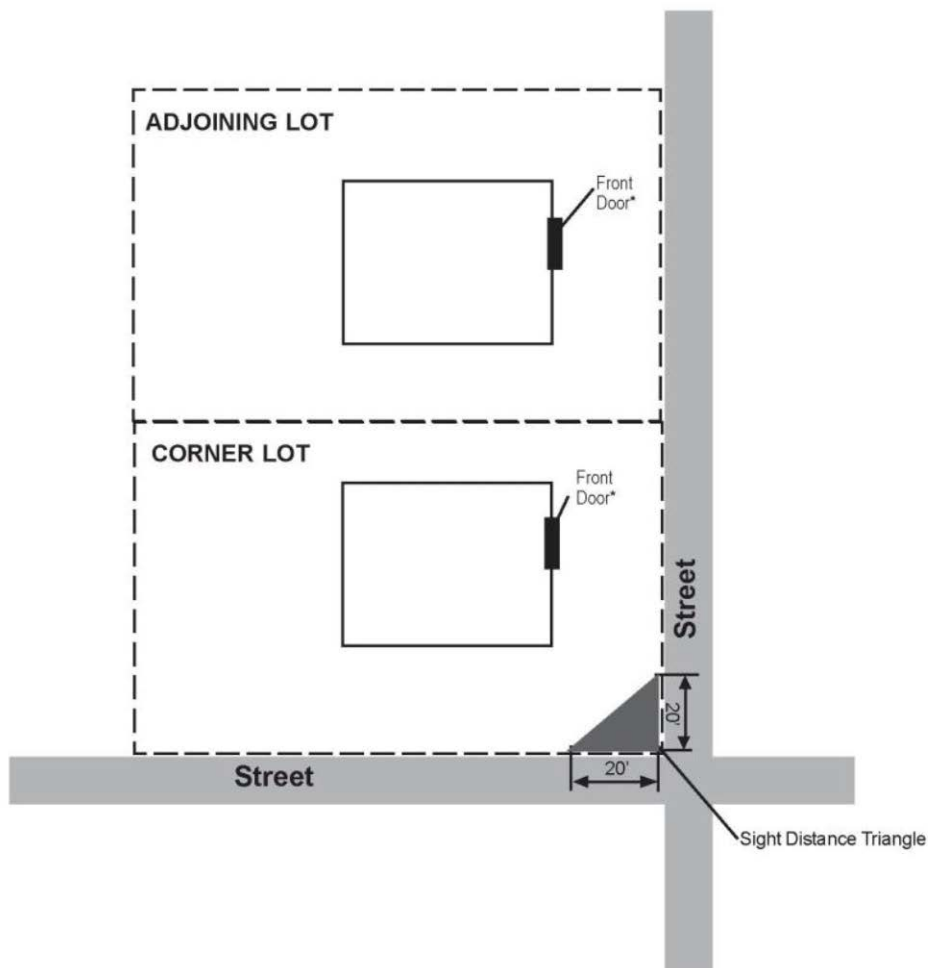
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- d. If such nonconforming use of the combination of land and structure(s) ceases for a period of more than six (6) months, any subsequent use of such land and structure combination shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- e. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

### SECTION 302. SUPPLEMENTARY USE REGULATIONS.

1. **BUILDING PERMITS REQUIRED.** Any construction related to any type of zoning administrative approval shall be commenced only after a building permit has been obtained.
2. **PRIOR BUILDING PERMITS.** Any building permit issued prior to the effective date of this Ordinance shall be valid, if it is commenced within ninety (90) days after the date of permit issuance and that the entire building shall be completed according to the plans filed with the permit application within one (1) year after the issuance of the building permit.
3. **REQUIRED WATER SUPPLY AND SANITARY SEWAGE FACILITIES.** After the effective date of this Ordinance, no structure shall be erected, altered or moved upon a lot of premise and use in whole or in part for a dwelling, business, industrial or recreational purpose unless it shall be provided with a safe sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human excreta and domestic, commercial and industrial water. All such installations and facilities shall conform with the minimum requirements of the County Health Department, Building Codes and applicable State and Federal Regulations.
4. **TRAFFIC VISIBILITY ACROSS CORNER LOTS/ SITE DISTANCE TRIANGLE** In any residential zone district on any corner lot, no fence, structure or planting over 36 inches in height above the curb line, except deciduous trees, shall be erected or maintained within twenty 20 feet of the intersecting right-of-way lines so as to interfere with traffic visibility across the corner. This area is known as the site distance triangle. (See Diagram A).

DIAGRAM A



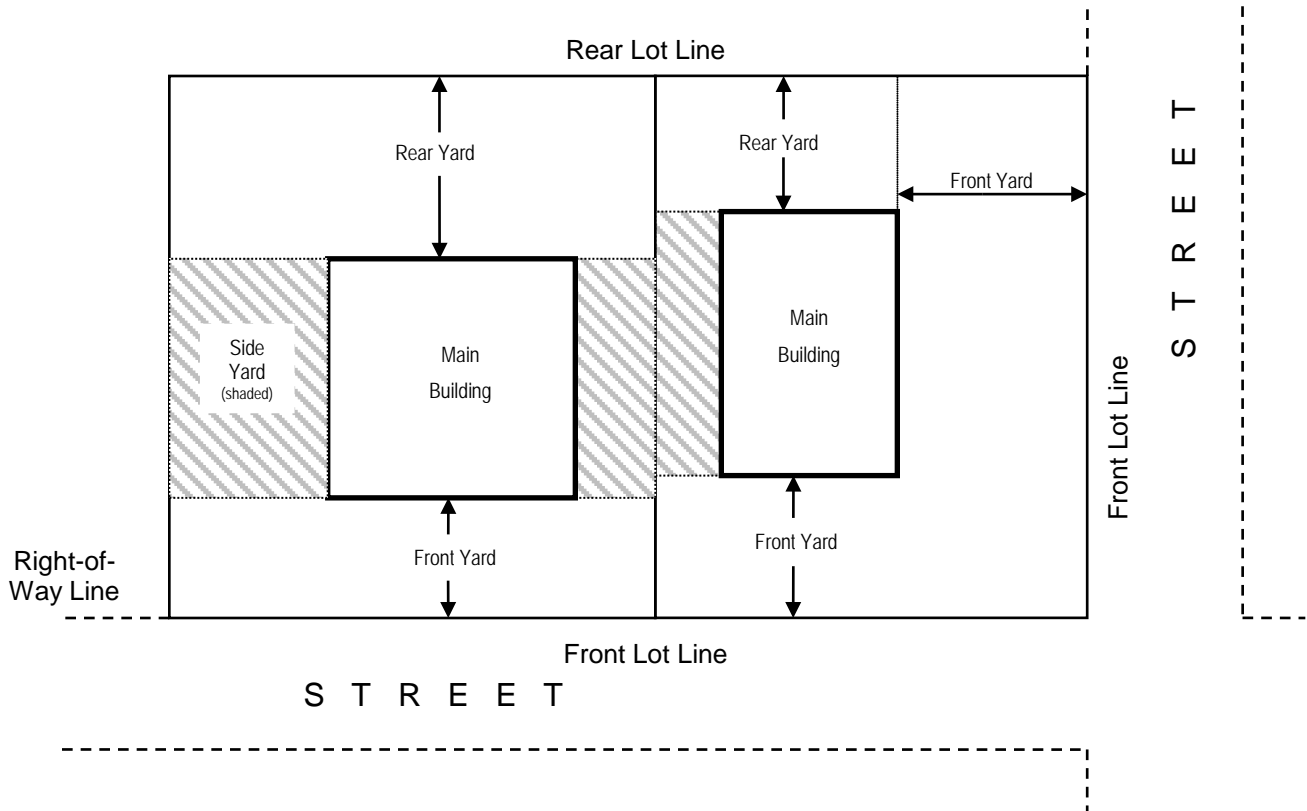
5. **FENCES AND WALLS.** No fence, wall or structural screen, other than plant materials shall be erected on any residential property greater than six (6) feet in height; nor shall any fence, wall or hedge planting exceed a height of three (3) feet within the front yard area. Fences may be located no closer than 6" from the property line. No fence shall be erected without a zoning permit.

- a. Design - The smooth finished side of the fence must face outward with the support posts on the inside toward the subject property.
- b. Sight Distance Triangle - The sight distance triangle must be kept free of fences that would obstruct a motorist's views of oncoming traffic.
- c. Residential Districts Fences
  - i. Fences shall be made of wood, stone, brick, wrought iron, vinyl, and chain link. Chain link is not allowed in a front yard or street side yard.
  - ii. Residential fences shall not exceed 3 feet in height when located within a required front yard or street side yard, and shall not exceed 6 feet in height when located in any other yard.

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**d. Non-Residential District Fences**

- i. Fences shall be made of wood, stone, brick, wrought iron, vinyl, and chain link. Barbed wire is allowable in the Industry/Manufacturing District when used as security fencing on top of chain link fencing that is six feet high or on properties in excess of five acres that are used for agricultural production or enclosure of farm or domesticated animals.
- ii. Non-residential fences shall not exceed 8 feet in height.



**6. SCREENING REQUIREMENTS.**

- a. Whenever screening is required between two zoning districts, there shall be provided at the time of development of any premises, and maintained thereafter, an “obscuring screen” which shall be a fence, wall, plant materials, or other screening device, or combination thereof, that obstructs seventy-five (75) percent of the field of vision from the ground to a height of six feet (6) when viewed from a distance of five feet (5) or more. Open spaces within such screening shall not exceed one (1) square foot, or exceed a two (2) square foot area when elongated or irregular in shape. Such screen shall be constructed in accordance with one (1) or a combination of the following.
  - i. A solid wall or fence with a finished surface fronting on the residential district. All materials shall be new or other material.

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- ii. A landscape buffer not less than fifteen feet (15) in width consisting of a combination of earthen berm, fencing, and/or plant materials which will provide an “obscuring screen”.
  - iii. All screening shall be minimum of six feet (6) in height as measured from the highest ground elevation within three feet (3) on either side of the line separating the zoning districts.
- b. The developer shall submit plans and specifications for the type of screening to be employed at the time application is made for a building permit.
  - c. The Zoning Board of Appeals may waive or modify these requirements where, in its opinion, the public interest would not be served by its strict application.
- 7. SPACE USED ONCE.** Any yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall not again be used as a yard or other requires open space for another building or structure existing or intended to exist at the same time as such building or structure.
- 8. USE EXCEPTIONS.** Nothing in this Ordinance shall be constructed to prohibit the following accessory or incidental uses:
- a. The renting of rooms to not more than two (2) nontransit persons in a dwelling unit which is otherwise occupied in a manner permitted in the district in which it is located.
  - b. Customary refreshment and service uses and buildings in any public park or recreational area incidental to the recreational use of such area.
  - c. Essential services as defined in Chapter 2.
  - d. Garden, garden ornaments and usual landscape features within required yard space.
  - e. Fences within required yard space provided the standards cited in Section 302(5) are met.
  - f. Retaining walls and public playgrounds.
  - g. Off-street parking for motor vehicles as specified in Chapter 4.
  - h. Home occupations as specified in Residential District regulations and Chapter 2.
  - i. Use of premises as a voting place in connection with local, state or national elections.
- 9. PARKING OF RECREATIONAL EQUIPMENT.** Parking of recreational equipment owned by and licensed to an occupant of the dwelling unit is permitted within any Residential Zoning District, except as follows:
- a. Within twenty (20) feet from the road right-of-way.
  - b. Within the required front yard area.

- c. Within four (4) feet to any side or rear property line.
- d. Within any site distance triangle
- e. In multi-family developments, all parking and storage of recreation vehicles must be in a rear yard and approved by the owner of the property.
- f. Such equipment shall not be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

**10. HEAVY VEHICLES.** One commercial vehicle may be parked overnight and on Saturdays, Sundays and holidays OFF THE STREET AND ON THE PROPERTY OF THE VEHICLE'S OWNER OR CUSTODIAN provided that once it is parked it is not moved or operated. Parking of a semi trailer or a tractor/trailer combination is prohibited. No tractor shall operate nor run its engine for any purpose, other than coming to or leaving the location.

**11. GARAGE/YARD SALES.** Sales of used material from a single family dwelling's side yard, rear yard or garage may occur twice a year for a period not to exceed three days for each occurrence.

**12. AUTO REPAIR.** Repair of vehicles not owned by a resident of the parcel on which such activity is occurring is expressly prohibited in any Residential Zoning District.

**13. SOIL EROSION AND SEDIMENTATION CONTROL.** The provisions of the Soil Erosion and Sedimentation Control Act of 1972, as amended, shall apply to all land uses, premises and earth changes as defined and regulated in said Act.

**14. GROUNDWATER PROTECTION.** All uses shall comply with the following provisions:

- a. Wastewater treatment systems, including on-site septic systems, shall be located to minimize any potential degradation of surface water or groundwater quality.
- b. Sites which include storage of hazardous materials or waste, fuels, oil, salt, fertilizers or chemicals shall be designed and constructed to prevent spills and discharges of polluting materials to surface of the ground, groundwater or nearby water bodies.

### **SECTION 303. SUPPLEMENTARY PARCEL REGULATIONS.**

#### **1. PERMITTED YARD ENCROACHMENTS.**

- a. Driveways shall not be subject to yard requirements.
- b. Paved terraces, patios and uncovered porches excluding driveways shall not be subject to yard requirements, **PROVIDED:**
  - i. The area is unroofed and without walls or other forms of solid continuous enclosure that link the area to the principle dwelling. Such areas may have

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noncontinuous windbreaks or walls not over six (6) feet high and not enclosing more than one-half (½) the perimeter.

- ii. The highest finished elevation is not over two (2) feet above the average surrounding finished grade area.
    - iii. No portion of any paved area is closer than five (5) feet from any lot line nor projects into any front yard setback area.
  - c. Unenclosed covered or uncovered porches or decks, may project into a required side or rear yard area a distance not to exceed four (4) feet PROVIDED:
    - i. The porch is no higher than one (1) story and is erected on supporting piers.
    - ii. The porch shall not be closer than five (5) feet to any side or rear lot line.
  - d. Enclosed porches shall be considered an integral part of the building and shall be subject to all yard and area dimensional requirements established for principal buildings.
  - e. Signs may encroach into yard area but no sign, or portion thereof, shall be closer, to any lot line or street right-of-way, than ten (10) feet.
2. **YARD EXCEPTIONS.** In cases where less than the full required future right-of-way width of the street has been deeded or dedicated, the building setback on any property abutting thereon shall be measured from the future required sixty-six (66) feet of road right-of-way line. The required street width shall be determined by the standards set forth and adopted by the City of Marlette.
3. **CONFORMANCE TO ESTABLISHED SETBACKS.** Required front yard setbacks shall conform to existing setbacks as established by existing uses in any district. Minimal front yard requirements in any district may be waived to a smaller distance providing it is not less than established setbacks of structures constructed prior to the effective date of this Ordinance.
4. **ACCESS TO A STREET.** Any lot of record created after the effective date of this Ordinance shall have frontage on a public street, or as may otherwise be specifically approved by the Zoning Board of Appeals.
5. **SPACE USED ONCE.** Any yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall not again be used as a yard or other required open space for another building or structure except where one is to be demolished upon completion of the other.
6. **SWIMMING POOLS.** Private pools, above or below grade, shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
- a. There shall be a distance of not less than six (6) feet between the adjoining property line and the outside of the pool wall.

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- b. There shall be a distance of not less than six (6) feet, between the outside pool wall and side and/or rear lot line and any accessory building.
  - c. No swimming pool shall be located in the front yard area.
  - d. There shall be a horizontal distance of not less than ten (10) feet from any overhead lines.
  - e. Swimming pools, as any other accessory structures, shall be located at least one (1) foot away from any easement.
7. **PONDS.** Ponds are permitted as a landscaping enhancement to residential uses subject to the following:
- a. Excavation Guidelines.
    - i. Soils excavated for the creation of these ponds may not be taken off the parcel site.
    - ii. Sites of ecological significance, such as wetlands, should be avoided.
    - iii. Ponds should be located in areas which minimize the chance of pollution from sources such as feedlots, farmsteads, corrals or septic tanks.
    - iv. Excavations may not extend closer than fifty (50) feet to a power line.
  - b. Ponds of less than five hundred (500) square feet surface area may be constructed without site plan approval.
  - c. Ponds greater than five hundred (500) square feet surface area may be constructed after site plan review and issuance of a building permit by the City. The site plan should be submitted according to the requirements of Chapter 20.
  - d. No building permit will be issued for any pond unless and until the property owner can produce an approved permit from Sanilac County Drain Office for soil erosion control and can demonstrate that this pond is not a regulated wetland, as identified by the State of Michigan.
8. **OUTDOOR WOOD FURNACES.** Outdoor wood furnaces generate undesirable and unhealthy particle pollution, including thick, acrid, foul smoke, soot, carbon monoxide and other toxic air pollutants, which cause environmental degradation and health problems. As such, they shall be prohibited in all zoning districts.

If property that contains an outdoor furnace is sold, the furnace must be immediately removed from the premises. Any currently existing and used outdoor furnaces which are abandoned or not used for a period of 12 consecutive months shall not be permitted to be re-established as a non-conforming use, cannot be used, and must be immediately removed from the premises.

**SECTION 304. SUPPLEMENTARY HEIGHT REGULATIONS.**

1. **PERMITTED EXCEPTIONS FOR STRUCTURAL APPURTENANCE.** The following kinds of structural appurtenances shall be permitted to exceed the height limitations for authorized uses:
  - a. Ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers and flag poles; **PROVIDED** that such structural elements do not exceed twenty (20) percent of the gross roof area.
  - b. Appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, radio or television towers, aerials, windmills, and fire and base towers; **PROVIDED** the total height of the structure of the building and appurtenances be one hundred seventy-five feet (175) or less from the ground. The forgoing permitted exceptions shall not be for human occupancy or dwelling.
2. **PERMITTED EXCEPTIONS: RESIDENTIAL DISTRICTS.**
  - a. No exceptions are permitted for residential structures.
  - b. Principal hospital and church structures may be permitted to exceed height limitations with a maximum total height limit of sixty-five (65) feet.
3. **PERMITTED EXCEPTIONS: BUSINESS AND INDUSTRIAL DISTRICTS.**

In any business or industrial district, any principal building may erected to a height in excess of that specified for the district.

**SECTION 305. ACCESSORY BUILDINGS.**

In residential districts, accessory buildings, except as otherwise permitted in other Sections, shall be subject to the following regulations.

1. Where the Accessory Building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings. An attached private garage shall be considered part of the main building and not an accessory building.
2. **REQUIRED YARD.**
  - a. An Accessory Building shall be located behind the rear building line and no closer than ten (10) feet to the principal building on the lot except when structurally attached to the main building; and except in multiple family dwellings, parking area location in the form of covered bays may be permitted in the rear of the main buildings if the location is approved by the Zoning Administrator.
  - b. **IN A FRONT YARD.** No accessory building shall project into any front yard.



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- c. **IN A SIDE YARD.** No accessory building, including garages, shall be erected closer to any side lot line than the permitted distance within that district for principal buildings except in a residential district, where an accessory building shall be no closer than three (3) feet to any lot line.
  - d. **IN A REAR YARD.** No accessory building, including garages, shall be erected closer to the rear lot line than the permitted distance within the district for principal building accessory buildings may be a minimum of three (3) feet to the common lot line.
  - e. **ON A CORNER LOT.** No accessory building shall be closer to the side street lot line than the front yard setbacks of the principal building on the lot. Where the rear line of a corner lot coincides with side line of an adjoining lot in a residential district, an accessory building shall not be closer than three (3) feet to the common lot line.
3. **MAXIMUM HEIGHT.** An Accessory Building shall not exceed one (1) story or eighteen (18) feet in height
  4. **MAXIMUM SIZE.**
    - a. Residential Districts, excluding RM (Residential Multi Family) - Accessory buildings may not occupy more than forty (40) percent of the rear yard provided that in no instance shall the Accessory Building exceed the ground floor area of the main building or eight hundred fifty (850) square feet, whichever is less.
    - b. RM (Residential Multi Family) - Accessory building may not occupy more than forty (40) percent of the rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building(s) or twelve hundred (1,200) square feet, whichever is less.
  5. **HABITATION OF ACCESSORY STRUCTURES.** No garage, barn, or other accessory building, basement, whether fixed or portable, shall be used or occupied as a dwelling.

### SECTION 306. ANIMALS AND FOWL OTHER THAN HOUSEHOLD PETS.

Except as provided in Section 306.1, it is prohibited to keep animals or fowl other than household pets in Residential or Business Districts unless when adequately housed and fenced, the parcel is at least five (5) acres in area, where the building housing the animal is at least five hundred (500) feet from the nearest adjoining residence and the fence or corral is a minimum one hundred (100) feet from the nearest adjoining residence.

1. **KEEPING OF CHICKENS IN CERTAIN RESIDENTIAL ZONES.** Any person residing in a R1A, R1B, or R1C residential zoned district property, may upon obtaining a permit from the City, keep not more than four live hen chickens for personal use only and not for any business or commercial use.

2. PERMIT REQUIREMENTS

- a. Application for a permit shall be made to the City Clerk and shall include a rendering (site plan) where a proposed coop shall be installed and evidence of permission from the adjacent property owners.
- b. A fee for the permit shall be determined and amended from time to time by resolution of the City Council.
- c. If approved, the permit shall be kept by the owner/applicant and presented upon demand to the City Manager, the City Manager's designee, the City Police, or Zoning Enforcement Officer.
- d. The permit is non-transferable and does not run with the land.
- e. Notwithstanding the issuance of a permit by the City, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include, but are not limited to, ownership rights, deed restrictions, condominium master deed restrictions, Neighborhood Association by-laws and covenant deeds, or lease restrictions. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
- f. A person who keeps or houses chickens on his or her property shall comply with all of the following requirements:
  - i. Have been issued the required permit by the City of Marlette.
  - ii. The principal use of the person's property is for residential purposes and not commercial sales or enterprises.
  - iii. The permit holder may keep no more than four chickens per parcel/property.
  - iv. No person shall keep any rooster.
  - v. No person shall slaughter any chickens on the premises.
  - vi. A person shall not keep chickens in any location on the property other than in the backyard as defined by the City of Marlette Zoning Ordinance.
  - vii. The chickens shall be housed in a covered enclosure at all times.
  - viii. Pens shall be suitable for housing chickens and be 12" to 18" off the ground.
  - ix. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property.
  - x. All enclosures for the keeping of chickens shall be kept clean and so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.

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- x. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
  - xii. All areas where chickens are maintained shall be kept clean and free of debris or excrement.
  - xiii. The coops or pens shall be cleaned as necessary to prevent smell or nuisance conditions. The area where chickens are housed shall be cleaned at least weekly.
  - xiv. All areas where chickens are maintained shall be ventilated, lighted, food and water kept clean and maintained in desirable environmental conditions and practices for the care of chickens.
  - xv. The permit holder shall take reasonable care to prevent chickens from escape on to the property of others.
  - xvi. The permit holder shall prevent the chickens from becoming noise, smell or other nuisance that disrupts the quiet enjoyment of property of others.
3. **REVOCAION OF PERMIT AND RIGHT TO HEARING.** If the above requirements are not complied with, the City may revoke the permit, except the permit holder may request a hearing within 7 days of notice of revocation by sending a letter addressed to the City Clerk requesting a hearing. In the event a hearing is requested, the hearing shall take place at the next regular City Council meeting or as soon as reasonably practical and the permit shall remain in place pending the hearing on the revocation. Nothing in this provision shall prevent the City from proceeding directly to a court of competent jurisdiction for enforcement of the Ordinance.
4. **PENALTY.** Violation of this Ordinance is punishable as a municipal civil infraction. Each day a violation exists shall constitute a separate violation and the penalties shall be to the fullest extent allowed by the Revised Judicature Act of 1961, Act 236 of 1961, as amended, Chapter 87 Municipal Civil Infractions. This Ordinance may be enforced by the City Manager, Code Enforcement Officer or designee.
5. **ZONING DISTRICT CHANGES.** To the extent allowed by law, this Ordinance modifies the City of Marlette Zoning Ordinance and Zoning District Map to allow the keeping of chickens for persons obtaining a permit for residential property in a R1A, R1B, or R1C residential zoned districts.
6. **SEVERABILITY.** These sections of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

7. **INCONSISTENT ORDINANCES.** All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

**SECTION 307. SUPPLEMENTARY DWELLING REGULATIONS.**

1. **MUST COMPLY WITH CODE REQUIREMENTS.** Every dwelling must comply with all adopted construction codes. This includes meeting or exceeding all applicable roof snow loads and strength requirements. If the dwelling is a manufactured home, all construction, insulation, plumbing, or electrical apparatus shall conform to the “Mobile Home Construction and Safety Standards” of the United States Department of Housing and Urban Development. Where any state or local regulation sets a more stringent standard than the “Mobile Home Construction and Safety Standards”, then the state or local standard shall apply.
2. **MANUFACTURED HOME INSTALLATION.** In the event that a dwelling is a manufactured home, it must be installed pursuant to the manufacturer’s setup instructions with the wheels removed. It also must be secured to the ground by an anchoring system or device complying with the Sanilac County Building Department and the rules and regulations of the Michigan Mobile Home Commission. Each manufactured home must have a perimeter wall or skirting which has the same dimensions as the dwelling. No manufactured home shall have any towing mechanism, undercarriage or chassis exposed.
3. **ONE SINGLE FAMILY DWELLING PER PARCEL.** No building in the rear of or on the same lot with a principal building shall be used for residential purposes except for elderly or handicapped family members.
4. **REAR DWELLING PROHIBITED.** No building in the rear of and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers, and domestic employees whose employment functions are related to the function of the principal building; PROVIDED that all other requirements of this Ordinance are satisfied.
5. **STRUCTURES TO BE OF UNIFORM QUALITY.** Any additions, rooms or other areas of a dwelling must be constructed using workmanship and materials similar in quality to the original structure. Such additions, rooms or other areas must be permanently attached to the principal structure and must be supported by a foundation as required herein.
6. **AESTHETICALLY COMPATIBLE.** Dwelling must be aesthetically compatible in design and appearance with other residences in the vicinity, with a roof overhang of not less than six (6) inches on all sides and contain steps connected to said exterior door areas where a difference of elevation requires the same.
7. **MAINTENANCE.** A dwelling must be properly maintained and protected against deterioration and damage from the elements or the passage of time, by prompt and appropriate repairs, surfacing, coating and any other necessary protective measures.

8. **USE OF MANUFACTURED HOME FOR TEMPORARY DWELLING.** A temporary dwelling may be authorized by the Planning Commission for a time period of one (1) year to house family members, to house the owner and immediate family during construction of a single family home, or to house the owner and immediate family during the repair of a single family home that has been damaged to the degree that it cannot be occupied.

Any manufactured home intended for temporary use as a dwelling must meet the standards of this Ordinance and the Sanilac County Building Department. No structure, fixed or portable, shall be erected or moved onto a parcel and used for dwelling for any length of time unless authorized by the Planning Commission. Temporary dwelling structures may not be occupied by more than one family.

An extension to the one (1) year allowance may be permitted in one (1) year increments, when authorized by the Planning Commission.

9. **FOUNDATION.** All single-family dwellings, except mobile homes located in mobile home parks, must be firmly attached to a permanent foundation meeting the City Building Code requirements for such dwelling the walls of which have the same perimeter dimensions as the dwelling.
10. **DIMENSIONS.** All single-family dwellings must have a minimum width across front, side, and rear elevations of twenty-four (24) feet and comply in all respects with the Sanilac County Building Department, including minimum heights for habitable rooms.
11. **ROOF.** All one or two-family dwellings, other than mobile homes located inside mobile home parks, must have a pitched roof, the principal portion of which has a slope of no less than one (1) vertical unit to four (4) horizontal units, the eaves of this roof must project no less than six (6) inches beyond the walls.
12. **EXTERIOR DOORS.** Every single family dwelling must have exterior doors on not fewer than two sides with steps and porches connected to said doors where required due to a difference in elevation.

**SECTION 308. HOME OCCUPATION REGULATIONS.** A home occupation shall comply with the following:

1. Operated in its entirety within the principal dwelling or principal accessory structure.
2. Does not have a separate entrance.
3. Does not involve alteration or construction not customarily found in a principal dwelling or principal accessory structure.
4. Does not use any mechanical equipment except that which is used normally for purely domestic or household purposes.

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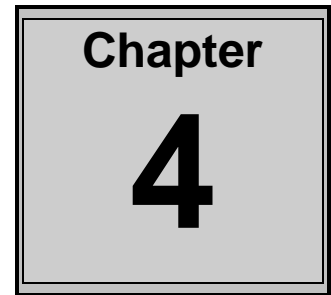
5. Does not use more than twenty-five (25) percent of the total actual floor area of the principal dwelling or fifty (50) percent of the actual floor area of the principal accessory structure.
6. Does not generate traffic in such a manner that is considerably more than the trips generated from a typical residential dwelling.
7. Does not display, or create outside the structure, any external evidence of the operation of the home occupation, other than allowable signs.

**SECTION 309. COMPLETE STREETS.** To ensure that the safety and convenience of all users of the City of Marlette transportation system in the development or re-development of streets, accommodations will be provided for pedestrians, bicyclists, users of mass transit, people with disabilities, the elderly, motorists, freight providers, emergency responders and adjacent land users, to the extent feasible.

Facilities for all users will be considered in the construction, reconstruction, retrofit, repaving, and rehabilitation of City streets, except under one or more of the following conditions:

1. An affected roadway prohibits, by law, use by specified users, in which case a greater effort shall be made to accommodate those specified users elsewhere, including on roadways that cross or otherwise intersect with the affected roadway; or
2. The costs of providing accommodation are excessively disproportionate to the need or probable use; or
3. The existing and planned population, employment densities, traffic volumes, or level of transit service around a particular roadway as documented by [appropriate City plan or department] is so low that future expected users of the roadway will not include pedestrians, public transportation, freight vehicles, or bicyclists.

Documentation shall be publicly available and exceptions shall be granted by the Zoning Administrator.



## Chapter 4: General Off-Street Parking and Loading

### SECTION 401. INTENT AND PURPOSE.

It is the purpose and intent of this Ordinance that adequate parking and loading areas be provided and adequately maintained in every zoning district for the purposes of promoting safe and efficient storage of motor vehicles; to avoid unnecessary congestion and interference with public use of streets; to provide for sound and stable environmental conditions and the prevention of future blighted area; and to promote the ease of access to businesses.

### SECTION 402. OFF-STREET PARKING AND LOADING REQUIREMENTS.

1. In all zoning districts, off-street parking and loading requirements shall be provided as suggested in Section 403.
2. Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed.
3. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
4. To the extent feasible, Complete Streets design considerations and practices will be implemented as a routine part of infrastructure, planning and development. See Section 309.
5. For the purposes of determining off-street parking and loading requirements, the following provisions shall apply:
  - a. In mercantile establishments, usable floor area shall mean the floor area used for service to the public. It shall not include floor area used for storage or the processing and packaging of merchandise where it is carried on in a room in which service to the public is not involved.
  - b. In hospitals, bassinets shall not be counted as beds.
  - c. Where benches, pews or other similar seating facilities are used as seats, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.

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6. In the case of mixed uses in the same building, the total requirements of off-street parking and loading shall be the sum of the requirements for the separate individual uses computed separately.
7. It shall be unlawful to use any of the off-street parking or loading areas established to meet the requirements of this Ordinance for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary service trucks.
8. Parking and loading is not allowed in the required front yard setback, or in the case of a corner lot, in the required set back for the side street. Off-street parking shall be no closer to any principal building than five (5) feet. Curbs shall be installed to prevent yard encroachment.
9. Parking and loading areas may be extended to the property line except as herein specified by this Section and as specified under Section 404.
10. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.

**SECTION 403. OFF-STREET PARKING REQUIREMENTS.**

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

<b>USE</b>	<b>NUMBER OF SUGGESTED PARKING SPACES PER UNIT OF MEASURE</b>
<b>RESIDENTIAL</b>	
Residential, one-family	Two (2) for each dwelling unit.
Residential, two family	Two (2) for each dwelling unit.
Residential, Multiple-family	Two (2) for each dwelling unit.
Manufactured Home Park	Two (2) for each manufactured home unit and one for each employee of the park.
Nursery school, day nurseries, or child care centers	One (1) for each three hundred and fifty (350) square feet of usable floor space.
<b>INSTITUTIONAL</b>	
Religious Institutions	One (1) for each three (3) fixed seats.
Hospitals	One (1) for each one (1) bed.
Homes for the aged and Convalescent Homes	One (1) for each four (4) beds.
Preschool care (day nurseries)	One (1) for each employee.
Elementary and junior high schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.
Senior high schools	One (1) for each one (1) teacher, employee or administrator and one for each ten (10) students, in addition to the requirements of the auditorium.



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Private clubs or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.
Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	One (1) for each two (2) member families or individuals plus spaces required for accessory use such as a restaurant or bar.
Public Buildings not elsewhere specified	One (1) for each three hundred (300) square foot of usable floor area, plus one (1) space for each employee.
Golf courses open to the general public, except miniature of "Par-3" courses	Six (6) for each one (1) golf hole and one (1) for each one (1) employee, plus spaces required for each accessory use, such as a restaurant or bar.
Fraternity or Sorority	One (1) for each five (5) permitted active members, or one (1) for each two (2) beds, whichever is greater.
Stadium, sports arenas, or similar place of outdoor assembly	One (1) for each three (3) seats or six (6) feet of benches.
Theaters and auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
<b>BUSINESS and COMMERCIAL</b>	
Auto Wash	One (1) for each one (1) employee. In addition, reservoir parking spaces equal in number to five (5) times the maximum capacity of the auto wash for automobiles awaiting entrances 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 greater 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 wash line by twenty (20).
Automobile sales and service establishments	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.
Banks and Financial Institutions	One (1) for each one hundred (100) square feet of usable floor space.
Business or Professional offices	One (1) for each two hundred (200) square feet of usable floor space.
Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two (2) beauty or barber chairs and one and one-half (1½) spaces for each additional chair.
Bowling Alleys	Five (5) for each one (1) bowling lane.
Dance halls, pool or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Establishment for sale and consumption on the premises of beverages, food or refreshments	One (1) for each one hundred (100) square feet of usable floor space or one (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes, whichever is the greater.
Furniture and appliance, household equipment, repair shops, show-room of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses	One (1) for each eight hundred (800) square feet of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.)
Gasoline service stations	Two (2) for each lubrication stall, rack, or pit; and one (1) for each gasoline pump.

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Laundromats and coin operated dry cleaners	One (1) for each two (2) washing and/or dry-cleaning machines.
Miniature “par 3” golf courses	Three (3) for each one (1) hole plus one (1) for each one (1) employee.
Mortuary establishments	One (1) for each fifty (50) square feet of usable floor space.
Motel, hotel, or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee.
Nursery school, day nurseries, or child care centers	One (1) for each three hundred and fifty (350) square feet of usable floor space.
Professional offices of doctors, dentists or similar professions	One (1) for each fifty (50) square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair or similar use area.
Retail stores except as otherwise specified herein	One (1) for each one hundred and fifty (150) square feet of usable floor space.
Roadside stands	One (1) for every five-hundred (500) square feet of lot area for retail sales and retail uses.
<b>MANUFACTURING AND RESEARCH</b>	
Automobile repair and service establishments	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.
Manufacturing, Industrial, Processing or Research establishments, and related accessory offices	Five (5) plus one (1) for every one and one-half (1½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
Warehouses and wholesale establishments	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every seventeen hundred (1700) square feet of usable floor space, whichever is greater.
<b>OTHER USES NOT LISTED</b>	Parking requirements will be determined by the Planning Commission.

2. The Zoning Administrator shall have the power to work with the developer(s) to arrange the number and location of parking that best suits the needs of the City of Marlette and the subject business, where an addition or reduction in parking will contribute to the safety, function or overall site design of the property. The Zoning Administrator may request justification from the developer as to why the suggested parking standards do not accurately address the developer’s needs.
3. For the purpose of computing the number of parking spaces required, the definition of USABLE FLOOR AREA shall govern.
4. When units or measurements determining the number of suggested parking spaces result in the requirement of a fractional space, any fraction up to and including one-half (½) shall be disregarded and fractions over one half (½) shall require one (1) parking space. In instances where usable floor area is not known at the time of the site plan submittal, eighty (80) percent of the total floor area shall be used for usable floor area for parking computations.
5. Commercial buildings within three hundred (300) feet of a municipal parking lot or with adjacent on-street parking may reduce the amount of required off-street parking, provided under this section by subtracting from their total required off-street parking, one

(1) parking space for each seven hundred fifty (750) gross square feet of floor area. All other commercial buildings may reduce the amount of required off-street parking provided under this section by subtracting from their total required off-street parking, one (1) parking space for each fifteen hundred (1,500) square feet of gross floor area.

**SECTION 404. SITE DEVELOPMENT AND CONSTRUCTION REQUIREMENTS.**

Regulations in this section apply to all Zoning Districts.

1. **SURFACE MATERIAL.** Off-street parking, loading and circulation areas for all uses shall be surfaced with a material that provides a durable, smooth and dustless surface, graded and provided with adequate drainage to dispose of all collected water and, if surfaced with concrete or asphalt, shall minimally conform to the following, with either:
  - a. Six (6) inch thickness of Portland cement concrete, or
  - b. Three (3) inch depth of asphalt surface laid over a base of crushed stone with a minimum compacted thickness of six (6) inches, or
  - c. Paving with permeable, interlocking concrete pavement system, as approved by the City Zoning Administrator.
  - d. Except that for the following, drives, parking spaces or strips can be asphalt, concrete or six (6) inches of stone mix or gravel, which must be maintained and clearly defined:
    - i. Single-family dwellings
    - ii. Accessory uses customarily associated with farming, including roadside stands and private stables, etc.
    - iii. All drive approaches must be concrete or asphalt up to right-of-way line.
2. **MARKING REQUIRED.** The property owner shall delineate car stalls, directional arrows and crosswalks within parking areas using paint or other methods approved by the Zoning Administrator.

When a site is redeveloped or improved, the lot shall be re-striped to conform to the parking stall and aisle requirements described below.

3. **PARKING STALLS AND AISLE REQUIREMENTS.** Off-street parking shall be designed in conformance with these standards:
  - a. Each parking space shall be a minimum of ten (10) feet wide and eighteen (18) feet in length.
  - b. **HANDICAPPED SPACES.** All handicap spaces shall conform to the requirements of the Americans with Disabilities Act (ADA) for the required number of spaces, required signage and design of each parking space.

c. Aisle requirements are as follows:

Angle of Parking	One-way Aisle	Two-way Aisle
0 Degrees (Parallel)	12'	24'
30 Degrees	12'	24'
45 Degrees	13'	24'
60 Degrees	18'	24'
90 Degrees (Perpendicular)	24'	24'

4. **DRIVEWAYS.**

- a. **ENTRANCES AND EXITS.** Adequate ingress and egress to the parking areas by means of clearly marked and limited drives shall be provided.
- b. **DRIVEWAY DIMENSIONS.** Drives for ingress and egress to parking areas shall not be less than twenty-two (22) feet in width. Further, these entrances shall be at least twenty-five (25) feet from any adjacent lot or parcel. These requirements for off-street parking shall not be applicable to one (1) and two (2) family residential lots. Internal circulation driveways that do not provide direct access to parking stalls must be a minimum of twenty (20) feet wide for two-way traffic and fifteen (15) feet wide for one-way traffic, unless otherwise specified by the Zoning Administrator or by the Fire Marshall.
- c. **COMBINED DRIVEWAYS FOR COMMERCIAL AND INDUSTRIAL.** The owner(s) of adjoining properties shall provide combined driveways wherever practical. In conjunction with approval of a development, the City may require a property owner to provide an access and circulation easement to an abutting owner where joint access is reasonable to serve future development.
- d. Each off-street parking **DRIVEWAY OPENING** to a Public Street must be approved by the agency having jurisdiction over the street following site plan review by the Planning Commission. Lanes for entering and exiting traffic shall be clearly marked on the pavement. Each driveway shall intersect a Public Street at a ninety (90) degree angle.
- e. Each off-street parking driveway shall include an on-site **STACKING AREA**, which does not function as an access aisle for parking spaces, equivalent to at least five (5) percent of the spaces in the parking area.

5. **LOADING REQUIREMENTS.** A property owner shall provide an off-street loading space that can access a public street. The number and size of loading spaces must be equal to the maximum number and size of vehicles that would be simultaneously loaded or unloaded in connection with the business conducted on the property.

- a. **STANDARD REQUIREMENT.** Each loading space must be a minimum of ten (10) feet wide and fifty-five (55) feet long. Where a loading space is adjacent to an arterial road, the property owner shall provide an additional forty (40) feet in maneuvering length.

- b. **REDUCTION.** The Zoning Administrator may reduce the required stall length and maneuvering length if the property owner demonstrates that known delivery vehicles can park and maneuver within the proposed loading and maneuvering spaces so that no part of a vehicle using or maneuvering into the loading space projects into a public right-of-way, access easement or private road.
  - c. **WAIVER.** If the property owner demonstrates that the development has and will have no loading needs, the Zoning Administrator may waive the requirements of Section 404.5.
- 6. **DRIVE-THROUGH FACILITY STACKING LANES.** A property owner proposing a drive-through facility shall provide seven stacking spaces for each drive-through station in addition to the parking required by this section. Each lane of stacking space must be at least nine feet wide and must be delineated with pavement markings. Each stacking space must be at least twelve (12) feet long; however, individual spaces within the lane may not be delineated with pavement markings. Stacking lanes may not be located within required driveway, internal circulation drive or parking aisle widths.
- 7. **LOTS ADJOINING RESIDENTIAL DISTRICTS.** Off-street parking on lots adjoining or within a Residential District shall in addition conform with the following requirements:
  - a. Non-commercial vehicles may be parked in any part of the required side or rear yard except as otherwise provided in this Ordinance.
  - b. Lighting used to illuminate any off-street parking area shall be so located and arranged as to direct light away from the adjoining properties.
  - c. Where the required parking area of three (3) spaces or more is within forty (40) feet of an adjoining Residential District or lot, said parking area shall be no closer to any side or rear property line than ten (10) feet and within said ten (10) foot strip, either of the following established:
    - i. A planting strip ten (10) feet in width approved by the Zoning Administrator. Said planting strip shall not be less than five (5) feet in height and shall consist of a sufficiently dense plant material to screen the parking and shall be adequately maintained, or
    - ii. A solid masonry wall or uniformly treated wood fence not less than five (5) feet in height or greater than eight (8) feet in height.
    - iii. Said wall or planting strip shall be of such length as the width and length of the parking area.
- 8. **SOLID WASTE COLLECTION FACILITIES.** The following rules are intended to prevent unhealthful or unsightly conditions regarding solid waste handling facilities. These rules apply to any solid waste container large enough to require a mechanical device to empty it.
  - a. **ENCLOSURE.** Each such container must be located in an enclosure which is screened on at least three (3) sides by a solid fence or wall at least one and one-half (1½) feet higher than the container or containers. The enclosure shall further

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have an opaque gate which shall remain closed when not in use. The enclosure itself shall provide for an entrance for access by employees, separate of the gate itself.

- b. **PAVING.** Said enclosure and an approach area for trucks shall be paved with reinforced concrete not less than eight (8) inches thick.
- c. **LOCATION.** Said enclosure and container shall be so situated that trucks collecting waste from the container shall not conflict with the orderly flow of traffic onto or through the parcel or any parking spaces thereon. Said enclosure or container shall be located so that trucks collecting waste will not block any portion of a public street or alley.
- d. Failure to provide and/or maintain the facility and adequately control the trash and debris typically associated with such a facility will be deemed a violation of this Ordinance.

### SECTION 405. SHARED PARKING.

1. **GENERAL.** The Zoning Administrator may approve shared use of parking facilities located on separate properties if:
  - a. The properties are within five hundred (500) feet.
  - b. The availability of all affected properties is indicated by directional signs as permitted by Chapter 5.
2. **NUMBER OF SPACES REQUIRED.**
  - a. Where the uses to be served by shared parking do not overlap their hours of operation, the property owner(s) shall provide parking stalls equal to the greater of the applicable individual parking requirements.
  - b. If the hours of operation differ, the Zoning Administrator will work with the property owner(s) to determine the number of spaces required.
  - c. If the following criteria are met, that total is reduced by ten (10) percent:
    - i. The parking areas share a property line; and
    - ii. A vehicular connection between the lots exists; and
    - iii. A convenient, visible pedestrian connection between the lots exists; and
    - iv. The availability of parking for all affected properties is indicated by directional signs, as permitted by Chapter 5.
3. **DOCUMENTATION REQUIRED.** Prior to establishing shared use of parking or shared driveways, the property owner(s) shall file with the City of Marlette a written agreement

approved by the Zoning Administrator providing for the shared parking use. The agreement shall be recorded on the title records of each affected property.

**SECTION 406. LIGHTING.**

Parking area and other exterior on-site lighting fixtures shall not exceed a height of twelve (12) feet when located within two hundred (200) feet of a residential district, and otherwise may not exceed a height of sixteen (16) feet.

Exterior lighting shall be so arranged that it is deflected away from adjacent properties, residential districts and streets.

**SECTION 407. LANDSCAPING.**

1. **INTENT.** Landscaping, greenbelts and screening are necessary for the protection and enhancement of the environment and for the continued vitality of all land uses in the City of Marlette. 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 is important to protect less-intensive uses from the noise, light, traffic, litter and other impacts of intensive non-residential uses. The purpose of this section is to set minimum standards for the protection and enhancement of the environment through requirements for the design and use of landscaping, greenbelts and screening.
2. **SCOPE OF APPLICATION.** The requirements set forth in this section shall apply to all uses, lots, sites and parcels which are developed or expanded following the effective date of this Ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this section. Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance bond has been posted in accordance with the provisions set forth in the Site Plan Review section.

In cases where the use of an existing building changes or an existing building is changed or otherwise altered or reoccupied, all of the standards set forth herein shall be met.

The requirements of this section are minimum requirements and nothing herein shall preclude a developer and the City of Marlette from agreeing to more extensive landscaping.

3. **LANDSCAPING DESIGN STANDARDS.** Except as otherwise specified in the general requirements for each Zoning District, all landscaping shall conform to the following standards:

a. **REQUIRED AMOUNT.**

- i. If the parking area contains no more than fifty (50) parking spaces, at least twenty-five (25) square feet of landscape development for each parking space must be provided as described in Section 407.3.b. for each parking stall proposed.
- ii. If the parking area contains more than ninety-nine (99) parking spaces, at least fifty (50) square feet of landscape development for each parking space must be provided as described in Section 407.3.b. for each parking stall proposed.
- iii. If the parking area contains more than fifty (50), but less than one hundred (100) parking spaces, the Zoning Administrator shall determine the required amount of landscaping by interpolating between twenty-five (25) and fifty (50) square feet for each parking space proposed. The area must be landscaped as described in Section 407.3.b.
- iv. All landscaping must be maintained and kept alive.

b. **DESIGN.** Each area of landscaping must be at least one hundred (100) square feet of area in size and must be at least four (4) feet in any direction. The area must contain at least one (1) tree at least six (6) feet in height. A minimum size of one and one-half (1½) inches in caliper must be met if it is deciduous. The remaining ground area must be landscaped with plant materials such as grass, decorative mulch or unit pavers, as approved by the Zoning Administrator.

- i. A landscaped area must be placed at the interior end of each parking row in a multiple lane parking area. This area must be at least four (4) feet wide and must extend the length of the parking stall.
- ii. Plantings used to buffer a parking area, access, or site development, other than a building, may use any of the following alternatives unless otherwise noted:
  1. Shrubs, a minimum of three and one-half (3½) feet in height and living ground cover must be planted so that the ground will be covered within three (3) years.
  2. Earth-mounding, an average of three and one-half (3½) feet in height, planted with shrubs or living ground cover so that the grounds will be covered within three (3) years.
  3. A combination of earth-mounding and shrubs to produce a visual barrier at least three and one-half (3½) feet in height.

c. **BERMS.** Earth berms or landscaped berms shall conform to the following standards:

- i. The berm shall be at least three (3) feet above the grade elevation and shall be constructed with slopes no steeper than one (1) foot vertical for



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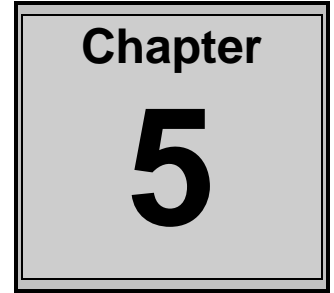
each four (4) feet horizontal with at least a two (2) foot flat area on the top. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm.

- ii. The berm area shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.
- iii. Berms shall not disrupt the natural flow of water/runoff.

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

5. **TREES NOT PERMITTED:**

- a. Box Elder
- b. Soft Maples (red-silver)
- c. Slippery Elms
- d. Poplars
- e. Willows
- f. Horse Chestnut (nut bearing)
- g. Tree of Heaven
- h. Catalpa
- i. Ash



## Chapter 5: Sign Regulations by District

### SECTION 501. INTENT AND PURPOSE.

These sign standards are being ordained pursuant to MCL 252.304 of the Highway Advertising Act of 1972 to preserve the public health, safety and welfare of the City of Marlette. These sign standards are adopted to:

1. Maintain and enhance the aesthetics of our community.
2. Minimize the adverse effects of signs on nearby public and private property.
3. Minimize driver distraction.
4. Avoid excessive signage.
5. Avoid obstacles, distractions or traffic hazards which impair a traveler's ability to see pedestrians, traffic signs or vehicles.
6. Enhance the effectiveness of necessary directional and warning signs.
7. Preserve property values.
8. Provide for the effectiveness of permitted signs.

The standards in this ordinance are determined to be the minimum necessary to achieve the above stated purposes.

### SECTION 502. GENERAL.

1. The following sign regulations by zone are intended to include every zone in the community. The zones are as defined by the adjoining ordinance and official zoning map. Only signs as described herein and as may be described under Temporary Signs and Exceptions will be permitted in each particular zone.
2. If any zone is omitted from this Ordinance, or if a new zone is created after the enactment of this Ordinance, no signs shall be permitted therein until this Ordinance shall be amended to include that zone.

**SECTION 503. PROHIBITED SIGNS.**

1. Any sign not expressly permitted herein is prohibited.
2. It shall be unlawful for any sign in any district to be attached to a door, window casing or tree or for any sign to obstruct any fire escape or building entrance, passageway or window or to be located a distance the horizontal projection of which is less than ten (10) feet from any fire hydrant, traffic light, or on any pole or column on public property, or to be erected in any location where by reason of traffic conditions, fire or other hazard, it would imperil public safety or interfere with the duties of the police or fire departments. Signs shall not be attached to any utility pole or be located within any public right-of-way.
3. All signs shall be securely and adequately fastened and anchored. Single strand wires, wood plugs or other structurally unsafe materials are prohibited in the erection or maintenance of any sign.
4. It shall be unlawful to own, possess, or construct an accessory sign unless such sign is designed and constructed to withstand the structural wind requirements of the building code; and is constructed to receive dead loads as required in the building code or other ordinances of the City.
5. Signs which incorporate in any manner any flashing or moving incandescent lights.
6. Banners, pennants, spinners, and streamers except as permitted in section above.
7. String lights used in connection with commercial premises for commercial purposes, other than holiday decorations.
8. Any sign which has any visible moving parts, visible revolving parts or visible mechanical movements or any description, or other apparent visible movements achieved by electrical, electronic or mechanical means, or by action of normal wind currents, but automatic time and temperature signs with a cycle time or not less than five (5) seconds are permissible.
9. Any sign or sign structure which:
  - a. Is structurally unsafe;
  - b. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment;
10. Any sign which by reason of its size, location, content, coloring or manner illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic sign or control device on public streets and roads.
11. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

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12. Signs which make use of words such as “Stop,” “Look,” “Danger,” or any characters or shapes generally used as public symbols, or other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.
13. Any sign unlawfully installed, erected or maintained.
14. Any sign, now or hereafter existing, which no longer advertises a bona fide business conducted, or a product sold on the premises.
15. Any sign which contains statements, words or pictures of an obscene, indecent or immoral character, such as will offend morals or decency.
16. Any sign or other advertising structure or display which conveys, suggests, indicates or otherwise implies by pictures, drawings, words, emblems, logos, or other communication, methods including, but not limited to the following:
  - a. Human genitalia.
  - b. Sexual acts.
  - c. Adult nude human bodies.
  - d. Obscene words.
  - e. Obscene gestures.
17. Placards, posters, circulars, show bills, handbills, political signs, cards, leaflets or other advertising matter, except as otherwise provided herein, shall not be posted, pasted, nailed, placed, printed, stamped or in any way attached to any fence, wall, post, tree, sidewalk, pavement, platform, pole, tower, curbstone or surface in or upon any public easement, right of way or any public or private property whatsoever. Provided, however, nothing herein shall prevent official notices of the local government(s), school districts, State or Federal Government from being posted on any public property deemed necessary. All placards, posters, circulars, showbills, handbills, political signs, cards, leaflets or other advertising matter posted, pasted, nailed, placed, printed, stamped on any right of way or public property may be removed and disposed of by the City of Marlette Zoning Administrator, the City Police and/or other staff so designated by the City Council or City Manager without regard to other provisions of this Ordinance.

**SECTION 504. DISTRICT REGULATIONS.**

The following types of signs (illuminated or non-illuminated) are permitted in the following districts:

1. **Billboards.** Permitted in District M with a minimum setback of one hundred (100) feet of any sidewalk or public highway, a minimum distance of one hundred fifty (150) feet of any residential or business building and at a minimum distance

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from adjoining property of no less than twice the height of the billboard; and at a maximum distance from the ground to the highest point of the sign of no more than twenty-five (25) feet. The above notwithstanding, billboards are permitted in District M if they are roof signs and otherwise comply with the provisions regarding roof signs.

2. **Freestanding signs.** Permitted in District RO, C and M with no more than one sign per business frontage (where a business is located on a corner lot, or has direct access to two (2) or more streets, or a street or alley, all regulations shall apply to each of the frontages) up to three hundred (300) feet; two (2) signs for frontage between three hundred (300) and six hundred (600) feet; and three (3) signs for frontage in excess of seven hundred (700) feet; except that no freestanding sign is permitted if a projecting or roof sign exists on the same frontage:
  - a. Maximum area of sign: Sixty-four (64) square feet.
  - b. Maximum height of sign: Eighteen (18) feet at minimum setback.
  - c. Location of sign: Signs shall not extend over the public right-of-way, and shall conform to the setback requirements for structures in the applicable districts.
  
3. **Projecting signs.** Permitted in Districts RO, C and M, with a maximum of one per eligible advertiser, except that no accessory projecting sign is permitted if an accessory freestanding or roof sign exists on the same frontage, nor is an accessory projecting sign allowed by an upper level business. Projecting signs shall be limited in area as follows:
  - a. Vertical or horizontal projecting sign may not project above the roof line of the building and may be a maximum of forty (40) square feet each side.
  - b. Maximum height and projection: Nine (9) feet minimum clearance above ground. No sign shall extend above that portion of the roof immediately adjacent to the sign. No sign shall project more than five (5) feet from the face of the building to which it is attached.
  - c. Location of sign: Not to extend over any public right of way.
  - d. Maximum weight and required means of attachments: Projecting signs exceeding ten (10) square feet in area or fifty (50) pounds in weight shall not be attached to nor supported by frame buildings nor the wooden framework of a building. Such signs shall be attached to masonry walls with galvanized expansion bolts of an appropriate diameter, shall be fixed in the wall by means of bolts, extending through the wall, shall contain proper size metal washer or plate on the inside wall and shall comply otherwise herewith. No projecting sign shall be secured with wire, strips of wood or nails, nor shall any projecting sign be hung or secured to any other sign.

4. **Roof signs.** Permitted in District M subject to the following:
  - a. No roof sign shall be constructed nearer any edge of the roof of the building on which it is located than a distance equal to the distance between the roof of the building and the top of the sign.
  - b. Every roof sign shall be thoroughly secured to the building by steel or other metal anchors, bolts, supports, rods or braces. When erected upon buildings which are not constructed entirely of fireproof material, the bearing plates of the sign shall bear directly upon masonry walls and intermediate stall columns in the building. No roof sign shall be supported or anchored to the framework of a building.
  - c. The square feet area of any side of a roof sign shall not exceed twenty-five (25) percent of the square foot area of the roof upon which it is located or the wall from which it is hung or attached, nor more than three hundred (300) square feet.
  - d. No roof signs shall be placed on the roof of any building or structure in such manner as to prevent free passage from one part of the roof to any other part thereof, or interfere with openings in the roof and shall otherwise comply herewith.
  - e. All roof signs and any supporting structures shall be designed and constructed to withstand the structural wind requirements of the building code; and shall be constructed to receive dead loads as required in the building code or other ordinance of the city.
5. **Wall signs.** Permitted in Districts RO, C, and M, with no maximum number.
  - a. Maximum area of sign: Fifteen (15) percent of building façade area upon which the sign is placed, not to exceed two hundred (200) square feet maximum (maximum area of signs to include the sum of the building façade area of all wall signs per frontage).
  - b. Maximum height and location: Signs shall not extend beyond the top or ends of the wall surface on which they are placed, nor project more than twelve (12) inches from building façade.
6. **Electronic Message Boards.** Electronic message boards, digital signs and other similar devices are permitted in Districts RO, C, and M.
  - a. Maximum area of sign: No greater than twenty-four (24) square feet. The total sign size, inclusive of any electronic message board, is subject to the size and height limitations for each district.
  - b. Maximum height and location: Only one (1) electronic message board is permitted per parcel, regardless of its location on the parcel.

7. **Signs Permitted in All Districts.**

Signs specified in this Section are permitted in addition to the signs permitted in the respective use districts, but are subject to the conditions and limitations set forth herein. Permits are unnecessary unless required by the particular subsection.

- a. **House or Building Address.** Any sign which sets forth the house or building address, provided that the individual characters of the signs do not exceed eighteen (18) inches in height.
- b. **Integral Signs.** Names of buildings, dates of construction, commemorative tablets and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the building or structure.
- c. **Public Signs.** Signs of a public, noncommercial nature, to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques, and the like, and all signs erected by or on order of a public officer in the performance of a public duty.
- d. **Institutional Bulletin Boards.** One per eligible advertiser, but no such sign shall exceed a height of six (6) feet nor an area of twenty-four (24) square feet. A permit is required.
- e. **Private Traffic Direction Signs and Related Signs.** Signs directing traffic movements onto a premises or within a premises, when such signs are located on the premises, shall conform in size and location to the Michigan Manual of Uniform Traffic Control Devices. Such signs are considered to include parking directions, exit or entrance signs, drive-up window signs, restroom signs and the like. Horizontal directional signs on and flush with paved areas shall also conform to the standards of the Michigan Manual of Uniform Traffic Control Devices.
- f. **Community Event Signs.** Signs advertising community events or public entertainment, subject to the following conditions:
  - i. If located on public property, such signs shall not exceed thirty-two (32) square feet in area. Placement and location must be approved by the Zoning Administrator and any such sign must be removed within seven (7) days after the event is over.
  - ii. Banners over public streets must be approved by the City Council, and must be removed within ten (10) days after the event is over. Banners may only display events sponsored by the City and other non-profit agencies and events.
  - iii. Banners attached to street light poles shall be approved by the Zoning Administrator and must be removed within ten (10) days after the event is over and shall be only allowed in Districts C and RO. If the City has a

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banner system which includes brackets, the banners attached to the light poles must fit on the brackets provided. Banners may only display events sponsored by the City and other non-profit agencies and events.

- g. **Political Signs.** Signs or posters announcing the candidates seeking public political office and/or political issues, and data pertinent thereto must be removed within ten (10) days after the election is over and not installed more than thirty (30) days prior to an election.
- h. **Time and Temperature.** No such sign shall exceed the height of the building to which it is accessory, nor an area of forty (40) square feet. A permit is required.
- i. **Underground Public Utility Warning Signs.** Standard types of warning signs marking the routes of underground public utility pipes, conduits and cables.
- j. **Signs Painted on or Attached to Vehicles.** Vehicles which are licensed and normally used upon the highways for transportation of persons, goods or equipment, but no person shall cause or allow any vehicle to be parked on a public thoroughfare, street or highway, or on private property for the principal purpose of advertising any business or activity being conducted upon nearby private property, by means of a sign or signs painted upon, supported or attached to such vehicle.
- k. **Individual Property Sale or Rental Signs.** Any accessory sign announcing the name of the owner, manager, realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered.
  - i. Signs may be freestanding or wall mounted only. Signs may not emit direct illumination and must be removed within seven (7) days after the rental of the property or after the closing of the sale.
  - ii. Signs shall conform to the following standards:
    - (a). Maximum Number: One sign per eligible advertiser.
    - (b). Maximum Area of Sign: Six (6) square feet for District R-1, R-2, and RM; twenty (20) square feet for Districts RO and C; forty (40) square feet for District M.
    - (c). Maximum Height of Sign: Five (5) feet in Districts R-1, R-2, and RM; ten (10) feet in Districts RO and C; twenty-five (25) feet in District M.
    - (d). Location of Sign: In all districts, ten (10) feet minimum setback from curbline, but wholly upon the premises.



**I. Construction Signs.**

- i. Such signs shall be confined to the site of the construction, alteration, or repair and shall be removed within seven (7) days after completion of work.
- ii. Signs shall conform with the standards provided for individual property sale or rental signs.

**SECTION 505. NON-CONFORMING SIGNS.**

Also, Refer to Chapter 3, General Requirements.

1. Intent. It is the legislative intent to recognize that the eventual elimination of existing signs that are not in conformity with the provisions of this section is a valid objective of the police power, but it is also the legislative intent that such elimination of nonconforming signs shall be brought about over a period of time and in such a manner as to avoid the invasion of vested rights of owners of nonconforming signs and the infliction of unnecessary hardship. The provisions of this Section shall be construed to that end.
2. Maintenance of Nonconforming Signs. Signs rendered nonconforming by the provisions of this section shall be maintained in a condition of good repair until removed pursuant to the provisions of this section, but no such nonconforming sign shall:
  - a. Be changed to another nonconforming sign.
  - b. Have any changes made in the words or symbols used or the message displayed on the sign, unless the sign is a changeable copy panel, bulletin board sign, or substantially similar type of sign specifically designed for periodic change of sign message.
  - c. Be structurally altered so as to prolong the life of the sign, or changed in shape, size, type or design.
  - d. Continue to be used or allowed to remain in place after the activity, business or usage to which it relates has been discontinued for sixty (60) days or longer.
  - e. Be re-established after its removal, or repaired or replaced after damage or destruction if the expenses of repair exceeds fifty (50) percent of the cost of replacement.

**SECTION 506. ILLUMINATION.**

1. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.

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2. No sign shall have blinking, flashing or fluttering lights or other illuminating devices such as changing light intensity, brightness or color. Beacon lights are not permitted.
3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
4. Neither the direct, nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
5. No exposed reflective type bulbs and no strobe light or incandescent lamp which exceeds fifteen (15) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

**SECTION 507. STRUCTURAL REQUIREMENTS.**

1. Periodic Painting. The owner of any sign regulated by this section shall be required to have such sign properly painted at least once every two (2) years all parts and supports of the sign, unless the same are galvanized or otherwise treated to prevent rust, or constructed of a material which, by its nature, shows no deterioration.
2. All signs shall comply with the pertinent requirements of the building code and all other applicable ordinances.

**SECTION 508. PERMIT.**

**1. Sign Removal for Failure to Obtain Permit.**

- a. It shall be unlawful for any person to erect, alter, relocate, reassemble or post any sign governed by the provisions of this chapter within the City without first having obtained a permit therefore from the City, and making payment of any fee required by this article.
- b. Failure to obtain a permit under this article or to pay a required fee shall subject a sign to removal under the provisions of the Section 105.

**2. Exceptions.**

- a. A permit will not be required for a sign to be placed or repaired on a vacant lot or building advertising the sale or renting of such lot or building, provided such sign does not exceed six (6) square feet in area on any one lot or building nor violate the zoning regulations of the City.
- b. A permit will not be required for a political sign.

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- c. A permit will not be required of a school, civic or charitable organization erecting a temporary sign. However, prior approval must be obtained from the Zoning Administrator who will deem the organization a school, civic, or charitable organization.

**3. Application; Insurance; Use Change.**

- a. **Application.** An application for a permit under this article shall be made on a form provided by the city, and shall contain or have attached thereto the following information:

- i. Name, address and telephone number of the applicant.
- ii. A brief description of the type of proposed sign.
- iii. Location of building, structure, or lot to which the sign is to be attached or erected.
- iv. Name and address of the person, firm, corporation, or association erecting or attaching the sign.
- v. Written consent of the owner of the property on which any sign is to be located.
- vi. A drawing or sketch of the proposed sign, indicating specific dimensions, plans and specifications of the material to be used in its construction, as well as the method of construction and attachment:
  - (a). If the sign is to be electrically illuminated, name, address and electrician's license number or the electrician who is to connect the wiring to the supply line, and approved Underwriters' Laboratory label number for the sign, and electrical permit number.
  - (b). If the sign is to be constructed with or attached by plastic materials, manufacturer's trade name and the common name of the plastic material and a certification either that the plastic material is noncombustible or that the plastic material has been tested by a recognized testing laboratory and rated as an "approved noncombustible plastic."

**b. Insurance.**

- i. Insurance certificates. Before a permit is issued for the erection of a sign, the sign erector shall submit for filing with the county a certificate of insurance, with a hold harmless agreement, made out to the city and county for public liability and property damage in the amounts set forth by Sanilac County from time to time for damage to any person or property due to actions of himself or any of his agents or employees. Such certificate shall be reviewed and approved by the County before the issuance of a permit.

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- ii. Lapsing of insurance. If at any time, the insurance of any sign erector is permitted to lapse, the permit shall automatically be revoked.
- iii. Notification of change. A sign erector shall notify the city of any change in address and, if a firm or corporation, any change in ownership or management if other than that indicated on the insurance certificates.

**c. Use change.**

- i. Use change. Any sign which has been erected for a particular purpose shall not have its use changed without first making a new application and having a permit issued therefore pursuant to the provisions of this section.
- ii. Servicing and maintenance. The provisions of this section shall not apply to the ordinary servicing or repainting of existing signs, altering of sign messages, cleaning of a sign, not to the changing of advertising on a sign specifically designed for periodic change of message without change in sign structure, such as a bulletin board or similar type sign.

**4. Fee.**

- a. A Fee shall be paid for the issuance of sign erection permits in accordance with a fee schedule which shall be adopted and amended from time to time by the City Council. Such schedule of fees shall be designed to reimburse the City all of its direct costs incurred in the inspection and regulation of signs and issuance of permits.

**5. Approval; Issuance.**

- a. The application for a permit under this article, together with all plans and specifications in connection therewith, shall be approved by the Zoning Administrator. Such approval shall not be given unless and until such application shall comply with this Article, a permit to erect, alter, relocate, reassemble or post the sign shall be issued for a period not to exceed ninety (90) days.

**6. Sign to Bear Permit Number.**

- a. Every sign permit shall bear a number, which number shall be inscribed upon a suitable metal tag and fastened to the sign in a conspicuous location, and the sign hanger shall have a valid permit in his possession at the time the sign is being placed or erected.

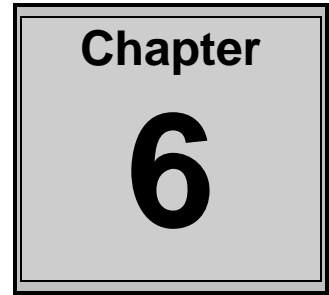
**SECTION 509. INSPECTION, REMOVAL, SAFETY.**

- 1. **Inspection.** Signs for which a permit is required may be inspected periodically by the Zoning Administrator for compliance with this and other codes of the municipality.

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2. **Maintenance.** All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.
3. **Removal of Sign.** The Zoning Administrator may order the removal of any sign erected or maintained in violation of this code. He shall give thirty (30) days notice in writing to the owner of such sign, or of the building, structure or premises on which such sign is located, to remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.
4. **Abandoned Signs.** A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove it, the Zoning Administrator shall give the owner fifteen (15) days notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative may remove the sign at cost to the owner.

When a successor to a defunct business agrees to maintain the signs as provided in this code, this removal requirement shall not apply.



## Chapter 6: Land Use Districts

### SECTION 601. DIVISIONS OF THE CITY.

For the purposes of this Ordinance, all land within the City of Marlette, except streets and alleys, is hereby divided into the following zoning districts:

R-1A	Residential / Large Lot	R-1B	Residential / Medium Lot
R-1C	Residential / Small Lot	R-2	Two-Family Residential
RM	Residential / Multi-Unit	RMH	Residential / Mobile Home
RO	Restricted Office	PRM	Parks / Recreation / Municipal
C	Commercial	M	Industrial / Manufacturing
P	Vehicular Parking		

Each district, as created in this section, shall be subject to the requirements contained in the City of Marlette Zoning Ordinance. Uses not expressly permitted are prohibited. Uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances are prohibited. It shall be unlawful for any person or business to engage in any activity, conduct, use, or venture that is contrary to federal, state or local laws or ordinances, including violations of the City Of Marlette Zoning Ordinance.

### SECTION 602. OFFICIAL ZONING MAP.

The boundaries of these districts are hereby defined and established as shown on a map entitled, "Zoning Map" which accompanies this Ordinance, and said map with all explanatory matter is hereby made a part of this Ordinance. The Official Zoning Map shall be kept and maintained by the City Administration.

If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the City of Marlette together with an entry on the Official Zoning Map as follows:

*On (date), by official action of the City of Marlette, the following change(s) were made (brief description with ordinance reference number).*

No amendment to this Ordinance, which involves matter portrayed on the Official Zoning Map shall become effective until after such change has been made on said map. No changes of any nature shall be made in the Official Zoning Map or matter shown except in conformity with the procedures set forth in this Ordinance.

## **CITY OF MARLETTE ZONING ORDINANCE**

One (1) copy of the Official Zoning Map is to be maintained and kept up to date in the City of Marlette Clerk's office, accessible to the public and shall be the final authority as to the current zoning status of lands, buildings, and other structures in the City of Marlette.

### **SECTION 603. INTERPRETATION OF BOUNDARIES.**

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

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be constructed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City jurisdictional lines shall be construed as following jurisdictional limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water, shall be construed to follow such centerlines.
6. Boundaries indicated as parallel or extensions of features indicated in Sections 603.1 through 603.5 above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Sections 603.1 through 603.6, the Board of Zoning Board of Appeals shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Zoning Board of Appeals may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

### **SECTION 604. ZONING OF VACATED AREAS**

If all or any portion of any public street, alley, right-of-way, easement, or land shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of the regulations which apply within the district where located, or within the most restrictive of the immediately adjacent districts, if there be more than one.

**SECTION 605. SCOPE OF REGULATIONS.**

No building or structure or part thereof shall be hereafter erected, moved, constructed, or altered, and no new use or change in use of a parcel or structure shall be made unless it conforms with the provisions of this Ordinance, including the regulation of the Zoning District in which it is located.

The regulations applying to Zoning Districts include specific limitation on the use of land and structures, height and bulk of structures, parcel area and dimensions, setback of structures from public thoroughfares and neighboring properties, and area of a parcel that can be covered by structures.

The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned by this Ordinance. Said use shall be treated in a like manner with a comparable permitted or prohibited use for the purpose of clarifying the district regulations of any Zoning District.

**SECTION 606. APPROVAL OF PLATS.**

No proposed plat of a new or redesigned subdivision shall hereinafter be approved by either the local governing body or its agents unless the lots within the plat equal or exceed the minimum size and width requirements of this Ordinance and all other applicable codes or Ordinances.

**SECTION 607. DISTRICT REGULATIONS TABLE.**

A summary of dimensional regulations for all Zoning Districts are contained together in the following table, page 6-4. The table specifies a related set of information for all Zoning Districts, specifically parcel dimensions and setback requirements for parcels in each Zoning District. It does not include the general requirements of this Ordinance. The reader is urged to become familiar with all Ordinance provisions before making any decision regarding use of a parcel or structure in the City of Marlette.



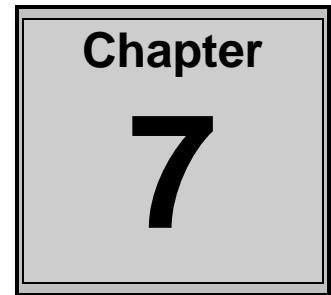
# DISTRICT REGULATIONS TABLE

All lots, buildings, and structures shall comply with the following schedule of general yard and bulk regulations unless specifically stated otherwise in this Ordinance.

DISTRICT	R-1A	R-1B	R-1C	R-2	RM	RMH (7)	RO	PRM	C	M	P
<b>MIN. LOT SIZE</b> (square feet)	12,000	8,700	7,200	7,200	8,000	5,000	5,000	N/A	N/A	N/A	N/A
<b>MIN. LOT WIDTH</b>	100 feet	70 feet	60 feet	60 feet	80 feet	50 feet	60 feet	N/A	N/A	N/A	N/A
<b>MAX. HT. (in feet)</b>											
- PRINCIPAL	35	35	35	35	35	18	35	N/A	35	35	N/A
- ACCESSORY (1)	18	18	18	18	18	18	0	N/A	N/A	N/A	N/A
<b>MIN. SETBACKS</b>					(8)						
- FRONT (2)	30	25	25	25	25	25	15	N/A	10	30	10
- REAR (3)	25	25	25	25	25	15	25	N/A	10	30	0
- SIDE (4)	10	9	9	9	9	9	9	N/A	0	30	0
<b>MIN. FLOOR AREA</b> (square feet)											
- PRINCIPAL	1,200	1,200	1000	1000	(6)	960	N/A	N/A	N/A	N/A	N/A
- ACCESSORY (1)	40% of rear yard, or 850 SF	40% of rear yard, or 850 SF	40% of rear yard, or 850 SF	40% of rear yard, or 850 SF	Max. 1,200 SF	40% of rear yard, or 850 SF	N/A	N/A	N/A	N/A	N/A
<b>MAX. LOT COVERAGE</b>	35%	35%	35%	35%	40%	35%	40%	N/A	40%	50%	N/A

**FOOTNOTES:**

- (1) In all districts, where allowed, and unless otherwise noted, accessory buildings cannot exceed a height of eighteen (18) feet or occupy an area more than 40% of the established rear yard or 850 square feet, whichever is less.
- (2) In all districts, the required front yard setback shall not be used for off-street parking, loading or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials or vehicle access drives.
- (3) No rear yard is required in the RO and C districts where the rear property line abuts upon a public alley.
- (4) For every lot on which a multiple, row or terrace dwelling is erected, there shall be provided a side yard on each side of the lot as indicated in the Schedule. Each side yard shall be increased beyond the yard setbacks indicated by one (1) foot for every ten (10) feet or part thereof by which length of the multiple, row or terrace dwelling exceeds forty (40) feet in overall length along the adjoining lot line.  
Garages or other accessory buildings whether the same be attached to the dwelling or not, except where the front line of the garage or accessory building extends no closer to the front line or street line than the rear main wall of the dwelling, in which case the side yard shall be not less than three (3) feet.
- (5) The main floor area per dwelling unit shall not include areas of basement, breezeways, open porches, terraces, attached garages, attached accessory buildings or attached utility rooms.
- (6) Required minimum floor area for each dwelling unit shall include 500 square feet for an efficiency/studio, 650 square feet for a one bedroom, 850 square feet for a two bedroom, 1,000 square feet for a three bedroom and 1,200 square feet for a four bedroom.
- (7) Mobile home park developments are subject to the minimum requirements and standards as established in the Mobile Home Commission Act, P.A. 419 of 1976, as amended, and any and all rules and regulations promulgated pursuant to P.A. 419 of 1976, as amended.
- (8) Separation of two (2) or more dwelling structures on one (1) parcel of property - The minimum distance between building shall be eighteen (18) feet.



## Chapter 7: R-1A Residential / Large Lot

### SECTION 701. INTENT AND PURPOSE.

Intended for detached one-family residential uses. The construction and continued use of the land for one-family dwellings is encouraged. Other uses that do not significantly interfere with development or continuation of one-family dwellings in the district are also encouraged. Business, commercial, and industrial uses are discouraged. The regulations herein set forth are designed for the purposes of encouraging a residential environment of compatible low-density dwellings located on individual lots.

### SECTION 702. USES PERMITTED BY RIGHT.

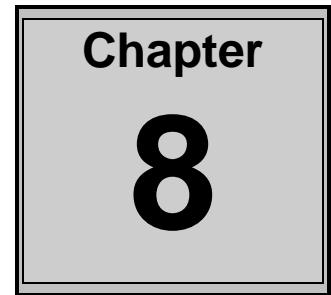
1. **One-family detached dwelling.**
2. **Home occupations.**
3. **Public buildings.**
4. **Publicly-owned and operated parks, parkways, and recreational facilities.**
5. **Schools, public and private** offering courses in general education and not operated for profit.
6. **Religious institutions.**
7. **Public service installations.**
8. **Accessory buildings** and uses customarily incident to any of the above permitted uses.
9. **Day nurseries.**
10. **State licensed residential facilities.**

### SECTION 703. USES PERMITTED BY SPECIAL USE PERMIT.

1. **Bed and breakfasts.**

**SECTION 704. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** – Twelve thousand (12,000) square feet.
2. **Lot Width, Minimum** – One hundred (100) feet.
3. **Front Yard, Minimum** – Thirty (30) feet.
4. **Rear Yard, Minimum** – Twenty-five (25) feet.
5. **Side Yard, Minimum** – Ten (10) feet on each side.
6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure Height, Maximum** – Thirty-five (35) feet.
8. **Floor Area per Dwelling Unit, Minimum** – One thousand two hundred (1,200) feet.
9. **Accessory Structure Height, Maximum** – Eighteen (18) feet.
10. **Accessory Structure Floor Area, Maximum** – Eight hundred fifty (850) square feet, or forty (40) percent of the rear yard, whichever is less.
11. **Lot Coverage, Maximum Percent** – Thirty-five (35) percent.



## **Chapter 8: R-1B Residential / Medium Lot**

### **SECTION 801. INTENT AND PURPOSE.**

Intended for detached one-family residential uses. The construction and continued use of the land for one-family dwellings is encouraged. Other uses that do not significantly interfere with development or continuation of one-family dwellings in the district are also encouraged. Business, commercial, and industrial uses are discouraged. The regulations herein set forth are designed for the purposes of encouraging a residential environment of compatible medium-density dwellings located on individual lots.

### **SECTION 802. USES PERMITTED BY RIGHT.**

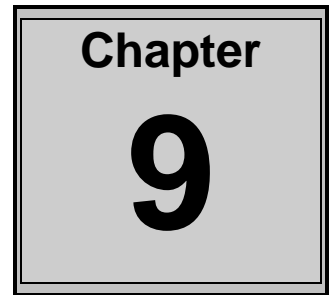
1. **One-family detached dwelling.**
2. **Home occupations.**
3. **Public buildings.**
4. **Publicly-owned and operated parks, parkways, and recreational facilities.**
5. **Public service installations.**
6. **Accessory buildings** and uses customarily incident to any of the above permitted uses.
7. **Day nurseries.**
8. **Schools, public and private** offering courses in general education and not operated for profit.
9. **Religious institutions.**
10. **State licensed residential facilities.**

### **SECTION 803. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** – Eight thousand seven hundred (8,700) square feet.
2. **Lot Width, Minimum** – Seventy (70) feet.

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3. **Front Yard, Minimum** – Twenty-five (25) feet.
4. **Rear Yard, Minimum** – Twenty-five (25) feet.
5. **Side Yard, Minimum** – Nine (9) feet on each side.
6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure Height, Maximum** – Thirty-five (35) feet.
8. **Floor Area per Dwelling Unit, Minimum** – One thousand two hundred (1,200) feet.
9. **Accessory Structure Height, Maximum** – Eighteen (18) feet.
10. **Accessory Structure Floor Area, Maximum** – Eight hundred fifty (850) square feet, or forty (40) percent of the rear yard, whichever is less.
11. **Lot Coverage, Maximum Percent** – Thirty-five (35) percent.



## **Chapter 9: R-1C Residential / Small Lot**

### **SECTION 901. INTENT AND PURPOSE.**

Intended for detached one-family residential uses. The construction and continued use of the land for one-family dwellings is encouraged. Other uses that do not significantly interfere with development or continuation of one-family dwellings in the district are also encouraged. Business, commercial, and industrial uses are discouraged. The regulations herein set forth are designed for the purposes of encouraging a residential environment of compatible high-density dwellings located on individual lots.

### **SECTION 902. USES PERMITTED BY RIGHT.**

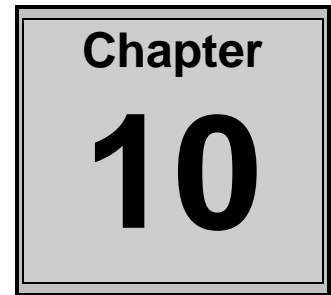
1. **One-family detached dwelling.**
2. **Home occupations.**
3. **Public buildings.**
4. **Public service installations.**
5. **Accessory buildings** and uses customarily incident to any of the above permitted uses.
6. **Day nurseries.**
7. **Publicly-owned and operated parks, parkways, and recreational facilities.**
8. **Religious institutions.**
9. **State licensed residential facilities.**

### **SECTION 903. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** – Seven thousand two hundred (7,200) square feet.
2. **Lot Width, Minimum** – Sixty (60) feet.
3. **Front Yard, Minimum** – Twenty-five (25) feet.

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4. **Rear Yard, Minimum** – Twenty-five (25) feet.
5. **Side Yard, Minimum** – Nine (9) feet on each side.
6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure Height, Maximum** – Thirty-five (35) feet.
8. **Floor Area per Dwelling Unit, Minimum** – One thousand (1,000) square feet.
9. **Accessory Structure Height, Maximum** – Eighteen (18) feet.
10. **Accessory Structure Floor Area, Maximum** – Eight hundred fifty (850) square feet, or forty (40) percent of the rear yard, whichever is less.
11. **Lot Coverage, Maximum Percent** – Thirty-five (35) percent.



## **Chapter 10: R-2 Two-Family Residential**

### **SECTION 1001. INTENT AND PURPOSE.**

The Two Family Residential District is established as a district in which the principal use of land is for single and two family dwellings. The general purpose of the Chapter is to encourage the construction, conversion and continued use of the land for single family and two family dwellings, to prohibit business, commercial or industrial use of land, and to promote any other use which would not significantly interfere with development or continuation of single family or two family dwellings in the district.

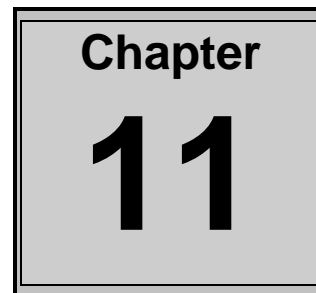
### **SECTION 1002. USES PERMITTED BY RIGHT.**

1. **One-family detached dwelling.**
2. **Two-family dwelling.**
3. **Home occupations.**
4. **Public buildings.**
5. **Publicly owned and operated parks, parkways and recreational facilities.**
6. **Schools, public and private,** offering courses in general education and not operated for profit.
7. **Religious institutions.**
8. **Public service installations.**
9. **Accessory buildings** and uses customarily incident to any of the above permitted uses.
10. **Day nurseries.**
11. **State licensed residential facilities.**



**SECTION 1003. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** – Seven thousand two hundred (7,200) square feet.
2. **Lot Width, Minimum** – Sixty (60) feet.
3. **Front Yard, Minimum** – Twenty-five (25) feet.
4. **Rear Yard, Minimum** – Twenty-five (25) feet.
5. **Side Yard, Minimum** – Nine (9) feet on each side.
6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure Height, Maximum** – Thirty-five (35) feet.
8. **Floor Area per Dwelling Unit, Minimum** – One thousand (1,000) square feet.
9. **Accessory Structure Height, Maximum** – Eighteen (18) feet.
10. **Accessory Structure Floor Area, Maximum** – Eight hundred fifty (850) square feet, or forty (40) percent of the rear yard, whichever is less.
11. **Lot Coverage, Maximum Percent** – Thirty-five (35) percent.



## Chapter 11: RM Residential / Multi-Unit

### SECTION 1101. INTENT AND PURPOSE.

This district is intended primarily for Multiple Family residential uses together with certain institutional and other compatible uses under specified conditions.

It is the express purpose of these regulations to provide Multiple Family Dwelling, ranging from moderate to higher density character where adequate public and private services and facilities are available to accommodate higher population concentrations. The following are the minimum criteria for RM sites:

1. Sites must have access to a Principal Arterial, Minor Arterial or Collector Street as to avoid adverse traffic impacts in surrounding low-density residential areas.
2. The site must be served by essential public facilities and services, such as water and sewer facilities, drainage structures, refuse disposal, police, fire protection and schools.

### SECTION 1102. USES PERMITTED BY RIGHT.

In the Multiple Family District no building or land shall be used and no building shall be erected except for one 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.

1. **Single-family dwelling.**
2. **Two-family dwelling.**
3. **Multiple family dwellings.**
4. **Attached or clustered residential condominium units** developed pursuant to the 'Condominium Act,' Act 59 of the P.A. of 1978, as amended.
5. **Accessory buildings and uses**, including swimming pools, customarily incident to any of the above permitted uses.
6. **Home occupations.**
7. **Nursery schools, day nurseries, and child care centers.**

8. **Religious Institutions.**
9. **Housing for religious personnel** associated with a religious or educational institution.
10. **Public parks.**
11. **Public service installations.**
12. **Accessory uses or structures** related to apartment complexes as business office, laundry facilities, and home occupations otherwise permitted in residential districts under this article.
13. **Social and public buildings.**

**SECTION 1103. USES PERMITTED BY SPECIAL USE PERMIT.**

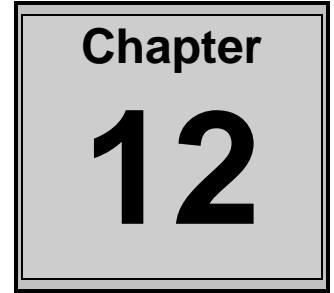
1. **Congregate Housing for the Elderly.**

**SECTION 1104. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** – Eight thousand (8,000) square feet.
2. **Lot Width, Minimum** – Eighty (80) feet.
3. **Front Yard, Minimum** – Twenty-five (25) feet.
4. **Rear Yard, Minimum** – Twenty-five (25) feet.
5. **Side Yard, Minimum** – Nine (9) feet.
6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
7. **Apartment Unit Minimum**
  - a. **Efficiency/Studio Apartment** – A dwelling unit containing a minimum five hundred (500) square feet of floor area, consisting of not more than one (1) room in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density shall be considered as a one (1) room unit.
  - b. **One Bedroom Unit** – A dwelling unit containing a minimum floor area of at least six hundred fifty (650) square feet per unit, consisting of not more than two (2) rooms in addition to kitchen, dining and sanitary facilities, and for the purposes of computing density shall be considered a two (2) room unit.
  - c. **Two Bedroom Unit** – A dwelling unit containing a minimum floor area of at least eight hundred fifty (850) square feet per unit, consisting of not more than three (3)

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- rooms in addition to kitchen, dining and necessary sanitary facilities, and for the purposes of computing density shall be considered as a three (3) room unit.
- d. **Three or More Bedroom Unit** – A dwelling unit wherein for each room in addition to the three (3) rooms permitted in a two (2) bedroom unit, there shall be provided an additional area of two hundred (200) square feet to the minimum floor area of one thousand (1000) square feet. For the purpose of computing density, said three (3) bedroom unit shall be considered a four (4) room unit and each increase in a bedroom over three (3) shall be an increase in the room count by one (1) over the four (4).
8. **Height, Maximum** – Thirty-five (35) feet or three (3) stories.
9. **Lot Coverage, Maximum Percent** – Forty (40) percent.
10. **Accessory Structure Height, Maximum** – Eighteen (18) feet.
11. **Accessory Structure Floor Area, Maximum** – Twelve hundred (1,200) square feet.
12. **Separation of Two (2) or More Principle Dwelling Structures on One (1) parcel of Property** - The minimum distance between buildings shall be eighteen (18) feet.



## **Chapter 12: RMH Residential / Mobile Home**

### **SECTION 1201. INTENT AND PURPOSE.**

Intended to encourage a suitable environment for persons and families, that by preference, choose to live in a manufactured home, and to ensure manufactured homes are adjacent to essential community services. In addition to the requirements of this chapter, all manufactured homes and mobile home parks shall comply with the Mobile Home Commission Act (PA 96 of 1987), the current manufactured home code adopted by the state mobile home commission, and any federal Housing and Urban Development (HUD) construction and safety standards for manufactured homes.

### **SECTION 1202. USES PERMITTED BY RIGHT.**

1. **One-family detached dwelling.**
2. **Manufactured home parks.**
3. **Home occupations.**
4. **Schools, public and private** offering courses in general education and not operated for profit.
5. **Day nurseries.**
6. **Accessory buildings and uses customarily incident to any of the above permitted uses.**
7. **Religious institutions.**

### **SECTION 1203. USES PERMITTED BY SPECIAL USE PERMIT.**

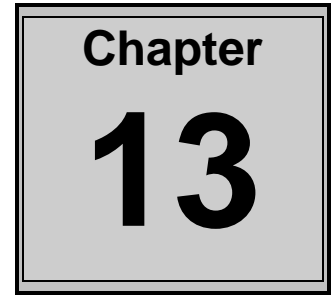
1. **Public service installations.**

### **SECTION 1204. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** – Five thousand (5,000) square feet.

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2. **Lot Width, Minimum** – Fifty (50) feet.
3. **Front Yard, Minimum** – Twenty-five (25) feet.
4. **Rear Yard, Minimum** – Fifteen (15) feet.
5. **Side Yard, Minimum** – Nine (9) feet on each side.
6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure Height, Maximum** – Eighteen (18) feet.
8. **Floor Area per Dwelling Unit, Minimum** – Nine-hundred sixty (960) square feet.
9. **Accessory Structure Height, Maximum** – Eighteen (18) feet.
10. **Accessory Structure Floor Area, Maximum** – Eight hundred fifty (850) square feet, or forty (40) percent of the rear yard, whichever is less.
11. **Lot Coverage, Maximum Percent** – Thirty-five (35) percent.



## **Chapter 13: RO Restricted Office**

### **SECTION 1301. INTENT AND PURPOSE.**

The purpose of this district is to accommodate office uses, office sales uses, business services and certain personal services. The district is intended as a transition area between residential areas and more intensive business development and is intended principally for day-time business functions.

### **SECTION 1302. USES PERMITTED BY RIGHT.**

The following are the principal permitted uses by right within a RO District:

1. **Professional and Administrative Offices.**
2. **Financial, Real Estate and Management Offices.**
3. **Institutions for Human Care.**
4. **Personal Service Establishments.**
5. **Publicly Owned Office and Meeting Buildings, Exchanges and Public Utility Offices.**
6. **Public and Commercial Schools.**
7. **Publicly owned and operated parks, parkways, and recreational facilities.**
8. **Child Care Center.**
9. **Funeral Homes.**
10. **Religious Institutions.**
11. **Accessory Off-street Parking.**

**SECTION 1303. USES PERMITTED BY SPECIAL USE PERMIT.**

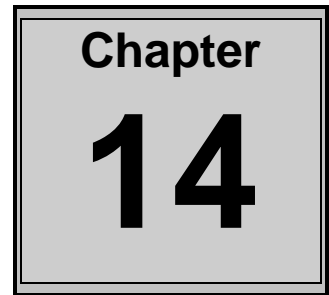
The following uses of land and buildings may be permitted in the RO District by the application for provisional requirements.

1. **Office-Business Retail Uses** such as office supplies, office equipment sales and service, drafting supplies and similar activities providing the following standards are met:
2. **Restaurants and Dining Establishments** providing the following standards are met:
  - a. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts as required in Chapter 18.
  - b. Dancing or Night Club entertainment is prohibited.

**SECTION 1304. DIMENSIONAL REQUIREMENTS.**

1. **Lot Area, Minimum** - Five thousand (5,000) square feet.
2. **Lot Width, Minimum** - Sixty (60) feet.
3. **Front Yard, Minimum** – Fifteen (15) feet.
4. **Rear Yard, Minimum** – Twenty-five (25) feet.
5. **Side Yard, Minimum** – Nine (9) feet on each side.
6. **Corner Lot** – There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure Height, Maximum** – Thirty-five (35) feet.
8. **Lot Coverage, Maximum** – Forty (40) percent.





## **Chapter 14: PRM Parks / Recreation / Municipal**

### **SECTION 1401. INTENT AND PURPOSE.**

The Parks, Recreation and Municipal District is intended to provide areas for the placement of public facilities to serve the cultural, educational, and recreational needs of the community at large, as well as, individual neighborhoods.

### **SECTION 1402. USES PERMITTED BY RIGHT.**

In the Parks, Recreation and Municipal District no building or land shall be used and no building shall be erected, except for one 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.

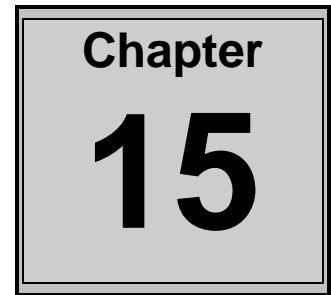
1. **Outdoor recreation uses and facilities**, such as: playgrounds, playfields, parks, and ballfields.
2. **Indoor public recreation facilities.**
3. **Natural open space** such as greenways and wooded areas.
4. **Developed open space** such as: botanical gardens, memorials, and arboreta.
5. **Government offices.**
6. **Utility and public service buildings.**
7. **Public or Privately owned and operated golf courses, Country Clubs or Shooting Clubs.**
8. **Golf Driving Ranges.**

### **SECTION 1403. USES PERMITTED BY SPECIAL USE PERMIT.**

1. **Special Open Space Uses**, such as campgrounds, expositions, day camps, as well as nature centers and other similar uses.
2. **Wireless Communication Facilities.**
3. **Shooting Clubs.**

**SECTION 1404. DIMENSIONAL REQUIREMENTS.**

1. **Minimum Lot Size** – N/A
2. **Minimum Yard Requirements** – N/A
3. **Maximum Building Height** – N/A
4. **Maximum Lot Coverage** – N/A



## Chapter 15: C Commercial

### SECTION 1501. INTENT AND PURPOSE.

The purpose of the C district is to accommodate concentrated businesses that serve a broad economic market area. The intent is to provide for retail businesses, personal and business service establishments and small warehouses developed along major arterial roads in a fashion that minimizes traffic congestion, traffic conflicts and hazards and promotes site development.

### SECTION 1502. USES PERMITTED BY RIGHT.

The following are the principal permitted uses by right within a C District:

1. **Professional and Administrative Offices.**
2. **Financial, Real Estate and Management Offices.**
3. **Institutions for Human Care.**
4. **Personal Service Establishments.**
5. **Publicly Owned Office and Meeting Buildings, Exchanges and Public Utility Offices.**
6. **Public and Commercial Schools.**
7. **Publicly Owned and Operated Park and Recreation Facilities.**
8. **Child Care Centers.**
9. **Funeral Homes.**
10. **Religious Institutions.**
11. **Antique Stores** including those operations that involve the refinishing or refurbishing of furniture where they operate in a fully enclosed building.
12. **Upper Story Residential Dwelling Units** in commercial buildings located along Main Street between Kilgour and Marlette Streets.

13. **Art Galleries.**
14. **Bakeries and Confectionary Establishments.**
15. **Drug Stores** where the principal use of the business is the sale of prescription medicines and non-prescription medications.
16. **Ice Cream Parlors.**
17. **Small Printing Businesses and Reproduction Centers.**
18. **Drive-In, Drive-Thru, Take-Out, Pick-Up** and other forms of in-vehicle retail or service.
19. **Restaurants, Clubs** and other driving establishments which provide food or drink for consumption and may also provide dancing and entertainment.
20. **Nightclubs, Meeting Halls, Restaurants** and other similar uses that provide for meetings and entertainment including serving of alcoholic beverages and rental of halls or facilities.
21. **Consumer Retail and Service Outlets.**
22. **Motel and Hotel**, provided the following conditions are met:
  - a. Minimum floor area of two hundred fifty (250) square feet per guest unit shall be provided.
  - b. Minimum lot area of forty thousand (40,000) square feet is required together with a minimum lot width of one hundred fifty (150) feet, plus there shall be no less than four hundred (400) square feet of lot area for each guest unit.
  - c. Maximum lot coverage including all buildings, both principal and accessory shall be forty (40) percent.
  - d. Minimum yard dimensions require all buildings to be set back no less than forty (40) feet from any property line, except that the side yard, for a corner lot, which is adjacent to the street shall be no less than forty (40) feet.
23. **Greenhouses, Nurseries and Open Air Business Uses** such as sales of trees, shrubs and plants, sale of lawn furniture, playground equipment and garden supplies.
24. **Veterinary Hospitals and Clinics.**
25. **Furniture, Floor Covering and Household Goods.**
26. **Lumber, Hardware, Plumbing, Heating, Electrical, etc.**
27. **Automobile Car Wash.**

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28. **Temporary Outdoor Uses**, such as displays, Christmas tree sales lots, revival tents, or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the City Zoning Board of Appeals, provided that such permit (issued by the City Council) shall not be issued for more that thirty (30) days in any one (1) year and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
29. **Commercial Recreation Facilities** conducted wholly within a fully enclosed building and that such building have yard setbacks of at least one hundred (100) feet from any abutting residential district boundary.
30. **Video and Home Electronic Appliance Stores.**
31. **Servicing and Repair of Motor Vehicles, Trailers and Boats** when contained within a wholly enclosed building.
32. **New and Used Automobile Sales Lots and Leasing Services.**
33. **Off-street Parking.**

### SECTION 1503. USES PERMITTED BY SPECIAL USE PERMIT.

#### Types of Uses Permitted by Special Use Permit.

Commercial District special land use permits shall include the condition that none of the performance standards violated or other nuisance factors generated which would be detrimental to the other property in the district. All special land uses shall be compatible with other businesses in the district in which they are located.

The following uses of land and structures may be permitted by the application for issuance of a Special Use Permit PROVIDED that the standards and procedural requirements are met:

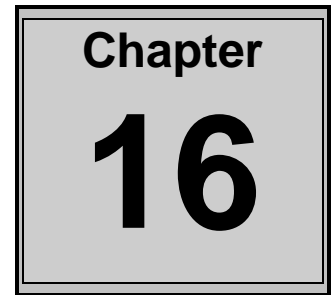
1. **Small Warehouse and Distribution Facilities.**
2. **Bulk Fuel Stations.**
3. **Commercial Windmills and Wind-Powered Electricity Generating Devices.**
4. **Outdoor Storage** related to functional retail business.
5. **Mini Storage**

### SECTION 1504. DIMENSIONAL REQUIREMENTS.

1. **Lot Area, Minimum** - N/A
2. **Lot Width, Minimum** - N/A
3. **Front Yard, Minimum** - Ten (10) feet

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4. **Rear Yard, Minimum** - Ten (10) feet.
5. **Side Yard, Minimum** - N/A
6. **Corner Yard, Minimum** - There shall be maintained a front yard on each street side of a corner lot.
7. **Principal Structure, Maximum** - Thirty-five (35) feet.
8. **Lot Coverage, Maximum** - Forty (40) percent of the lot may be covered by all buildings.



## **Chapter 16: M Industry / Manufacturing**

### **SECTION 1601. INTENT AND PURPOSE.**

This district is intended to primarily accommodate manufacturing, assembling, fabrication operations, processing, packaging and treatment of products. The general goals of this use district include:

1. The protection of abutting residential districts by:
  - a. Separating them from manufacturing and processing activities
  - b. Prohibiting the use of such industrial areas for residential development
2. To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor, and other objectionable influences.

### **SECTION 1602. USES PERMITTED BY RIGHT.**

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 for in the Ordinance:

1. Any use whose principal function is basic research, design, and experimental product development when conducted within a completely enclosed building. The growing of any vegetation requisite to these uses shall be excluded from the requirement of enclosure.
2. **Warehousing and Wholesale Establishments.**
3. **The Manufacture, Assembly, Compounding, Processing, Packaging, or Treatment of Products, Articles or Merchandise.**
4. **Agriculture Facilities.**
5. **Agriculture.**
6. **Truck Terminals.**

7. **Contractor's Establishments.**
8. **Rail or Freight Terminals.**
9. **Central Dry Cleaning Plants or Laundries.**
10. **Automotive Repair Garages, Auto Engine and Body Repair and Undercoating Shops** when completely enclosed.
11. **Lumber and Planing Mills.**
12. **Public Utility Installations and Buildings.** Including power, fuel, communications and water treatment.
13. **Accessory buildings** and uses customarily incident to any of the above permitted uses.

**SECTION 1603. USES PERMITTED BY SPECIAL USE PERMIT.**

1. **Metal Plating, Buffering and Polishing.**
2. **Junkyards.**
3. **Incinerators and Sanitary Landfills.**
4. **Sewage Treatment and Disposal Operations.**
5. **Commercial Windmills and Wind-Powered Electricity Generating Devices.**

**SECTION 1604. GENERAL USE REQUIREMENTS.**

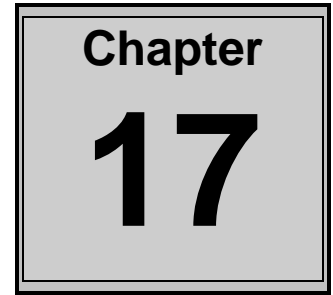
1. Enclosed Buildings and Storage:
  - a. Activities in this district shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors PROVIDED that within two hundred (200) feet of any other district or use said storage shall be in completely enclosed buildings.
  - b. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, which fence or wall shall be at least four (4) feet in height, but in no case shall the fence be lower than the enclosed storage up to a maximum height of eight (8) feet. Such storage shall be deemed to include the parking of licensed motor vehicles over one and one-half (1½) tons rated capacity.
2. Uses in this District shall conform to the following standards:
  - a. Emit no obnoxious, toxic or corrosive fumes or gases that are harmful to the public health, safety or general welfare; except those produced by internal combustion engines under design operating conditions.



- b. Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the parcel.
- c. Produce no heat or glare to such an extent to be detrimental to the health, safety and general welfare at or beyond any boundary of the parcel.
- d. Produce no physical vibrations to such an extent to be determined detrimental to the health, safety and general welfare at or beyond any boundary of the parcel.
- e. Does not include, in the manufacturing process, any production or storage of any material designed for use as an explosive or in the use of any such material in production.
- f. Shall conform to the Michigan Department of Environmental Quality standards for industrial operations including any pollutant discharge.

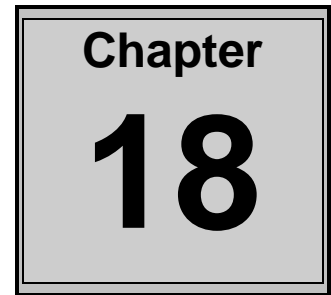
**SECTION 1605. DIMENSIONAL REQUIREMENTS.**

- 1. **Lot Area, Minimum** – N/A
- 2. **Lot Width, Minimum** – N/A
- 3. **Front Yard, Minimum** – Thirty (30) feet.
- 4. **Rear Yard, Minimum** – Thirty (30) feet.
- 5. **Side Yard, Minimum** – Thirty (30) feet.
- 6. **Corner Yard, Minimum** – There shall be maintained a front yard on each street side of a corner lot.
- 7. **Minimum Floor Area per Dwelling Unit** – N/A
- 8. **Height, Maximum** – Thirty-five (35) feet.
- 9. **Lot Coverage, Maximum** – Fifty (50) percent.



## **Chapter 17:**

**THIS CHAPTER WAS PURPOSELY LEFT BLANK.**



## **Chapter 18: Special Land Use Permit Requirements**

### **SECTION 1801. INTENT AND PURPOSE.**

It is the intent of this Section to provide a set of procedures and standards for special uses of land or structure which, because of their unique characteristics, require special consideration in relation to the welfare of the adjacent properties and the community as a whole.

It is the expressed purpose of the regulations and standards to allow practical latitude for the landowner and/or developer to make fullest use of their property, but at the same time, maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community.

For the purposes of this Ordinance the following Special Use Categories are identified:

- A. Bed & Breakfasts.
- B. Bulk Fuel Stations.
- C. Commercial Windmills and Wind-powered Electricity Generating Devices.
- D. Congregate Housing for the Elderly.
- E. Incinerators and Sanitary Landfills.
- F. Junkyards.
- G. Metal Plating, Buffering and Polishing.
- H. Mini Storage Facilities
- I. Office-Business Retail Uses.
- J. Open-Air Business.
- K. Outdoor Storage.
- L. Public Service Installations.

## CITY OF MARLETTE ZONING ORDINANCE

- M. Restaurants and Dining Establishments.
- N. Sewage Treatment and Disposal Operations.
- O. Shooting Clubs.
- P. Small Warehouse and Distribution Facilities.
- Q. Special Open Space Uses.
- R. Wireless Communication Facilities.

### **SECTION 1802. PERMIT PROCEDURES.**

The application for a Special Land Use Permit, also referred to hereafter as Special Use Permit, shall be submitted and processed under the following procedures:

- A. **Submission of Application.** An application shall be submitted through the Zoning Administrator on a special form for that purpose. Each application shall be accompanied with the payment of a fee as established by the City of Marlette City Council.

In the event the allowance of a desired use requires both a rezoning and special land use permit, both requests may be submitted jointly, subject to the following:

1. The Ordinance procedures for each shall be followed as specified.
2. All applicable standards and specifications required by this Ordinance shall be observed.
3. In the event both permits are required, separate hearings will be held. The rezoning hearing shall be heard first.

B. **Data Required.**

1. The special form shall be completed in full by the applicant including a statement by the applicant that Section 1803 can be complied with.
2. The name, address and telephone number of the applicant.
3. The legal description of the subject parcel of land.
4. A site plan, drawn to scale, of the total property involved and meeting the requirements of Chapter 20.
5. Any additional items or submissions as determined by the special land use requirements of the specific, proposed use.

- C. **Planning Commission Review and Hearing.** The application, together with all required data, shall be transmitted to the Planning Commission for review. After review and study of

## CITY OF MARLETTE ZONING ORDINANCE

any application and related material the Planning Commission shall hold a public hearing. Notices shall be given in accordance with Section 1903 of this Ordinance.

- D. **Permit Expiration.** A Special Use Permit issues pursuant to this Chapter shall be valid for one (1) year from the date of issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the Zoning Administrator shall notify applicant in writing of the expiration of said permit.
- E. **Revocation.** The Planning Commission shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with any of the applicable requirements, or other applicable sections. Written notice of violation shall be given by the Zoning Administrator to the holder of the permit and correction must be made within thirty (30) days. After a thirty (30) day period, an additional notice shall be given by the Zoning Administrator, the use for which the permit was granted must cease within sixty (60) days from the date of the second notice.
- F. **Re-Application.** No application for a Special Use Permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of change of conditions.
- G. **Recommendation.** The Planning Commission may deny, approve, or approve with conditions, the request for Special Use Permit approval. If the application for a Special Use Permit is in compliance with all standards in this Zoning Ordinance, and other applicable ordinances and state and federal statutes, it shall be approved. The decision on a Special Use Permit shall be incorporated in a written statement of findings and conclusions relative to the special use which specifies the basis for decision and any conditions imposed.

The City of Marlette Planning Commission must make the recommendation to deny, approve, or approve with conditions, a request for Special Use Permit within sixty (60) days of its submission to the Planning Commission except in those cases where the applicant has been requested to furnish additional information, in which case, a decision shall be made within thirty (30) days from the receipt of said information.

### SECTION 1803. PERMIT STANDARDS.

Before approving or denying a Special Use Permit, the Planning Commission shall review the site plan for said use to establish that the following general standards, as well as all applicable specific standards, are satisfied:

- A. **General Standards.** The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on the proposed site will:
  - 1. Be designed, constructed, operated and maintained so as to be harmonious and, appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

## CITY OF MARLETTE ZONING ORDINANCE

2. Not be hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole.
3. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities or schools.
4. Not create excessive additional requirements at public cost for public facilities and services.
5. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
6. Be consistent with the intent and purpose of the Zoning District in which it is proposed to locate such use.
7. Be compatible with the natural environment including terrain, biota, floodplains and distinctive features or characteristics.

**B. Conditions and Safeguards.** The Planning Commission may stipulate such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.

**C. Specific Requirements.** The general standards and requirements of this Section are basic to all uses authorized by Special Use Permit. The specific and detailed requirements set forth in the following section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements where applicable.

**D. Permitted Uses.** Uses permitted by Special Use Permit shall be those listed by Districts as noted in the respective Zoning Districts as herein regulated, controlled or defined.

### SECTION 1804. SITE DEVELOPMENT REQUIREMENTS.

Those permitted uses and uses permitted by special condition enumerated in any zoning district, and if included below, shall be subject to the conditions and requirements of the following applicable Section(s).

#### A. Bed and Breakfasts.

1. Bed and Breakfasts require a Special Use Permit in the R1-A District.
2. Guest Rooms. Each guest room shall contain not less than one-hundred (100) square feet of floor area. A maximum of five (5) guest rooms are allowed per structure.

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3. The bed and breakfast may not contain restaurant facilities, but may provide food service for transient, overnight guests only.
4. Parking. The parking spaces shall meet standards established by Section 403 of this Ordinance.
5. Activities and Outdoor Gatherings. Activities made available to guests shall be on the lot used for the facility or on lands under the direct control of the operator either by ownership or lease. Outdoor gatherings of guests or other individuals shall be carried on in such a manner and at such hours as to not be disruptive to neighboring properties.
6. All applicable Building Code and State Health Department regulations shall be met.

### **B. Bulk Fuel Stations.**

1. Bulk Stations require a Special Use Permit in the C District.
2. A place where fuel oil, gasoline, kerosene, or any liquid, except such as will stand a test of one-hundred fifty (150) degrees Fahrenheit, closed cup tester, are stored for wholesale and retail purpose, where the cumulative capacity of all storage tanks is more than six thousand (6,000) gallons.

### **C. Commercial Windmills and Wind-powered Electricity Generating Devices.**

1. Commercial Windmills and Wind-powered Electricity Generating Devices require a Special Use Permit in the C and M Districts.
2. Minimum lot size required shall be two (2) acres.
3. The total maximum height permitted for such structures, including blades, shall not exceed sixty (60) feet, or fifteen (15) feet above the surrounding native mature trees, whichever is less.
4. The structure shall not be closer to any adjacent lot line than the height of the structure and in no case less than one hundred (100) feet from an adjacent lot line.
5. The structure shall be designed and operated in a fashion that noise levels are minimized and not objectionable to surrounding property owners.
6. All electrical wiring shall be underground.

### **D. Congregate Housing for the Elderly.**

1. Congregate Housing for the Elderly requires a Special Use Permit in the RM District.
2. All housing for the elderly shall be provided as a planned development consisting of at least one acre and may provide for the following:
  - a. Cottage type dwellings and/or apartment type dwelling units.

## CITY OF MARLETTE ZONING ORDINANCE

- b. Common services containing, but not limited to, central dining rooms, recreational rooms, central lounge, and workshops.
- c. All dwellings shall consist of at least three hundred fifty (350) square feet per unit (not including kitchen and sanitary facilities).
- d. The maximum extent of development shall not exceed fifteen (15) dwelling units per acre.
- e. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed thirty (30) percent of the total site exclusive of any dedicated public right-of-way.

### **E. Incinerators and Sanitary Landfills.**

1. Incinerators and Sanitary Landfills require a Special Use Permit in the M District.
2. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of the subsection are less than those in applicable state and federal statutes, the state and federal requirements shall prevail.
3. All uses shall be enclosed by a fence six (6') feet or more in height for the entire periphery of the property. Fences shall be adequate to prevent trespassing and contain debris.
4. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned so that they shall be in a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form.
5. The Planning Commission may establish routes for truck movement in and out of the development in order to minimize the wear on streets, to minimize traffic hazards and to prevent encroachment of traffic, or the byproducts of traffic (such as dust and noise) upon adjacent properties.
6. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, an individual or to the community in general.
7. No sanitary landfill shall create a water diversion hazard which would endanger adjacent areas, nor shall the landfill create any undesirable odors or any unsightly areas to adjacent properties and buildings.

### **F. Junkyards.**

1. Junkyards require a Special Use Permit in the M District.
2. The site shall be a minimum of twenty (20) acres in size.
3. A solid fence or wall at least eight (8) feet in height shall be provided around the entire periphery of the site to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted and otherwise finished neatly and inconspicuously.



## CITY OF MARLETTE ZONING ORDINANCE

4. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area.
5. All fenced-in areas shall be set back at least one hundred (100) feet from any front street or property line. Such front yard set back shall be planted with trees, grass and shrubs to minimize the appearance of the installation.
6. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
7. Whenever the installation abuts upon property within a residential or agricultural district, a transition strip at least one hundred (100) feet in width shall be provided between the fenced-in areas and the property within a residential or agricultural district. Such strip shall contain plant materials, grass and structural screens of a type approved by the Planning Commission to effectively minimize the appearance of the installation and to help confine odors therein.
8. Any other reasonable provisions necessary to meet the intent of the Zoning Ordinance.

### **G. Metal Plating, Buffering and Polishing.**

1. Metal Plating, Buffering and Polishing facilities require a Special Use Permit in the M District.
2. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.
3. No hazardous or toxic wastes, as defined by the Michigan Department of Environmental Quality (DEQ), may be deposited or stored.
4. Routes for truck movement to and from the site shall be identified by the County Road Commission. Wear on public roads, traffic hazards and encroachment of noise, dust and other nuisances upon adjacent land uses must be considered.
5. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
6. All operations shall be completely enclosed by a wire link fence not less than eight (8) feet in height.

### **H. Mini Storage Facilities**

1. Mini Storage facilities require a special use permit in the C District.

## CITY OF MARLETTE ZONING ORDINANCE

2. In order to provide for a walkable, vibrant, downtown shopping corridor, mini storage facilities shall not be located on Main Street.
3. All storage must be in an enclosed building.
4. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

### I. Office-Business Retail Uses.

1. Office-Business Retail Uses require a Special Use Permit in the RO District and shall include categories such as office supplies, office equipment sales and service, drafting supplies and similar activities.
2. The proposed use is located on a street or road designated as an arterial or collector in the community's comprehensive development or transportation plan.
3. The use does not include more than ten thousand (10,000) gross square feet of sales and service area.
4. The proposed use would not be located adjacent to an R-1 Residential District.
5. The proposed land use is designed, constructed, operated and maintained in harmony with adjacent land uses and zoning districts as demonstrated with a site plan.

### J. Open-Air Business.

1. In the case of sales of cut trees intended to be displayed during the Christmas season, a temporary permit shall be obtained from the Zoning Administrator which shall require that all Christmas trees as well as any poles, lights, wires, or other items incidental to this use shall be removed from the premises by December 31, and no trees shall be stored or displayed nearer the street than the front property line, furthermore, that off-street parking shall be provided in accordance with the regulations for open air business uses. The Zoning Administrator shall require a performance bond or other surety in an amount not to exceed the cost of removing all articles covered under the temporary permit. The performance bond will be given to City of Marlette prior to the issuance of the temporary permit.

### K. Outdoor Storage.

1. Outdoor Storage requires a Special Use Permit in the C District, and must relate to a function of the retail business.

That portion of the land used for open storage facilities for materials or equipment use in the manufacturing, compounding or processing shall be totally obscured by a wall on those sides abutting R-1, R-2, RM, RO Districts, and on any front yard abutting a public thoroughfare. In M Districts, the extent of such a wall may be determined by the Planning Commission on the basis of usage. Such a wall shall not be less than six feet (6) in height and may, depending upon land usage, be required to be eight (8) feet in height, and shall be subject further to the requirements of Chapter 3.

**L. Public Service Installations.**

1. Public Service Installations require a Special Use Permit in the RMH District.
2. All proposed utility distribution facilities accessory structures shall be located on a single parcel and shall be setback from abutting parcels and street lines a distance sufficient to substantially preserve the privacy of any adjoining residential properties.
3. Utility distribution facilities shall be located with a minimum setback from any property line equal to at least five hundred (500) feet and seven hundred fifty (750) feet from any structure. Accessory buildings shall comply with minimum setback requirements in the underlying zoning district.
4. A sign shall be conspicuously placed near the base of a utility distribution facility and it shall generally state that danger exists and that no access is permitted. No portion of any utility distribution facility or accessory building shall be used for a sign other than as stated or for any other advertising purpose, including but not limited to, company name, phone numbers, banners and streamers.
5. No noise shall be permitted to extend beyond the premises except at a level of no more than forty-five (45) d.b.a. for more than thirty (30) minutes in a twenty-four (24) hour period. The applicant shall fully disclose all noise options. Only the minimal amount of noise necessary shall be authorized. The Planning Commission will approve only the noise levels and scheme that it determines to be the least obtrusive to the affected properties.
6. No odor shall be permitted to extend beyond the premises.
7. Screening. Facades, fencing and/or screening shall screen portions of the facility and accessory buildings from nearby residential properties, as well as from public sites known to include important views or vistas.
8. Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made.

**M. Restaurants and Dining Establishments.**

1. Restaurants and Dining Establishments require a Special Use Permit in the RO District.
2. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts as required in Chapter 18.
3. Dancing or Night Club entertainment is prohibited.

**N. Sewage Treatment and Disposal Operations.**

1. Sewage Treatment and Disposal Operations require a Special Use Permit in the M District.

## CITY OF MARLETTE ZONING ORDINANCE

2. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
3. All operations shall be completely enclosed by a wire link fence not less than six (6) feet high.
4. All operations and structures shall be surrounded on all sides by a transition strip at least two hundred (200) feet in width within which grass, plant materials and structural screens shall be placed to minimize the appearance and odors of the installations. The Planning Commission shall approve all treatment of transition strips.

### **O. Shooting Clubs.**

1. Shooting Clubs require a Special Use Permit in the PRM District.
2. All participants must follow state hunting laws and license requirements.
3. Where not otherwise specified within this Ordinance, Shooting Club Facilities shall meet or exceed the design standards specified by the NRA Range Source Book.
4. Setbacks: Notwithstanding the performance standards of Article V the following setbacks shall apply.
  - a. Facilities must be designed so that any discharge of a bow within 150 feet from a property line shall be toward the interior of the parcel upon which the discharge is occurring.
  - b. Discharge of a bow and arrow is not allowed within 300 feet of a public park, public trail or public right-of-way or any land or building not owned by the landowner.
  - c. All shooting stations and targets must be located a minimum of three hundred (300) feet from any property line.
5. Shot Containment:
  - a. No ricochet zone is required.
  - b. An area extending to 300 yards or the maximum distance achievable with bows used on the facility is of primary importance for general purposes, using normal target and field archery equipment. Bows with more draw weights may require a larger containment area.
  - c. Each facility must be designed to contain the arrows or other projectiles, or any other debris at or within the shooting range facility.
6. Access to Shooting Range Facility: Access to the Shooting Range Facility and Shooting Range shall be secured and controlled, with ingress and egress permitted only during those operating hours.

## CITY OF MARLETTE ZONING ORDINANCE

7. Warning Signs: Warning signs meeting or exceeding the standards set forth in the NRA Range Source Book shall be posted at one hundred-foot intervals along the entire perimeter of the Shooting Range and along the entire perimeter of the property lines in the same intervals.
8. Hours of Operation: Shooting Range Facilities shall be allowed to operate between one hour after sunrise and one hour before sunset Monday through Saturday and from noon to an hour before sunset on Sundays.

### **P. Small Warehouse and Distribution Facilities.**

1. Small Warehouse and Distribution Facilities require a Special Use Permit in the C District.
2. The site is not adjacent to an existing residential zoning district.
3. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land use or zoning districts.

### **Q. Special Open Space Uses.**

1. Special Open Space Uses require a Special Use Permit in the PRM District and shall include campgrounds, expositions, day camps, nature centers and other similar uses.

### **R. Wireless Communication Facilities.**

1. Wireless Communication Facilities require a Special Use Permit in the PRM District.
2. **Qualifying Conditions.**
  - a. Communication Towers shall be restricted to self supporting structures. The use of guy wires is prohibited.
  - b. The base of the tower and accessory structures shall be enclosed with a minimum six (6) foot high fence.
3. **Special Performance Standards.**
  - a. The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by a report from a structural engineer registered in Michigan showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards, which tower shall be a self supporting lattice tower or a self supporting monopole. The applicant shall incur all costs associated with the review of such a report.
  - b. Towers shall be setback from property lines a minimum distance equal to its height when erected on a parcel that abuts other residentially zoned or used parcels. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty (30) feet.

## CITY OF MARLETTE ZONING ORDINANCE

- c. Accessory structures shall be designed to be aesthetically compatible with the adjoining properties. This may include the construction of a brick façade and a pitched roof.
- d. Accessory structures shall not exceed four hundred (400) square feet of gross building area per structure.
- e. All bufferyard requirements within the zoning ordinance shall be met.
- f. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- g. The plans of the tower construction shall be certified by a Michigan registered structural engineer.
- h. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- i. All towers must meet the standards of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC).
- j. Communication towers in excess of one hundred seventy-five (175) feet in height above grade level shall be prohibited within two (2) miles of a public airport property boundary or a one-half (½) mile radius of a helipad.
- k. Metal towers shall be constructed of, or treated with, corrosive-resistant material and shall be painted white or off-white. Applicant shall submit a maintenance program acceptable to the City of Marlette. The antenna shall be painted to match the exterior treatment of the tower.
- l. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- m. Towers with antenna shall be designed to withstand a uniform wind loading as prescribed in the current City Building Code.
- n. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and or structure, or between tower, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- o. Towers shall be located so that they do not interfere with reception in nearby residential areas.
- p. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.

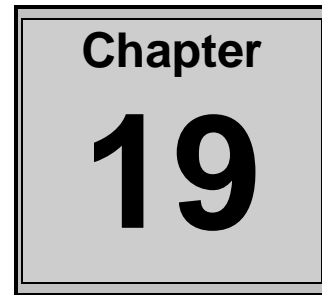
## CITY OF MARLETTE ZONING ORDINANCE

- q. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.
- r. The base of the tower shall occupy no more than five hundred (500) square feet.
- s. Minimum spacing between tower locations shall not be less than a 1½ mile radius to prevent a concentration of towers in one area. This shall include a distance of neighboring township towers.
- t. Height of the tower shall not exceed one hundred seventy-five (175) feet from grade within all applicable districts.
- u. Towers shall not be artificially lit unless required by the Federal Aviation Administration.
- v. Existing on-site vegetation shall be preserved to the maximum extent practical.
- w. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- x. The antenna shall be painted to match the exterior treatment of the Tower.
- y. All parking and drive areas must be paved as provided in this ordinance.
- z. The developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than ten (10) feet to any structure.
- aa. The tower and site compound shall be removed by the property owner or lessee within six months of being abandoned. The City will require an irrevocable \$10,000.00 performance bond to ensure its removal.
- bb. A conceptual plan must be submitted by the applicant which indicates the contemplated areas within the City that the communication provider may construct other towers.
- cc. Towers shall be designed to provide for co-location. If the applicant demonstrates that they cannot co-locate on an existing tower, applicant must provide documentation satisfactory to the City that co-location is not possible.
- dd. Subject to the conditions in this subsection the City may permit the location of Personal Wireless Communication Facilities on any City owned and occupied land.
- ee. The applicant shall submit a copy of a valid FCC license for the proposed activity, or proof that the applicant or carrier is the successful bidder for an FCC license at auction and that the final issuance of the FCC license purchased at auction is pending.

## CITY OF MARLETTE ZONING ORDINANCE

4. **Site and Development Requirements.** All communication towers shall satisfy the following site and development requirements:
  - a. A minimum site of one (1) acre with a minimum of one hundred fifty (150) feet of road frontage.
  - b. The base of the tower and wire cable support shall be fenced with a minimum six (6) feet high fence.
  - c. The use of guyed wires is strictly prohibited in all Districts.
  
5. **Special Performance Standards.** All communication towers shall satisfy and comply with the following special performance standards:
  - a. The tower must be set back from property lines a distance equal to its height, unless engineering plans and specifications have been verified by the City engineer that structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. No guyed wires are permitted. The applicant shall incur all costs associated with the City engineering review. In no case shall a tower be located within sixty (60) feet of a property line.
  - b. Accessory structures are limited to use associated with the operation of the tower and may not be located any closer than thirty (30) feet to any property line.
  - c. Accessory structures shall not exceed six hundred (600) square feet of gross building area. If co-location is used, one such accessory structure is allowed for each provider not exceeding five accessory structures.
  - d. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
  - e. All parking and drive areas must be, at a minimum, gravel surface, and must meet the requirements of Section 404.1.
  - f. Where the property adjoins any residentially zoned property or land use, the site shall be landscaped in accordance with the landscape requirements established by the Planning Commission. Existing mature tree growth and natural landforms on the site may be used in lieu of required landscaping where approved by the Planning Commission.
  - g. The property owner shall remove the tower within six (6) months of being abandoned. The communications tower shall be deemed abandoned if, for a continuous period of six (6) months, none of the antenna or other communication devices attached thereto are operational.





## Chapter 19: Administration

### SECTION 1901. GENERAL ADMINISTRATION.

The provisions of this Ordinance shall be administered by the Planning Commission, the Zoning Board of Appeals and the City Council in conformance with applicable State of Michigan enabling legislation.

A. **Responsibility.** The City Council shall employ a Zoning Administrator to act as its officer to effect proper and adequate administration of this Ordinance. The term of employment, compensation and any other conditions of employment shall be established by the City Council. For the purposes of this Ordinance, the Zoning Administrator shall have the necessary powers as granted by law.

B. **Duties of the Zoning Administrator.**

The City Council, with the recommendation of the Planning Commission, shall employ a Zoning Administrator to carry out the day-to-day administration and enforcement of this chapter.

1. The Zoning Administrator shall have the power to grant zoning compliance and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits for any excavation or construction until he has inspected such plans in detail and found them to conform with this Ordinance.
2. The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Section 301.
3. Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.
4. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

## CITY OF MARLETTE ZONING ORDINANCE

### C. Fees.

A fee shall be deposited with the City Treasurer at the time of filing application for any type of application necessary to enforce this Ordinance. The amount of such fees shall be established by the City Council and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance. Such fees may include, but are not limited to, all costs incurred by the City of Marlette in connection with the applicant's request including, but not limited to, necessary advertisements associated with conducting a public hearing or inspection, including newspaper notice, postage, photocopying, staff time, Planning Commission, Council or Zoning Board of Appeals time, mileage, investigations and any other costs associated with reviews by qualified professional planners or engineers.

1. **Escrow Fees.** The City of Marlette may require the deposit of fees to be held in escrow in the name of the applicant to cover the cost of professional services, including but not limited to engineering, zoning, planning, legal and other expenses connected with the review of submitted materials, the related hearing process and follow up thereto including costs incurred during any information review of a concept plan. Escrow may also cover the cost of site inspection services during construction.

Sums not utilized in the review process shall be returned to the applicant within a reasonable period of time after the issuance of a Certificate of Occupancy. If additional funds are deemed necessary, the applicant shall be notified of the required additional amount and shall add such sum to the account as required by the Planning Commission.

### SECTION 1902. ZONING PERMITS.

- A. **Zoning Permit Required.** The issuance of a zoning permit signifies compliance with the requirements of this chapter. A zoning permit must be obtained from the Zoning Administrator before any of the following activities may legally take place.

1. Occupancy and use of vacant land (including parking lot construction).
2. Any change in the use of a parcel of land or a building, including any construction or structural alteration of a building which requires issuance of a building permit by the County. (A zoning permit must be obtained before a building permit may be issued.) When erected at the same time as the principal building, accessory buildings shall not require a separate zoning permit.
3. Any use of land or a building which would be identified as a use by special use permit, district regulations, for the zoning district in which the parcel is located.
4. Any change of a nonconforming use or building.
5. Any excavation for, or construction of any fence.

- B. **Application For Zoning Permit.** Application for a zoning permit shall be made at least ten (10) days before construction of a new or enlarged building or structure, or a new or enlarged use of a parcel, is intended to begin. Form and content of the application package shall be as specified by the following material.

## CITY OF MARLETTE ZONING ORDINANCE

- C. **Application Form.** Applicants for a zoning permit shall submit a zoning application form with all requested information completely filled in.
- D. **Submission With Building Permit Application.** When a building permit is also required, application for a zoning permit may be made at the same time. If the City Building Inspector also acts as Zoning Administrator, the inspector may elect to accept information submitted for a building permit without duplicating it on the zoning application form.
- E. **Property Information.** The zoning application form must be accompanied by a copy of a property survey, deed or tax records sufficient to allow identification of the parcel on the City assessor's property maps. When the applicant is anyone other than the property owner identified by the assessor's records, evidence of the owner's concurrence or a change in ownership must also be submitted.
- F. **Plot Plan.** The zoning application form must also be accompanied by a plot plan drawn at size and scale sufficient to clearly identify the exact dimensions of the parcel, all abutting streets, alleys or easements, and the size, position and height of all existing and proposed buildings or structures thereon. The Zoning Administrator may also require any other information deemed necessary for the proper enforcement of this chapter.
- G. **Application Review Process.** On submission of an application for a zoning permit, the Zoning Administrator will review the application material as described by the review process table which accompanies this section. Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation. If all requirements have been met, the Zoning Administrator shall issue a zoning permit. When failure to meet any standard prohibits issuance of a permit, the problem shall be identified and the applicant advised of his or her options, based on the information in the review process table. In all cases, a full review shall be conducted to identify all potential obstacles to issuance of a zoning permit. The review will address each question identified by the review process table in order, moving through each column in the question from left to right.
- H. **Record Maintained.** The Zoning Administrator shall keep a record of each application for a zoning permit which has been submitted, including the disposition of each one. This record shall be a public record, open for inspection upon request.
- I. **Validity Of Zoning Permit.** A zoning permit remains in effect for a period of one year from the date it is issued. By that time, the activity authorized by the zoning permit must have begun. This means that any use of land or of an existing building must be underway, or a building permit for any new construction must have been issued and construction commenced. The validity of a zoning permit may be extended by the Zoning Administrator not more than one time, for a period not to exceed one additional year. Such extension must be requested in writing by the permit holder before the expiration of the initial permit period.
- J. **Voiding Of Zoning Permit.** If the permit holder fails to initiate the activity authorized by the zoning permit by the end of the one year extension, the zoning permit is automatically null and void. Any additional rights associated with the zoning permit which have been granted by the Planning Commission or the Zoning Board of Appeals, such as special use permits or variances, expire together with the zoning permit.

Any performance guarantee shall be refunded to the permit holder unless the failure to initiate activity has resulted in costs to the City which were to be covered by the guarantee.

## CITY OF MARLETTE ZONING ORDINANCE

If any amount of the guarantee remains after such costs are satisfied, the balance of the guarantee shall be released and returned to the permit holder.

Reissuance of a zoning permit which has expired requires a new zoning application form to be filed with the Zoning Administrator and processed without consideration of any previous action.

### SECTION 1903. NOTICE REQUIREMENTS FOR PUBLIC HEARINGS.

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act and the other provisions of this Section with regard to public notification.

A. **Responsibility.** When the provisions of this Ordinance 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 Marlette and mailed or delivered as provided in this Section.

B. **Content.** All mail, personal and newspaper notices for public hearings shall:

1. Describe nature of the request. Identify whether the request is for a rezoning, text amendment, special land 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 eleven (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. 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 provision of this Ordinance 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.

## CITY OF MARLETTE ZONING ORDINANCE

- b. Except for rezoning requests involving eleven (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 three hundred (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 Marlette. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The applicant shall provide the Zoning Administrator with a list of such persons along with the application.
  - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 1905.D.2., Registration to Receive Notice by Mail.
  - d. Other governmental units or infrastructure agencies within one mile of the property involved in the application.
2. **Notice by mail/affidavit.** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed and postage paid. The City Clerk 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 Zoning Act, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:
1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.
  2. Registration to Receive Notice by Mail.
    - a. 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 Section 1905.C.1.b., 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.
    - b. 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 bi-annually to continue to receive notification pursuant to this Section.

**SECTION 1904. CONDITIONAL REZONING.**

The City of Marlette will not require nor imply that conditional rezoning or zoning agreements are a necessity or a condition for approval.

- A. A request for conditional rezoning or a zoning agreement shall be submitted, in writing, to the Zoning Administrator, Chair of the Planning Commission and the City Manager. The request shall be required prior to any application for rezoning or appearance before the Planning Commission.
- B. Upon receipt of the request, the Zoning Administrator will prepare a memo to the Planning Commission and the City Council detailing that a request has been received, from whom and the area proposed for rezoning. The applicant will receive a copy. The Zoning Administrator and the City Manager will arrange for an informal meeting with the developer to discuss the specific request(s).

**C. Informal Review Process.**

- 1. An informal meeting will be held with the Zoning Administrator, City Manager and Chair of the Planning Commission, along with the proposed developer(s).
- 2. During the meeting the developer should be prepared to provide the following information, in writing:
  - a. The zoning district desired.
  - b. The specific use proposed.
  - c. A sketch of the proposed development (hand sketch is fine; no full site plan is required at this point).
  - d. Identification of particular items that might be necessary to mitigate the proposed rezoning and associated development.
- 3. From this meeting, the City will provide a follow-up letter to the developer, copied to the Planning Commission and City Council, which details the following:
  - a. The proposed use of the parcel and the desired zoning district.
  - b. A discussion of all related zoning requirements included within the existing zoning ordinance.
  - c. A discussion of potential items in addition to the typical zoning requirements, which may be necessary or desirable to mitigate the proposed rezoning, and associated development.

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- d. A proposed timeline for the process, identifying key dates for submittal, public hearings and tentative approval.
- e. An overview of the discussion, including any relative buffering or other such items which may be considered by the Planning Commission in terms of surrounding uses, intensity of surrounding uses and the purpose and intent of the zoning regulations and the adopted Master Plan and any other policy documents or guide so adopted by the City.

### D. Formal Review Process.

1. Using the proposed timeline as a guide, the developer(s) will submit all their required information, which for conditional rezoning or zoning agreement shall be:
  - a. A rough site plan done to such a level of detail that assures the basic arrangement of any structures and connection to required utilities.
  - b. An elevation of the proposed structure.
  - c. Conversely, if a developer so chooses, they may submit the full drawings and request a site plan approval concurrently.
  - d. The rezoning request must be submitted in accordance with the City's rezoning policy, Section 1909.

\* It is important to note that these items will be made part of the approval of the rezoning. Failure to complete the project as represented to the City at this point may result in a loss of the status of the conditional rezoning.
2. All public notifications, reviews and hearings will be scheduled and advertised as set forth in the Zoning Ordinance and as typically practiced in the City for the rezoning of land. If the proposed use requires a special land use permit, the special land use permit and hearing may be conducted concurrently if the site plans and appropriate documentation are provided.
3. The City Attorney will draft a zoning agreement for execution by the City and the developer.
4. Any and all conditions imposed as part of the conditional rezoning or zoning agreement process and proposed approval must meet the following criteria:
  - a. Conditions such as building appearance, landscaping, setbacks in an amount more than what is required; additional screening requirements, etc., shall be directly related to the proposed project and serve to mitigate any potentially deleterious effects on surrounding property owners or properties in general.
  - b. Conditions serving as additional performance standards, including but not limited to lighting, noise, traffic, etc., shall be directly related to the proposed project and development and should serve to mitigate any potentially deleterious effects on surrounding properties, the road network, and the general area.

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- c. Conditions limiting the specific use of the property are permitted, however, the Planning Commission and City Council should be mindful of being too specific. For example, limiting a use to a “professional office” may prevent the parcel from being used for something similar in intensity, yet different, such as a day care center or commercial or private school. Care should be taken to be specific in terms of standards and intensity and more flexible in terms of naming specific uses.
  - d. The Planning Commission will forward their recommendations to the City Council for consideration.
5. If the Planning Commission recommends, and the City Council approves, a conditional rezoning or zoning agreement request, the zoning designation will be noted on the zoning map as an overlay and the zoning will be referenced as a footnote on the map itself. The footnote will refer to the actual zoning case and the zoning approval and specific conditions.
  6. A final zoning agreement, drafted and reviewed by the City Attorney, will be executed. The developer shall be responsible for all costs associated with the drafting and executing of the zoning agreement. These costs shall be passed through from the City Attorney.
  7. The developer, the Chair of the Planning Commission and the City Clerk shall all sign the submitted documentation. A copy will be returned to the developer and the original shall stay with the City.
  8. A copy will be recorded at the Register of Deeds.

### **E. Enforcement.**

1. By approving the conditional rezoning or zoning agreement, the City grants rezoning and then, subsequently or concurrently, site plan approval. The specific conditions imposed and agreed to by the Developer and the City become part of the approval.
2. Should the developer not meet the conditions as specified, they will be considered in violation of the City Zoning Ordinance and will be pursued as such.
3. Any change to the conditions shall require a rezoning.
4. Should the developer not complete the proposed project within eighteen (18) months, the property shall revert to the previous zoning classification.
5. Should the developer abandon the specific use and it is vacant and/or abandoned for a period of eighteen (18) months, the parcel shall convert to its previous zoning classification.
6. A property that reverts from conditional rezoning will be considered a non-conforming use and subject to all applicable zoning regulations.



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7. Reversion of the subject property shall require:
  - a. The original developer, the current property owner (if different) and the occupant(s) of the property are to be notified of the pending reversion, by registered mail, by the City Clerk. The City Council and Planning Commission shall receive the same notice. The notice will provide a thirty (30) day period for which the developer/owner can seek an extension of the time frame or begin construction.

### SECTION 1905. ENFORCEMENT.

A. **Responsibility.** The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of the City as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

B. **Violation and Penalties.** Violations of any provisions of this Ordinance are declared to be a nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this Ordinance, and which are observed by or communicated to an official or employee, shall be reported to the Zoning Administrator.

1. **Public Nuisance Per Se.** Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
2. **Inspection of Violation.** The Zoning Administrator shall inspect each alleged violation he observes or is made aware of, and shall order, in writing, correction of all conditions found to be in violation of this Ordinance.
3. **Correction Period.** All violations shall be corrected within a period of not more than thirty (30) days after the order to correct is issued, except with specific approval, or in such longer period of time, not to exceed six (6) months, as the Zoning Administrator shall determine necessary and appropriate.
4. **Action by Zoning Administrator.** The Police Chief, or his or her designee, is hereby designated as the authorized City Official to issue Municipal civil infraction citations or Municipal civil infraction violation notices, as provided for in the City of Marlette ordinances.
5. **Penalties.** A person who violates any provision of this Zoning Ordinance is responsible for a Municipal civil infraction, subject to the payment of a civil fine as determined by resolution of the City Council, plus costs and other sanctions, for each infraction. Repeat offenses under this Zoning Ordinance shall be subject to increased fines as provided below. As used in this section, "repeat offense" means a second or any subsequent Municipal civil infraction violation of the same requirement or provision of this Zoning Ordinance committed by a person within any six-month period and for which the person admits responsibility or is determined to be responsible. The increased fine for repeat offenses under this Zoning Code shall be as follows:

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- I. The fine for any offense, which is a first repeat offense, shall be determined by resolution of the City Council, plus costs;
  - II. The fine for any offense, which is a second, repeat offense or any subsequent repeat offense shall be determined by resolution of the City Council, plus costs.
6. **Cumulative Rights and Remedies.** This Ordinance is enforceable by any action, legal or equitable, authorized by statute or court decision of this state and may be brought in the name of the City of Marlette in any court of competent jurisdiction. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

### SECTION 1906. AMENDMENTS AND CHANGES.

The City Council may from time-to-time, on recommendation from the Planning Commission, its own initiative or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein, pursuant to the authority and procedures in accordance with applicable zoning enabling legislation.

A. **Initiation of Amendments.** Proposals for amendments, supplements or changes may be initiated by the City Council, the Planning Commission or by petition of one (1) or more owners, option holders or their agents, of property to be affected by the proposed amendment.

#### B. Amendment Procedures.

1. **Petition for Amendments:** An amendment to the Zoning Ordinance which is the object of a petition shall be passed only by a majority vote of the City Council, unless a larger vote, but not to exceed three-fourths ( $\frac{3}{4}$ ) vote, if required by Ordinance or Charter. The protest petition shall be presented to the City council before final legislative action on the amendment, and shall be signed by one (1) of the following:
  - a. The owners of at least twenty (20) percent of the area of land included in the proposed change.
  - b. The owners of at least twenty (20) percent of the area of land included within an area extending outward one-hundred (100) feet from any point on the boundary of the land included in the proposed change.
  - c. For the purposes of this section publicly owned land shall be excluded in calculating the twenty (20) percent land area requirement.
2. **Recommendation.** The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of such proposal upon the Land Use Plan for the community. The Planning Commission may recommend any additional or modifications to the original amendment petition to the City of Marlette City Council.
3. **Public Hearing.** After deliberation on any proposal the Planning Commission shall conduct at least one (1) public hearing in accordance with Section 1903.

4. **City Council of the City of Marlette.** Upon receipt of the Planning Commission's recommendation the City Council shall review said recommendations. If the City Council deem that any amendments, changes, additions, or departures are advisable to the proposed Ordinance amendment as recommended by the Planning Commission, the City Council will notify the Planning Commission for a report thereon within a time specified by the City Council.

After receiving the proposed amendment recommendations heretofore specified, the City Council shall conduct a public hearing on the proposed amendment and may request the Planning Commission to attend such hearing. Thereafter, the City Council may deny, or adopt the amendment with or without any changes.

5. **Resubmittal.** No application for a rezoning which has been denied by the City of Marlette City Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions which, upon inspection by the City Council, are found to be valid.

#### **SECTION 1907. ZONING BOARD OF APPEALS.**

- A. **Establishment.** The City Council, exercising the authority of P.A. 110 of 2006, as amended, hereby provides that a City Zoning Board of Appeals (ZBA) be established in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. Upon adoption of this chapter, the ZBA established under the terms of the previous Zoning Ordinance shall remain in office, including all members thereof.
- B. **Membership.** The ZBA shall consist of five (5) members. One (1) of the regular members shall be a member of the Planning Commission. The remaining regular members, and any alternate members, shall be selected from the electors of the City of Marlette residing within the zoning jurisdiction of the City of Marlette. The members selected shall be representative of the population distribution and of the various interests present in the City of Marlette. One regular member may be a member of the City Council, but shall not serve as chairperson of the ZBA. An employee or contractor of the City may not serve as a member of the ZBA.
  1. The City may appoint not more than two (2) alternate members for the same term as regular members to the ZBA. An alternate member may be called as specified in the Zoning Ordinance to serve as a regular member of the ZBA in the absence of a regular member if regular member is absent from or will be unable to attend one (1) or more consecutive meetings of the ZBA. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the ZBA.
- C. **Terms of Office.** Terms shall be for three (3) years, except for members serving because of their membership on the Planning Commission, or City Council, whose terms shall be limited to the time they are members of the Planning Commission, or City Council, respectively, and whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1)

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month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

- D. **Meetings.** All meetings of the ZBA shall be held at the call of the chairperson and at other times as the Board, in its rules of procedure, may specify in accordance with the Zoning and Open Meetings Acts. The ZBA shall not conduct business unless a majority of the regular members of the ZBA are present. The Chair, or, in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
- E. **Rules of Procedure.** The ZBA shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The board shall annually choose its own chairperson, vice-chair and secretary.
- F. Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the City Clerk and shall be public record.
- G. **Majority Vote.** The concurring vote of a majority of the members of the ZBA shall be necessary to decide upon any issue brought before the board.
- H. **Conflict of Interest.** A member of the ZBA may be removed by the City Council for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- I. **Zoning Board of Appeals Decisions.** The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court.
- J. **Appeal.** An appeal may be taken to the ZBA by any person aggrieved, or by any order, requirement, decision or determination made by an administrative official charged with enforcement of this Ordinance. Such appeal shall be taken within such time as shall be prescribed by the ZBA by general rule, by filing with the Zoning Administrator and with the ZBA, a Notice of Appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board, all of the papers constituting the record upon which the action appealed from was taken.
- K. **Stay.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the ZBA after notice of appeal has been filed, that, by reason of facts stated in the certificate, a stay would, in their 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 ZBA or by a court of record.
- L. **Jurisdiction.** The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of the Ordinance, but does have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, exception or special approval permit, and to authorize a variance as defined in this section and laws of the State of Michigan. Said powers include:

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1. **Administrative Review.** The Zoning Board of Appeals is empowered to review, reverse and/or modify any order, decision, or determination made by an administrative official charged with enforcing or administering this Chapter. The Board is not empowered to overturn decisions of the Planning Commission regarding Special Use Permits or overturn the denial of a Site Plan in connection with any Special Use Permit proceedings. However, the Board may reverse Site Plan denials by the Zoning Administrator or the Planning Commission in other instances, subject to the rules outlined in Section 1910.M and the Site Plan Review standards.
  - a. **Requests for Administrative Review.** An administrative review by the ZBA may be requested by any person aggrieved, or by any officer, department or board of the local government. Any such request must be made in writing not more than ten (10) days after the date of the Zoning Administrator's decision. The request shall be filed with the Zoning Administrator and shall specify the grounds for the review. The Zoning Administrator shall immediately transmit to the ZBA Chairperson any papers constituting the record upon which the action being reviewed was taken.
  - b. **Public Hearing.** Upon receipt of a written request seeking an appeal of an administrative decision, the ZBA shall conduct a public hearing, with notice being given as specified in Section 1905.
2. **Variance.** The ZBA is empowered to authorize, upon an appeal, a variance from the strict application of the provisions of this Ordinance where, by reason of narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exception, topographic conditions or other conditions of such property, the strict application of the regulations enacted would result in practical difficulties to, or unnecessary hardship upon, the owner of such property provided such relief may be granted without detriment to the public good, and without impairing the intent and purpose of this Ordinance. In granting a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting or denying a variance, the Board shall state the grounds upon which it justifies the granting or denial of a variance.
3. **Interpretation.** The ZBA may interpret provisions of this Chapter as outlined below. Each such interpretation shall establish the precedent for future treatment of the issue being addressed. To achieve the objective of consistent enforcement of this chapter, whenever an interpretation question arises which has been addressed previously by the ZBA, the earlier interpretation shall apply without requiring further action by the Board. The Zoning Administrator shall keep a concise record of all interpretations made by the ZBA to facilitate such reference.
  - a. The Board may determine the precise location of the boundary lines between zoning districts.
  - b. The Board may classify any activity which is not specifically mentioned in the uses table in Chapter 6 for any zoning district as a use by right of special use within at least one zoning district, provided that such classification shall be consistent with the classification of similar uses and with the purpose and intent of each zoning district.

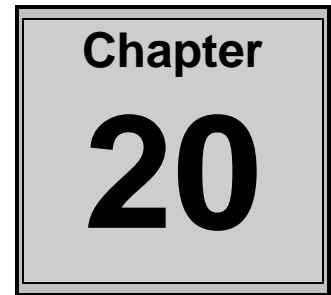
- c. The Board may interpret any portion of this chapter when the Zoning Administrator is unable to clearly determine its intent or effect.
- d. Upon written receipt of a written request seeking an interpretation of the zoning ordinance, the ZBA shall conduct a public hearing, with notice being given as specified in Section 1905.
- e. In consideration of all appeals and all proposed variations to this Ordinance, the Board shall, before making any variations from the Ordinance 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 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 of Marlette. Nothing herein contained shall be construed to give or grant to the Board, the power or authority to alter or change this Ordinance or the Zoning Map, such power and authority being reserved to the City of Marlette City Council, in the manner provided by law.

**M. Rules for Zoning Board of Appeals Actions.**

- 1. A public hearing must be held by the ZBA prior to making a decision on a Variance, Administrative Review or Interpretation which relates to a specific parcel. Mailed notice shall be given per the requirements of Section 1905.
- 2. Any decision by the ZBA must not be contrary to the public interest or to the intent and purpose of this Chapter.
- 3. In no way may a Variance or finding of an Administrative Review be construed to allow the establishment within a zoning district of any use which is not permitted by right or by special use permit within that zoning district. The ZBA may only expand the list of permitted uses for any zoning district as a result of an interpretation regarding a use that is not listed anywhere in the uses table in Chapter 6.
- 4. In making any decision, the ZBA must endeavor to avoid causing a substantial adverse effect upon property values in the immediate vicinity of the subject property. Nor shall such actions have the effect of substantially impacting property values for land in the zoning district in which the subject property is located.
- 5. Any action brought before the ZBA may relate only to a single parcel which must be under control of the applicant. If the applicant is not the owner of the property, evidence must be provided that the owner concurs with the request for zoning board of appeals action.
- 6. Approval by the ZBA of any request may not be granted simply to prevent an economic loss. Improving an owner's chance to profit from sale of a parcel is not an objective of this Chapter.

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7. Any request which has been denied wholly or in part by the ZBA may not be resubmitted for a period of one year from the date of the last denial. However, if new evidence or changed conditions are found, the board may elect to rehear a case, subject to all notice requirements defined by the actions table.
8. The ZBA may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this chapter. The breach of any such condition shall automatically invalidate any zoning permit granted pursuant to the ZBA action. When it attaches any conditions to the approval of a request, the ZBA may require that a bond of ample sum be furnished to ensure compliance with the conditions imposed. Such bond shall not exceed five thousand dollars (5,000).
9. A Variance approval may be necessary to overcome practical difficulties, for a “non-use” variance, or unnecessary hardships, for a “use” variance, which prevent carrying out the strict letter of this Chapter. These hardships or difficulties are to be evaluated in terms of the applicant's ability to physically locate a permitted use on the particular parcel of land, and the following:
  - a. That the need for the requested Variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic difficulty.
  - b. That the need for the requested variance is not the result of actions of the property owners or previous property owners (self-created).
  - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
  - d. That the requested Variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
  - e. That the requested Variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
10. The minutes of the ZBA meeting at which any decision was made regarding a Variance, Administrative Review or Interpretation shall include the grounds used by the board in making such decision, and any conditions that may have been attached to authorization for issuance of a zoning permit.
11. If the specific conditions relating to a certain class of property are so general or recurrent in nature as to make similar variances a perennial issue for the ZBA, the Board shall suggest a general regulation for such conditions for the Planning Commission's consideration.



## Chapter 20: Site Plan Review

### SECTION 2001. INTENT AND PURPOSE.

The purpose and intent of this Section is to determine compliance with the provisions and intent set forth in this Ordinance, to promote the orderly development of the City of Marlette and to prevent the development or alteration of land without proper attention to siting and appearance.

### SECTION 2002. SITE PLAN REVIEW.

Prior to the erection of any building or structure, or additions thereto, change in use in any zoning district, any land use requiring special approval and/or any planned unit development, a site plan shall be submitted for review and approval. This review and approval shall be performed by the Zoning Administrator or by the Planning Commission.

At no time shall a site plan be reviewed when considering a request for rezoning, other than a "conditional rezoning". A decision to rezone property should be based on the long-term goals and the Future Land Use as determined in the City of Marlette Master Plan. Also, it is important to consider the timeliness of the development and the long-term use of land.

A. **Administrative Site Plan Review by the Zoning Administrator.** The Zoning Administrator shall perform a Site Plan Review for:

1. A residential structure having four (4) or fewer dwelling units therein and accessory structures and uses;
2. A change in use of a structure or land that does not require additional parking and does not involve structural alterations;
3. An accessory building containing one-thousand (1,000) square feet or less;
4. An addition to an existing structure if the addition totals twenty-five (25) percent or less of the existing structure, and only if the addition will be surfaced with material(s) which do not differ from materials on the existing structure.
5. In order to perform Site Plan Review, the Zoning Administrator may require the submission of information set forth in this Section.



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6. The Zoning Administrator will transmit copies of the site plan to the departments as appropriate for review. Upon receiving recommendations from the different departments, the Zoning Administrator shall transmit the recommendations to the applicant, and if the applicant concurs with the staff recommendations, the site plan will be approved along with all the recommendations as agreed to by the applicant.
7. In instances where the applicant does not concur with recommendations or where the Zoning Administrator deems Planning Commission review necessary during the administrative site plan review, the applicant or the Zoning Administrator may request the site plan be transmitted to the City Planning Commission. The applicant will be required to pay the appropriate associated fee for Site Plan Review.

**B. Site Plan Review by the City Planning Commission.** All other structures and uses of land or buildings not covered in Section 2002.A. shall be reviewed by the City Planning Commission and the following site plan review procedures shall be followed:

1. **Application.** An application for Site Plan Review must be accompanied by a fee, as established by the City Council, and shall be submitted to the City Planning Commission. The application will not be reviewed until all requirements are met, including the payment of the required fee. The site plan presented for consideration shall contain all information required in this Ordinance.
  - a. Each submittal for Site Plan Review shall be accompanied by an application and site plan in the quantities specified in Section 2002.E. The application shall, at a minimum, include the following information:
    - i. **Identification.** The applicant's name, address and phone number in full and the name, address and phone number of the firm(s) responsible for preparation of the site plan must be included. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.
    - ii. **Property Information.** The site plan must accurately depict the subject property and land adjacent to and across any thoroughfare from, including all existing and proposed easements or right-of-ways. Zoning of the site and the adjacent properties, and the current use of the site and of adjacent properties, must be identified. A legal description and computation of the area of the property must accompany the site plan.
    - iii. **Project Information.** The Project title must be included on the plans. The plans must also include a project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.
    - iv. **Vicinity Map.** The project information must also include a vicinity map with northpoint indicated.
    - v. **Schedule.** Project completion schedule/development phases.

- vi. **Site Features.** The site plan should depict existing environmental conditions, including the location of wooded areas, isolated trees over six (6) inches in diameter, topography, wetlands, any existing structures, including any site contamination, including those proposed for removal, and other significant conditions that exist on the site. The approximate location and use of structures and the location of the nearest driveways on adjacent and opposing parcels should be shown.
- vii. **Transportation Features.** The site plan must show the location and surface type of all existing and proposed roads, access drives, internal vehicle circulation areas, all turning radii, parking lots (including number and location of handicapped parking spaces), sidewalks, loading areas or docks, truck bays and refuse pickup stations.
- viii. **Utilities.** The site plan must show the location and size of all existing and proposed public utilities. Waterline information shall include location of existing and proposed fire hydrants and valves. Sanitary sewer information shall include location of any pumping station and approximate location of manholes. Storm drainage information shall include any enclosed drains, flow restrictors and on-site retention. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television.
- ix. **Site Drainage and Grading.** The site plan must show the location of storm drains, invert elevations, proposed finish grades, drainage ditches, catch basins, manholes, flow restrictors and on-site retention. Existing topographic elevations and proposed grades, at a maximum of fifty (50) feet intervals sufficient to determine the direction of drainage flows.
- x. **Structures.** The site plan must show the location and dimensions, including height, of all proposed buildings, accessory structures and related features. Schematic plans and elevations of all structures must be included. The site plan should also show the location, arrangement, dimensions and type of proposed signs, lighting, landscaping, screening, fences and decorative walls. For multi-family housing developments, the number of units in each building must be identified.
- xi. **Supplementary Materials.** The site plan shall be accompanied by any additional information that, in the Zoning Administrator's discretion, is important for the Site Plan Review Process. Applicants shall be responsible for all costs of required supplementary materials. This could include, but is not limited to, written statements and/or engineering documentation that addresses project influences on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
- xii. **Scale.** The site plan must be drawn to a scale of not less than one-inch equals fifty feet (1" = 50') or less, showing the site and all land within one-hundred fifty (150) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified.

- xiii. Seal of the registered engineer, architect, landscape architect, surveyor or planner who prepared the plan.

**C. Site Plan Review And Approval Authorized.**

1. The Planning Commission as specified in this Section, shall review and approve, review and conditionally approve per Section 2002.G, or review and deny all site plans submitted under this Ordinance. Each site plan shall comply with the “Standards for Granting a Site Plan Approval” as described in subsection F of this Section. Each action taken with reference to site plan review shall be duly recorded in the official record of action in the minutes of the Planning Commission. Those site plans which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator or representative as to conformity or nonconformity with Ordinance requirements and what revisions or conditions, if any, would be necessary in order to be in conformance. Prior to any final decision, the Planning Commission may seek the recommendations of the City of Marlette, County Building Inspector, Public Works Department, Planning Consultant, Engineer, Fire Department, Police Department, the Sanilac County Road Commission, the Michigan Department of Transportation, and the Michigan Department of Natural Resources where applicable.
2. All site plans shall be acted upon within sixty (60) days of receipt by the City of Marlette Planning Commission of a complete application and site plan meeting the requirements of Section 2002.B. above. Following approval of the site plan, the petitioner shall apply for the appropriate City of Marlette, County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

**D. Procedures for Submission And Review Of Application.**

1. **Submission Requirement.** The applicant shall complete and submit the required number of copies of an application for Site Plan Approval, site plans, and other information where applicable. Compliance with the requirements of the Zoning Ordinance is mandatory. The applicant or his/her representative must be present at each scheduled review or the matter will be tabled. The procedure for processing major project site plans includes three phases: conceptual review via a preapplication conference, preliminary site plan review, and final site plan review.
2. **Preapplication Conference.** During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator, representative of the Planning Commission and other such City of Marlette representatives as appropriate. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Zoning Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

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3. **Preliminary Site Plan Review.** The second phase is called Preliminary Site Plan Approval. At this step a preliminary site plan meeting the submittal requirements of this Ordinance is reviewed by the Planning Commission, and the changes necessary, if any, for final site plan approval are indicated in writing to the applicant. A public hearing pursuant to the requirements of paragraph E.3. below is held.
4. **Final Site Plan Review.** Final Site Plan approval shall be by the Planning Commission if requested by the Applicant. The approving body or official shall indicate in writing that all requirements of the Ordinance including those of other reviewing agencies within the City of Marlette have been met including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

**E. Distribution Copies And Action Alternatives.** Where Site Plan Review is required by this Ordinance, an applicant for Site Plan Approval shall complete and submit the number of copies required below of a Site Plan Review Package which shall consist of a copy of the Site Plan Application and Checklist, Site Plan, and other information were applicable. The Application for Site Plan Review Package must be obtained from the Zoning Administrator. Application fees as found in the City of Marlette Fee Resolution must be paid when the application is submitted and sufficient escrow accounts must be established to cover the projected review costs. The applicant is asked to keep one copy for his/her records. The following Site Plan Review Packages shall be submitted for review at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission:

1. The original and twelve (12) copies for the City of Marlette Planning Commission and City Departments.
2. If required, the applicant shall take one additional copy of the Site Plan Review Package to the following agencies: one (1) package to the Sanilac County Road Commission; one (1) package to the Sanilac County Drain Commission; and one (1) package to the Sanilac County Health Department. Upon delivery of the site plan review package, the applicant shall obtain a receipt from the agencies as proof of delivery or a stamped, signed site plan indicating no comment. Comments from each agency, if any, should be returned to the Zoning Administrator. Without these copies, the site plan will not be processed.

An application for site plan review will be placed on the agenda of a meeting of the Planning Commission for discussion and action only after receipt of comments from the State, County, and/or City of Marlette agencies, unless the site plan has been in possession of the reviewing agencies for thirty (30) days without review and/or comment. The Planning Commission shall hold a public hearing in accordance with Section 1905.

3. The Planning Commission will consider all applications for site plan review submitted to it for approval, revision, or disapproval at a scheduled meeting:
  - a. Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated.

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- b. Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan to the Zoning Administrator.
    - c. If extensive revisions to the site plan are necessary to comply with the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's resolution.
4. When a site plan is reviewed and approved or disapproved by the Planning Commission and all steps completed, three (3) copies of the site plan, including any conditions of approval, will be marked by the Planning Commission for the following distribution:
  - a. One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission.
  - b. One (1) copy forwarded to the Zoning Administrator for filing.
5. Upon Final Site Plan Approval by the Planning Commission, a building permit may be obtained subject to review and approval of the engineering plans by the County.
6. Failure to initiate construction of an approved site plan within 365 days and annually thereafter of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After a hearing the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:
  - a. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;
  - b. Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;
  - c. A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;
  - d. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.
7. Thirty days prior to expiration of an approved site plan, an applicant may make application for a one-year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. The applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

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8. Revocation of an approved site plan shall be communicated in writing by certified mail to the applicant. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.
9. Any subsequent submittal shall be processed as a new request with new fees.

### F. Standards For Granting Site Plan Approval.

1. Each site plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:
  - a. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  - b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
  - c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
  - d. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein and adjacent thereto. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
  - e. All new buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides, unless approved by the Fire Marshall.
  - f. Every structure or dwelling unit shall have access to public street, walkway or other area dedicated to common use.
  - g. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
  - h. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural materials no less than six feet in height.
  - i. Exterior lighting shall be arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
  - j. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to

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the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Comprehensive Plan.

- k. All proposed improvements shall be developed per the City of Marlette Standard Plans and Specifications.

### G. **Conditional Approval.**

1. The Planning Commission may condition approval of a site plan on conformance with the standards of another local, county or state agency, such as but not limited to a Public Works Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions would:
  - a. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
  - b. Protect the natural environment and conserve natural resources and energy,
  - c. Insure compatibility with adjacent uses of land, and,
  - d. Promote the use of land in a socially and economically desirable manner.
2. The Planning Commission may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements and may collect a performance guarantee consistent with the requirements of Section 2002.I. to insure conformance. When so doing, the following finding shall be made and documented as part of the review process that:
  - a. Such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;
  - b. Absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light or similar benefits enjoyed by other properties in the area.

H. **Conformity To Approved Site Plan Required.** Following Final Approval of a site plan by the Planning Commission, the applicant shall construct the site plan in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of Section 1908.

I. **Performance Guarantee Required.** In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the City of Marlette and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission may require the applicant to deposit a performance guarantee for site improvements as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways,

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lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

1. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of site improvements to be made as determined by the applicant and verified by the City of Marlette Zoning Administrator.
2. Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the City Treasurer prior to the issuance of a building permit by the Building Inspector for the development and use of the land. Upon the deposit of the performance guarantee, the City of Marlette shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account for the applicant.
3. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
4. In the event the performance guarantee deposited is a cash deposit or certified check, the City of Marlette shall rebate to the applicant fifty (50) percent of the deposited funds plus any interest earned thereon when sixty (60) percent of the required improvements are completed as confirmed by the Building Inspector and the remaining fifty (50) percent of the deposited funds which one hundred (100) percent of the required improvements are completed as confirmed by the Building Inspector. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.
5. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the City of Marlette, the City of Marlette shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the City of Marlette to complete the improvements for which it was posted, the applicant shall be required to pay the City of Marlette the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the City of Marlette use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City of Marlette administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the City of Marlette to insure completion of an improvement associated with the proposed use prior to the City of Marlette conditional approval, the applicant shall not be required to deposit with the City of Marlette performance guarantee for that specific improvement and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the City of Marlette regarding the performance guarantee.



**J. Amendments To Approved Site Plans.**

1. Amendments to an approved site plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance and the land owner agrees. Minor changes to an approved site plan may be approved by the Zoning Administrator after construction has begun provided no such change results in any of the following:
  - a. A significant change in the use or character of the development.
  - b. An increase in overall coverage of structures.
  - c. A significant increase in the intensity of use.
  - d. A reduction in required open space.
  - e. A reduction in required off-street parking and loading.
  - f. A reduction in required pavement widths or utility pipe sizes.
  - g. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.
2. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he or she shall immediately notify the permit holder, the Building Inspector, and the Planning Commission in writing that site plan approval has been suspended pending approval by the Planning Commission, as applicable, of the proposed amendment. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order shall be issued by the Building Inspector for that portion of the project which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the Building Inspector, and the Planning Commission that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

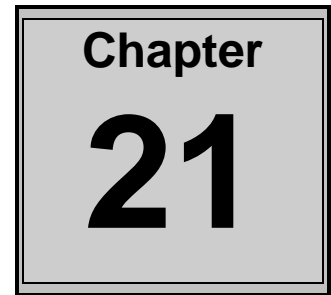
**K. Appeals of Final Site Plans.**

1. Any applicant aggrieved by a decision of the Planning Commission in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within thirty (30) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.
2. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The

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Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

- L. **Waiver.** Either on request of the applicant or on request of the Planning Commission, one or more of the requirements set out under Chapter 20, "Site Plan Review" may be waived on the ground that such requirement(s) is inappropriate, irrelevant, or unnecessary in connection with the matter at hand.



## Chapter 21: Planned Unit Development

### SECTION 2101. INTENT AND PURPOSE.

It is the purpose of this Section to encourage more imaginative and flexible developments that will encourage open space preservation, open space amenities, landscaping and a pedestrian-friendly environment. The Planned Unit Development (PUD) provision is intended to:

1. Allow flexibility of design on relatively large-scale parcels, which would not ordinarily be possible under conventional Zoning Ordinance regulations;
2. Achieve economies of design relating to vehicular and pedestrian circulation, utility extensions, dwelling units siting, etc.;
3. Encourage the preservation of desirable natural features including woodlots, streams, floodplains, and major open spaces; and
4. Allow a mix of land uses based on an approved comprehensive plan on a single site, including a variety of housing types and compatible commercial facilities and both open space and indoor recreational uses.

### SECTION 2102. APPLICATION OF PLANNED UNIT DEVELOPMENT PROVISION.

1. The provisions of this section shall apply only to a tract of land of ten (10) or more acres, located in the R-1, Single-Family District, which tract is under single ownership, and for which an application for a Planned Unit Development is made as hereinafter provided.
2. Notwithstanding the provisions of paragraph 2102.1, an application for a Planned Unit Development on a tract of land of less than ten (10), may be filed, but no tentative approval of such an application shall be granted by the Planning Commission unless Planning Commission shall find, upon a showing by the landowner, that the minimum area required in paragraph 2101.1 should be waived because a Planned Unit Development is in the public interest, and that one (1) or more of the following conditions exist:
  - a. Because of unusual physical features of the property itself or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise applicable is necessary or appropriate in order to conserve a physical or topographic feature of importance to the City;

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- b. The property has an historical character of importance to the community that will be protected by employing the Planned Unit Development provision;
- c. The property is adjacent to, or across a street from, property which has been developed or redeveloped as a Planned Unit Development and a Planned Unit Development will contribute to the maintenance of the amenities and values of the neighboring property; or
- d. The proposed project will not include multiple-family and commercial uses, but will be developed exclusively for single-family purposes, with twelve (12) percent of the gross project area to be reserved as accessible, usable common open space. In no instance shall such area reserved as common open space contain less than three (3) acres; nor shall any portion of such common open space area be utilized as sites for indoor recreation facilities.

### **SECTION 2103. STANDARDS AND CRITERIA.**

A plan that is consistent with the Statement of Intent for Planned Unit Development and the following general standards shall be deemed to have qualified for consideration as a Planned Unit Development.

A plan shall be consistent with the following general standards for the use of land, the use, type, bulk, design, and location of buildings, the density of use, common open space and public facilities requirements, and development of geographic divisions of the site:

1. The Planned Unit Development provision may be employed only when municipal sanitary sewers and water mains are provided to all appropriate segments of the proposed development.
2. The plan may provide for a variety of permanent housing types, such as single-family homes, apartments, townhouses and condominiums, but will not include Class B, single-wide mobile homes.
3. A parcel of land must contain a minimum of ten (10) acres, except as otherwise provided herein, and be located in an R-1 Single-Family District to be eligible to employ the Planned Unit Development provision.
4. The overall gross site densities may not exceed four and one-half (4.5) units per acre.
5. The overall unit type mix may include a maximum of thirty (30) percent multiple-family units.
6. The area and width of single-family lots may be reduced up to twenty (20) percent.
7. All single-family lots, regardless of the amount of area and width reduction employed, shall conform to the maximum structure height, minimum floor area per unit, and maximum percentage of lot area coverage requirements established in the district in which the PUD is located.

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8. All multiple-family projects, to be included as a part of the Planned Unit Development, shall conform to the development requirements established for multiple-family developments in the City Zoning Ordinance.
9. A minimum of two (2) on-site parking spaces shall be provided for each one-family or multiple-family dwelling unit.
10. Yard Requirements shall comply with the following:
  - a. Rear yards may be reduced to thirty (30) feet when such lots border on land dedicated for park, recreation, and/or open space purposes, provided that the width of said dedicated land shall not be less than one hundred (100) feet measured at the point at which it abuts the rear yard of the adjacent lot
  - b. Front yards may be reduced by ten (10) feet, but in no instance shall any front yard be less than twenty-five (25) feet.
  - c. Side yards may be reduced to eight (8) feet. At least sixteen (16) feet of combined side yards shall be provided between buildings.
11. All subdivisions developed as a part of a PUD shall be designed in accordance with the standards provided in this PUD Ordinance and as specified in the Subdivision Regulation Ordinance.
12. Each Planned Unit Development shall provide a minimum of twelve (12) percent of the gross project area as common open space, which space shall be readily accessible and available to occupants of those dwelling units for whose use the open space is intended. All common open spaces shall be of a size, configuration, function, and in a location satisfactory to the Planning Commission. Development phases shall be so designed as to provide a proportional amount of open space in each phase.
13. Both public and private nonresidential uses, of an educational, or recreational nature, including golf courses, tennis clubs, swim clubs, trails, etc., and necessary appurtenant facilities and structures, designed as an integral part of the overall development plan, may occupy appropriate portions of the site. The area occupied by such uses may be employed, at the discretion of the Planning Commission and City Council, to satisfy up to twenty-five (25) percent of the gross common open space requirements.
14. Common open spaces and open spaces employed as public and/or private recreational areas shall be maintained as such by deed restrictions, conveyances, dedications, or other such means as approved by the City of Marlette.
15. The developer shall establish a homeowner's association to which all residents of the PUD must belong and shall relinquish control of the platted common open space to the homeowners when eighty (80) percent of the homes included in the homeowners association area sold to the general public, or within three (3) years of the commencement of construction, whichever occurs first.
16. Commercial uses generally allowed in the C, Commercial District, together with such other uses deemed consistent with the overall development plan may occupy up to five (5) percent of the gross site area. Planned commercial sites are to be located at an

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intersection of two (2) major thoroughfares or a major thoroughfare and a collector street. The approval of commercial sites depend on the market potential of the area. Therefore, it is the burden of the landowner to submit sufficient evidence to justify the need for commercial development within a proposed PUD.

17. A minimum of twenty-five (25) percent of the total number of single-family units in any PUD must be constructed and ready for sale prior to the construction of any multiple-family or commercial portions of the project, except that site grading, roadway construction, and trunk utility installation relating to multiple-family and commercial portions of the project may be undertaken concurrent with single-family subdivisions and open space uses, either public or private, may be constructed and operated concurrent with single-family subdivisions,
18. The height of particular buildings shall not be a basis for denial or approval of a plan, provided any structures in excess of twenty-five (25) feet shall be designed and sited to be consistent with the reasonable enjoyment of neighboring property and the efficiency of existing public services.
19. The plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of such residential units, nonresidential uses and public facilities, and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the Planned Unit Development and are not inconsistent with the best interests of the entire City. Said covenants, easements, and other provisions, which are a part of the plan as finally approved, may be modified, enforced, removed, or released only in accordance with regulations and standards as may be subsequently set forth by the City Council.
20. The City Council, upon recommendation of the Planning Commission may approve phased development of the Planned Unit Development and, in such case, specify reasonable periods for the development of each phase.
21. Deviations from the number of dwelling units, per acre, established for the entire Planned Unit Development may be permitted within certain development phases as long as the number of dwelling units, per acre, authorized for the entire development is not affected.
22. The time span for completion of the entire development and commencement date for each section thereof may be modified from time-to-time by the City Council upon the showing of good cause by the landowner, provided that in no case shall any single extension of time exceed twelve (12) months.
23. The landowner shall make such easements, covenants and other arrangements, and shall furnish such performance bonds or bonds, as may be required, to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of said plan before completion.
24. All portions of the Planned Unit Development, including one-family lots, multiple-family projects, commercial areas, and public and private open spaces, shall be platted in conformance with the requirements of the State of Michigan Subdivision Control Act, P.A. 1968, as amended.

**SECTION 2104. PROCESSING PROCEDURES / EXHIBIT REQUIREMENTS.**

The City Council and Planning Commission may formulate administrative regulations regarding general procedures and form of application as may be desirable, provided that they are consistent with the following provisions.

Fees for the reviews of a Proposal for PUD Designation, Tentative Development Plan, or Final Development Plan shall be in accordance with the schedule of fees adopted by resolution of the City Council and amended from time-to-time.

1. **Processing Procedures.** The processing requirements for a Planned Unit Development shall meet the requirements and review standards for a Site Plan Review pursuant to Chapter 19 and the provisions of the State of Michigan Subdivision Control Act.