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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.01 PURPOSE.

The purpose of this section shall be to adopt the State Construction Codes which have adopted the International Code Council Codes as the codes in effect and administered in the City of Bangor. These codes include the 2003 codes titled as follows: International Building Code, Vol. 1 and 2; International Existing Buildings Code; International Fire Code; International Fuel Gas Code; International Mechanical Code; International Plumbing Code; International Property Maintenance Code; the International Electrical Code, and the International Residential Code, Vol. 1 and 2. These codes establish minimum regulations for construction and maintenance of new and existing buildings, residential structures and property within the City of Bangor that are essential to ensure safe and sanitary construction, occupation and maintenance of said structures and property.

(Ord. 199, passed 4-19-93; Am. Ord. 222, passed 3-3-97; Am. Ord. 275, passed 3-21-05)

§ 150.02 ELECTRIC CODE ADOPTED.

The *National Electric Code of 1996* as amended, as rules governing the installation, replacement, alteration, relocation and use of electrical systems or material shall be those rules contained in the National Electric Code, current edition as published by the National Fire Protection Association. The National Electric Code of 1996 as amended, is hereby incorporated by reference and is available from the National Fire Protection Association, Battermarch Park, Quincy, Mass. 02269, and also being on file in the office of the City Clerk.

(Ord. 201, passed 4-19-93; Am. Ord. 225, passed 3-3-97)

§ 150.03 CODES ADOPTED; AMENDMENTS.

(A) *Building and Property Maintenance Code Adopted, Amendments and Revisions Adopted.* The City of Bangor adopts the 2003 State Construction Codes which adopt the International Code Council (ICC) Codes known as the International Building Code, Vol. 1 and 2; International Existing Buildings Code; International Fire Code; International Fuel Gas Code; International Mechanical Code; International Plumbing Code; International Property Maintenance Code; and the International Residential Code, Vol. 1 and 2 pursuant to Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531. Future amendments and revisions when they are promulgated and effective are incorporated and adopted by reference.

(B) *References in Codes.*

(1) References in the codes (Section 101.1) to a "governmental unit" or "name of jurisdiction" shall mean the City of Bangor.

(2) References in the codes (Section 103.6, Section 106.6.2 and Section 1612.3) to a "schedule of fees and rates" for fees, permits, penalties, etc. shall mean those adopted from time to time by the City Council as per § 10.99 of the Codified Ordinances, Ordinance 252, Rates and Fees; Ordinance 257 Municipal Civil Infractions; and Ordinance 263, Weeds and Grasses.

(3) References in the codes (Section 303.14) to a "beginning and ending date" for screens to be in place and operable shall mean between May 1 and October 31.

(4) References in the codes (Section 602.3) to a "beginning and ending date" for maintaining a temperature shall mean between October 1 and April 30.

(5) References in the codes (Section 602.4) to a "beginning and ending date" for maintaining a temperature shall mean between October 1 and April 30.

(6) References in the codes (Section 1612.3) to a "date" of the FEMA Flood Insurance Map in effect in the city shall mean the date of latest map (1989).

(7) References in the codes (Section 3409.2) to a "date" of applicability of codes beginning with the first adoption of codes by the municipality shall mean October 23, 1961.

(8) References in the codes (303.2(1)) to a "design criteria" shall mean snow load - C3, basic wind speeds - 90; seismic design - B; weathering probability - severe; frost line depth - per building inspector; termite infestation - moderate to heavy; decay probability - slight to moderate; winter design temperature - 5; and flood hazard - FEMA FIRM 1989.

(9) References in the codes to "location" where a copy of the codes shall be available to viewing shall mean Bangor City Hall, 257 West Monroe Street, Bangor, MI, 49013 by arrangement with the Building Inspector and/or City Clerk.

(10) References in the codes to those authorized to enforce the codes shall mean those identified by the City Council as per §§ 11.01 through 11.07, Rates and Fees; §§ 12.01 through 12.07, Municipal Civil Infractions; and this chapter. These are generally identified as the person or persons holding title as the Building Inspector, the Mechanical Inspector, the Electrical Inspector, the Code Enforcement Officer, the Chief of Police and the City Manager.

(11) References to the Property Maintenance Code in brief means the Code:

(a) Provides for the maintenance of property, structures and equipment located in the city.

(b) Provides notice to owners, occupants or other responsible parties of violations and requirements to correct violations.

(c) Provides for the appointments and outlines the duties and responsibilities of enforcement officials.

(d) Authorizes closing of structures that are not fit for occupancy, the posting of notice of closing and prohibits occupancy of such structures.

(e) Authorizes the building inspector to take emergency action when there is a dangerous condition.

(f) Upon notice by the building inspector, requires owners or persons in control of unsafe or unsanitary structures to repair or remove the structure; allows the city to remove such structure in the event that the owner or person in control fails to do so; and authorizes the city to place a lien upon the property to recover costs of demolition.

(g) Designates a board of appeals and provides the procedures for an appeal of a decision or order of the building inspector.

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(h) Requires owners of property to maintain the exterior of such property:

1. In a safe, sanitary and clean condition;
2. Graded to prevent erosion or accumulation of water;
3. By keeping sidewalks in good repair;
4. Free of weeds or plant growth over eight inches in height;
5. By preventing discharge of smoke, odor or gases to adjacent properties;
6. In good repair, including exterior surfaces and structures;
7. By limiting or prohibiting unregistered vehicles;
8. By prohibiting outside storage of vehicles in disrepair;
9. By requiring display of house number;
10. By maintaining windows and screens, and doors in good repair and operable

condition.

11. Requires owners to maintain the interior of structures, including interior surfaces and structural members;

12. Requires owners and occupants to keep exteriors and interiors neat and clean, free of accumulation of garbage or rubbish, except in approved containers;

13. Requires owners and occupants to keep property free of rodents;

14. Requires adequate interior and exterior lighting by windows and and/or artificial lighting;

15. Requires adequate ventilation by windows or mechanical exhaust systems;

16. Provides for minimum dimensions of rooms in dwellings and lodging units, egress from bedrooms, accessibility to bathrooms and provides maximum numbers of occupants in a dwelling unit;

17. Requires owners to provide and maintain adequate plumbing, including required bathroom and drinking facilities for dwelling and lodging units;

18. Requires adequate sanitary water supply system for all plumbing fixtures and specifies location and operation of water heaters;

19. Requires all plumbing fixtures to be connected to public sanitary sewer or other approved private sewer system;

20. Prohibits storm drainage that creates a public nuisance;

21. Requires owners to install adequate mechanical facilities and maintain the facilities in good working order, including:

i. Heating facilities in dwelling and indoor spaces;

ii. Fireplaces and stoves

iii. Cooking facilities

22. Requires owners to maintain electrical systems in compliance with the specifications of the code and the state electrical code, free of hazards and requires laundry and bathroom receptacles to be grounded.

23. Requires owners to be responsible for fire safety by:

i. Providing and maintaining unobstructed and adequate means of egress/exit from any building.

ii. Providing and maintaining barriers to resist movement of smoke in certain circumstances.

iii. Providing and maintaining handrails for stairs with more than four steps and on porches or decks of greater than 30 inches above adjoining grade.

iv. Providing and maintaining proper signage of floor numbers and exits for certain buildings.

v. Providing and maintain an emergency exit from sleeping rooms.

vi. Prohibiting storage of combustibles, explosives or hazardous materials except in accordance with fire codes.

vii. Installing and maintaining required fire suppression systems.

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viii. Installing and maintaining fire doors and fire resistant materials as required.

ix. Installing and maintaining smoke detectors in sleeping areas in residences and group homes.

(C) *Copy available.* A complete copy of the codes are available to the public at the office of the Clerk for inspection.

(D) *Penalty.* The penalties provided by the codes are found in the codes as well as § 10.99. (Ord. 198, passed 4-19-93; Am. Ord. 221, passed 3-3-97; Am. Ord. 275, passed 3-21-05)

§ 150.04 ENFORCING AGENT FOR STATE CONSTRUCTION CODE ACT.

Pursuant to the provisions of Public Act 230 of 1972, § 9, being M.C.L.A. § 125.1509, the Building Inspector of the city is hereby designated as the enforcing agency to discharge the responsibilities of the city under Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531. The city hereby assumes responsibility for the administration and enforcement of said Act throughout its corporate limits. (Ord. 100, passed 11-12-74)

§ 150.05 HOUSING COMMISSION.

(A) Pursuant to Public Act 18 of 1933 (Extra Session), being M.C.L.A. §§ 125.651 et seq., a commission is hereby created in and for the city to be known as the "Bangor Housing Commission."

(B) The Mayor is hereby directed to appoint the members of the Housing Commission. (Ord. 80, passed 9-13-71)

§ 150.06 CONSTRUCTION OF FALL OUT SHELTERS.

(A) The building of fall out shelters and/or bomb shelters is determined to be in the public interest and welfare.

(B) All persons who build or construct fall out shelters or bomb shelters shall in the event of construction obtain a permit for same from the city and such permit shall be given free of charge provided the construction is approved by the Building Inspector.

(C) The Clerk shall transmit all information received regarding fall out shelters or bomb shelters, to the Director of Civil Defense within ten days from date received. (Ord. 47, passed 10-23-61)

§ 150.07 INTERNATIONAL MECHANICAL CODE ADOPTED.

(A) Certain documents, three copies of which are on file in the office of the City Clerk, being marked and designated as the *International Mechanical Code*, including Appendix Chapters [Appendix A and Appendix B], as published by the International Code Council, be and is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the city and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *International Mechanical Code, 1996 edition*, published by the International Code Council, on file in the office of the City Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this section.

(B) The following sections are hereby revised:

- (1) Section 101.1. Insert: City of Bangor.
- (2) Section 106.5.2. Insert: As set in Appendix B.
- (3) Section 106.5.3. Insert: 50% and 75%.
- (4) Section 108.4. Insert: Misdemeanor - \$500.00 - 90 days.
- (5) Section 108.5. Insert: \$50.00 and \$500.00
- (6) Chapter 16, Codes. Insert: BNBC-96 and BNFPC-96.

(C) The International Mechanical Code 1996 edition is hereby amended by adopting the 1997 Supplement, three copies of which are on file in the office of the City Clerk.
(Ord. 224, passed 3-3-97; Am. Ord. 231, passed 5-5-97)

(D) Pursuant to the provision of the Michigan Mechanical Code, in accordance with Section 9 of Act 230, P.A. 1972, as amended, the Mechanical Official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, P.A. 1972, as amended, State of Michigan. The city assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

(Ord. 223, passed 3-3-97; Am. Ord. 238, passed 10-19-98)

BUILDING AUTHORITY**§ 150.35 NAME.**

(A) The name of the authority shall be "Bangor Building Authority."

(B) The name of the unit incorporating the authority is the "City of Bangor."
(Ord. 152, passed 11-23-81)

§ 150.36 PURPOSE.

The purpose for which the Building Authority is incorporated is to provide for an authority to acquire, furnish, equip, own, improve, enlarge, operate, and/or maintain a building or buildings, automobile parking lots or structures, recreational facilities, stadium and the necessary site or sites therefor together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the city, to authorize the execution of contracts pertaining to such property and the use thereof, to provide for the issuance of revenue bonds by such authority, and to provide other powers, rights and duties of the authority, including those for the disposal of its property.

(Ord. 152, passed 11-23-81)

§ 150.37 NUMBER, TERMS AND APPOINTMENT.

The following shall be members of the Building Authority: The City Manager and City Assessor shall be ex-officio members. There shall be five other persons, residents of the city, appointed by the Mayor as follows: One of the members shall be appointed for a term of five years; one of the members shall be appointed for a term of four years; one of the members shall be appointed for a term of three years; one of the members shall be appointed for a term of two years; one of the members shall be appointed for a term of one year. Their successors shall be, in all cases, appointed for a term corresponding to the term of the member who is being replaced or succeeded, and all appointments to fill vacancies shall be for the unexpired term provided that the members of the City Council shall not be eligible for membership or appointment to the Bangor Building Authority Commission.

(Ord. 152, passed 11-23-81)

§ 150.38 COMPENSATION.

The members of the Building Authority shall receive no compensation for their services on the Authority. The Authority shall select one of its members as a Chairman and one as a Secretary to record the proceedings of its meetings.

(Ord. 152, passed 11-23-81)

§ 150.39 POWERS AND DUTIES.

(A) The Building Authority shall be a body corporate, with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incidental thereto. Enumeration of any powers shall not be construed as a limitation upon such general powers. The Building Authority and the city shall have power to enter into contract or contracts whereby the Authority will acquire property contemplated by the terms of its purpose and Public Act 31 of 1948 (First Extra Session), as amended, being M.C.L.A. §§ 123.951 through 123.964, and lease the same to the city for a period not to exceed 50 years. The consideration specified in such contract for such use shall be subject to increase by the Authority if necessary in order to provide funds to meet its obligations. Any rental obligation or consideration applicable to the city under such contract, shall not be considered as indebtedness of the city within the meaning of any statutory or charter debt limitation of the city. With the consent of the Authority as contained in the contract or otherwise secured, any incorporating unit or units to which the property is leased, may sublease the property or any part thereof to any one or more persons, firms or corporations or may contract for the use of the property or any part thereof by any one or more persons, firms or corporations, where the sublease or contract benefits and serves a legitimate public purpose of the sublessor. Any sublease or contract may extend for a period not to exceed 50 years and is not a franchise or grant within the meaning of any statutory or charter provision.

(B) The acquisition of any stadium with appurtenant properties and facilities by any authority and the contracting for the lease thereof by any incorporating unit or units, for the purpose of providing facilities for sports, recreational and other activities and events, with or without admission charges, and furnishing facilities for use or enjoyment by the public and to induce sports and entertainment organizations whether amateur or professional to utilize the facilities for games, contests, and other performances and attractions and thus to increase business activity and employment, constitutes a benefit to and a legitimate public purpose of the Authority and the city. Where any stadium with appurtenant properties and facilities is acquired by the Authority and leased to any incorporating unit or units, the subleasing thereof to, or the contracting for the use thereof by, any sports, entertainment or similar organization or any owner and, if necessary, the league or association to hold, conduct or produce games, contests and other performances and attractions in such stadium, with or without admission charges, constitutes a benefit to and a legitimate public purpose of the city.

(C) The Authority may acquire property by purchase, construction, leased gift, devise or condemnation, and for the purpose of condemnation it may proceed under the provisions of Public Act 149 of 1911, as now or hereafter amended, being M.C.L.A. §§ 213.21 through 213.41, or any other appropriate statute. The City Council by a majority vote of the members thereof may transfer any real property except cemetery owned by the city to the Building Authority established herein.

(D) For the purpose of acquiring, improving, and/or enlarging any such building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor together with appurtenant properties and facilities necessary or convenient for the effective use thereof, and furnishing and equipping the same, the Authority may issue self-liquidating revenue bonds in accordance with and subject to, the provisions of Public Act 94 of 1933, as now or hereafter

amended, being M.C.L.A. §§ 141.101 through 141.138, except that the bonds may be either serial bonds or term bonds or any combination thereof as shall be determined by the Authority. Such bonds shall be payable solely from the revenues of such property, which revenues shall be deemed to include payments made under any lease or other contract for the use of such property. Where and to the extent that the bonds are payable from revenues derived from payments to be made pursuant to any lease or other contract obligations, the bonds shall be deemed to be issued in anticipation of contract obligations and such obligations shall be deemed to be contract obligations in anticipation of which bonds are issued, within the meaning of Section 6 or Article 9 of the constitution. No such bonds shall be issued unless the property whose revenues are pledged has been leased by the Authority for a period extending beyond the last maturity of the bonds. For the purposes of Section 33 of said Act, being M.C.L.A. § 141.133, the limits of the authority shall be deemed to coincide with those of the city. If a sufficient referendum petition shall be filed as provided in the section requesting a referendum upon the question of the issuance of revenue bonds by the Authority then such question may be submitted by the Commission of the Authority at any general or special election to be held within the city. All property owned by the Authority shall be exempt from taxation by the state or any taxing unit therein. When all bonds issued pursuant to the provisions of this subchapter shall have been retired, then the Authority shall convey the title to the property acquired hereunder to the city in accordance with the provisions therefor contained in the Articles of Incorporation or, if there be no such provisions, then in accordance with the directions of the City Council, or according to any agreement adopted by the respective governing body of the incorporating unit or units. The powers herein granted shall be in addition to those granted by any statute or charter.
(Ord. 152, passed 11-23-81)

§ 150.40 AMENDMENT TO ARTICLES OF INCORPORATION.

(A) Amendments may be made to the Articles of Incorporation if adopted by the City Council, provided, that no such amendment shall impair the obligations of any bonds or other contract.

(B) Each amendment shall be adopted, executed and published, and certified, printed copies filed in the same manner as provided in Public Act 31 of 1948 (First Extra Session), as amended, being M.C.L.A. §§ 123.951 through 123.964.

(C) The Authority shall adopt by-laws to govern the conduct of its business. The by-laws may be amended from time to time by the Authority.
(Ord. 152, passed 11-23-81)

CHAPTER 151: DOWNTOWN DEVELOPMENT

Section

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Downtown Development Authority

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TAX INCREMENT FINANCING AND DEVELOPMENT PLAN**§ 151.01 FINDINGS.**

(A) The development plan included in the Tax Increment Financing and Development Plan meets the requirements set forth in Public Act 197 of 1975, § 17(2), being M.C.L.A. § 125.1667(2), and the tax increment financing plan meets the requirements set forth in Public Act 197 of 1975, § 14(2), being M.C.L.A. § 125.1664(2).

(B) The proposed method of financing the development is feasible and the Downtown Development Authority has the ability to arrange the financing.

(C) The development is reasonable and necessary to carry out the purposes of Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.

(D) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the Act in an efficient and economically satisfactory manner.

(E) The development plan is in reasonable accord with the master plan of the city.

(F) Public services, such as fire and police protection and utilities, are or will be adequate to service the development area.

(G) Changes in zoning, streets, street levels, intersections, and utilities, to the extent required by the plan, are reasonably necessary for the project and for the city.
(Ord. 191, passed 7-23-90)

§ 151.02 PUBLIC PURPOSE.

The City Council hereby determines that the plan constitutes a public purpose. The City Council hereby determines that it is in the best interests of the public to halt property value deterioration, increase property tax valuation, eliminate the causes of the deterioration in property values, and to promote growth in the Downtown District to proceed with the plan.
(Ord. 191, passed 7-23-90)

§ 151.03 APPROVAL AND ADOPTION OF PLAN.

The plan, as revised to provide for the development area, that is identical with the D.D.A. district, (description as revised will be identical to the D.D.A. district), a copy of which is on file with the City Clerk and on which she shall note the date of approval by this chapter, is hereby approved and adopted. The duration of the plan shall be as provided in the plan, except as it may be extended by

subsequent amendment of the plan pursuant to Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680. A copy of the plan and all amendments thereto shall be maintained on file in the City Clerk's office.

(Ord. 191, passed 7-23-90)

§ 151.04 PREPARATION OF ASSESSMENT ROLLS.

(A) Within 60 days of the publication of Ordinance 191, the City Assessor shall prepare the initial base year assessment roll. The base year assessment roll shall list each taxing jurisdiction in the Development Area of the Downtown District on the effective date of Ordinance 191, the initial assessed value of each parcel of property within the Development Area, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the Authority jurisdiction.

(B) The City Assessor shall transmit copies of the base year assessment roll to the City Treasurer, County Treasurer, the Authority and each taxing jurisdiction, together with a notice that the base year assessment roll had been prepared in accordance with this subchapter and the tax increment financing plan contained in the plan approved by this subchapter.

(C) Each year within 15 days following the final equalization of property in the Downtown District, the City Assessor shall prepare the tax increment assessment roll. The tax increment assessment roll shall show the information required in the base year assessment roll and, in addition, the amount by which the current assessed value as finally equalized for all taxable property in the Downtown District exceeds the assessed value of the property as shown on the base year assessment roll (the "captured assessed value.") Copies of the annual tax increment assessment roll shall be transmitted by the Assessor to the same persons as the base year assessment roll, together with a notice that it has been prepared in accordance with this subchapter and the plan.

(Ord. 191, passed 7-23-90)

§ 151.05 ESTABLISHMENT OF PROJECT FUND.

The Treasurer of the Authority shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the Treasurer of the City, to be designated Downtown Development Authority Project Fund. All moneys received by the Authority pursuant to the plan shall be deposited in the project fund. All moneys in the project fund and earnings thereon shall be used only in accordance with the plan.

(Ord. 191, passed 7-23-90)

§ 151.06 PAYMENT OF TAX INCREMENTS TO AUTHORITY.

The City Treasurer and the County Treasurer shall, as ad valorem taxes are collected on the property in the Downtown District, pay that proportion of the taxes, except for penalties and collection

fees, that the captured assessed value bears to the initial assessed value to the Treasurer of the Authority for deposit in the project fund. The payments shall be made on the date or dates on which the City Treasurer and the County Treasurer are required to remit taxes to each of the taxing jurisdictions.

(Ord. 191, passed 7-23-90)

§ 151.07 USE OF MONEY IN PROJECT FUND.

The moneys credited to the project fund and on hand therein from time to time shall be used annually in the following manner and following order of priority:

(A) First, to pay into the debt retirement fund, or funds for all outstanding series of bonds issued pursuant to the plan an amount equal to the interest and principal coming due (in the case of principal whether by maturity or mandatory redemption) prior to the next collection of taxes, less any credit for sums on hand in the debt retirement fund.

(B) Second, to establish a reserve account for payment of principal of and interest on bonds issued pursuant to the plan to the extent required by any resolution authorizing bonds.

(C) Third, to pay the administrative, auditing and operating costs of the Authority and the city pertaining to the Downtown District, including planning and promotion, to the extent provided in the annual budget of the Authority.

(D) Fourth, to repay amounts advanced by the city for project costs, including costs of preliminary plans, and fees for other professional services.

(E) Fifth, to pay the cost of completing the remaining public improvements as set forth in the Development Plan to the extent those costs are not financed from other sources.

(Ord. 191, passed 7-23-90)

§ 151.08 ANNUAL REPORT.

Within 90 days after the end of each fiscal year, the Authority shall submit to the City Council, with copies to each taxing jurisdiction, a report on the status of the project fund. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the amount of principal and interest on any outstanding indebtedness, the amount in any bond reserve account, the initial assessed value of the Downtown District, the captured assessed value of the Downtown District and the amount of captured assessed value retained by the Authority, the tax increments received and the amount of any surplus from the prior year, and any additional information requested by the City Council or deemed appropriate by the Authority. The Secretary of the Authority

shall cause a copy of the report to be published once in full in a newspaper of general circulation in the city.

(Ord. 191, passed 7-23-90)

§ 151.09 REFUND OF SURPLUS TAX INCREMENTS.

Any surplus money in the project fund at the end of a year, as shown by the annual report of the Authority, shall be paid by the Authority to the City Treasurer or the County Treasurer, as shown by the annual report of the Authority, as the case may be, and rebated by each to the appropriate taxing jurisdiction.

(Ord. 191, passed 7-23-90)

DOWNTOWN DEVELOPMENT AUTHORITY

§ 151.20 CREATION OF AUTHORITY; ARTICLES OF INCORPORATION.

The Articles of Incorporation are signed and acknowledged by the city for the purpose of forming a corporation for the purposes of operating a Downtown Development Authority for the city pursuant to the provisions of Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.

(Ord. 133, passed - -79)

§ 151.21 NAME.

The name of the corporation is the Downtown Development Authority of the City of Bangor.

(Ord. 133, passed - -79)

§ 151.22 PURPOSE.

The corporation is organized with reference to Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680. Its purpose will be to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; and to authorize the use of tax increment financing and to accomplish the foregoing by the following means:

- (A) Prepare an analysis of economic changes taking place in the downtown district.

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(B) Study and analyze the impact of metropolitan growth upon the downtown district.

(C) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, reservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the economic growth of the downtown district.

(D) Develop long range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(E) Implement any plan of development in the downtown district necessary to achieve the purposes of this subchapter, in accordance with the powers of the Authority as granted by this subchapter.

(F) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(G) Acquire by purchase or otherwise, on terms and conditions and in a manner the Authority deems proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which the authority determines is reasonably necessary to achieve the purposes of this subchapter, and to grant or acquire licenses, easements, and options with respect thereto.

(H) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances thereto, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(I) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the Authority.

(J) Lease any building or property under its control, or any part thereof.

(K) Accept grants and donations of property, labor, or other things of value from a public or private source.

(L) Acquire and construct public facilities.

(M) Provide financial assistance, advisory services and reimbursement of certain expenses to persons displaced from real property or deprived of certain rights in real property pursuant to Public Act 227 of 1972, being M.C.L.A. §§ 213.321 through 213.332.

(N) To receive property taken by the city under its power of eminent domain for use in an approved development on terms and conditions that it deems appropriate and as necessary for public purposes and for the benefit of the public.

(O) The activities of the Authority shall be financed from one or more of the following sources:

- (1) Donations to the Authority for the performance of its functions.
- (2) Proceeds of a tax imposed and funds received from tax anticipation notes.
- (3) Moneys borrowed and to be repaid as authorized.

(4) Revenues from any property, building, or facility owned, leased, licensed, or operated by the Authority or under its control, subject to the limitations imposed upon the Authority by trusts or other agreements.

(5) Proceeds of a tax increment financing plan, established pursuant to Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.

(P) The Authority with the approval of the City Council may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than 2 mills. The tax shall be collected by the city. The city shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the City Treasurer and credited to the general fund of the Authority for purposes of financing only the operation of the Authority. The city may at the request of the Authority, borrow money and issue its notes therefor pursuant to Public Act 202 of 1943, as amended, being M.C.L.A. §§ 131.1 et seq., in anticipation of collection of the ad valorem tax authorized in this section.

(Q) The Authority may borrow money and issue its negotiable revenue bonds therefor pursuant to Public Act 94 of 1933, as amended, being M.C.L.A. §§ 141.101 through 141.138. Revenue bonds issued by the Authority shall not, except as hereinafter provided, be deemed a debt of the municipality or the state. The city by majority vote of the members of City Council may pledge its full faith and credit to support the Authority's revenue bonds.

(R) When the Authority determines that it is necessary for the achievement of its purposes, the Authority shall prepare and submit a tax increment financing plan to the City Council. The plan shall be pursuant to Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.

(S) The city may by resolution of City Council authorize, issue and sell general obligation bonds subject to the limitations herein set forth to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the repayment of the bonds. The bonds shall mature in not more than 30 years and shall be subject to Act No. 202 of the Public Acts of 1943, as amended, and Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.

(T) Carry on any activity for the purpose above stated, either directly or as agent for or with public authorities, or in whole or in part through or by means of public authorities, individuals, corporations or other organizations.

(U) In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon a corporation organized pursuant to Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.

(Ord. 133, passed - -79)

§ 151.23 DIRECTORS AND MANAGEMENT.

The business and affairs of the Corporation shall be under the supervision and control of a Board of Directors except as otherwise provided by statute, by the Articles of Incorporation or by the by-laws.

(A) The Board of Directors of the Downtown Development Authority (Board) shall consist of nine members. These members shall be the Mayor or the Mayor's designee as long as that person is a qualified elector residing in the City of Bangor, one member of the City Council and seven other persons appointed by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists. If the Mayor chooses to appoint a designee in his or her place, that designee shall serve in a non-voting capacity. At least five of the members shall be persons having an interest in property within the Downtown Development Authority district. One member shall be a resident of the district if the district has 100 or more residents. Employees of the City of Bangor may be appointed as resource persons adding background and technical information but shall have no vote in matters before the Board. All members of the Board shall serve without compensation. The Mayor nor the Council member who serve on the Board shall not be compensated for their service even though they may be compensated for their service as Mayor or as a Council member. Except for the Mayor's designee and employees of the city, all members shall have the full rights of membership on the Board and may move, support or otherwise vote on all motions and matters before the Board. The Mayor shall serve for the term for which he was elected Mayor. The Mayor's designee shall terminate with the term of the Mayor selecting him or her. The term of the Council member appointed as a member of the Board shall terminate with the term to which he or she was elected. The term of other members shall be for designated terms of four years or until his or her replacements are appointed. Members of the first Board of Directors shall be appointed for staggering terms with two being appointed for one year, two being appointed for two years, two being appointed for three years, and the remaining members appointed for four years. Members of the Board of Directors, except for the Mayor and the Council member appointed to serve on the Board may be removed in accordance with Ordinance 258 - Ethical Standards of Conduct (codified herein as Chapter 36) or for violations of the City Charter. Vacancies occurring otherwise than through expiration of term shall be filled for the unexpired term by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists.

(B) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(C) The Board shall adopt rules governing its procedure and the holding of regular meetings may be held when called in the manner provided in the rules of the Board. Meetings of the Board shall be open to the public.

(D) Pursuant to notice and an opportunity to be heard, a member of the Board may be removed for cause by the City Council. Removal of a member is subject to review by the circuit court.

(E) All expense items of the Authority shall be publicized monthly and the financial records shall always be open to the public.

(F) A director who has a direct interest in any matter before the Corporation shall disclose his interest prior to the Corporation taking any action with respect to the matter, which disclosure shall become a part of the record of the Corporation's official proceedings and the interested director shall further refrain from participation in the corporation's proceedings relating to the matter.
(Ord. 133, passed - -79; Am. Ord. 185, passed 2-13-89; Am. Ord. 269, passed 6-21-04)

§ 151.24 OFFICERS.

(A) The officers of the Corporation shall consist of a Director, Secretary and Treasurer.

(B) The Board may employ and fix the compensation of a Director, subject to approval of the City Council. The Director shall serve at the pleasure of the Board. A member of the Board is not eligible to hold the position of Director. Before entering upon the duties of his office, the Director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the penal sum determined in the ordinance establishing the authority payable to the Authority for use and benefit of the Authority, approved by the Board and filed with the City Clerk. The premium on the bond shall be deemed an operating expense of the Authority, payable from funds available to the Authority for expenses of operation. The Director shall be the Chief Executive Officer of the Authority. Subject to the approval of the Board, the Director shall supervise, and be responsible for, the preparation of plans and the performance of the functions of the Authority in the manner authorized by this subchapter. The Director shall attend the meetings of the Board, and shall render to the Board and to the City Council a regular report covering the activities and financial condition of the Authority. If the Director is absent or disabled, the Board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of his office, the acting director shall take and subscribe to the oath, and furnish bond, as required of the Director. The Director shall furnish the Board with information or reports governing the operation of the Authority as the Board requires.

(C) The Board may employ and fix the compensation of a Treasurer, who shall keep the financial records of the Authority and who, together with the Director, shall approve all vouchers for the expenditure of funds of the Authority. The Treasurer shall perform such other duties as may be delegated by the Board and shall furnish bond in an amount as prescribed by the Board.

(D) The Board may employ and fix the compensation of a Secretary, who shall maintain custody of the official seal of records, books, documents, or other papers not required to be maintained by the

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Treasurer. The Secretary shall attend meetings of the Board and keep a record of its proceedings, and shall perform such other duties delegated by the Board.

(E) The Board may retain legal counsel to advise the Board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the Authority.

(F) The Board may employ other personnel deemed necessary by the Board.
(Ord. 133, passed - -79)

§ 151.25 OFFICE.

Location of the first registered office is:

City Hall
257 West Monroe Street
Bangor, Michigan
(Ord. 133, passed - -79)

§ 151.26 AGENT.

The first resident agent is the City Manager.
(Ord. 133, passed - -79)

§ 151.27 ASSETS AND FINANCING.

The corporation will be financed from donations, gifts, grants and devises, either solicited or unsolicited obtained from public authorities, individuals, corporations and other organizations, by earnings from its activities, borrowings and issuance of its bonds.
(Ord. 133, passed - -79)

§ 151.28 EFFECTIVE DATE.

The corporation shall become effective 30 days after adoption of an ordinance by the City Council authorizing this incorporation, its publication and its final approval as provided by law. The terms of the corporation existence are perpetual.
(Ord. 133, passed - -79)

§ 151.29 EARNINGS; DISSOLUTION.

(A) No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, officer or director of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes) and no member, trustee, officer or director of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets or dissolution of the corporation. No part of the earnings shall be used for, nor shall the corporation engage in the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

(B) Upon dissolution of the corporation or the winding up of its affairs, all property and assets of the corporation shall be distributed exclusively to the city or its successor.
(Ord. 133, passed - -79)

§ 151.30 PUBLICATION.

The Articles of Incorporation shall be published in the Bangor Advance in accordance with the provisions of Public Act 197 of 1975, as amended, being M.C.L.A. §§ 125.1651 through 125.1680.
(Ord. 133, passed - -79)

§ 151.31 BY-LAWS.

The initial by-laws of the Corporation shall be adopted by its Board of Directors by majority vote, and approved by the City Council by ordinance. The Board may amend or repeal by-laws or adopt new by-laws subject to the approval of the City Council by ordinance. The by-laws are subject to the approval of the City Council by ordinance. The by-laws may contain any provision for the regulation and management of the affairs of the Corporation not inconsistent with law or the Articles of Incorporation.
(Ord. 133, passed - -79)

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CHAPTER 152: PLANNING

Section

Master Plan; Subdivisions

- 152.01 Duty of Planning Commission to adopt Master Plan
- 152.02 Surveys and studies
- 152.03 Adoption of plan; hearing
- 152.04 Approval of Planning Commission for development
- 152.05 Public works projects to be referred to Planning Commission
- 152.06 Publicity and education
- 152.07 Plats to be filed with Planning Commission; adoption of subdivision regulations
- 152.08 Planning Commission to approve, modify or disapprove plats

Planning Commission

- 152.20 Creation
- 152.21 Members
- 152.22 Officers, meetings and rules
- 152.23 Employees and consultants
- 152.24 Planning Commission to have powers of Zoning Commission

MASTER PLAN; SUBDIVISIONS

§ 152.01 DUTY OF PLANNING COMMISSION TO ADOPT MASTER PLAN.

It shall be the function and duty of the Planning Commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the Commission's judgement, bear relation to the planning of such municipality. Such plan, with the accompanying maps, plats, charts, and descriptive matter shall show the Commission's recommendations for the development of the territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, water fronts, boulevards, parkways, play grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and

other purposes; also the removal, relocation, widening, narrowing, vacating abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; (the general location, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas) as well as a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. As the work of making the whole master plan progresses, the Commission may from time to time adopt and publish a part or parts thereof, any such part to cover one or more major sections or divisions of the municipality or one or more of the aforesaid or other functional matters to be included in the plan. The Commission may from time to time amend, extend, or add to the plan.

(Ord. 46, passed 1-9-61)

§ 152.02 SURVEYS AND STUDIES.

In the preparation of such plan the Planning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

(Ord. 46, passed 1-9-61)

§ 152.03 ADOPTION OF PLAN; HEARING.

The Planning Commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the municipality or with functional subdivision of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given, not less than 15 days prior to such hearing, by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality, and by registered United States mail to each public utility company and to each railroad within the geographical sections or divisions of the municipality. The adoption of the plan or any such part or amendment or extension or addition shall be by resolution of the Commission carried by the affirmative votes of not less than six members of the Commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the Commission to form the whole or part of the plan, and the action taken shall be

recorded on the map and plan and descriptive matter by the identifying signature of the Chairman and/or Secretary of the Commission. An attested copy of the plan or part thereof shall be certified to Council and to the County Register of Deeds.

(Ord. 46, passed 1-9-61)

§ 152.04 APPROVAL OF PLANNING COMMISSION FOR DEVELOPMENT.

Whenever the Planning Commission shall have adopted the master plan of the municipality or of one or more major sections or districts thereof no street, square, park, or other public way, ground, or open space, or public building or structure shall be constructed or authorized in the municipality or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the Commission. Provided, that in case of disapproval the Commission shall have communicated its reasons to the Council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. If the public way, ground, space, building structure, or utility is one the authorization of financing of which does not under the law or charter provisions governing the same, fall within the province of the City Council, then the submission to the Planning Commission shall be by the Board, Commission, or body having such jurisdiction, and the Planning Commission's disapproval may be overruled by the Board, Commission, or body by a vote of not less than two-thirds of its membership. The failure of the Commission to act within 60 days from and after the date of official submission to the Commission shall be deemed approval. For the purpose of furthering the desirable future development of the city under the master plan the Planning Commission, after the Commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The Commission shall annually prepare such a program for the ensuing six years, which program shall show those public structures and improvements, in the general order of their priority, which in the Commission's judgement will be needed or desirable and can be undertaken within the six-year period. The above comprehensive coordinated programs shall be based upon the requirements of the community for all types of public improvements, and, to that end, each agency or department of such municipality concerned with such improvements shall upon request furnish the Commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

(Ord. 46, passed 1-9-61)

§ 152.05 PUBLIC WORKS PROJECTS TO BE REFERRED TO PLANNING COMMISSION.

Whenever the City Council shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the Council shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, play field or other public open space, such resolution shall not be rescinded until after the matter has been referred back to the Planning Commission for a report and until after a public hearing shall have been held. The Council shall have

power to overrule the recommendation of the Planning Commission by a vote of not less than two-thirds of its entire membership.

(Ord. 46, passed 1-9-61)

§ 152.06 PUBLICITY AND EDUCATION.

The Planning Commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the Commission, when duly authorized by the Commission, may attend city planning conferences or meetings of city planning institutes, or hearings upon pending city planning legislation, and the Commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The Commission shall, from time to time recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out the plan. The Commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work. The Commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon. In general, the Commission shall have such powers as may be necessary to enable to fulfill its functions, promote municipal planning, or carry out the purposes of this subchapter.

(Ord. 46, passed 1-9-61)

§ 152.07 PLATS TO BE FILED WITH PLANNING COMMISSION; ADOPTION OF SUBDIVISION REGULATIONS.

(A) Whenever the Planning Commission shall have adopted that sort of a master plan relating to the major street system of the territory within its subdivision, jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the County Register of Deeds, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such Planning Commission and such approval entered in writing on the plat by the Chairman or Secretary of the Commission.

(B) Before exercising the powers referred to in division (A) above, the Planning Commission shall adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots.

(C) Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the Commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the Commission may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the Commission. The city is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

(D) All such regulations shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the Commission to the recorders of the counties in which the city and territory are located.

(Ord. 46, passed 1-9-61)

§ 152.08 PLANNING COMMISSION TO APPROVE, MODIFY OR DISAPPROVE PLATS.

The Planning Commission shall approve, modify or disapprove a plat within 60 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the Commission on demand. The applicant for the Commission's approval may waive this requirement and consent to an extension of such period. The grounds of disapproval of any plat shall be stated upon the records of the Commission. Any plat submitted to the Commission shall contain the name and address of a person to whom notice of a hearing shall be sent and no plat shall be acted on by the Commission without affording a hearing thereon. Notice shall be sent to the address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the County Auditors office and their addresses appear in the directory of the city or on the tax records of the city or county. Every plat approved by the Commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The Planning Commission may, from time to time, recommend to Council amendments of the zoning ordinance or map or additions thereto to conform to the Commission's recommendations for the zoning regulation of the territory comprised within approval subdivisions. The Commission shall have the power to agree with the applicant upon use, height, area or bulk requirements of restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the city. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the city.

(Ord. 46, passed 1-9-61)

PLANNING COMMISSION**§ 152.20 CREATION.**

A planning commission is hereby created which shall be designated City Planning Commission. (Ord. 46, passed 1-9-61)

Cross-reference:

Traffic Code available in office of Planning Commission, see § 70.01

§ 152.21 MEMBERS.

The Planning Commission shall consist of nine members. These members shall be the Mayor or the Mayor's designee as long as that person is a qualified elector residing in the City of Bangor, one member of the City Council, and seven other persons appointed by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists. Persons appointed shall represent in so far as possible, different professions or occupations and shall be qualified electors of the City of Bangor. Employees of the City of Bangor shall not be appointed. Such persons may serve as resource persons adding background and technical information but shall have no vote in matters before the Planning Commission. All members of the Commission shall serve without compensation. The Mayor nor the Council member who serve on the Planning Commission shall not be compensated for their service even though they may be compensated for their service as Mayor or as a Council Member. Excluding the Mayor and the one member of the City Council, the appointed members shall hold no other municipal office except one of the members may also be appointed to the Zoning Board of Appeals. All members shall have the full rights of membership on the Planning Commission and may move, support or otherwise vote on all motions and matters before the Planning Commission. The Mayor shall serve for the term for which he was elected Mayor. The Mayor's designee shall terminate with the term of the Mayor selecting him or her. The term of the Council member appointed as a member of the Planning Commission shall terminate with the term to which he or she was elected. The term of other members shall be for designated terms of three years or until his or her replacements are appointed. Members of the first Planning Commission shall be appointed for staggering terms with two being appointed for one year, two being appointed for two years and the remaining three members appointed for three years. Members of the Planning Commission except for the Mayor and the Council member appointed to serve on the Planning Commission may be removed in accordance with Ordinance 258 - Ethical Standards of Conduct (codified herein as Chapter 36) or for violations of the City Charter. Vacancies occurring otherwise than through expiration of term shall be filled for the unexpired term by the Mayor with the approval of a majority of the City Council members at a regularly called meeting of the City Council where a quorum exists. (Ord. 46, passed 1-9-61; Am. Ord. 268, passed 6-21-04)

§ 152.22 OFFICERS, MEETINGS AND RULES.

The Planning Commission shall elect its Chairperson from among the appointed members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, with eligibility for reelection. The Commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

(Ord. 46, passed 1-9-61)

§ 152.23 EMPLOYEES AND CONSULTANTS.

The Planning Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the city. The Commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council, which shall provide the funds, equipment, and accommodations necessary for the Commission's work.

(Ord. 46, passed 1-9-61)

§ 152.24 PLANNING COMMISSION TO HAVE POWERS OF ZONING COMMISSION.

The Planning Commission shall have all powers heretofore granted by law to the Zoning Commission of the city and, from and after the creation of a Planning Commission in the city, all powers and records of the Zoning Commission shall be transferred to the Planning Commission.

(Ord. 46, passed 1-9-61)

Bangor - Land Usage

CHAPTER 153: SUBDIVISIONS

Section

153.01 Adoption by reference

§ 153.01 ADOPTION BY REFERENCE.

The subdivision code of the city, as adopted by Ordinance 90, passed 12-26-72, is hereby adopted by reference and made a part of this code as fully as if set out at length herein.
(Ord. 90, passed 12-26-72)

CHAPTER 154: ZONING

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Cross-reference:

Wellhead Protection Overlay Zone, see Ch. 158

GENERAL PROVISIONS**§ 154.001 TITLE.**

City of Bangor Zoning Ordinance.
(Ord. 205, passed 1-16-95)

§ 154.002 INTENT AND PURPOSE.

This chapter is adopted for the following purposes:

(A) To promote and protect the public health, safety, morals, comfort and general welfare of the people.

(B) To divide the city into zones or districts, restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business, manufacturing and other specified uses.

(C) To provide for the gradual elimination of non-conforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district.

(D) And to prescribe the penalties for the violation of the provisions of this chapter or any amendments thereto.

(Ord. 205, passed 1-16-95)

§ 154.003 RULES.

In the construction of this chapter, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

(A) Words used in the present tense shall include the future.

(B) Words in the singular number include the plural number and words in the plural number include the singular number.

(C) The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

(D) The word "shall" is mandatory.

(E) The word "may" is permissive.
(Ord. 205, passed 1-16-95)

§ 154.004 INTERPRETATION.

(A) *Minimum requirements.* The provisions herein shall be held to the minimum requirements for the promotion, of public health, morals and welfare.

(B) *Relationship with other laws.* When the conditions imposed by any provision herein upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions herein or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

(C) *Effect of existing agreements.* The ordinance is not intended to abrogate any easement, covenant or another private agreement, provided that where the regulations of the ordinance are more restrictive, (or impose higher standards or requirements) than such easements, covenants or other private agreements, the requirements herein shall govern.

(Ord. 205, passed 1-16-95)

§ 154.005 SEPARABILITY.

It is hereby declared to be the intention of the city that the several provisions of this chapter are separable in accordance with the following:

(A) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgement shall not affect any other provisions not specifically included in said judgement.

(B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building or other structure, such judgement shall not affect the application of said provisions to any other property, building or structure not specifically included in said judgement.

(Ord. 205, passed 1-16-95)

§ 154.006 SCOPE OF REGULATIONS.

(A) *Change in structures or use.* Except as may otherwise be provided, all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations herein which are applicable to the zoning district in which such buildings, uses or land shall be located.

(B) *Non-conforming buildings, structures and uses.* Any lawful building, structure or use existing at the time of the enactment of the zoning ordinance may be continued, even though such building, structure or use does not conform to the provisions herein for the district in which it is located and whenever a district shall be changed hereafter, then the existing lawful use may be continued, subject to the provisions in §§ 154.030 through 154.036.

(C) *Building permits.* There a building permit for a building or structure has been issued in accordance with law, prior to the effective date of the ordinance, and provided that construction is begun within 90 days of such effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued, and further may, upon completion be occupied under a certificate of occupancy by the use for which originally designated - subject thereafter to the provisions of §§ 154.030 through 154.036.

(Ord. 205, passed 1-16-95)

§ 154.007 USE AND BULK REGULATIONS.

(A) *Use.* No building, structure or land shall hereafter be used or occupied and no building or part thereof or other structure shall be erected, raised, moved, reconstructed, extended, enlarged or altered except in conformity with regulations herein specified for the district in which it is located, except as authorized by a pre-existing section of this ordinance.

(B) *Bulk.* All new buildings and structures shall conform to the building regulations established herein for the district in which each building shall be located, except the parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the city.

(C) *Permitted obstructions in required yards.* The following shall not be considered to be obstructions when located in the required yards as specified.

(1) *In all yards:*

(a) Open terraces not over four feet above the average level of the adjoining ground, but not including permanently roofed-over terrace or porch.

(b) Awnings and canopies but not projecting more than ten feet and at least seven feet above the average level of the adjoining ground.

(c) Steps, four feet or less above grade, which are necessary for access to a permitted building or for access to a zoning lot from a street or alley;

(d) Chimneys projecting 18 inches or less into the yard;

(e) Arbors, trellises, flag poles, fountains, sculptures, plant boxes and other similar ornamental objects;

(f) Fences and walls not exceeding four feet in height above natural grade level in front yards and not exceeding six feet in height in side and rear yards.

(2) *In front yards.* One story suspended bay windows projecting three feet or less into the yards; and overhanging eaves and gutters projecting three feet or less into the yard;

(3) *In rear yards.* Enclosed, attached or detached off-street parking spaces, open off-street parking spaces, accessory shed, tool rooms and similar buildings or structures for domestic or agricultural storages; balconies, breezeways and open porches; one story bay windows projecting three feet or less into the yard; overhanging eaves and gutters projecting three feet or less into the yard. In any residential district, no accessory building shall be nearer than five feet to the side lot line nor nearer than five feet to the rear lot line no nearer than ten feet to any principal building unattached.

(4) *In side yards.* Overhanging eaves and gutters projecting into the yard for a distance not exceeding 40 percent of the required yard width, but in no case exceeding two feet.

(D) *Vision clearance - corner lots.* No building or structure hereafter erected and no planting or other obstruction to the vision of drivers or motor vehicles shall be located:

(1) In any residential district exceeding a height of three feet above the street grade within 25 feet of the intersecting street lines bordering corner lots; and

(2) In any manufacturing district within 12 feet of the intersecting street lines bordering a corner lot, provided that this regulation shall not apply to that part of building above the first floor.

(E) *Exception for existing developments.*

(1) Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed (within a variation of five feet or less) a front yard greater in depth than required herein, new buildings shall not be erected closer to the street than the average front yard so established by the existing building.

(2) Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have not observed a front yard as herein required, then;

(a) Where a building is to be erected within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the two existing buildings.

(b) Where a building is to be erected within 100 feet of an existing building on one side only, it may be erected as close to the street as the existing building.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.008 LOT AREA AND DIMENSION.

(A) *Contiguous parcels.* When two or more parcels of land, one or both of which lack adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

(B) *Lot area and lot frontage restrictions - exemptions.* Lot area and lot frontage restrictions shall not apply to any lots or parcels of land which are part of a recorded plat, and at the time of the adoption of this chapter such plats disclose lot areas or lot frontages of less than those governed by the terms of this chapter.

(Ord. 205, passed 1-16-95)

§ 154.009 NUMBER OF BUILDINGS ON A ZONING LOT.

Except in the case of a planned development, not more than one principal detached residential building, shall be located on a residential lot, nor shall a principal detached residential building be located on the same zoning lot with any other principal building.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.010 ACCESSORY BUILDINGS.

(A) *Location.* When a side yard is required, no part of an accessory building shall be located closer than three feet to the side lot line along such side yard. When a rear yard is required, no part of an accessory building shall be located closer than three feet to the rear lot line or to those portions of the side lot lines abutting such required rear yard.

(B) *Percentage of required rear yard occupied.* No accessory building or buildings shall occupy more than 40 percent of the area of a required yard.

(C) *Height of accessory buildings in required rear yards.* No accessory building or portion thereof located in a required rear yard shall exceed 15 feet in height.

(D) *On reversed corner lots.* On a reversed corner lot in a residential district, no accessory building or portion thereof in a required rear yard shall be closer to the side lot line abutting the street than the required front yard on the adjacent lot to the rear. Further, in the above instance, no such accessory building shall be located within three feet of any part of a rear lot line which coincides with a side lot line or portion thereof or property in a residential district.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.011 TEMPORARY BUILDINGS.

(A) A temporary real estate office may be allowed in conjunction with a new housing development, limited to the selling or renting of new units in such development, but in no case to be in operation for more than one year following completion of construction of said housing development.

(B) Temporary buildings for construction purposes may be allowed in any district for a period not to exceed the completion date of such construction.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.012 EXISTING SPECIAL USES.

Where a use is classified as a special use and exists as a permitted use at the date of the adoption of this chapter, it shall be considered a legal use as a special use, without further action of the City Council, the Zoning Administrator, the Board of Appeals or the Planning Commission.
(Ord. 205, passed 1-16-95)

§ 154.013 SITE PLAN REVIEW AND APPROVAL.

(A) A site plan review procedure is hereby established for the city. The purpose of a site plan review is to determine compliance with the provisions set forth herein and to promote the orderly development of the city, the stability of land values and investments in the general welfare, and to help prevent impairment or depreciation of land values and development by the erection of structures or additions or alterations thereto without proper attention to sitting and appearance.

(B) The following provisions in this section shall apply to all uses requiring site plan review by this chapter, including without limitation, multiple family developments, mobile home parks, cluster commercial developments and industrial developments, single family subdivisions and planned unit developments.

(C) A site plan must be approved by the City Council after having received recommendations from the City Planning Commission, Zoning Administrator, Police Chief, Fire Chief, City Manger, and any other municipal department as the City Manager may deem appropriate as to it's (its) conformance to proper development standards and regulations and it's (its) effect on adjacent property or on the city as a whole. Professional review by approved architect, planner or engineer may be obtained by the city. The cost of review will be passed along to the applicant. Approved plans shall regulate the development on said premises, unless modified in the same manner as the plans were originally approved.

(D) The following provisions in this section shall apply to all site plan review procedures, unless otherwise provided in this chapter. The procedures of this section shall be minimum requirements, and additional procedures may be required by the City Planning Commission, City Council, and/or City Manager.

(1) *General procedure.*

(a) Whenever a site plan review is required by the provisions of this chapter, 15 copies of the site plan to scale, including all items required together therewith, shall be submitted to the City Clerk's office two weeks before a regularly scheduled Planning Commission meeting.

(b) The City Clerk shall then immediately transmit, copies of the site plan to the Planning Commission and other appropriate bodies as herein before designated for review and comment. Bodies receiving plans for review shall submit their findings to the City Clerk within 14 days of receipt thereof.

(c) Then upon receipt of the comments from the Planning Commission and appropriate bodies, the City Clerk shall submit same to the City Manager for submission to the City Council for action at its next regularly scheduled meeting.

(2) *Required information for review.* The following information shall accompany all plans submitted for review:

(a) A legal description of the property under consideration.

(b) A map indicating the gross land area of the development, the present zoning classification thereof, and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements.

(c) The names and addresses of the architect, planner, designer, or engineer responsible for the preparation of the site plan.

(d) Drawings or sketches of the exterior and elevations, and/or perspective drawings of the building or structures under consideration.

(3) *Site plan requirements.*

(a) The following information shall be included on the site plan:

1. A scale of not less than 1" = 20', if the subject property is less than three acres, and 1" = 100' if it is three acres or more.

2. Date, north point, and scale.

3. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.

4. The siting of all structures on the subject property and abutting properties.

5. The location of each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines, and approximate location of vehicular entrances and loading points.

6. The location of all existing and proposed drives and parking areas with the number of parking and/or loading spaces provided.

7. All pedestrian walks, malls and open areas for parks and recreation.

8. Location and height of all walls, fences and screen planting, including a general plan for the landscaping of the development and the method by which landscaping is to be accomplished and be maintained.

9. The location and right-of-way widths of all abutting streets.

10. Types of surfacing, such as paving, turfing or gravel to be used at the various locations.

11. A grading plan of the area.

12. Size and location of proposed sewer and water lines and connections.

13. The number of proposed units (for multiple family developments).

14. Such other information as may be required by the Planning Commission and City Manager to assist in the consideration of the proposed development.

15. Drainage of storm water onto adjacent property or into a city street is not allowed. On-site storm drainage may be discharged to an existing storm sewer or natural drainage course, depending upon capacity and review and approval.

(b) Maximum surface run for storm water shall be less than 300 feet.

(c) On-site retention and/or recharge basins are required where existing systems lack sufficient capacity or where no positive discharge is available. Such basins shall be designed to fully contain three inches of rainfall at the designed imperviousness without benefit of percolation within the basin. The percentage of impervious area shall be delineated in the site plan ("imperviousness of soil is the inability of water to percolate or soak into or drain through the soil).

(d) On-site basins should include one foot of freeboard above the maximum water level. The bottom of the basin must be above the ground water table and in a natural pervious soil. Fencing may be required depending on the size and depth of the basin.

(4) *Site plan review criteria.* In order that building, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall, in making its recommendations to the City Council, determine whether the site plan meets the following criteria:

(a) The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.

(b) Pedestrian walkways shall be provided as deemed necessary by the Planning Commission for separating pedestrian and vehicular traffic.

(c) Recreation and open space areas shall be provided in all multiple family residential developments.

(d) The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the city Zoning Ordinance, unless otherwise provided in this chapter.

(e) The requirements for greenbelt, fencing, and walks, and other protective barriers shall be complied with as provided in the Zoning Ordinance of the city and as deemed appropriate by the Planning Commission.

(f) The site plan shall provide for adequate storage space for the use therein, including, where necessary, storage space for recreational vehicles.

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(g) Security measures shall be provided as deemed necessary by the Police Chief for resident protection in all multiple family residential developments.

(h) Fire protection measure shall be provided as deemed necessary by the Fire Chief in conformance with all applicable laws of the State of Michigan for the protection of residents and/or occupants of the structures.

(i) The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided in this chapter.

(5) *Planning Commission recommendation.*

(a) The site plan shall be reviewed by the Planning Commission and other appropriate bodies as heretofore designated with a recommendation for its approval or disapproval and any conditions the Planning Commission or other appropriate bodies feel should be imposed, using the standards described in division (D)(4) of this section.

(b) Conditions or changes stipulated by the Planning Commission shall be recorded in the minutes of the meeting and made available to the applicant in writing. Three copies of an approved site plan, with or without changes, shall contain the signatures of the Chairman of the Planning Commission, Zoning Administrator and the applicant. Of the three copies signed, one shall be kept on file by the Planning Commission, one retained by the Zoning Administrator and one returned to the applicant.

(6) *City Council actions.* The City Council shall have the function and power to approve or disapprove subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of these regulations and other ordinances or resolutions of the city.

(7) *Building permit revocation.* The building permit may be revoked in any case where the conditions of such permit have not been or are not being complied with, in which case the City Council shall give the permittee notice of intention to revoke such permit at least ten days prior to review of the permit by the Council. After conclusion of such review the City Council may revoke such permit if it feels that a violation in fact exists and has not been remedied prior to such hearing.

(8) *Site changes.* Any structure, use, or field change added subsequent to the initial site plan approval must be approved by the City Council after recommendation from the City Planning Commission. Incidental and minor variations of the approved site plan with the written approval of the Building Inspector and City Manager shall not invalidate prior site plan approval.

(9) *Phased construction.* Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the inter-relationship of the proposed project to the future stages, including the following:

(a) Relationship and identification of future structures, roadways, drainage, water, and sewer.

- (b) Pedestrian and vehicular circulation.
- (c) Time schedule for completion of the various phases of the proposed construction.
- (d) Temporary facilities or construction of same as required to facilitate the staged development.

(10) *Schedule of fees.* Upon the filing of an application for a zoning approval, special use permit, variance, or rezoning, an administrative fee shall accompany said application. The City Council shall determine and set a schedule of fees to be charged. Fees shall be collected prior to the processing of any requested approval, permit, variance, appeals, rezoning, etc. (Ord. 205, passed 1-16-95; Am. Ord. 234, passed 12-1-97)

§ 154.014 DEFINITIONS.

ACCESSORY BUILDING OR USE.

- (1) An ***ACCESSORY BUILDING OR USE*** is one which:
 - (a) Is subordinate to and serves a principal building or principal use;
 - (b) Is subordinate in area, extent or purpose to the principal building or principal use served;
 - (c) Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
 - (d) Is located on the same zoning lot as the principal building or principal use served with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.
- (2) An ***ACCESSORY USE*** includes, but is not limited to, the following:
 - (a) A children's playhouse, garden house and private greenhouse;
 - (b) A shed, garage or building for domestic storage;
 - (c) Incinerators, incidental to residential use;
 - (d) Storage of merchandise normally carried in stock on the same lot with any retail service of business use, unless such storage is excluded by the district regulations
 - (e) Storage of goods used in or produced by manufacturing activities on the same lot or parcel of ground with such activities unless such storage is excluded by the district regulations;

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(f) A non-paying guest house or rooms for guests with in an **ACCESSORY BUILDING** provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not for permanent occupancy by others as housekeeping units;

(g) Servant's quarters comprising part of an accessory garage and solely for occupancy by a servant or household employee (and his or her family) of the occupants of the principal dwelling;

(h) Swimming pool, private for use by the occupant and his guests;

(i) Off-street motor car parking areas, and loading facilities;

(j) Sign (other than advertising signs) as permitted and regulated in each district incorporated herein;

(k) Carports;

(l) Public utility facilities - telephone, electric, gas, water and sewer lines, their supports and incidental equipment.

ACREAGE. Any tract or parcel of land having an area of one acre or more which has not heretofore been subdivided or platted.

ADULT FOSTER CARE FACILITY. A residential structure licensed to provide room, board and supervised care, but not without continuous nursing care for unrelated adults over the age of 17, in accordance with Public Act 218, 1979, as amended, and the Adult Foster Care Administrative rules as administered by the Michigan Department of Social Services. The following four types of Adult Foster Care Homes are provided for by these rules:

(1) Adult Foster Care Home is a private residence for six or fewer adults.

(2) Adult Foster Care Small Group Home is a residence for 12 or fewer adults.

(3) Adult Foster Care Large Group Facility is a residence for 13 to 20 adults.

(4) Congregate Care is housing constructed for the exclusive use of an individual 55 years of age or older, or for a couple where at least one of the individuals is over the age of 55.

AGRICULTURE. All the processes of planting, growing, harvesting of crops in the open and the raising and feeding of livestock and poultry; including farming, farm buildings and farm dwellings, truck gardens, flower gardens, apiaries, aviaries, mushroom growing, nurseries, orchards, forestry, dairying, greenhouses and commercial vegetables.

ALLEY. A public way, not more than 30 feet wide, which affords only a secondary means of access to abutting property.

ALTERATION, STRUCTURAL. Any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

APARTMENT. A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit.

APARTMENT HOTEL. See **HOTEL, APARTMENT.**

AUTOMOBILE LAUNDRY (AUTOMATIC). A building or portion thereof containing facilities for washing automobiles as a commercial enterprise.

AUTOMOBILE REPAIR, MAJOR. Engine rebuilding or major recondition of worn or damaged motor vehicles or trailers; collision service including body, frame or fender straightening or repair, and painting of vehicles.

AUTOMOBILE REPAIR, MINOR. Incidental repair, replacement of parts and motor service to automobiles, but not including any operation specified under **AUTOMOBILE REPAIR, MAJOR**.

AUTOMOBILE SERVICE STATION. A place where gasoline, stored only in underground tanks, kerosene, lubricating oil or grease for operation of automobiles, are offered for sale directly to the public, on the premises, and including minor accessories and the servicing of automobiles, but not including major automobile repairs; and including the washing of automobiles where no chain conveyor, blower or steamcleaning device is employed. When the dispensing sale or offering for sale of motor fuels or oils is incidental to the conduct of a public garage, the premises shall be classified as a public garage. Automobile service stations shall not include sale or storage of automobiles or trailers (new or used).

AUTOMOBILE AND MOBILE HOME AREA. An open area, other than a street used for the display of new or used automobiles or mobile homes.

AUTOMOBILE WRECKING YARD. Any place where three or more motor vehicles, not in running condition or parts thereof, are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof and including the commercial salvaging of any other goods, articles or merchandise.

AWNING. A rooflike cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

BANKS AND FINANCIAL INSTITUTIONS. Commercial banks, currency exchanges, savings and loans associations, brokerage offices and other similar financial institutions, and including loan offices, finance companies and pawn shops.

BASEMENT. A story partly or wholly underground. Where more than one-half of its height is above the established curb level or above the average level of the adjoining ground where the curb level has not been established, a basement shall be counted as a story for the purpose of height measurement.

BEDROOM. Any room other than a living room, dining room, kitchen, bathroom or utility room for the purpose of this chapter, shall be considered a bedroom.

BOARD OF APPEALS. The Board of Appeals of the City of Bangor.

BOARDING HOUSE. A building other than a hotel or restaurant where meals are provided for compensation to three but no more than 12 persons, who are not members of the keeper's family.

BORROW PIT. Any place or premises where dirt, soil, gravel or other material is removed by excavation or otherwise below the grade of surrounding land for any purpose other than that necessary and incidental to grading or to building construction or operation on the premises.

BUILDABLE AREA. The space remaining on a zoning lot after the minimum open space requirements have been complied with.

BUILDING.

(1) Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows or openings; and which is designed or intended for the shelter, enclosure or protection of persons, animals or chattels.

(2) Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers and other similar structures are not considered as buildings.

BUILDING, COMPLETELY ENCLOSED. A building separated on all sides from the adjacent open space or from other buildings or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING, DETACHED. A building surrounded by open space on the same zoning lot.

BUILDING HEIGHT. The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest elevation of the roof in the case of a slant or flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

BUILDING LINE. The line nearest the front of and across a zoning lot, establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

BUILDING, NON CONFORMING. Any building which does not conform to the regulations herein prescribing the required yards, coverage, height and setbacks, minimum required spacing between building on a single lot, and minimum required useable open space for the district in which the building is located.

BUILDING PERMIT. A permit issued by the Building Official of the city for the construction, alteration, removal or demolition of a building or structure within the city.

BUILDING PRINCIPAL. A nonaccessory building in which the principal use of the zoning lot on which it is located is conducted.

BUILDING SETBACK LINE. A line parallel to the street line at a distance from it, regulated by the front yard requirements set up herein.

BULK. The term used to indicate the size and setbacks of buildings or structures and location of same with respect to one another and includes the following:

- (1) Size and height of buildings;

- (2) Location of exterior walls at all levels in relation to lot lines, street, or other building;
- (3) All open spaces allocated to the building;
- (4) Amount of lot area per dwelling unit;
- (5) Required parking areas.

BUS LOT. Any lot or land area used for the storage or layover of passenger busses or motor coaches.

BUSINESS AND PROFESSIONAL OFFICE. The office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

CARPORT. A roofed-over area attached and/or detached to the principal building for vehicle storage, which may be open on three sides, if attached or four sides if detached.

CELLAR. A story have more than one-half of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement.

CLINIC OR MEDICAL HEALTH CENTER. A medical center or medical clinic is an establishment where three or more licensed doctors of medicine engage in the practice of medicine, operating on a group or individual basis, with pooled facilities such as coordinated laboratory, x-ray and allied departments, for the diagnosis and treatment of humans which need not but may include a drug prescription counter (not a drug store) for the dispensing of drugs and pharmaceutical products to the patients of the said organization. In addition to the above, the medical center or medical clinic may include the space for the practice of dentistry.

CLUB OR LODGE, PRIVATE. A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

CLUSTER SUBDIVISION. A land subdivision with a majority of the individual building sites abutting directly on parks or other common open space.

CURB LEVEL. The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the **CURB LEVEL** shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the mean level of land immediately adjacent to the building shall be considered the **CURB LEVEL**.

DAY NURSERY. A building or portion thereof used for the daytime care of preschool children.

DECIBEL. A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in **DECIBELS**.

DWELLING. A building or portion thereof, but not including house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units, and multiple family dwelling units, but not including hotels, motels, boarding or lodging houses.

DWELLING UNIT. One or more rooms in a residential structure, which are arranged, designed, used or intended to be used by one family, plus not more than four lodgers for living or sleeping purposes, and which includes complete kitchen facilities permanently installed.

DWELLING, ATTACHED. A dwelling which is entirely surrounded by open space and is not connected to any other dwelling unit by roof, walls or porches on the same lot.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof designed or altered for occupancy by three or more families living independently of each other.

DWELLING, ROW (PARTY WALL). A row of two to eight attached one-family party wall dwellings, not more than two and one-half stores in height nor more than two rooms in depth, measured from the building line.

DWELLING, GROUP. Two or more one-family, two-family or multiple-family dwellings or boarding or lodging houses, located on one zoning lot but not including tourist courts or motels.

EDUCATIONAL INSTITUTION. Public, parochial, charitable or nonprofit junior college, college or university, other than trade or business schools including instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers, and employees.

EFFICIENCY UNIT. A dwelling unit consisting of one principal room for living, sleeping, and eating plus facilities for cooking and a complete bath and toilet facilities.

FAMILY. One or more persons related by blood, marriage or adoption, or a group of not more than five persons (excluding servants) who need not be related by blood, marriage or adoption, living together and maintaining a common household but not including sororities, fraternities or other similar organizations.

FENCE. A structure or tree or shrub hedge which is a barrier and is used as a boundary or means of protection or confinement.

FENCE, SOLID. A fence including gates, which conceals from view from adjoining properties, streets or alleys, activities conducted behind it.

FILLING STATION. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail.

GROSS FLOOR AREA. (For the purpose of determining requirements for off-street parking and off-street loading.)

(1) The floor area shall mean the sum of the gross horizontal area of the several floors of the building or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities or the production or processing of goods or to business or professional offices.

(2) However, floor area for the purpose of measurement of off-street parking spaces shall not include floor area devoted primarily to storage purposes. The following areas shall not be included for the purpose of measurement of off-street parking spaces:

(a) Floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space;

(b) Basement floor area other than area devoted to retailing or service activities or the production or processing of goods, or to business or professional offices.

FLOOD PLAIN. The relatively flat lowlands adjoining a watercourse or other body of water subject to overflow therefrom during flood periods.

FLOODWAY. The channel of the stream or body of water and that portion of the flood plain that is inundated by a flood and used to carry the flow of the flood.

FREEWAY. A major highway having no intersections at grade and having full controlled access, hence "free" from conflicts and interruptions.

FREQUENCY. The number of oscillations per second in a sound wave measuring the pitch of the resulting sound.

FRONTAGE. All the property fronting on one side of a street between the nearest intersecting streets or between a street and a right-of-way, waterways or other similar barrier.

GARAGE, BUS. Any building used or intended to be used for the storage of three or more passenger motor busses or motor coaches used in public transportation including school busses.

GARAGE, PRIVATE. Any accessory building or an accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident on the premises, and in which no business, service or industry connected directly or indirectly with the automotive vehicles is carried on; provided that not more than one-half of the space may be rented for the private vehicles of persons not resident on the premises except that all the space in a garage of one or two car capacity may be so rented. Such a garage shall not be used for more than two commercial vehicles and the load capacity of such vehicles shall not exceed one ton each.

GARAGE, PUBLIC. A building other than a private garage used for the care, incidental servicing and sale of automobile supplies or where motor vehicles are parked or stored for remuneration, hire

or sale within the structure but not including trucks, tractors, truck trailers and commercial vehicles exceeding one and one-half ton capacity.

GARAGE, BUS OR TRUCK. A building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding one and one-half tons capacity.

GRADE, STREET. The elevation of the established street in front of the building measured at the center of such front. Where no street grade has been established, the City Engineer shall establish such street grade or its equivalent for the purpose of this section.

GROUND FLOOR AREA. The lot area covered by a principal building measured at grade from the exterior walls but excluding open porches or terraces, garages or carports.

GUEST HOUSE. Living quarters within a detached accessory building located on the same premises with the principal building for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities nor be rented or otherwise used as a separate dwelling.

HOME OCCUPATION.

(1) Any occupation or profession carried on by a member of a family residing on the premises, in connection with which there is no sign used other than allowed by the sign regulations for the district in which such home occupation is located; provided that no commodity is sold upon the premises except such as may be produced on the premises by members of the immediate family; provided that no person is employed other than a member of the immediate family residing on the premises and provided that no mechanical equipment is used except such as is normally used for domestic, hobby or household purposes.

(2) Home occupations shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment, but not for the general practice of his profession.

HOSPITAL OR SANITARIUM. An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than 24 hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions.

HOTEL, APARTMENT. A hotel in which at least 90 percent of the hotel accommodations are for occupancy by the permanent guests. An apartment hotel having not less than 50 guest rooms may have a dining room open to the public which is accessible only from an inner lobby or corridor.

HOTEL, MOTEL, INN OR AUTO COURT. An establishment containing lodging accommodations designed for use by transients or travelers or temporary guests. Facilities provided may include maid service, laundering of linens used on the premises, telephone and secretarial or desk service, meeting rooms, restaurants including the sale of alcoholic beverages.

HOUSEHOLDER. The occupant of a dwelling unit who is either the owner or lessee.

JUNK YARD. An open area where waste, scrap metal, paper, rags or similar materials are bought, sold, exchanged or stored, baled, packed, disassembled or handled including auto and building wrecking yards but excluding similar uses taking place entirely within a completely enclosed building.

KENNEL, COMMERCIAL. Any lot or premises or portion thereof on which more than four dogs, cats or other household domestic animals over four months of age are kept, or on which more than two such animals are boarded for compensation or kept for sale.

LABORATORY, COMMERCIAL. A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly or packaging of products is not included within this definition.

LOADING AND UNLOADING SPACE OR BERTH, OFF STREET. An open, hard-surfaced area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, 25 feet in length and 14 feet in height, exclusive of access aisles and maneuvering space and shall be readily accessible from a street or other public thoroughfare.

LODGING OR ROOMING HOUSE. A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open on a daily, overnight or per meal basis to transient guests.

LOT. Parcel of land legally described as a distinct portion or piece of land or record.

LOT LINE, FRONT. The front property line of a zoning lot.

LOT LINE, INTERIOR. A side lot line common with another lot.

LOT LINE, SIDES. Lot lines other than front or rear lot lines are side lot lines.

LOT, REVERSED CORNER. A corner lot, the rear of which abuts upon the side of an other lot, whether across an alley or not.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

LOT AREA. The area of a horizontal plane bounded by vertical planes containing the front, side and rear lot lines.

LOT OF RECORD. An area designated as a lot on a plat of subdivision recorded or registered pursuant to statute.

LOT, CORNER. A lot situated at the junction of and abutting on two or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is 130 degrees or less.

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

LOT DEPTH. The mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.

LOT FRONTAGE. The front of a lot shall be that boundary of a lot along a public street; for a corner lot the owner may elect either street line as the front line.

LOT LINE. A property boundary line of any lot held in single or separate ownership except that where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley line.

LOT INTERIOR. A lot other than a corner or reversed corner lot.

LOT WIDTH. The mean horizontal distance between the side lot lines measured within the boundaries or the minimum distance between the side lot lines within the buildable area.

MANUFACTURE. The production, making or processing of products or commodities for general consumption of the public or for sale. Also included is the sub-assembly, fabrication, or processing of parts or components for use in other products or commodities.

MARQUEE OR CANOPY. A rooflike structure of a permanent nature which projects from the wall of a building and may overhang the public way and is designed and intended to protect pedestrians from adverse weather conditions.

MOBILE HOME. A factory built dwelling unit with or without motive power used or adaptable for living, sleeping, business or storage purposes, which may or may not meet the building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. A permanent foundation shall not change its character nor shall the erecting of additions to said mobile home unless the mobile home itself and any additions there to conform to all city laws. The term **MOBILE HOME** shall include the terms "Modular Housing", "Factory Built Housing", and "Double-Wide Housing".

MOBILE HOME SALES AREA. An open area, other than a street, used for the display or sale of new or used mobile homes or trailers, and where no repair work is done except for minor incidental repair of trailers to be displayed and sold on the premises.

MOBILE HOME PARK OR COURT. A property designed and operated in accordance with § 154.056 where space and facilities for mobile homes may be rented.

MOTEL. See **HOTEL**.

MOTOR FREIGHT TERMINAL. A building in which freight brought to said building by motor truck is assembled and sorted for routing in either interstate or intrastate shipment by motor truck.

NAMEPLATE. A sign indicating the name and address of a building or the name of an occupant thereof, and the practice of a permitted occupation therein.

NET SITE AREA. The area of a zoning lot, parcel or tract, excluding boundary rights-of-way.

NONCONFORMITY. Any particular in which a building, yards or use of building or land does not comply with the requirements of this chapter for new buildings and uses.

NON-CONFORMING USE. Any building, structure or land lawfully occupied by a use or lawfully established at the time of the adoption of the ordinance or amendments thereto, which does not conform after the passage of this chapter or amendments thereto with the use regulations of this chapter.

NOXIOUS MATTER. Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the psychological, social or economic well being of human beings.

NURSERY, CHILD-CARE. An establishment for the part-time care of five or more children of pre-elementary school age in addition to the members of the family residing therein.

NURSING HOME OR REST HOME. A commercial establishment for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorder but not including facilities for the treatment of sickness or injuries or for surgical care.

OCCUPANCY CERTIFICATE. A certificate issued by the Building Inspector stating the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

OCTAVE BAND. A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OCTAVE BAND FILTER. An electrical frequency analyzer, designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals (American Standards for Sound Level Meters, A.S.A. No. 244, 3-1944).

OPEN SALES LOT. A lot or parcel of land used or occupied for the purpose of buying, selling or trading of all goods and commodities and including the storage of same prior to sale or exchange.

ORDINANCE. Reference to **ORDINANCE** shall be construed as the City of Bangor Zoning Ordinance unless clearly specified otherwise.

PARKING AREA, PRIVATE. An open, hard-surfaced area, other than a street or public way designed, arranged and made available for the storage of private passenger automobiles only, of occupants of the building or buildings for which the parking area is developed and is accessory.

PARKING AREA, PUBLIC. An open, hard-surfaced area other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under one and one-half tons capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

PARKING SPACE, AUTOMOBILE. Space within a public or private parking area of not less than 180 square feet (nine feet by 20 feet) exclusive of access drives or aisles, ramps, columns or office and work area, for the storage of one passenger automobiles or commercial vehicles under one and one-half tons capacity and connected with a street or alley which affords ingress and egress without requiring another automobile to be moved.

PARTICULATE MATTER. Material which is suspended in or discharged into the atmosphere in finely divided form as a liquid or solid at atmospheric pressure and temperature.

PLAN COMMISSION OR PLANNING COMMISSION. The Plan Commission of the city as constituted by this chapter.

PLANNED UNIT DEVELOPMENT. A tract of land which is planned as a whole for development under single ownership or control and which, by virtue of such unified planning and development, provides greater amenities, convenience or other benefits than normally would be obtained through the development, adequate provision shall be made for basic community facilities such as schools, parks, playgrounds and churches, among others.

PORCH. A roofed-over structure, projecting out from the wall or walls of a main structure and commonly open to the weather in part.

PRINCIPAL USE. The main use of land or buildings on a zoning lot as distinguished from a subordinate or accessory use.

PUBLIC OPEN SPACE. Any publicly owned open area including but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

PUBLIC UTILITY. Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public electricity, gas, steam, telephone, transportation or water.

RAILROAD RIGHT-OF-WAY. A strip of land with tracks and auxiliary facilities for track operation, but not including depot loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, water towers, etc.

RESTAURANT. Any land, building or part thereof other than a boarding house where meals are provided for compensation including a cafe, cafeteria, coffee shop, lunch room, drive-in stand, tearoom and dining room and including the serving of alcoholic beverages when served with and incidental to the serving of meals.

RINGELMANN NUMBER. The number of the area of the Ringelmann Chart that coincides most nearly with the visual density of smoke emission.

ROADSIDE STAND. A farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of the farm products raised on said farm.

SANITARY LANDFILL. A method of disposing of solid waste by spreading and covering with earth to a depth of two feet on the top surface and one foot on the sides and the bank.

SIGN.

(1) A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure, tree, rock or other object or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.

(2) However, a sign shall not include any display of official court of public office notice nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group. A sign shall not include a display located completely within an enclosed building unless the context shall be exposed to view from a street. Each display surface of a sign shall be considered to be a sign.

SIGN, ADVERTISING (BILLBOARD). A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is attached.

SIGN, BUSINESS. A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to where it is affixed.

SIGN, CHURCH BULLETIN BOARD. A sign attached to the exterior of a church or located elsewhere on the church premises used to indicate the services or activities of the church and including its name, if desired.

SIGN, FLASHING. Any illuminated sign on which the artificial light is not maintained, stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this chapter, any revolving, illuminated sign shall be considered a flashing sign.

SIGN, GROSS SURFACE AREA OF. A sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements outside the limits of such sign and not forming an integral part of the display.

SIGN, IDENTIFICATION. A structure, building wall or other outdoor surface used to display and identify the name of the individual, business, profession, organization or institution occupying the premises upon which it is located.

SIGNS, TYPES OF.

(1) **ADVERTISING DEVICE.** Banners affixed on poles, wires, or ropes and streamers, wind operated devices, flashing lights, and other similar devices.

(2) **GROUND SIGN.** Any sign erected, constructed, or maintained for the purpose of displaying outdoor advertising by means of posters, pictures, pictorial and reading matter when such sign is supported by two or more uprights, posts, or braces placed upon or affixed in the ground and not attached to any part of a building.

(3) **MARQUEE SIGN.** A sign affixed to a marquee over the entrance to a building and supported from the building.

(4) **POST SIGN.** Any letter, word, model sign, device, or representation used in the nature of an advertisement or announcement not attached to a building and which is supported by a single stationary pole or post.

(5) **PROJECTING SIGN.** A sign which is attached to and projects more than 12 inches from the face of a wall of a building.

(6) **ROOF SIGN.** Any sign erected, constructed, or maintained upon the roof of any building or any wall sign which extends more than 36 inches above the roof line or parapet wall of a building.

(7) **WALL SIGN.** Any sign or poster either painted on or affixed directly to a wall or on any surface or plane, affixed to the front, side or rear wall on any building. A wall sign may not project more than 12 inches from the face of the wall to which it is attached.

SMOKE UNITS. The number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this chart, Ringelmann density reading is made at least once every minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed; and the various products are added together to give the total number of "smoke units" observed during the total period under observation.

SOUND LEVEL METER. An instrument standardized by the American Standards Association for measurement of intensity of sound.

STORY. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

STORY, HALF. A half-story is that portion of a building under a gable, hip or mansard roof, the wall plates of which on at least two opposite exterior walls are not more than four and one-half feet above the finished floor of each story. In the case of one-family dwellings, two-family dwellings and multiple-family-dwellings less than three stories in height and half-story in a sloping room shall not be counted as a story.

STACKING REQUIREMENTS. For the purpose herein, stacking requirements are the number of cars that must be accommodated in a reservoir space while waiting ingress or egress to specified business or service establishment.

STREETS. A public way other than an alley which affords a primary means of access to abutting property.

STREET LINE. A line separating a lot, piece or parcel of land from a street.

STRUCTURE. Anything constructed or erected which requires location on the ground or is attached to something having location on the ground including a fence or free-standing wall. A sign, billboard or other advertising medium, detached or projected shall be construed to be a structure.

STRUCTURAL ALTERATIONS. See *ALTERATIONS, STRUCTURAL*.

SWIMMING CLUB, PRIVATE (COMMERCIAL). A private club operated for profit, maintaining and operating a swimming pool and apparatus and equipment pertaining to the swimming pool with specified limitations upon the number of members for the exclusive use of members and their guests.

SWIMMING CLUB, PRIVATE (NON-PROFIT). A private club incorporated as a non-profit club or organization maintaining and operating a swimming pool with specified limitations upon the number of members or limited to residents of a block, subdivision, neighborhood, community or other specified areas of residence, for the exclusive use of members and their guests.

SWIMMING POOL, COMMERCIAL. A swimming pool and the apparatus and equipment pertaining to the swimming pool, operated for profit, open to the public upon payment of an hourly, daily, weekly, monthly, annual or other fee.

SWIMMING POOL, PRIVATE. A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained by an individual for the sole use of his household and guests, without charge for admission and not for the purpose of profit or in connection with any business operated for profit, located on a lot as an accessory use to a residence.

SWIMMING POOL, PUBLIC. A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained and operated by municipality or other units of government for the general public whether or not an admission fee is charged.

TAVERN OR LOUNGE. A building where liquors are sold to be consumed on the premises but not including restaurants where the principal business is serving food.

TOURIST HOME. A dwelling in which accommodations are provided or offered for transient guests.

TOXIC MATERIALS. A substance (liquid, solid or gaseous) which by reason of an inherent deleterious property, tends to destroy life or impair health.

TRAILER, SPORTS OR CAMPING. A trailer designed for camping or other recreational purposes.

TRUCK PARKING AREA OR YARD. Any land used or intended to be used for the storage, parking of trucks, trailers, tractors and including commercial vehicles, while not loading or unloading, which exceeds one and one-half tons in capacity.

USE. The purpose for which land or a building is designed, arranged or intended or for which it is occupied or maintained, let or leased.

USE, PRINCIPAL. The main use of land or buildings distinguished from a subordinate or accessory use.

USED CAR LOT. A zoning lot on which used or new cars, trailers or trucks are displayed in the open for sale or trade.

VARIANCE. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open space. Establishment or expansion of a use, otherwise prohibited, shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

YARD. An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted herein, and which extends along a lot line and at right angles thereto, to a depth or width specified in the yard regulations for the district in which the zoning lot is located.

YARD, FRONT. A yard extending along the full length of the front lot line between side lot lines.

YARD, REAR. A yard extending along the full length of the rear lot line between side lot lines.

YARD, SIDE. A yard extending along a side lot line from the front yard to the rear yard. Side yards adjoining streets shall be equal in depth to the front yard of the adjoining property.

ZONING ADMINISTRATOR. Wherever the term **ZONING ADMINISTRATOR** is used, it shall mean the Zoning Administrator appointed by the City Manager and such deputies or assistants as have been or shall be duly appointed. That officer is hereby authorized and it is his duty to administer and enforce the provisions of the zoning ordinance, making such determinations, interpretations and orders as are necessary thereof and requiring such plats, plans and other descriptive material in connection with applications for permits as are necessary for him to judge compliance with the ordinance.

ZONING LOT. A single tract of land 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. Therefore, a zoning lot may or may not coincide with a lot of record.

ZONING MAP. The map incorporated herein as a part hereof, designating zoning districts.

BUILDING INSPECTOR. The officer employed by the city charged with the administration and enforcement of the city's building code, or his/her duly authorized representative.
(Ord. 205, passed 1-16-95; Am. Ord. 240, passed 9-21-98)

§ 154.015 MINIMUM DWELLING UNIT WIDTH FOR SINGLE FAMILY DETACHED UNITS.

Every single family detached dwelling shall have a minimum width throughout its entire length of the dwelling of 24 feet measured between the exterior part of the walls having the greatest length. Said minimum width requirements shall apply to Residential Zones R-1, R-2 and R-3 only.
(Ord. 216, passed 5-5-97) Penalty, see § 154.999

§ 154.016 MOBILE HOME STANDARDS.

(A) The mobile home shall be aesthetically compatible in design and appearance with other residences in the immediate area with a roof overhang on eaves side of not less than four inches each and a minimum roof pitch of not less than two on 12. As an alternative, window sills or roof drainage systems concentrating roof drainage at collection points along the sides the dwelling may be permitted.

(B) The mobile home shall not have exposed wheels, towing mechanism, undercarriage or chassis.

(C) The mobile home shall meet or exceed all roof snow load and strength requirements imposed by the US Dept. of Housing and Urban Development Mobile Home Construction and Safety Standards, effective June 15, 1976 as amended, and shall include the appropriate designation on the mobile home.

(D) The mobile home shall be firmly attached to a permanent foundation constructed on the side. The mobile home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission. It shall contain skirting along the entire perimeter of the main frame between the ground and the bottom edge of the mobile home body. Such skirting shall be a minimum of 26 gauge metal with ribbing, or of other accepted building materials having similar design and durability. The skirting shall be securely attached and sealed to the mobile home body and shall contain a ratproof wall or slab to prevent the entrance of rodents and other animals underneath the mobile home. One access door shall be permitted in the skirting, and adequate screening vents shall be required in the skirting around the entire perimeter at intervals of not more than 20 feet to provide adequate cross-ventilation. All skirting shall be maintained in good condition at all times. Unprotected flammable materials, including hay bales and newspaper, shall not be allowed as skirting for mobile homes.

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(E) The mobile home shall be located so as to meet all the requirements of the City Zoning Ordinance relating to uses, size of the premises, setback, side lot, and rear lot requirements specified for the residential dwelling units for the particular zoning district in which the mobile home is located.

(F) If any exterior structural changes required to an approved mobile home, or are to be completed upon a mobile home prior the placement on the site, the modifications and structural changes shall be first approved by the city.

(G) Construction and installation of all plumbing, electrical apparatus, and insulation within and connected to the mobile home shall be of the type and quality conforming to the most recent edition of the US Department of Housing and Urban Development Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.

(H) All mobile homes shall be connected to an approved sewer system and water supply system.

(I) All mobile homes shall provide steps or porch areas, permanently positioned in the ground or permanently attached to the foundation, where there exists an elevation differential of more than one foot between any door and the surrounding grade. All dwellings shall have a minimum of two points of ingress and egress.

(Ord. 216, passed 5-5-97) Penalty, see § 154.999

NONCONFORMITIES**§ 154.030 CONTINUANCE OF USE.**

(A) Any lawfully established use of a building or land, on the effective date of this chapter or of amendments thereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal non-conforming use and may be continued except as otherwise provided herein.

(B) Any building for which a permit has been lawfully granted prior to the effective date of this chapter or of amendments thereto, may be completed in accordance with the approved plans; provided construction is started within 90 days and diligently prosecuted to completion. Such building shall thereafter be deemed a lawfully established building.

(Ord. 205, passed 1-16-95)

§ 154.031 DISCONTINUANCE OF USE.

(A) Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this chapter, such premises shall not thereafter be used or occupied by a non-conforming use, even though the building may have been originally designed and constructed for the prior non-conforming use.

(B) Whenever a non-conforming use of a building or structure or part thereof, has been discontinued for a period of 24 consecutive months or whenever it is evident a clear intent on the part of the owner to abandon a non-conforming use, such use shall not, after being discontinued or abandoned, be re-established and the use of the premises thereafter shall be in conformity with the regulations of the district.

(C) Where no enclosed building is involved, discontinuance of a non-conforming use for a period of six months shall constitute abandonment and shall not thereafter be used in a nonconforming manner.

(D) A non-conforming use not authorized by the provisions of the zoning ordinance in effect prior to the time this chapter becomes effective, shall be discontinued and not re-established except when the provisions of this chapter find the use to be conforming to the district in which it is then located. (Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.032 CHANGE OF NON-CONFORMING USE.

A non-conforming use of a building or premises may be changed to a similar non-conforming use by the occupants or owners thereof provided that the new non-conforming use does not constitute a greater violation of the use provisions of this chapter than the previous use. (Ord. 205, passed 1-16-95)

§ 154.033 TERMINATION AND REMOVAL OF NON-CONFORMING USES, AND STRUCTURES.

The period of time during which the following non-conforming uses of buildings, structures or land may continue or remain, shall be limited from the effective date of this chapter or amendment hereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the period of time specified below:

(A) Any non-conforming use of building or structure having an assessed valuation not in excess of \$1,000 on the effective date of this chapter shall be removed after two years.

(B) Any non-conforming use of land where no enclosed building is involved or where the only buildings employed are accessory or incidental to such use or where such use is maintained in connection with a conforming building shall be removed after a period of two years.

(C) All non-conforming signs, billboards and outdoor advertising structures shall be removed after a period of five years.

(D) Any non-conforming mobile homes shall be removed after a period of five years. (Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.034 REPAIRS AND ALTERATIONS.

(A) Normal maintenance of a building or other structure containing a non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

(B) No structural alteration shall be made in a building or other structure containing a nonconforming use, except in the following situations:

(1) When the alteration is required by law.

(2) When the alteration will actually result in eliminating the non-conforming use.

(3) When a building in a residential district containing residential non-conforming uses may be altered in any way to improve livability, provided no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.035 ADDITIONS AND ENLARGEMENTS.

(A) A building containing a non-conforming use may be enlarged or extended only if the entire building is thereafter devoted to a conforming use, and is made to conform to all regulations of the district in which it is located.

(B) No building partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.

(C) No non-conforming use may be enlarged or extended in such a way as to occupy any required usable open space or any land beyond the boundaries of the zoning lot as it existed on the effective date of the ordinance or to displace any conforming use in the same building or on the same parcel.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.036 NONCONFORMITY OF YARDS OR BUILDING BULK.

A building or structure which is non-conforming with respect to yards or any other element of bulk regulated herein shall not be altered or expanded in any manner which would increase the degree or extent of its non-conformance with respect to the bulk regulations of the district in which it is located.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

ZONING MAP AND DISTRICTS**§ 154.050 MAP.**

The boundaries of the zoning districts are established as shown on the map entitled "Official Zoning Map of the City of Bangor, Michigan"; this map is made a part hereof, and shall have the same force and effect as if the Zoning Map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

(Ord. 205, passed 1-16-95)

§ 154.051 DISTRICT BOUNDARIES.

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

(A) District boundary lines are either the center lines of railroads, highways, streets, alleys or easements, or the boundary lines of sections, quarter-sections, divisions of sections, tracts or lots, or such lines extended otherwise indicated.

(B) In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with the dimensions shown on the maps measured at right angles from the center line of the street or highway, and the length of the frontage shall be in accordance with dimensions shown on the map from section, quarter-section or division lines or center lines of streets, highways or railroad right-of-way unless otherwise indicated.

(C) Where a lot held in one ownership and of record on the effective date of the ordinance is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district, provided that the construction shall not apply if it increases the less restricted frontage of the lot by more than 25 feet.

(Ord. 205, passed 1-16-95)

§ 154.052 ZONING OF PUBLIC WAYS.

All streets, alleys, public way, waterways and railroad right-of-way, if not otherwise specifically designated shall be deemed to be in the same zone as the property immediately abutting on such streets, alleys, public ways and railroad rights-of-way or waterways. Where the center line of a street, alley, public way, waterway or railroad right-of-way serves as district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

(Ord. 205, passed 1-16-95)

§ 154.053 R-1 ONE-FAMILY RESIDENCE DISTRICT.

(A) *Purpose.* The R-1 District is established to provide low density areas in which the principal use of land is for single family dwellings.

(B) *Permitted uses.* The following uses are permitted:

- (1) One-family detached dwellings and permitted accessory uses.
- (2) Parks, forest preserves and recreational areas, when publicly owned and operated.
- (3) Home occupations.
- (4) Schools, public, denominational or private, elementary and high, including playgrounds and athletic fields, auxiliary thereto.
- (5) Churches, rectories, seminaries, convents, monasteries and similar religious institutions, including dormitories and other accessory uses required for operation.
- (6) Accessory uses including off-street parking facilities in accordance with the provisions of §§ 154.050 through 154.060.
- (7) Signs as permitted in §§ 154.070 through 154.075.
- (8) See Figure 1, Residential Uses and Requirements.
- (9) Adult Foster Care Homes

(C) *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of §§ 154.145 through 154.149 of this chapter entitled Special Uses.

- (1) Cemeteries, including crematories and mausoleums in conjunction therewith.
- (2) Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings necessary for operation, but not including business colleges or trade schools when operated for profit.
- (3) Filling of holes; pit or lowlands with non combustible material free from refuse and food wastes.
- (4) Golf course, regulation size or "par 3" but not including commercially operated driving ranges or miniature golf courses.

(5) Planned Unit Developments, under single ownership or control, in which incidental business or recreational facilities for the convenience of the occupants may be furnished, provided the property proposed for development shall have a gross area of at least four acres and shall otherwise comply with §§ 154.160 through 154.167 of this chapter. For such development, the City Council may vary the regulations herein, provided such variations are consistent with the general purpose and intent of the ordinance and will result in better site planning and thus be a greater benefit both to the occupants of the development and to the community.

(6) Public service uses; including filtration plant, pumping station and water reservoir; sewage treatment plant; sanitary land fill; police and fire stations; telephone exchanges; electric substations and other similar public service uses.

(7) Radio and television stations and towers.

(8) Railroad rights-of-way and trackage, but not including reclassification yards, terminal facilities or maintenance facilities.

(9) Schools - nursery, public or private.

(10) Swimming club - private (commercial).

(11) Swimming club - private (non-profit).

(12) Swimming pool - public.

(13) Mobile homes provided the following conditions are met:

(a) Lot area, required yards, minimum ground floor area and other requirements of this chapter for single family homes must be met.

(b) Structural, plumbing, electrical, mechanical and other requirements of the Bangor building code must be met.

(c) A perimeter wall of masonry on a below frost footing, completely surrounding the mobile home must be provided.

(d) An approved tie down system attaching the mobile home to the perimeter wall must be provided.

(D) *Off-street parking.* Off-street parking and loading facilities shall be provided as required or permitted in §§ 154.080 through 154.084.

(E) *Minimum lot size.*

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(1) Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than 8,400 square feet and a width at the established building line of not less than 70 feet.

(2) All non-residential principal uses of buildings as permitted herein shall be located on a tract of land having an area of not less than 15,000 square feet width with a minimum width at the building line of not less than 80 feet.

(3) Minimum lot size for special uses shall be prescribed and conditions imposed at the time a special use permit is authorized, but in no case shall any such lot have an area of less than 15,000 square feet.

(F) *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:

(1) *Front yard.* A front yard of not less than 25 feet or in accordance with § 154.007.

(2) *Side yards.* A side yard on each side of the main building not less than six feet.

(3) *Rear yard.* A rear yard of not less than 25 feet.

(G) *Maximum lot coverage.* Not more than 35 percent of the lot area may be occupied by buildings and structures, including accessory buildings.

(H) *Minimum ground floor area.* Minimum ground floor area of a residential building shall not be less than 1,000 square feet in a R-1 zone.

(I) *Maximum building height* - Twenty-five feet.

(Ord. 205, passed 1-16-95; Am. Ord. 240, passed 9-21-98)

§ 154.054 R-2 ONE AND TWO FAMILY RESIDENCE DISTRICT.

(A) *Purpose.* The R-2 District is intended to provide a somewhat more dense dwelling environment in the areas of the city close to the Central Business District and to permit the establishment of new two family homes and the conversion of large, older homes to two family use.

(B) *Permitted uses.* The following uses are permitted:

(1) Any of the uses permitted in the R-1 One Family Residence District.

(2) Two family dwellings.

(3) Adult Foster Care Homes

(C) *Special uses.* Any special uses allowed in the R-1 One-Family Residence District.

(D) *Off-street parking.* Off-street parking and loading facilities shall be provided as required in §§ 154.080 through 154.084.

(E) *Minimum lot sizes.*

(1) Every one-family detached or two family dwelling hereafter erected shall be located on a lot having an area of not less than 7,200 square feet and a width at the established building line of not less than 60 feet.

(2) All non-residential principal uses of buildings as permitted herein shall be located on a tract of land having an area of not less than 15,000 square feet, with a minimum width at the building line of not less than 80 feet.

(3) Minimum lot size for special uses shall be prescribed and conditions imposed at the time a special use permit is authorized, but in no case shall any such lot have an area of less than 15,000 square feet.

(F) *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:

(1) *Front yard.* A front yard of not less than 25 feet or in accordance with § 154.007.

(2) *Side yards.* A side yard on each side of the main building not less than six feet.

(3) *Rear yard.* A rear yard of not less than 25 feet.

(G) *Maximum lot coverage.* Not more than 35 percent of the lot area may be occupied by buildings and structures, including accessory buildings.

(H) *Minimum ground floor area.* Minimum ground floor area for residential structures shall not be less than 1,000 square feet.

(I) *Maximum building height - Thirty-five feet.*
(Ord. 205, passed 1-16-95; Am. Ord. 240, passed 9-21-98)

§ 154.055 R-3 GENERAL RESIDENCE DISTRICT.

(A) *Purpose.* The R-3 District is established as a general residence district to provide for a wider variety of dwelling accommodations with a higher density of dwelling units; to provide for multiple-family dwellings with adequate open space for family living; to provide for and encourage the

redevelopment of older residential districts in the city and to provide for a transition between non-residential areas and single-family areas of low density.

(B) *Permitted uses.* The following uses are permitted:

- (1) Any of the uses permitted in the R-2 One and Two Family Residence District.
- (2) Boarding house, lodging house or rooming house.
- (3) Multiple-family dwellings, apartments and apartment hotels.
- (4) One-family row dwellings (party wall) with not more than eight dwellings in a row or building.
- (5) Adult Foster Care Homes

(C) *Special uses.* The following uses may be allowed by special use permits:

- (1) Any use which may be allowed as a special use in the R-2 District.
- (2) Medical and dental offices and medical centers.
- (3) Philanthropic or eleemosynary uses or institutions, provided that not more than 20 percent of the gross floor area or 2,000 square feet, whichever is greater shall be used as office space.
- (4) Private clubs or lodges, except those the chief activity of which is a service normally carried on as a business.
- (5) Off-street parking areas, provided there is a need for this type of facility in the interest of the public necessity and convenience and that no appropriate site is available in nearby business or manufacturing districts.
- (6) Undertaking establishments, funeral parlors.
- (7) Planned Unit Developments under single ownership or control, in which incidental business or recreational facilities for the convenience of the occupants may be furnished, provided the property proposed for development shall have a gross area of at least four acres and shall otherwise comply with §§ 154.160 through 154.167 of this chapter. For such developments, the City Council may vary the regulations herein, provided such variations are consistent with the general purpose and intent of the ordinance and will result in better site planning and thus be of greater benefit both to the occupants of the development and to the community.

(8) The following uses may be permitted, upon review and recommendation by the City Planning Commission and approval by the City Council:

(a) Adult Foster Care Small Group Homes, subject to the following conditions:

1. Such use shall be duly licensed by the State Department of Social Services.
2. Buildings and lots so used shall conform to all state and local code requirements.
3. Indoor living area and sanitary facilities shall be adequate to accommodate the number of persons intended to occupy the facility.
4. The facility shall not result in an excessive concentration of such facilities in the general area or the City of Bangor overall, as determined by the City Council.
5. No group foster home facility shall be located closer than 1500 feet to any other group foster home facility, measured from the nearest wall of each such structure.
6. The facility shall demonstrate that the persons living in the facility will be adequately supervised.

(b) Adult Foster Care Large Group Family, subject to same conditions listed above for Adult Foster Care Small Group Homes.

(c) Congregate Care Facility, subject to the same conditions listed above for Adult Foster Care Small Group Homes.

(D) *Off-street parking.* Off-street parking and loading facilities shall be provided as required or permitted in §§ 154.080 through 154.084.

(E) *Minimum lot sizes.*

(1) Every one-family detached dwelling or two-family dwelling hereafter erected shall be located on a lot having an area of not less than 7,200 square feet and a width at the building line of not less than 60 feet.

(2) All structures or buildings containing three or more dwelling units shall be located on a lot which provides a minimum lot area, per dwelling unit, as follows:

<i>TYPE OF DWELLING UNIT</i>	<i>LOT AREA PER DWELLING UNIT IN SQUARE FEET</i>
More than 4 Bedrooms	5,000
4 bedrooms	4,000
3 bedrooms	3,000
2 bedrooms	2,800
1 bedroom & efficiency	2,500

(3) Minimum lot width for multi-family structures shall be at least 1/2 the depth of the lot up to a width of 100 feet.

(4) All non-residential principal uses permitted in this district shall be located on a lot having an area of not less than 15,000 square feet, and a width at the building line of not less than 80 feet.

(5) Minimum lot sizes for special uses shall be prescribed at the time a special use permit is authorized but in no case shall any such lot be less than 15,000 square feet, and a width at the building line of not less than 80 feet.

(F) *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:

(1) *Front yard.* A front yard of not less than 25 feet or in accordance with § 154.007.

(2) *Side yards.* The minimum interior side yard requirements for permitted uses shall be not less than those itemized below:

(a) For one and two family buildings, the same regulations shall apply as permitted or required in the R-2 One and Two Family Residence District.

(b) For buildings containing three or more dwelling units, a side yard of each side of each building of ten feet plus five additional feet for each additional story above two stories in height.

(c) For buildings containing three or more dwelling units, there may be not less than 20 feet between adjacent row buildings.

(d) For permitted non-residential buildings, interior side yard on each side of the building shall not be less than 25 feet.

(e) For special uses, the interior side yards shall be as specified in the special use permit, but in no case shall the interior side yards be less than those specified for non-residential buildings in subdivision (d) above.

(3) *Rear yard.* There shall be a rear yard of not less than 30 feet.

(G) *Maximum lot coverage.* Not more than 40 percent of the lot area may be occupied by buildings and structures including accessory buildings.

(H) *Minimum ground floor area.* Minimum ground floor area of a residential building shall not be less than 1,000 square feet in an R-3 zone.

(I) *Maximum building height* - Thirty-five feet.
(Ord. 205, passed 1-16-95; Am. Ord. 240, passed 9-21-98)

§ 154.056 R-4 MOBILE HOME DISTRICT.

(A) *Purpose.* The R-4 district provides for the use of mobile homes in mobile home parks which must meet the requirements of this chapter and applicable state law. These requirements are designed to insure safe and otherwise satisfactory living accommodations but are less stringent than those for mobile homes on individually owned lots outside of mobile home parks.

(B) *Permitted uses.* In all R-4 Districts no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses. Mobile home parks shall be established on approval of the Planning Commission with respect to site layout and pedestrian and vehicular circulation.

(1) Any use permitted in the R-3 General Residence District.

(2) Mobile home parks.

(C) *Off-street parking.* Off-street parking and loading facilities shall be provided for uses other than mobile home parks as required or permitted in §§ 154.080 through 154.084. (For mobile home parks see division (E) below).

(D) *Height and area regulations.*

(1) The maximum building height for all uses is 35'.

(2) Area regulations for uses other than mobile home parks, including minimum lot size, minimum yard areas, maximum lot coverage and minimum ground floor area are the same as in the R-3 General Residence District. (For mobile home parks see division (E) below).

(E) *Mobile home parks, special regulations.*

(1) *Space requirements.*

(a) The minimum unit area of premises used or occupied by each mobile home shall be 2,500 square feet, clearly defined on the ground by stakes, posts, or other markers; except that where a separate parking area is provided on the mobile home lot for motor vehicles and no motor vehicles

are parked on the mobile home unit area, that the minimum unit area of the premises used or occupied by each mobile home shall be 2,000 square feet, and in such event there shall be provided one parking stall for each mobile home unit.

(b) There shall be unobstructed open spaces between each mobile home of not less than 15 feet and not less than ten feet of unobstructed open space between the ends of adjacent mobile homes. Hitches shall not extend beyond the boundary lines of the sites.

(c) No mobile home shall be located closer than 25 feet from the right-of-way line of a main highway, or ten feet from the mobile home park property line.

(d) One passenger motor vehicle may be parked on the private street in front of the mobile home site, provided additional off-street parking space of one-half parking stall per unit is provided within the mobile home park for additional private passenger vehicles which belong to the occupants of the mobile homes and for visitor's cars.

(e) Each mobile home space or site shall be provided with a concrete apron or concrete ribbons, each not less than 24 inches wide, upon which the mobile home shall be located.

(2) *Roads and sidewalks.* Each individual mobile home site shall abut or face a driveway, roadway, or street of at least 30 feet in width which street shall have unobstructed access to a public street or highway. All such roadways shall be hard surfaced with either asphalt or concrete. Each mobile home park shall provide a 30 inch concrete walk from the entrance of each mobile home to all required service facilities.

(3) *Plumbing and electrical installations.*

(a) Plumbing and electrical installations in R-4 Districts shall be maintained in accordance with the city Plumbing and Electrical Codes and shall be located underground.

SCHEDULE FOR ROAD WIDTHS

<i>Motor Vehicle Parking Allowance</i>	<i>Traffic Use</i>	<i>Minimum Road Width</i>
(1) No parking on road (separate lot or on-site parking provided)	2-Way Road	20 feet
(2) Parallel parking, 1 side only	1-Way Road	20 feet
(3) Parallel parking, 2 sides	1-Way Road	26 feet
(4) Parallel parking, 2 sides	2-Way Road	36 feet

(b) Where sidewalks are provided, the space required shall be in addition to the above schedule.

(4) *Additional requirements.* In addition, all mobile home parks shall comply with the following:

(a) There shall be provided an area of not less than 100 square feet for recreation, for each mobile home space in the mobile home park, with a minimum area of not less than 5,000 square feet, which shall be no longer than two times its width. Such area shall be developed and maintained by the management so as to provide healthful recreation for the children of the mobile home park.

(b) 1. A greenbelt planting strip, not less than eight feet in width, shall be located along the mobile home park property lines bordering an R-1 or R-2 District. Said strip shall be planted with a row of shrubs spaced not more than eight feet apart and which grow at least to a height of five feet or more after one full growing season and which shrubs will eventually grow to a height of not less than 12 feet.

2. A fence may be built on the mobile home park property lines, in lieu of a greenbelt as heretofore required; said fence shall be not less than ten feet in height constructed of wood pickets or other wood design with no more than 15% voids between pickets or other wood members and no barbed wire shall be used in construction of said fence.

(c) The front yard and the side yard adjacent to a street shall be landscaped and the entire mobile home park shall be maintained in good, clean, presentable condition at all times.

(d) No business of any kind shall be conducted in any mobile home or building on the premises of the mobile home park, except that of the management office, except that home occupations are permitted and except that park management may operate a coin-operated laundry for the use of the mobile home park occupants only.

(e) Street and yard lights, sufficient in number and intensity to permit the safe movement of vehicles and pedestrians at night, shall be provided and shall be effectively related to buildings, trees, walks, steps and ramps.

(f) All fuel oil and gas tanks shall be located on each mobile home site in a uniform manner. All tanks shall be of an approved type to comply with building code standards and shall be equipped with vent pipes and with fused valves. All tanks shall be elevated on non-combustible stands and placed on a concrete base.

(g) There shall be no storage underneath any mobile home and each mobile home site shall be maintained in a clean and presentable condition at all times.

(h) Fences other than those surrounding the park shall be uniform in height and shall not exceed 30 inches in height and shall be constructed in such a manner as to provide firemen access to all sides of each mobile home.

(i) Fire hydrants of a size with adequate capacity to be used by the city Fire Department shall be placed within said mobile home parks so that no mobile home shall be more than 600 feet from a fire hydrant.

(j) From after the effective date of this chapter each mobile home park within the limits of the city shall be licensed by the city and the fees for said license shall be \$100 due each year on or before the 1st day of January. All requirements of this chapter must be complied with before a license will be issued.

(k) A central location shall be designated in each mobile home park for the collection of garbage. The park shall provide suitable containers to store all the garbage accumulated in the park until the regular pick up date of the garbage service servicing the park.
(Ord. 205, passed 1-16-95)

§ 154.057 B-1 RETAIL AND LIMITED SERVICE BUSINESS DISTRICT.

(A) *Purpose.* This is the central business district which provides commercial facilities, personal and professional services for the city and a larger region. The regulations are designed to permit the concentrated development of a core with a strong emphasis on an unrestricted and convenient movement of pedestrians within the area. Therefore, uses requiring large land areas and outdoor storage and display are not permitted in this zone.

(B) In the B-1 District, all buildings and premises, except as otherwise provided in this chapter, may be used only for the following uses:

(1) *Permitted uses.*

(a) Retail commercial establishments except new and used automobile dealerships, farm implement dealerships and other uses requiring outdoor storage and/or display of merchandise and/or materials.

(b) Personal and professional services except drive-in establishments.

(c) Office buildings.

(d) Single Family Residences, except for the area located on M-43 from Division Street to Center Street; Railroad Street, north of Monroe and south to Charles Street; Walnut Street, south of M-43 to Charles Street; and the west side of Center Street, south to Charles Street.

(2) *Special uses.*

(a) Apartment buildings.

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(b) Hotels and motels.

(c) Public buildings and facilities erected by any governmental agency, such as electric substations, fire stations, etc.

(d) Automobile parking lots and garages when location and site plan are approved by the Planning Commission.

(e) Drive-in-banks and other drive-in establishments only when location and site plan are approved by the Planning Commission.

(f) Outdoor storage of merchandise and equipment is permitted upon prior site plan approval from the Planning Commission.

(g) Single family detached dwellings located in the B-1 Local Business District.

1. The lot area, lot width, front yard, side yard and rear yard requirements shall be in accordance with the R-1 Single Family Residential District as contained in § 154.053.

2. The placement of any accessory structure shall not be closer than five feet to any commercially zoned property.

3. The site plan accompanying the special use permit application shall show the placement of all structures, parking lots, and driveways on adjacent commercially zoned property.

(C) *Yard areas.*

(1) *Transitional yards.* Where a B-1 District adjoins a residence district, transitional yards shall be provided in accordance with the following regulations:

(a) In a B-1 District, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the residence district.

(b) In a B-1 District, where a rear lot line coincides with a side lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the residence district.

(c) In a B-1 District, where a rear lot line coincides with a rear lot line to property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be 20 feet in depth, except where a dedicated street divides a B-1 District from a Residential District, in such case the rear yard should be five feet.

(2) No front, side or rear yards are required except transitional yards required by subdivision (C)(1) above.

(D) *Maximum building height.* Forty-five feet.

(E) *Off-street parking.* Off-street parking and loading facilities shall be provided as required or permitted in §§ 154.080 through 154.084.

(Ord. 205, passed 1-16-95; Am. Ord. 234, passed 12-1-97; Am. Ord. 240, passed 9-21-98)

§ 154.058 B-2 GENERAL BUSINESS DISTRICT.

(A) *Purpose.* This is a district generally located on a major street away from the central business district, and provides goods and services for the community as a whole as well as to the adjacent residential areas. Uses requiring larger land areas are permitted.

(B) In the B-2 District all buildings and premises, except as otherwise provided in this chapter, may be used only for the following purposes:

(1) *Permitted uses.*

(a) Any use of the B-1 District.

(b) Automobile or trailer display and salesroom.

(c) Recreational services including bowling alley or billiard parlor.

(d) Business or commercial school.

(e) Dancing or music academy.

(f) Display and salesroom.

(g) Farm implements, sale and repair.

(h) Farm store or feed store, including accessory storage or liquid or solid fertilizer.

(i) Frozen food locker.

(j) Hotels and motels.

(k) Laboratory, research, experimental or testing.

(l) Billboards in accordance with requirements of §§ 154.070 through 154.075.

(m) Parking lots.

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(n) Repair services including public garage, filling station and automobile repair shop or parking lot.

(o) Radio or television broadcasting station or studio.

(p) Veterinarian, animal hospital or kennel.

(q) Used car, trailer or boat sales or storage lot.

(r) Dyeing, cleaning, laundry, printing, painting, plumbing, tinsmithing, tire sales and service, upholstering and other general service or repair establishment of similar character. Not more than ten percent of the lot or tract occupied by such establishment shall be used for the open and enclosed storage of materials or equipment.

(s) Residence, when located on the second story or above.

(2) *Special uses:*

(a) Drive-in establishment, including restaurant and theater.

(b) Lumberyard.

(c) Bakery.

(d) Bottling works.

(e) Wholesale establishment or warehouse.

(f) Truck or bus terminal.

(g) Mobile home court in accordance with the provisions of § 154.056.

(h) Processing and manufacturing establishments provided that such use is not obnoxious or offensive by any reason of emission of odor, smoke, dust, gas, noise, or vibration.

(i) Public buildings and facilities erected by any governmental agency, such as electric substations, fire stations, etc.

(C) *Yard areas.*

(1) *Transitional yards.* Where a B-2 District adjoins a residential district, transitional yards shall be provided in accordance with the following regulations:

(a) In a B-2 District, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such lot line. Such yard shall be equal

in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the residence district.

(b) In a B-2 District, where a rear lot line coincides with a side lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the residence district.

(c) In a B-2 District, where a rear lot line coincides with a rear lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be 20 feet in depth, except where a dedicated street divides a B-2 District from a Residential District, in such case the rear yard should be five feet.

(2) *Front yards.* Ten feet if no parking is allowed in front yard. Forty feet if parking is allowed in front yard,

(3) *Side yards.* None required.

(4) *Rear yards.* None required.

(D) *Maximum building height.* Thirty-five feet.

(E) *Off-street parking.* Off-street parking and loading facilities shall be provided as required in §§ 154.080 through 154.084.
(Ord. 205, passed 1-16-95)

§ 154.059 M-1 INDUSTRIAL DISTRICT.

(A) *Purpose.* This is a general industrial district designed for wholesaling and manufacturing uses. All uses within this district shall be special, i.e. required to conform to conditions that may be laid down by the Planning Commission with regard to the emission of odor, smoke, dust, gas, noise, vibration or open and unenclosed storage. Applications for conditional use permits shall be made in conformance with §§ 154.145 through 154.149 hereof.

(B) In the M-1 District all buildings and premises, except as otherwise provided in this chapter, may be used only for the following purposes:

(1) *Permitted uses:*

(a) Wholesaling, distribution, warehousing, enclosed storage and shipping of materials.

(b) Assembly, processing and packaging of materials.

(c) Fabrication of materials.

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(d) Retail uses incidental to the operation of the above uses.

(e) Residential uses incidental to the operation of a permissive use, such as a dwelling for a watchman or caretaker.

(f) Retail commercial uses providing necessary services to industrial employees such as restaurants.

(g) Public buildings and facilities erected by any governmental agency, such as airports, electric substations, fire stations, etc.

(h) Professional offices.

(2) *Special uses:*

(a) Brick, tile or terra cotta manufacture.

(b) Crematory.

(c) Disinfectants manufacture.

(d) Emory cloth and sandpaper manufacture.

(e) Linoleum manufacture.

(f) Residential structures (with exception of Industrial Park).

(g) Tanning or curing of leather, rawhide or skins.

(h) Commercial resorts, including individual cabins for rental and housing for on-site caretaker/manager for the resort.

(C) *Yard areas.*

(1) *Transitional yards.* Where a M-1 District adjoins a residence district, transitional yards shall be provided in accordance with the following regulations:

(a) In an M-1 District, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this ordinance for a residential use on the adjacent property in the residence district.

(b) In an M-1 District, where a rear lot line coincides with a side lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this chapter for a residential use on the adjacent property in the residence district.

(c) In an M-1 District, where a rear lot line coincides with a rear lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be

20 feet in depth, except where a dedicated street divides an M-1 District from a Residential District, in such case the rear yard should be five feet.

(2) *Front Yards.* Ten feet if no parking is allowed in front yard. Forty feet if parking is allowed in front yard.

(3) *Side yards.* Ten feet.

(4) *Rear Yards.* Ten feet.

(D) *Maximum building height.* Forty-five feet.

(E) *Off-street parking.* Off-street parking and loading facilities shall be provided as required in §§ 154.080 through 154.084.

(Ord. 205, passed 1-16-95)

§ 154.060 F - FLOOD PLAIN DISTRICT.

(A) *Purpose.* This district covers, in general, those parts of the city considered to be flood hazard areas. The regulations are intended to limit and control development within these areas so as to reduce or eliminate danger to life and health and loss of property due to flooding.

(B) *Flood Plain District overlays other districts.* The Flood Plain District, as shown on the Zoning District Map is superimposed upon (overlays) other districts. Thus the regulations of the Flood Plain District modify and add to those of the district overlain.

(C) *Permitted uses.* The following uses are permitted: Any permitted open land use of the district overlain that does not include or require a building or other structure.

(D) *Special uses.* The following uses may be allowed by special use permit in accordance with the provisions of §§ 154.145 through 154.149 of this chapter entitled Special Uses. Any permitted use or special use involving buildings or other structures which may be allowed in the district overlain provided such structures are built in accordance with all applicable laws, resolutions and regulations of the city pursuant to flood plain management and participation in the National Flood Insurance Program.

(E) *Other requirements.* Height, area and parking regulations of the district overlain shall be observed.

(Ord. 205, passed 1-16-95)

RESIDENTIAL USES AND REQUIREMENTS SUMMARY

NOTE: SEE TEXT FOR ACTUAL REGULATIONS. THIS SUMMARY IS FOR OVERALL REVIEW ONLY

***ASTERISK INDICATES REGULATIONS TOO LENGTHY FOR SUMMARY ON TABLE**

	PERMITTED USES	SPECIAL USES	MIN. LOT AREA PER DWELLING UNIT	MIN. LOT WIDTH	REQUIRED YARDS (ft.)	MAX. LOT COVERAGE	MIN. GROUND FLOOR AREA	MAX. HEIGHT
R-1 One-Family Residence District	1 Fam. Detached Dwellings Public Parks & Rec. Home Occupations Schools Churches	Cemeteries Colleges Golf Courses P.U.D.'s Public Service Uses	Residences 8400 sq. ft. Non-res. 1500 sq. ft.	Residential 70 ft. Non-Res. 80 ft.	Front 25 Side 6 Rear 25	35%	1000 sq. ft.	25 ft.
R-2 One & Two Family Residence District	All R-1 Uses Two Family Dwellings	Same as R-1	Residences 7200 sq. ft. Non-res. 1500 sq. ft.	Residences 60 sq. ft. Non-res. 80 sq. ft.	Front 25 Side 6 Rear 25	35%	1000 sq. ft.	35 ft.
R-3 General Residence District	All R-2 uses Rooming Houses Multiple Family Dwelling Row Houses	All R-2 Special Uses Institutions Mortuaries Medical Offices Clubs	1 & 2 fam. 7200 sq. ft. 3 and over 2500 to 5000 depending on apt. size	1 & 2 fam. 60 ft. Multi-fam. ½ depth of lot up to 100 ft.	Front 25 Side * Rear 30	40%	1000 sq. ft.	35 ft.
R-4 Mobile Home District	All R-3 Uses Mobile Home Parks	Same as R-3	Same as R-3 except mobile home parks	*	Front * Side * Rear *	*	Same as R-3 except mobile home parks	35 ft.

*SIGNS***§ 154.070 GENERAL STANDARDS.**

(A) No sign shall block any required accessway or window.

(B) No sign shall be located on vacant property except a sign advertising the premises for sale or lease and which meets the standards of § 154.073(A)(2).

(C) No sign shall be attached to a tree or utility pole.

(D) The following signs are exempt from the permit required and from the regulations of this subchapter.

(1) Memorial signs and historical tablets displayed on private property.

(2) Address numerals.

(E) The following signs are exempt from the permit requirement but must comply with all other regulations of this subchapter.

(1) Signs permitted by § 154.072(A)(1) and (2).

(2) Signs permitted by § 154.072(B)(1).

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.071 PERMITTED SIGNS - ALL DISTRICTS.

Highway directional signs and markers which shall be made and installed in accordance with the specifications of the city announcing the location of or directing traffic to given locations which include but are not limited to the following:

(A) Service areas - automobile, food and lodging.

(B) Public and quasi-public information signs.

(C) Business or business districts.

(Ord. 205, passed 1-16-95)

§ 154.072 PERMITTED SIGNS - RESIDENTIAL DISTRICTS.

In all residential districts, the following classes of signs are permitted in accordance with the regulations set forth herein:

(A) Non-flashing, non-illuminating accessory signs.

(1) Nameplates and identification signs, subject to the following:

(a) For one and two-family dwellings, there shall be not more than one nameplate, not exceeding one square foot in area for each dwelling unit indicating the name or address of the occupant or a permitted occupation.

(b) For multiple-family dwellings, for apartment hotels and for buildings other than dwellings, a single identification sign not exceeding nine square feet in area and indicating only the name and address of the building and the name of the management thereof may be displayed.

(c) In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding 25 square feet in area; on corner lots two such signs, one facing each street shall be permitted. Said signs shall be removed by the person or persons erecting same within two weeks after completion of the structure indicated.

(d) Height. No sign shall project higher than one story or 15 feet above curb level, whichever is lower.

(e) Projection. No sign shall project beyond the property line into the public way.

(2) For Sale and To Rent signs, subject to the following:

(a) Area and number. Signs designating parking area entrances or exits are limited to one sign for each such exit or entrance and to a maximum size of two square feet each. One sign per parking area, designating the conditions of use or identity of such parking area and limited to a maximum size of nine square feet shall be permitted. On a corner lot two such signs, one facing each street shall be permitted.

(b) Projection. No sign shall project beyond the property line into the public way.

(c) Height. No sign shall project higher than seven feet above curb level.

(B) Non-flashing signs.

(1) Church bulletins, subject to the following:

(a) Area and number. There shall be not more than one sign per zoning lot, except that on a corner lot, two signs, one facing each street, shall be permitted. No sign shall exceed 16 square feet in area nor be closer than eight feet to any other zoning lot.

(b) Projection. No sign shall project beyond the property line into the public way.

(c) Height. No sign shall project higher than one story or 15 feet above curb level.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.073 PERMITTED SIGNS - BUSINESS DISTRICTS.

In the B-1 and B-2 Districts there may be any sign allowed in the R Districts and wall signs, post signs and marquee signs, when displaying no advertising matter except pertaining to the business conducted in the building or on the premises on which such sign is placed. Roof signs and projecting signs are not permitted in the B-1 and B-2 Districts (see definitions). The total square foot area of wall signs and marquee signs shall not exceed ten percent of the square foot area of the face of the building on which they are placed. There shall not be more than one post sign for each 100 feet of street frontage. No post sign shall extend closer than ten feet to a lot line.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.074 PERMITTED SIGNS - INDUSTRIAL DISTRICT.

In the M-1 Industrial District, any sign is allowed, provided that: no ground sign shall exceed 400 square feet in area; not more than one ground sign shall be erected on any one lot or tract of land, or one sign for each 300 feet of highway frontage when located at least 300 feet apart on such lot or tract of land; no ground sign when erected on a lot fronting on intersecting highways shall be erected within 50 feet of the intersection of the right-of-way lines of highways. (See § 154.014 for types of signs.)
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.075 ADDITIONAL SIGN REGULATIONS.

(A) *Ground signs.* No ground signs shall be at any point over 25 feet above the ground level and shall have an open space of three feet between the lower edge of such sign and the ground level. The ends of all such signs shall be at least six feet distant from any wall or fence or any obstruction that would prevent a clear passage around the ends and shall be at least ten feet distant from any lot line.

(B) *Wall signs.* No wall sign shall extend beyond the surface of the building more than 12 inches.

(C) *Projecting signs.* Projecting signs may extend not more than four feet from the building into the front yard.

(D) *Post signs.* The maximum square foot area for each face of a post sign shall not exceed a total area of 65 square feet per face or a total of 130 square feet for all faces.

(E) *Marquee signs.* Marquees may extend eight feet into a front yard. A marquee shall be not less than 11 feet above the ground at its lowest level. A sign may be placed upon a marquee provided such sign does not extend more than three feet above nor one foot below such marquee.

(F) *Portable signs.* Portable signs are prohibited except that there may be such portable signs on parking lots as permitted by the Building Official as being necessary to the satisfactory operation of the lot and except that each filling station may have one portable sign not exceeding 12 square feet of total sign area.

(G) *Paper posters and certain signs or devices prohibited.* Paper posters applied directly to the wall or building or pole or other support and letters or pictures in the form of advertising printed or applied directly on the wall of a building are prohibited. Temporary signs may be displayed in or attached to the inside of show or display windows provided the total sign area does not exceed 20 percent of the show or display window area. Signs or devices which by color, location, or design resemble or conflict with traffic control signs or devices are prohibited. No sign shall contain flashers, animators, or mechanical movements or contrivances of any kind, excepting clocks and temperature displays.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

OFF-STREET PARKING AND LOADING

§ 154.080 PURPOSE.

The purpose of this section is to alleviate or prevent the congestion of the public street, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use to which property is put.

(Ord. 205, passed 1-16-95)

§ 154.081 GENERAL PROVISIONS - PARKING AND LOADING.

(A) *Scope of regulations.* The off-street parking and loading provisions of this chapter shall apply as follows:

(1) For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of the ordinance, and provided that construction is begun within one year of such effective date and diligently prosecuted to completion, parking and loading facilities, as required hereinafter, need not be provided.

(2) When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other unit of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity or use.

(3) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date of this chapter, additional parking or

loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of this chapter.

(B) *Existing parking and loading facilities.* Accessory off-street parking or loading facilities which are located on the same lot as the building or use served which were in existence on the effective date of this chapter or were provided voluntarily after such effective date shall not hereafter be reduced below or if already less than, shall no further be reduced below the requirements of this chapter for a similar new building or use.

(C) *Permissive parking and loading facilities.* Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or building provided that all regulations herein governing the location, design, improvement and operation of such facilities are adhered to.

(D) *Damage or destruction.* For any conforming or legally non-conforming building or use which is in existence on the effective date of this chapter, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause and which is reconstructed, re-established or repaired, off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities by this chapter for equivalent new uses or construction.

(E) *Submission of plot plan.* Any application for a building permit or for a certificate of occupancy where no building permit is required, shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any parking or loading facilities to be provided in compliance with this chapter.

(F) *Size.* A required off-street parking space shall be at least nine feet in width and at least 20 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven feet.

(G) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. No driveway across public property nor curb cut shall exceed a width of 30 feet.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.082 SCHEDULE OF PARKING REQUIREMENTS.

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing or both, on the premises at any one time.

(A) Single-family and multi-family dwellings - Two spaces for each dwelling unit.

(B) Rooming and boardinghouses, sororities, and fraternities - One parking space for each 200 square feet of floor area.

(C) Private club or lodge - One parking space for each 400 square feet of floor area.

(D) Church or temple - One parking space for each four seats in the main auditorium.

(E) School - For high schools, colleges and universities, ten spaces per classroom; for elementary schools two parking spaces per classroom.

(F) Hospital - Two parking spaces for each bed.

(G) Sanitarium or institutional home - One parking space for each three beds.

(H) Funeral homes - Ten parking spaces for each chapel plus one for each funeral home vehicle plus one for each family residing on the premises.

(I) Auditoriums, theaters and other places of public assembly - One parking space for each four seats.

(J) Community center, library, museum, or similar public or semi-public building - One parking space for each 300 square feet of floor area in the building.

(K) Hotel or motel - Five parking spaces plus one space for each sleeping room or suite.

(L) Office building - One parking space for each 200 square feet of the gross floor area.

(M) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or other similar establishments - Two parking spaces for every three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

(N) All nonresidential buildings, except those above specified - One space for each 300 square feet of floor area.

(Ord. 205, passed 1-16-95)

§ 154.083 ADDITIONAL REQUIREMENTS - OFF-STREET LOADING.

No trucks over 3/4 tons shall be parked in a residential area over two consecutive hours, except pickup trucks.

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.084 ADDITIONAL REGULATIONS - OFF-STREET LOADING.

No loading berth for vehicles over two tons capacity shall be closer than 50 feet to any property in a residence district unless completely enclosed by building wall or a uniformly painted solid fence or wall or any combination thereof, not less than six feet in height. No permitted or required loading berth shall be located within 25 feet of the nearest point of intersection of any two streets. (Ord. 205, passed 1-16-95) Penalty, see § 154.999

ADMINISTRATION**§ 154.095 ADMINISTRATIVE OFFICER.**

The Zoning Administrator shall be in charge of the administration and enforcement of this chapter. The Zoning Administrator shall have the following duties:

(A) Receive applications required, issue permits and furnish certificates, all in his judgement and discretion.

(B) Examine premises for which permits have been issued and make necessary inspections to determine compliance.

(C) When requested by the City Council or when the interest of the city so requires, make investigations and render written reports.

(D) Issue such notices or orders as may be necessary.

(E) Adopt rules and procedures consistent with this chapter.

(F) Keep careful and comprehensive records of applicants, permits, certificates, inspections, reports, notices and orders and all actions of the City Council and file the same permanently by street address.

(G) Keep all such records open to public inspection, at reasonable hours, but not for removal from his office.

(H) Report to the City Council at least once each month as to permits and certificates issued and orders promulgated.

(I) Request and receive the assistance and cooperation of the Police Department, the legal department and other City Officials.

(J) Inform the legal department of all violations and all other matters requiring prosecution or legal action.

(K) Be entitled to rely upon any opinion of the legal department as to the interpretation of this chapter or the legal application of this chapter to any factual situation.

(L) Discharge such other duties as may be placed upon him by this chapter.
(Ord. 205, passed 1-16-95)

§ 154.096 ZONING CERTIFICATES.

(A) No permit as required by the Building Ordinance of the city shall be issued by the Building Inspector for the construction of a building, structure or land improvement and the uses thereof, until the Building Inspector certifies in such permit that the application for a permit with accompanying plans and specifications conforms with the regulations or this chapter.

(B) When a permit is not required by the Building Ordinance of the city for an improvement and the use thereof requiring conformance with the regulations of this chapter, an application for a zoning certificate shall be filed with the Zoning Administrator. A zoning certificate shall be issued only when the application shows conformance with the regulations of this chapter.

(C) All applications for building permits or zoning certificates shall be accompanied by a plan or sketch in duplicate, drawn to scale showing the actual dimensions of the lot or lots to be build upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats shall be kept in the office of the Building Inspector. The Building Inspector shall, in writing, approve or disapprove all building permits within five working days after submission thereof; failure to act shall be deemed as approval thereof. The Zoning Administration shall, in writing, approves or disapprove all zoning certificates within five working days after submission thereof; failure to act shall be deemed as approval thereof.
(Ord. 205, passed 1-16-95)

§ 154.097 OCCUPANCY CERTIFICATES.

(A) No building or addition thereto, constructed after the effective date of this chapter and no addition to a precious existing building shall be occupied and no land vacant on the effective date of this chapter shall be used for any purpose until an occupancy certificate has been issued by the Building Inspector. No change in a use in any district shall be made until an occupancy certificate has been issued by the Building Inspector. Every occupancy certificate shall state that the use or occupancy complies with all the provisions of this chapter.

(B) Every application for a building permit shall also be deemed to be on application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or building where no building permit is required, shall be made to the Building Inspector.

(C) No occupancy certificate for a building or addition thereto, constructed after the effective date of this chapter, shall be issued until construction has been completed and the premises have been

inspected and certified by the Building Inspector to be in full and complete compliance with the plans and specifications upon which the zoning certificate was based. No addition to a previously existing building shall be occupied, and no new use of a building in any district shall be established until the premises have been inspected and certified by the Building Inspector to be in full compliance with all the applicable standards of the zoning district in which it is located. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed six months from its date during the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than five working days after the Building Inspector is notified, in writing that the building or premises is ready for occupancy.

(Ord. 205, passed 1-16-95)

ZONING BOARD OF APPEALS

§ 154.110 CREATION AND MEMBERSHIP.

(A) A Board of Appeals is hereby established. The word "Board" when, used in this section shall be construed to mean the Board of Appeals, as provided by Section 18 of said Act 207 P.A. 1921 as amended. The members of said Board of Appeals shall serve respectively for the following terms: one for one year; two for two years; two for three years. The successor of each member so appointed shall serve for a term of three years. Vacancies shall be filled by the City Council for the unexpired term. The City Council shall appoint the members of the Zoning Board of Appeals for their respective terms. Any vacancy that occurs shall be filled by an appointment by the City Council for the unexpired term of the vacancy created. The Zoning Board of Appeals shall elect a chairman of the Zoning Board of Appeals annually.

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

(Ord. 205, passed 1-16-95)

§ 154.111 JURISDICTION AND AUTHORITY.

The Board of Appeals shall act upon all questions as they may arise in the administration of the zoning ordinance, including the interpretations of the zoning maps, and may fix rules and regulations to govern its procedures sitting as such as Board of Appeals.

(A) It shall hear and decide appeals from and review any order, requirements, decision or determination made by the Building Inspector charged with the enforcement of this chapter.

(B) The concurring vote of one-half of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant any matter upon which they are required to pass under this chapter or to effect any variation in this chapter. Such appeal may be taken by any person aggrieved or by any office, department, board or bureau of the city, county or state. The ground of every such determination shall be stated.

(Ord. 205, passed 1-16-95)

§ 154.112 APPEALS.

Such appeal shall be taken within 30 days by the filing with the Building Inspector from whom the appeal is taken and with the Board of Appeals of a notice of appeal, specifying the grounds thereof. The Building Inspector from whom the appeal is taken shall transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(Ord. 205, passed 1-16-95)

§ 154.113 RESTRAINING ORDER.

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice to the Building Inspector from whom the appeal is taken and on due cause shown.

(Ord. 205, passed 1-16-95)

§ 154.114 HEARINGS.

Hearing of and decision upon appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within 300 feet of the premises in question shall be assessed, such notice to be delivered personally or by mail addressed to the respective owner at the address given in the last assessment roll, and shall decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

(Ord. 205, passed 1-16-95)

§ 154.115 VARIANCES.

(A) *Authority.* The Board of Appeals shall decide variances to the provisions of this chapter in harmony with its general purpose and intent, and shall vary them only in the specific instances hereinafter set forth where the Board of Appeals shall have made a finding of fact based upon the standards hereinafter prescribed that there are particular hardship in the way of carrying out the strict letter of the regulations of this chapter.

(B) *Initiation.* An application for a variance may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request application for a building permit, zoning certificate or occupancy certificate.

(C) *Processing.*

(1) An application for a variance shall be filed with the City Clerk. The City Clerk shall forward such application to the Board of Appeals for processing in accordance with applicable statutes of the State of Michigan and the provisions of this chapter.

(2) No variance shall be made by the Board of Appeals except after a public hearing before the Board of Appeals, notice of which shall be given by two publications in a newspaper of general circulation in the city; the first to be printed not more than 30 days nor less than 20 days and the second not more than eight days before the date of such hearing.

(D) *Decisions.* All final administrative decisions and findings of the Board of Appeals on variances arrived at after the hearing shall be accompanied by findings of facts specifying the reason or reasons for approving or disapproving the variances and shall be final and subject to judicial review only in accordance with applicable statutes of the State of Michigan.

(E) *Standards.*

(1) The Board of Appeals shall not vary the provisions of this chapter as authorized in this section, unless it shall have made findings based upon the evidence presented to it in the following cases:

(a) That the plight of the owner is due to unique circumstances; and

(b) That the variance, if granted, will not alter the essential character of the locality.

(2) A variance shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the two conditions enumerated above.

(3) For the purpose of supplementing the above standards, the Board of Appeals in making this determination whenever there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence.

(a) That the particular physical surroundings shape or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;

(b) That the conditions upon which the petition for variance is based would not be applicable generally to other property within the same zoning classification;

(c) That the granting of the variance will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located, or;

(d) That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

(4) The Board of Appeals may require each condition and restriction upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this section to reduce or minimize the effect of such variance upon other property in the neighborhood, and to implement the general purpose and intent of this chapter.

(F) *Authorized variance.* Variances from the regulations of this zoning ordinance shall be granted by the Board of Appeals only in accordance with the standards set out in this section. (Ord. 205, passed 1-16-95)

PLAN COMMISSION

§ 154.125 JURISDICTION.

The Plan Commission of the city, which has been duly established, is the Plan Commission referred to in this chapter, and shall have the following duties under this chapter.

(A) To hear all applications for amendments and special uses and hereafter submit reports of findings and recommendations thereon to the City Council in the manner prescribed in this section for amendments and special uses;

(B) To initiate, direct and review, from time to time, studies of the provisions of this chapter and to make reports of its recommendations to the City Council; and

(C) To hear and decide all matters upon which it is required to pass under this chapter. (Ord. 205, passed 1-16-95)

§ 154.126 MEETINGS AND RULES.

All meetings of the Plan Commission shall be held at the call of the Chairman, and at such time as the Plan Commission may determine. All hearings conducted by said Plan Commission under this chapter, shall be in accordance with Michigan Statutes. In all proceedings of the Plan Commission, provided for in this chapter, the Chairman and in his absence the Vice Chairman, shall have the power to administer oaths. All testimony by witnesses at any hearing provided for in this chapter shall be given under oath. The Plan Commission shall keep minutes of its proceedings, and shall also keep records of its hearings and other official actions. A copy of every rule or regulation, every amendment and special use, and every recommendation, order, requirement, decision or determination of the Plan Commission under this chapter shall be filed in the office of the City Clerk and shall be public record. The Plan Commission shall adopt its own rules and procedures, not in conflict with this chapter or with applicable Michigan statutes.

(Ord. 205, passed 1-16-95)

AMENDMENTS**§ 154.135 AUTHORITY.**

The regulations imposed and the districts created under the authority of this chapter may be amended from time to time, by ordinance in accordance with applicable statutes of the State of Michigan. (See Public Act 207 of 1921 as amended.) An amendment shall be granted or denied by the City Council only after a public hearing before the Plan Commission and a report of its findings and recommendations has been submitted to the City Council.

(Ord. 205, passed 1-16-95)

§ 154.136 INITIATION OF AMENDMENT.

Amendments may be proposed by the City Council, the Plan Commission, the Board of Appeals; other governmental bodies, or by any resident or owner of property within the jurisdictional limits of this chapter.

(Ord. 205, passed 1-16-95)

§ 154.137 PROCESSING.

An application for an amendment shall be filed with the City Council who shall forward the application to the Plan Commission with a request to hold a public hearing. Notice of the hearing shall be given by publications in a newspaper of general circulation in the city not less than 15 days before the date of such hearings, and not less than 15 days notice of the time and place of such public hearing shall be given by ordinary United States mail to each public utility company and to each

railroad company which has registered its name and address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing for each mailing must be maintained and a hearing granted any person interested at the time and place specified. In case a protest against a proposed amendment, supplement or change be presented, duly signed by the owners of 20 per centum or more of the frontage immediately in the rear thereof, or by the owners of 20 per centum of the frontage proposed to be altered, such amendment shall not be passed except by the three-fourths vote of such legislative body. Within 15 days following adoption of an amendment by the City Council, a notice of adoption containing a summary of the regulatory effect of the amendment shall be published in a newspaper of general circulation in the city.

(Ord. 205, passed 1-16-95)

SPECIAL USES

§ 154.145 PURPOSE.

The development and execution of the zoning ordinance is based upon the division of the city into districts, within any one of which the regulations governing the use of land and buildings or structures, as related to the land, are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case of the impact of those uses upon neighboring lands and upon the public need for the particular use or the particular location. Such special uses fall into two categories:

(A) Uses operated by a public agency or publicly regulated utilities, or uses traditionally affected with a public interest.

(B) Uses entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(Ord. 205, passed 1-16-95)

§ 154.146 AUTHORITY.

(A) Special uses shall be authorized or denied by the City Council in accordance with applicable statutes of the State of Michigan (See Public Act 207 of 1921 as amended), the provisions of this chapter applicable to amendments of this chapter and the regulations and conditions set forth in this chapter for special uses.

(B) No application for a special use shall be acted upon by the City Council until:

(1) A written report is prepared and forwarded to the City Council by the Plan Commission in a manner prescribed herein for amendments to this chapter; and

(2) A public hearing has been held by the Plan Commission after due notice by publication as prescribed herein for amendments and the findings and recommendations of the Plan Commission have been reported to the City Council.
(Ord. 205, passed 1-16-95)

§ 154.147 HEARING ON APPLICATION.

Upon receipt of the application referred to above, the Plan Commission shall hold at least one public hearing. At least 15 days in advance of such hearing, but not more than 30 days, notice of the time, place and purpose of such hearing shall be published in a newspaper of general circulation in the city.
(Ord. 205, passed 1-16-95)

§ 154.148 AUTHORIZATION.

For each application for a special use, the Plan Commission shall report to the City Council its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The City Council may grant or deny an application for a special use, provided, however, that in the event of written protest against any proposed special use, signed and acknowledged by the owners of 20 percent of the frontage adjacent thereto, or across an alley, or directly opposite therefrom, such special use shall not be granted except by the favorable vote of three-fourths of all the members of the City Council.
(Ord. 205, passed 1-16-95)

§ 154.149 STANDARDS.

No special use shall be recommended by the Plan Commission unless said Commission shall find:

- (A) That the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- (B) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;
- (C) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
- (D) That adequate utilities, access roads, drainage or other necessary facilities have been or are being provided;

(E) That adequate measures have been or will be taken to provided ingress and egress so designed as to minimize traffic congestion in the public streets;

(F) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the City Council pursuant to the recommendations of the Plan Commission.

(G) The Plan Commission may require the submission of a site plan of the property and proposed improvements, drawn to scale, together with other information which it deems necessary to its adequate evaluation of the proposal.

(Ord. 205, passed 1-16-95)

PLANNED UNIT DEVELOPMENT

§ 154.160 PURPOSE.

To encourage the most orderly development of properties through advance planning and thus assure adequate standards for the development of residential neighborhoods; provide regulations to encourage a variety of dwelling types; assure adequate open space; protect residential areas from undue traffic congestion; protect residential areas from the intrusion of business; industrial and other land uses that may create an adverse effect upon the living environment; and thus promote the general welfare of the community.

(Ord. 205, passed 1-16-95)

§ 154.161 PROVISIONS.

The basic provisions and requirements concerning Planned Unit Development are as follows: The subdivision, development and use of land containing four or more acres as an integral unit under single ownership and control, in some instances combining more than one primary land use and which may provide for single-family residential, multi-family residential, education, business, commercial, industrial, recreational, park and common use areas may be described as a Planned Unit Development.

(A) In its establishment and authorization as a special use, in addition to the foregoing provisions, the following procedures, requirements, restrictions, standards, and conditions shall be observed.

(B) The Planned Unit Development may be excluded from the provisions of the, subdivision regulations and provisions of the Zoning Ordinance of the city, to the extent specified in the final authorization of the Planned Unit Development.

(Ord. 205, passed 1-16-95)

§ 154.162 PROCEDURE.

(A) The applicant shall request the City Council by letter addressed to the City Clerk, to call a meeting of the Plan Commission for a preliminary discussion of the proposed Planned Unit Development, and the Plan Commission shall call such meeting, which may be continued from time to time. The applicant shall present such exhibits and written information as may be necessary to fully acquaint the Plan Commission with the proposed development which shall include, but not necessarily be limited to the following:

(1) A tentative sketch plan, which may be in freehand sketch form, showing the location and extent of the types of land uses proposed.

(2) The existing topography at five foot contour intervals which may be taken from U.S.G.S. information.

(3) Existing streets surrounding the subject property.

(4) Existing utilities including storm drainage facilities.

(5) The following shall be provided by either graphic exhibits or written statements:

(a) The density of residential uses and the number of dwelling units by type;

(b) The ancillary and non-residential uses to be provided in a residential Planned Unit Development;

(c) The off-street parking and other service facilities proposed;

(d) The exceptions or variations to the city zoning or subdivision requirements being requested as part of the Planned Unit Development Application.

(B) Within 30 days after final adjournment of the meeting, the Plan Commission shall submit to the City Council its report in writing containing recommendations.

(C) The formal petitions for a Planned Unit Development shall be addressed to the City Council and shall be filed with the City Clerk, ten copies of the petitions shall be filed with the City Clerk; attached to each copy shall be copies of the supporting documents and exhibits hereinafter provided for.

(D) A filing fee in an amount of \$2 per dwelling unit or \$10 per gross acre, whichever is greater, shall be paid to the City Clerk at the time of such filing.

(E) The City Council shall refer the petition to the Plan Commission who shall set a hearing date in the manner herein required for amendments.

(F) The petition shall be heard by the Plan Commission and its report to the City Council of its findings and recommendations shall be accompanied by such plats, exhibits and agreements as shall have been presented by the petitioner; each identified for reference by letter or number, together with any suggested changes therein.

(G) The City Council may grant a special use for a Planned Unit Development which shall be by specific ordinance and which shall contain or to which shall be appended all terms and conditions of the grant, including covenants and agreements, guarantees, performance bonds, plats and the like.

(Ord. 205, passed 1-16-95)

§ 154.163 CONTENT OF PETITION.

The formal petition shall contain, in addition to all other requirements, the following:

(A) An outline plan of the Planned Unit Development. This plan will be at a scale of not less than one inch equals 100 feet which shall show all proposed streets (public and private), street classifications, right-of-ways, all principal and accessory buildings, and their use, lot size, building lines, easements for utility service, off-street parking, service areas, open space, recreation facilities and any other information necessary to clearly show the proposed elements of the Planned Unit Development.

(B) (1) Preliminary architectural plans for all residential buildings shall be submitted in sufficient detail to show the basic building planning, the number of units per building and the number of bedrooms per dwelling unit.

(2) Preliminary architectural plans are not required for business or other non-residential buildings at the time of this application but must be submitted to the Plan Commission for its approval prior to filing an application for a building permit.

(C) A topographic survey and boundary survey of the subject area, prepared and certified by a registered Michigan surveyor.

(D) A rendered plan of the Planned Unit Development area, showing in contrasting colors or by other means, the respective location of all categories of land use.

(E) A map of the city, showing the Planned Unit Development area and its relation to the existing roads and streets and use districts.

(F) Preliminary plans and outline specifications of the following improvements:

(1) Roads, streets, alleys, including classifications, width of right-of-way, widths of paved surfaces and construction details.

(2) Sidewalks, including widths of paved surfaces and construction details.

- (3) Sanitary and storm sewer systems (private).
- (4) Water supply system (private).
- (5) Street lighting and public area lighting system.
- (6) Recommended installation for electric, gas and telephone facilities and distribution.
- (7) Sequence of phases or stages of development of the Planned Unit Development.

(8) A general landscape planting plan shall be prepared by a landscape architect and shall meet the approval of the Plan Commission.

(G) Estimates of cost of installation of all proposed improvements, confirmed by a registered Michigan engineer.

(H) Petitioner's proposed covenants, restrictions and conditions to be established as part of the Planned Unit Development.
(Ord. 205, passed 1-16-95)

§ 154.164 CONSTRUCTION OF IMPROVEMENTS.

(A) The petitioner shall construct and install the required improvements and must post with the city a sum in cash or negotiable securities, or a surety bond running to the city in an amount sufficient to cover the full cost, including engineering and inspection fees, to assure the satisfactory installation of such improvements; the amount of such deposit or bond shall be based upon the confirmed estimate of cost hereinabove provided for; if a surety bond is submitted, it shall have good and sufficient surety thereupon and shall not be accepted until approved by the City Council.

(B) If the Planned Unit Development is to be constructed and developed in stages or phases, the deposit of cash or securities or the bond posted shall be in an amount based upon the confirmed estimated cost of installation of improvements or phases as approved by the Plan Commission.
(Ord. 205, passed 1-16-95)

§ 154.165 STREET CLASSIFICATIONS.

Street classifications, definitions and specifications, shall be in accord with the regulations pertaining to same as established in the Subdivision Regulations of the city as may be amended from time to time.
(Ord. 205, passed 1-16-95)

§ 154.166 STANDARDS.

No Planned Unit Development shall be authorized unless the Plan Commission shall find and recommend, in addition to those standards, established herein for special uses, that the following standards will be met:

(A) General.

(1) The uses permitted by such exceptions as may be requested or recommended are necessary or desirable and appropriate to the purpose of the development.

(2) The uses permitted in such development are not of such nature or so located as to exercise an undue detrimental influence or effect upon the surrounding neighborhood.

(3) That any industrial park areas established in the Planned Unit Development conform to all requirements therefore as set forth elsewhere in this chapter.

(4) That all minimum requirements pertaining to commercial, residential, institutional, or other uses established in the Planned Unit Development shall be subject to the requirements for each individual classification as established elsewhere in this chapter, except as may be specifically varied in the ordinance granting and establishing a Planned Unit Development use.

(5) When private street and common driveways are made a part of the Planned Unit Development or private common open space or recreation facilities are provided, the applicant shall submit as part of the application, the method and arrangement whereby these private facilities shall be operated and maintained. Such arrangements for operating and maintaining private facilities shall be subject to the approval of the City Council.

(B) Residential.

(1) Residential density for a Planned Unit Development shall not be greater than the recommended density, as shown on the Land Use Plan nor shall any lot be less in area or dimension than that required by the district regulation applicable to the district in which the planned development is located, except that the Plan Commission may recommend and the City Council may grant a reduction in such lot area and dimension, but not more than 15 percent when the Planned Unit Development provides common open space equal to not less than ten percent of the gross area of the Planned Unit Development.

(2) Business uses may be included as part of a planned residential development when the Plan Commission finds that such business uses are beneficial to the overall Planned Unit Development and will not be injurious to adjacent or neighboring properties. Such business uses shall not be greater in area than ten percent of the Planned Unit Development.

(3) The open areas provided in the part of the planned development containing only residential structures shall be preserved over the life of the Planned Unit Development for use only

by the residents of the planned development or dedicated to the city for school, park, playground or other public uses by an instrument or guarantee acceptable to the city.

(4) For that part of a Planned Unit Development devoted to residential uses, the Plan Commission may recommend and the City Council may approve, access to a dwelling by a driveway or pedestrian walk easement, and spacing between buildings of lesser widths or depths than required by district regulations for the district in which the planned development is located, provided,

(a) That adequate provisions are made which perpetuate during the period of the special use, access easements and off-street parking spaces for use by the residents of the dwellings served.

(b) The spacing between buildings shall be approved by the Plan Commission and shall be consistent with the application of recognized site planning principles for securing a unified development, and due consideration is given to the openness normally afforded by intervening streets and alleys. Minimum side yards between principal buildings within a part of a Planned Unit Development where subsequent transfer of ownership is contemplated, shall be equivalent to side yards as would be required between buildings by district regulations for the district in which it is located; and

(c) The yards for principal buildings along the periphery of the development shall be not less in width or depth than required for permitted uses in the district regulations applicable to the districts in which the Planned Unit Development is located, and the plan is developed to afford adequate protection to neighboring properties as recommended by the Plan Commission and approved by the City Council.

(C) *Variances to minimum requirements.* Wherever the applicant proposes to provide and set out, by platting, deed, dedication, restriction or covenant, any land or space separate from single-family or multi-family residential districts to be used for parks, playgrounds, commons, greenways or open areas, the Plan Commission may consider and recommend and the City Council may vary the applicable minimum requirements of the subdivision regulations and the zoning ordinance which may include but not necessarily be limited to the following:

- (1) Rear yard;
- (2) Side yard;
- (3) Lot area;
- (4) Bulk;
- (5) Intensity of use;
- (6) Street width;
- (7) Sidewalks;

(8) Public utilities; and

(9) Off-street parking.

(Ord. 205, passed 1-16-95)

§ 154.167 FINAL DEVELOPMENT PLAN.

(A) Upon determination by the Plan Commission that a proposed Planned Unit Development, as shown in the preliminary plan, appears to conform to the requirements herein and all other applicable requirements of this chapter, the proponents shall submit a final development plan which plan shall incorporate any changes or modifications required by the Commission.

(B) After a Final Development Plan is approved by the legislative body, the Planning Commission shall record such plan in the Van Buren County Register's Office after receipt of the resolution approving the general plan and after required signatures authorizing the recordation of the general plan have been obtained.

(Ord. 205, passed 1-16-95)

WIRELESS COMMUNICATIONS

§ 154.180 TITLE.

This subchapter, in addition to the City of Bangor Zoning Ordinance, shall be known as the Wireless Communications Section of the Zoning Ordinance.

(Ord. 241, passed 1-7-99)

§ 154.181 PURPOSE AND INTENT.

(A) It is the general purpose and intent of the City of Bangor to carry out the will of The United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the City to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this subchapter, attempt has been made to balance these potentially competing interests.

(B) Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this Ordinance to:

(1) Facilitate adequate and efficient provision of sites for wireless communication facilities.

(2) Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.

(3) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

(4) Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.

(5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.

(6) Promote the public health, safety and welfare of the citizens of the City of Bangor.

(7) Provide for adequate information about plans for wireless communication facilities in order to permit the City to effectively plan for the location of such facilities.

(8) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(9) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.

(10) The City of Bangor finds that the presence of numerous tower structures, particularly if located with residential areas, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of public health, safety and welfare.

(Ord. 241, passed 1-7-99)

§ 154.182 DEFINITIONS

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

WIRELESS COMMUNICATION FACILITY. All facilities, structural, attached, or accessory, related to the use of the radio frequency spectrum for the purposes of transmitting or receiving radio signals, including, radio and television towers, telephone devices and exchanges, relay towers, telephone transmission equipment buildings, and commercial mobile radio service facilities. Not included are facilities for: citizen band radio, short wave radio, ham and amateur radio, television reception antennae, satellite dishes, and governmental facilities which are subject to state and Federal law or regulations that preempt municipal authority. Wireless communication facilities shall be specifically excluded from the definitions of "essential services" and "public utilities."

ATTACHED WIRELESS COMMUNICATION FACILITY (ANTENNAE). Any wireless communication facility affixed to an existing structure, such as a building, tower, water tank, utility pole, etc., used to receive and transmit federal or state licensed communication services via duly licensed segments of the radio frequency spectrum. This definition shall not include support structures.

WIRELESS COMMUNICATION FACILITY (COLLOCATION). The location by two or more wireless communications providers, public authorities or other duly authorized parties of wireless communications facilities on a common structure in a manner that reduces the overall need for additional or multiple freestanding single use communications facilities and/or support structures.

WIRELESS COMMUNICATION SUPPORT STRUCTURE (TOWER). Any structure used to support attached wireless communication facilities, or other antennae or facilities, including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting attached wireless communications facilities.

(Ord. 241, passed 1-7-99)

§ 154.183 FACILITIES AND SERVICES.

(A) *Permitted as principal uses.* In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval as provided in § 154.013, Site Plan Review and Approval of the City of Bangor's Code of Ordinances, and also subject to the conditions set forth in division (D) below:

(1) Attached wireless communication facilities within all zoning districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed.

(2) Collocation of an attached wireless communication facility which has been previously approved for collocation by the Planning Commission.

(3) Wireless communication facilities attached to a utility pole or electrical transmission line tower, where the existing pole or tower is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests.

(4) Wireless communication facilities with monopole support structures upon municipally owned property in any zoning district except those zoned for single family residential purposes, subject to the conditions hereinafter imposed in all such districts.

(B) *Permitted as special uses.* Wireless communication facilities with monopole support structures shall be permitted as Special Uses only, within any B-1, Retail and Limited Services Business District, or B-2 General Business District, subject to the conditions hereinafter imposed in such districts, except that they shall not be located within a distance equal to the height of the support structure from any district zoned for single-family residential purposes. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located.

(C) *Permitted as special uses in other districts.* If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in divisions (A) and (B) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with divisions (A) or (B) above, a wireless communication facility with a monopole support structure may be permitted as a Special Use within all other zoning districts, subject to the standards of Chapter 154, under Special Uses, and also subject to the conditions hereinafter imposed in all such districts. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

(1) Wireless communication facilities with monopole support structures which are not located as permitted in divisions (A) and (B) above shall be located on a priority basis only upon the following sites:

- (a) Municipally or other governmentally owned sites.
- (b) Religious or other institutional sites.
- (c) Public park and other large permanent open space areas when compatible.
- (d) Public or private school sites.

(2) Wireless communication support structures in such locations shall be of an alternative or stealth design such as (without imitation) a steeple, bell tower, tree, or other form which is compatible with existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

(D) *Required standards for wireless communication facilities in all districts.* All application for wireless communication facilities shall be reviewed in accordance with the following standards and

conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained in a manner consistent with any additional conditions imposed by the Planning Commission and/or the City Council, at their discretion.

(1) *Required information*

(a) *Site plan.* A site plan prepared in accordance with § 154.013, Site Plan Review and Approval, also showing as-built drawings for all proposed attached wireless communication facilities and/or wireless communication support structures, shall be included with all applications for a wireless communication facility.

(b) *Demonstration of need.* A demonstration of the need for the proposed wireless communication facility shall be submitted due to a minimum of one of the following:

1. Proximity to a limited-access freeway or other major thoroughfare.
2. Proximity to areas of population concentration
3. Proximity to commercial or industrial business centers.
4. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
5. Other specific reasons.

(c) *Service area and power.* As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned shall be included.

(d) *Map of other facilities nearby.* A map showing existing or proposed wireless communication facilities within the city and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility shall be included with all applications. If the information in question is on file with the city, the applicant shall only update such information as needed. (Any such information which is trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant may be submitted with a request for confidentiality in connection with the development of government policy (MCLA 15.243(I)(g)). This subchapter shall serve as the promise to maintain confidentiality as permitted by law. A request for confidentiality must be prominently stated within an application).

(e) *Data on other facilities nearby.* For each location identified by the applicant/provider in § 154.183 division (D)1d, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information.

1. The strut capacity and whether it can accommodate the applicant's facility, as proposed or modified.

2. Evidence of property owner approvals.

3. Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.

(f) *Fall zone certificate.* To determine appropriate setbacks, a signed certification by a licensed, registered engineer regarding the manner in which the proposed structure will fall shall be included with all applications.

(g) *Description of security for removal.* A description of the security for the wireless communication support structure to ensure removal and maintenance shall be included with all applications. The security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the City Attorney and recordable at the Van Buren County Register of Deeds, establishing a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by the City in securing removal.

(h) *Data on FCC and FAA approval.* A copy of the application submitted to the Federal Communications Commission and Federal Aviation Administration detailing technical parameters authorization for the facility shall be included with all applications.

(2) *Compatibility of support structures.* Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment.

(3) *Maximum height.* The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts. The maximum height of wireless communication support structures shall be:

(a) 120 feet; or

(b) the minimum height demonstrated to be necessary by the applicant; or

(c) such lower heights as approved by the Federal Aviation Administration.

(4) *Setbacks from non-residential districts.* Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the

required setbacks for the principal buildings for the zoning district in which the support structure is located. A greater setback may be required by the Planning Commission if determined necessary based upon the information required in subparagraph (D)1f above.

(5) *Variances.* The Zoning Board of Appeals may grant variances for the setback of a wireless communication support structure, to reduce its visual impact, or to meet the required standards of (D)11, Collocation. The Zoning Board of Appeals may also grant variances for the height of a support structure of up to 20 feet only in cases where a variance would permit additional collocations.

(6) *Compatibility of accessory structures.* Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.

(7) *Appearance of support structures.* The color of wireless communication support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with surroundings. The applicant shall be responsible for the maintenance of the wireless communication facility in a neat and orderly condition.

(8) *Access.* There shall be unobstructed access to all support structures and accessory buildings for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a pavement, width and location as determined necessary by the Planning Commission,

(9) *Federal and state requirements.* The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan.

(10) *Lighting.* Lighting on a wireless communication facility shall be prohibited. If the Federal Aviation Administration requires lighting, the applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.

(11) *Collocation.*

(a) *Statement of policy.* It is the policy of the City of Bangor to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for placement of attached wireless communication facilities. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of

wireless communication facilities reasonably anticipated to occur as a result of the change of federal law, and policy in the relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should collocate attached wireless communication facilities on existing buildings, structures, including existing wireless communication support structures in the interest of achieving the purposes and intent of this Section of the Zoning Ordinance. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the City of Bangor and this section of the Zoning Ordinance.

(b) *Provisions for collocation required.* All wireless communication support structures shall accommodate no more than three attached wireless communication facilities. Support structures shall allow for future rearrangement of attached wireless communication facilities to accept other attached facilities mounted at varying heights.

(c) *Determining feasibility of collocation.* Collocation shall be deemed to be "feasible" when all of the following are met:

1. The applicant/provider will pay market rent or other market compensation for collocation
2. The site is able to provide structural support, considering reasonable modification or replacement of a facility.
3. The collocation being considered is technically reasonable and will not result in an unreasonable interference, given appropriate physical adjustments.
4. The height of the structure necessary for collocation will not be increased beyond the maximum height limits.

(d) *When collocation is not feasible.* Wireless communication support structures shall not be approved unless the applicant documents to the satisfaction of the Planning Commission that its attached wireless communication facilities cannot be feasibly collocated or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by a licensed, registered engineer and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
2. The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed, registered engineer, and the interference cannot be prevented at a reasonable cost.

3. Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a licensed, registered engineer.

4. Other unforeseen reasons that make it unfeasible to locate the communications equipment upon an existing support structure or other structure.

(e) *Refusal to permit collocation and violation.* If a party who owns or otherwise controls a wireless communication support structure shall fail or refuse to alter a structure to accommodate a feasible collocation, such facility shall thereafter be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect. If a party who owns or otherwise controls a facility shall fail or refuse to permit collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of a policy, intent and purpose of this Section of the Zoning Ordinance.

(f) *Variance from collocation.* Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

(g) *Offer of collocation required.* An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation. The list of potential users shall be provided by the City based on those entities who have requested approval of a wireless communication facility, current Federal Communications Commission license holders, and other entities requesting to be on the list. If, during a period of 30 days after the notice letters are sent to potential users, a user requests, in writing, to collocate on the new support structure, the applicant shall accommodate the request(s), unless collocation is not feasible based on the criteria of this subchapter.

(12) *Removal.* When a wireless communication facility has not been used for 90 days, or 90 days after new technology is available which permits the operation of a facility with the requirements of a wireless communication support structure all or parts of the wireless communications facility shall be removed by the users and owners of the facility and owners of the property. The removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.

(a) Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had sued the wireless communications facility shall immediately apply for and

secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the site to the condition which existed prior to the construction of the facility.

(b) If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application was made for establishing the facility.

(13) *Frequency emission standards.* Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.

(14) *Effect of approval.*

(a) Subject to subparagraph (b) below, final approval for a wireless communication support structure shall be effective for a period of six months.

(b) If construction of a wireless communication support structure is commenced within two miles of the land upon which a facility has been approved, but upon which construction has not been commenced during the six month period of effectiveness, the approval for the support structure that has not been commenced shall be void 30 days following written notice from the City of the commencement of the other support structure. Such voiding shall apply when the applicant granted approval of the support structure which has not been commenced demonstrates that it would not be feasible to collocate on the support structure that has been newly commenced.

(15) *Incentive.* Review of an application for collocation, and review of an application for a facility permitted as a principal permitted use shall be expedited by the City.
(Ord. 241, passed 1-7-99)

ENFORCEMENT

§ 154.195 PUBLIC NUISANCE PER SE.

Any building or structure which is erected, altered or converted or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be altered by order of any court of competent jurisdiction.

(Ord. 205, passed 1-16-95)

§ 154.999 PENALTY.

(A) Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$500 and the costs of prosecution, or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the cost of such prosecution.

(B) The owner of any building, structure or premises or part thereof where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

(C) A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(D) Any persons who violate § 154.013 or § 154.057 shall be subject to a fine not less than \$100 or imprisonment for not more than 90 days, or to both fine and imprisonment, in the discretion of the court.

(Ord. 205, passed 1-16-95; Am. Ord. 234, passed 12-1-97)

CHAPTER 155: LAND DIVISION

Section

- 155.01 Title; purpose
- 155.02 Definitions
- 155.03 Prior approval requirement for land divisions
- 155.04 Application for land division approval
- 155.05 Procedure for review of applications for land division approval
- 155.06 Standards for approval of land divisions
- 155.07 Allowance for approval of other land divisions
- 155.08 Consequences of noncompliance with land division approval requirement

- 155.99 Penalty

§ 155.01 TITLE; PURPOSE.

(A) This chapter shall be known and cited as the City of Bangor Land Division Ordinance.

(B) The purpose of this chapter is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the city by establishing reasonable standards for prior review and approval of land divisions within the city.

(Ord. 232, passed 7-21-97)

§ 155.02 DEFINITIONS.

For purposes of this chapter certain terms and words used herein shall have the following meaning:

APPLICANT. A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

DIVIDED or DIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

EXEMPT SPLIT or EXEMPT DIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalents; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

FORTY ACRES OR THE EQUIVALENT. Either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

GOVERNING BODY. The legislative body of the City of Bangor.
(Ord. 232, passed 7-21-97)

§ 155.03 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the city shall not be divided without the prior review and recommendation of approval from the city's Planning Commission and approval by the City Council, in accordance with this chapter and the State Land Division Act; provided that the following shall be exempted from this requirement:

(A) A parcel proposed for subdivision through a recorded plat pursuant to the city's Site Condominium Development Ordinance and the State Land Division Act.

(B) A lot in a recorded plat proposed to be divided in accordance with the city's Site Condominium Development Ordinance and the State Land Division Act.

(C) An exempt split as defined in this chapter.
(Ord. 232, passed 7-21-97) Penalty, see § 155.99

§ 155.04 APPLICATION FOR LAND DIVISION APPROVAL.

(A) An applicant shall file all of the following with the City Clerk or other official designated by the City Council for review of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

(1) A completed application form on such form as may be provided by the city.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of the 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and

the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

(B) In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirements for a decision on the application until such survey map and legal description are filed with the city, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under this section.

(C) The governing body of the municipality or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

(1) Proof that all standards of the State Land Division Act and this chapter have been met. (See checklist accompanying Ordinance No. 232, passed July 21, 1997).

(2) The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

(3) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(4) If transfer of division rights are proposed in the land transfer detailed information about the terms and availability of the proposed division rights transfer.

(5) Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under § 155.07 of this chapter, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, maximum allowed area coverage of buildings and structures on the site.

(6) The fee as may from time to time be established by resolution of the City Council for land division reviews pursuant to this chapter to cover the costs of review of the application and administration of this chapter and the State Land Division Act.

(Ord. 232, passed 7-21-97)

§ 155.05 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL.

(A) Upon receipt of a land division application package, the City Clerk or other official designated by the governing body shall forthwith submit the same to the city's Planning Commission for review and recommendation to approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this chapter's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this chapter requirements and the State Land Division Act, the City Clerk or other designee shall return the same to the applicant for completion and refile in accordance with this chapter and the State Land Division Act.

(B) Any person or entity aggrieved by the decision of the city or designee may, within 30 days of said decision appeal the decision to the City Council or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

(C) A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the City Clerk or other designated official accomplishing the approved land division or transfer.

(D) The City Clerk or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
(Ord. 232, passed 7-21-97)

§ 155.06 STANDARDS FOR APPROVAL OF LAND DIVISIONS.

(A) A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.

(2) The proposed land division(s) comply with all requirements of the State Land Division Act and this chapter.

(3) All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the

requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this chapter. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(4) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under § 155.07 of this chapter and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

(B) The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

(C) The permissible minimum width shall be as defined in the applicable zoning ordinance. In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

(1) Where accessibility is to be provided by a proposed new dedicated public road, proof that the city has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

(2) Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:

(a) Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, unit or ownership, it shall be not less than 66 feet in right of way width, 24 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.

(b) Where the private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownership's, it shall not be less than 40 feet in right of way width, 20 feet in improved roadbed width with at least two feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven percent, and a cul-de-sac where dead-ended as specified in subdivision (C)(1)(a) above. If said private road or easement is serving or intended to serve more than four separate parcels, units or ownerships, the right of way and development standards set forth in (C)(1)(a) above shall apply.

(c) If accessibility is by a private road or easement, a document acceptable to the city shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefited, and the right of the city to assess such costs against those properties benefited, plus a 25 % administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.

(d) Any intersection between private and public roads shall contain a clear vision triangular area of not less than two feet along each right of way line as measured from the intersecting right of way lines.

(e) No private road or easement shall extend for more than 1,000 feet from a public road.

(f) No private road shall serve more than 25 separate parcels.
(Ord. 232, passed 7-21-97)

§ 155.07 ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.

Notwithstanding disqualification from approval pursuant to this chapter, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this chapter may be approved in any of the following circumstances:

(A) Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the city, designating the parcel as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

(B) Where, in circumstances not COVERED by division (A) above, the Zoning Board of Appeals has, previous to this chapter, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

(C) Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this chapter, any applicable zoning ordinance, or the State Land Division Act.
(Ord. 232, passed 7-21-97)

§ 155.08 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.

Any parcel created in noncompliance with this chapter shall not be eligible for any building permits, or zoning approvals, such as special land use approval or side plan approval, and shall not

be recognized as a separate parcel on the assessment roll. In addition, violation of this chapter shall subject the violator to the penalties and enforcement actions set forth in § 155.99 of this chapter, and as may otherwise be provided by law.

(Ord. 232, passed 7-21-97) Penalty, see § 155.99

§ 155.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

(B) Any person who violates any of the provisions of this chapter shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. 232, passed 7-21-97)

CHAPTER 156: CONDOMINIUMS

Section

- 156.01 Title, purpose
- 156.02 Definitions
- 156.03 Plan preparation
- 156.04 Design layout standards and improvements
- 156.05 Review procedure
- 156.06 Interpretation

§ 156.01 TITLE; PURPOSE

(A) This chapter shall be known as the City of Bangor Site Condominium Development Ordinance

(B) It is the purpose of this ordinance to insure that plans for development within the City of Bangor proposed under the provisions of the Condominium Act, Public Act 59 of 1978, shall be reviewed with the objective interest of achieving the site characteristics and land use results as if the development and improvements were being proposed in accordance with the Subdivision Control Act, P.A. 288 of 1967, as amended. It is the intent of the City to insure that the appearance of the project and size of the building site or "Condominium lot" are equivalent to the appearance of a subdivision and to the minimum lot size of the zoning district in which the project is located.

(Ord. 219, passed 5-5-97)

§ 156.02 DEFINITIONS

For the purpose of this ordinance all definitions used in the Condominium Act P.A. 59 of 1978 as amended, and all applicable administrative regulations shall have the same meaning here. In addition, the following words as defined will also apply to this ordinance, unless the context clearly indicates a different meaning.

BUILDING SITE. A lot, or a two-dimensional condominium unit of land (i.e., envelope, footprint) with or without limited common element designed for construction of a principal structure or a series of principal structures plus accessory buildings. All building sites shall have frontage on public or private roads.

COMMON ELEMENTS. Portions of the condominium project other than the condominium units.

CONDOMINIUM PROJECT. A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act.

CONDOMINIUM SUBDIVISION PLAN. The plan as required in this chapter, including but not limited to, the survey and utility plans, building site and existing and proposed structures and improvements including their location on the land.

CONDOMINIUM UNIT. That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial or recreational use.

CONSOLIDATING MASTER DEED. The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master land or convertible space, which final amended master deed fully describes the condominium project as completed.

CONTRACTIBLE CONDOMINIUM. A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the Condominium Act.

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

LOT. A measured portion of a parcel or tract of land which is described and fixed in a recorded plat or recorded in the Master Deed of a site condominium development.

MASTER DEED. The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approval bylaws for the project and the approved condominium subdivision plan for the project.

PARCEL. A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory building(s), condominium units, or by any other use or activity permitted thereon including open spaces and setbacks required in this chapter, and having its frontage on a public street.

SETBACK - FRONT, SIDE, AND REAR YARD. Front, side and rear yard setbacks shall mean the distance measured from the respective front, side, and rear yard area lines associated with the lot as described in the master deed.

(Ord. 219, passed 5-5-97)

§ 156.03 PLAN PREPARATION

(A) *Existing Conditions.* The preliminary plan shall be designed and drawn by a Registered Civil Engineer, a Registered Land Surveyor, a Registered Architect or a Registered Landscaped Architect

containing the following information:

- (1) Proposed name of the project.
- (2) Full legal description to adequately describe the parcel or parcels comprising the project.
- (3) Names and addresses of the applicant, owners, and professionals who designed the project.
- (4) Scale of the plan (maximum scale shall be 100 feet to an inch).
- (5) Date of preparation.
- (6) Cardinal points.
- (7) Boundary lines of the proposed project.
- (8) Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium subdivision including those areas across abutting roads.
- (9) Location, widths, and names of existing or prior easements of record, public and/or private.
- (10) Location of existing sewers, water mains, storm drains, telephone, electric, cable TV and other underground utilities within or adjacent to the tract being proposed for a site condominium subdivision.
- (11) Existing topographical information drawn at contours with a maximum of two foot intervals.
- (12) The location of significant natural features such as natural water courses, bodies of water, stands of trees, and individual trees within the projects area having a diameter of 12 inches or greater at a height of two feet above the existing grade.

(B) *Proposed Condominium Subdivision Plan.*

- (1) Layout of streets indicating proposed street names, right-of-way widths, and connections and adjoining streets and also the widths of and locations of alleys, easements, public walkways, bike paths and other transportation related elements.
- (2) Layouts, numbers and dimension of lots, including building setback lines showing dimensions and finished grade elevations of buildings first floor elevation.
- (3) Proposed topography, including contour lines at the same interval as shown for existing topography.

(4) Indication of the parcels of land and/or easements intended to be dedicated or set aside for public use and a description of the common elements of the project and the use and occupancy restrictions as will be contained in the master deed.

(5) An indication of the ownership and existing and proposed use of any parcels identified as "excepted" on the preliminary plan. If the applicant has an interest, or owns any parcel so identified as "excepted," the preliminary plan shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plan.

(6) Statement describing the sewage system and method to be approved by the City of Bangor.

(7) Statement describing water supply system and method to be approved by the City of Bangor.

(8) Schematic indication and description of storm drainage acceptable to the City of Bangor.

(9) In the case where the applicant wishes to develop a given area, but wishes to begin with only a portion of the total area, the preliminary plan shall include the proposed general layout for the entire area. The part which is proposed to be developed first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the applicant intends to follow. Each subsequent development shall follow the same procedure until the entire area controlled by the applicant is subdivided. Each phase of the development shall not exceed, on a cumulative basis, the average density allowed for the entire development.

(10) An indication of the means by which and extent that significant natural features such as water courses, bodies of water, stands of trees, and individual trees (apart from stands of trees) having a diameter of 12 inches or greater at a height of two feet above existing grade, are to be preserved in conjunction with the development of the proposed project.

(11) Indication of the approximate area for all site improvements including roads, utilities, drains, and all building activity that will have to be cleared and graded in order to develop the proposed project.

(12) The Preliminary Site Condominium Subdivision Plan will also indicate the significant ecological areas that are to be preserved in their natural state. The intent is not to require a detailed grading plan at this time but to ensure that the developer's consultant has given sufficient thought to the clearing and grading requirements in preparing the Preliminary Plan.

(Ord. 219, passed 5-5-97)

§ 156.04 DESIGN LAYOUT STANDARDS AND IMPROVEMENTS

(A) *Requirements and Standards.* The requirements and standards contained in the published infrastructure design standards shall apply and are herein incorporated by reference.

(B) *Construction of Development in Phases.* For developments where construction is to occur in phases, that portion which is constructed shall conform with all laws, ordinances and regulations of all governmental bodies having jurisdiction, and be capable of functioning independently without further improvements, including, additional roads, drainage, or utilities.

(Ord. 219, passed 5-5-97)

§ 156.05 REVIEW PROCEDURE

The procedure for review and approval of a site plan for a site condominium project shall consist of two stages: the first is the review and approval of the preliminary site plan by the City Planning Commission and City Council; the second is the review and approval of the final site plan by the City Planning Commission and City Council.

(A) *Planning Commission Review of Preliminary Site Plan.*

(1) The applicant shall submit 15 copies of the preliminary site plan, to scale, to the City at least two weeks prior to a regularly scheduled Planning Commission meeting so the site plan can be placed on the agenda and given time for technical review.

(2) The Planning Commission shall review the plan pursuant to the standards for site plan approval contained in the City Zoning Ordinance.

(3) Upon review the Planning Commission shall make a recommendation to the City Council to grant or deny approval of the proposed site condominium project or to grant conditional approval based on the following:

(a) The standards for approval contained in the City Zoning Ordinance.

(b) Conformity of the proposed site condominium and its related by-laws with the objectives of the City's Land Use Plan.

(c) Project developer's financial and technical capacity to meet the design and improvement standards of this chapter.

(4) The Planning Commission is authorized to make a recommendation to the City Council to grant approval, grant approval subject to conditions, or reject the site plan, as follows:

(a) *Recommend approval.* Upon determination that the site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the Planning commission recommend approval.

(b) *Recommended approval subject to conditions.* Upon determination that a site plan is in compliance except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain approvals from other agencies. The applicant may re-submit the site plan to the Planning Commission for final review after conditions have been met. The Planning Commission may waive its right to review the revised plan, and instead authorize the City Manager to review and recommend approval of the re-submitted plan if all required conditions have been addressed.

(c) *Recommend rejection.* Upon determination that a site plan does not comply with the standards and regulations set forth in this chapter, or requires extensive revision in order to comply with said standards and regulations, the Planning Commission shall recommend that site plan approval be denied.

(B) *Submission of Preliminary Site Plans for City Council Review.* After the Planning Commission makes a recommendation on the preliminary site plan, the applicant shall make any required modification and submit sufficient copies of the revised preliminary site plan (as specified on the application form) for City Council review.

(C) *City Council Determination.* The City Council shall make a relevant determination based on the requirements and standards in this chapter, taking into consideration the comments and recommendations of the Planning Commission, City departments and other reviewing agencies. The City Council is authorized to grant approval, grant approval subject to conditions, or reject a site plan.

(D) *Recording of Site Plan Review Action.* Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission or City Council as appropriate. The grounds for action taken upon each site plan shall also be recorded in the minutes.

(E) *Approval.* Approval shall confer on the proprietor for a period of one year from the date of approval.

(F) *Preliminary Plan.* Upon receipt of preliminary plan approval, the proprietor shall submit the preliminary plan to all authorities as required by local and state regulation such as MDOT, MDEQ, MDOC and shall deliver two copies of the preliminary plan to the superintendent of the school district in which the condominium project is to be located.

(G) *Construction.* No installation or construction of any improvements or land balancing or grading shall be made or begun until the final plan has been approved. No removal of trees and/or other vegetation shall be started at this time except for minor clearing required for surveying and staking purposes.

(H) *Final Plan Approval.* The final plan shall conform substantially to the approved preliminary plan and shall be prepared by a registered land surveyor or registered engineer. The final plan shall also constitute only that portion of the approved preliminary plan which the proprietor proposes to record and develop at the time and conform in all respects with the requirements of the Condominium Act. The procedure for the preparation and submittal of a plan for final approval shall be as follows:

(1) *Conditions of Approval.* In addition to all other requirements of this chapter and of the Condominium Act, application for final plan approval shall be made only if the proprietor has complied with the following:

(a) Received approval of the preliminary plan.

(b) Received approval of the engineering construction plans for all improvements to be built in accordance with the standards and specification adopted by the City Council and received notification of the issuance of the appropriate county and state construction permits for utilities.

(c) Received certification from the city that all fees required by this chapter have been paid, and that engineering review fees and other charges and deposits specified in this chapter have been paid.

(d) Received approval of the lot drainage, and the soil erosion and sedimentation plan.

(e) Provided a policy of title insurance currently in force covering all the land within the boundaries of the proposed development, establishing ownership interest of record and other information deemed necessary by the city.

(f) Deposited with the city the financial guarantees as may be required by this chapter.

(g) If the installation of landscaping, street trees and street lights have been required by the City Council, the proprietor and the city may enter into a special agreement to ensure installation.

(h) The City Council and the proprietor shall have entered into an agreement for the review and inspection of the installation of public improvements and their conformance with the construction plan and the plan.

(i) The proprietor shall have delivered two copies of the Master Deed and Condominium Bylaws in final recordable form.

(2) Review and Approval Procedures

(a) At their next scheduled meeting, the Planning Commission shall recommend to the City Council:

1. Approval of the final plan if it meets the requirements of this chapter and the Condominium Act; or

2. Rejection of the final plan, if it does not meet such requirements.

(b) At their next scheduled meeting following the Planning Commission review of the plan, the City Council shall:

1. Approve the plan if it conforms to all provisions of this ordinance and instruct the City Clerk to certify on the plan the City Council approval and date thereof;

2. Reject the plan and instruct the City Clerk to advise the proprietor, explain the reasons for the rejection, and return the plan to the proprietor; and

(c) Approval of the final plan shall confer upon the proprietor for a period of two years from the date of City Council approval, the conditional right that the general terms and conditions under which the final approval of the plan was granted will not be changed.

(d) Upon approval of the final plan by the City Council the subsequent approvals required by the Condominium Act shall follow the procedure set forth therein, including the registration of the master deed with the Van Buren County Register of Deeds.

(Ord. 219, passed 5-5-97)

§ 156.06 INTERPRETATION

(A) *Application of Traditional Definitions.* In the review of preliminary and final plans, as well as engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures which have been provided for and which would be made for developments proposed under the Subdivision Control Act. However, the review of plans submitted in this chapter shall be accomplished with the objective and intent of achieving the same results as if the improvements were being proposed pursuant to the Subdivision Control Act, including, without limitation, conformance with all requirements of the City Zoning Ordinance, as amended and the City Infrastructure Development Ordinance.

(B) *Conflict with Existing Regulations.* These regulations are not intended to repeal, abrogate, annul, or in any manner interfere with existing regulations or laws of the City nor conflict with statutes of the State of Michigan or Van Buren County except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations. Nothing in this Ordinance shall be construed as requiring a Site Condominium Subdivision to obtain plat approval under the Subdivision Control Act.

(Ord. 219, passed 5-5-97)

CHAPTER 157: CERTIFICATES OF OCCUPANCY

Section

- 157.01 Legislative findings
- 157.02 Certificate of occupancy required
- 157.03 Application
- 157.04 Enforcement
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- 157.13 Registration of rental dwellings
- 157.14 Appeals

- 157.99 Penalty

§ 157.01 LEGISLATIVE FINDINGS.

The council finds that a certificate of occupancy program is in the public interest for the following reasons:

(A) The city is a mature community with much of the housing stock and commercial buildings being in excess of 40 years old.

(B) Based on past experiences with building inspections, many of these buildings have serious code violations, which are a threat to the health, welfare and safety of the residents of the city.

(C) It takes special training and knowledge, which is beyond the expertise of the average property owner to recognize many of these code violations.

(D) In order to preserve the value of existing construction, to safeguard the public, and to prevent blight, it is necessary to inspect every building in the city.

(E) The least intrusive method, which should result in eventual inspection of all residential premises, is to require a certificate of occupancy upon sale, transfer of the property, or change in occupancy.

(Ord. 239, passed 11-2-98)

§ 157.02 CERTIFICATE OF OCCUPANCY REQUIRED.

(A) It shall be unlawful to occupy any premises, except as identified as exempt under §§ 157.05 and 157.06 of this chapter, in the city of Bangor unless there is an unexpired certificate of occupancy in effect, which covers the specific use for which the premises are being occupied.

(B) Violation of this section is a misdemeanor. Each day that the unlawful occupancy continues shall be a separate offense.

(C) In the case of tenant occupied commercial property, either the owner or the tenant, or both, may be cited for the violation. In the case of tenant occupied residential property, only the owner may be cited.

(D) In the case of a corporation, the president or managing agent shall be personally responsible for the violation, in addition to the corporation.

(E) In the case of a partnership, any general partner may be cited for the violation.
(Ord. 239, passed 11-2-98)

§ 157.03 APPLICATION

(A) All owners or occupants of commercial property shall apply for a certificate of occupancy as required by § 157.10.

(B) Owners of tenant occupied residential property shall apply for a certificate of occupancy as required by § 157.09.

(C) Owners of all owner occupied residential property shall apply for a certificate of occupancy when the property is sold or transferred and thereafter as required by § 157.09.
(Ord. 239, passed 11-2-98)

§ 157.04 ENFORCEMENT.

(A) If a residence is found to be vacated or occupied without an occupancy permit and material, health or safety hazards exist, water service will be discontinued until all bills are paid and an occupancy permit is obtained. Any charges for delinquent water charges or turn-on or turn-off fees connected with

obtaining an occupancy permit must be paid before an occupancy permit will be issued and before water service will be continued.

(B) If the violations are not corrected within the time limits set by the building official, charges may be brought against the responsible party.

(C) The owner or occupant will be contacted and an inspection will be requested.

(D) If permission is refused, a search warrant shall be requested from the district court.

(E) If the warrant request is granted, the premises will be inspected and the owner or occupant will be given written notice of any violations. The owner or other responsible party will be billed for the regular inspection fee, any court costs and attorney fees incurred in securing the search warrant. If not paid, these amounts will become a lien on the property.

(Ord. 239, passed 11-2-98)

Cross Reference:

For provisions on discontinuance of water service, see § 52.18

§ 157.05 EXEMPTION - MULTIPLE HOUSING.

A certificate of occupancy is not required for an apartment building, condominium, cooperative or other multiple residential property if there are more than six units under common ownership or management at one location. A yearly inspection is required for all dwelling units and common areas. (Ord. 239, passed 11-2-98)

§ 157.06 PARTIAL EXEMPTIONS - OWNER OCCUPIED RESIDENTIAL.

(A) A certificate of occupancy is not required for a single family-housing unit, which was occupied by the owner as the owner's principal residence on the effective date of this ordinance for as long as that occupancy continues. If the housing unit is sold, or if it is no longer occupied by the owner, a certificate of occupancy shall be required, except as provided in division (B) of this section. A land contract purchaser shall be considered an owner.

(B) Application for a certificate of occupancy is not required when owner occupied residential property is transferred to a member of the household of the owner, provided the transferee has resided in the property for at least one-year immediately before the transfer, and the transfer is for a nominal consideration.

(C) No part of this section shall be so construed as to prevent the city from investigating any complaint of hazardous conditions in any building, brought to the city's attention by a responsible party, nor to prevent any code official from acting on violations discovered or suspected under the plain view doctrine.

(Ord. 239, passed 11-2-98)

§ 157.07 APPLICATION PROCEDURE.

(A) A certificate of occupancy may be obtained by submitting a written application to the building department on the prescribed form, and by paying the fee which shall be established by resolution of the city council.

(B) Before issuing a certificate of occupancy, the building official shall inspect the property and determine whether the property is in substantial compliance with all material provisions of the most recent edition of the BOCA National Property Maintenance Code and HUD Section 8 housing quality inspection form, as amended and adopted by the city. The building official shall give the applicant a list of all violations found as a result of the inspection.

(C) The building official shall issue a certificate of occupancy immediately if no violations are found. If violations are found to exist, a certificate of occupancy shall be issued after the building official is satisfied that all violations have been corrected. If the premises are occupied without a valid certificate of occupancy, the city may proceed under § 157.02.

(D) Upon any re-inspections, should an inspector discover any other violations or defect not first observed in an earlier inspection, the inspector shall have the authority to require compliance within a specific time limit determined by the inspector.

(E) If an inspection appointment is made and no one is there when the inspector goes for the inspection, a \$10.00 fee will be charged before another inspection appointment is made.

(F) The certificate of occupancy shall state that the building official has inspected the dwelling or structure and has determined that the dwelling or structure may be occupied. The existence of an unexpired certificate of occupancy shall not bar enforcement of or excuses compliance with any building code or other ordinance of the city. The certificate of occupancy shall bear this legend in capital letters or bold face type:

"THE CITY DOES NOT WARRANTY OR GUARANTEE THAT THERE ARE NO DEFECTS IN THE PREMISES COVERED BY THIS CERTIFICATE AND THE CITY SHALL NOT BE HELD RESPONSIBLE FOR DEFECTS NOT NOTED IN THE INSPECTION REPORT. INTERESTED PERSONS ARE ADVISED AND ENCOURAGED TO MAKE THEIR OWN INSPECTION OF THE PREMISES IN ORDER TO DETERMINE THEIR CONDITION."

(G) The person applying for a certificate of occupancy shall sign an inspection agreement on a form prescribed by the building official. The inspection agreement shall disclose the scope of the inspection, state the limitations on the inspection and shall prohibit disclosure of the inspection report unless the scope and limitations of the inspection are also disclosed. In the case of a sale of the property, both the buyer and the seller shall sign and acknowledge receipt of completed inspection report.

(Ord. 239, passed 11-2-98)

§ 157.08 LIMITATIONS ON INSPECTIONS.

(A) All occupancy inspections shall be made to determine substantial compliance with the BOCA national property maintenance code and HUD Section 8 housing quality inspection form, as amended and adopted by the Bangor city council, as attached hereto.

(B) All inspections shall be visual or those which may require nondestructive testing to the extent of the removal of covers or plates, or the checking of electrical voltages or grounding conditions, as is deemed necessary by the building official.

(C) A list of all defects, if any, shall be made at the initial inspection. Any additional defects or code violations discovered or uncovered during repair or made known to the building official, prior to the issuance of the occupancy permit, shall be noted and will require repair within the time limits established by the building official.

(Ord. 239, passed 11-2-98)

§ 157.09 DURATION - RESIDENTIAL.

(A) A certificate of occupancy issued for residential property shall be valid until the property is sold or transferred or occupancy changed. In the case of property occupied by a tenant, the certificate of occupancy shall be valid until there is a change of tenant, or until the property is sold, whichever comes first.

(B) No part of this section shall be so construed as to prevent the city from investigating any complaint of hazardous conditions in any building, brought to the city's attention by a responsible party, nor to prevent any building official from acting on violations discovered or suspected under the plain view doctrine.

(Ord. 239, passed 11-2-98)

§ 157.10 DURATION - COMMERCIAL.

(A) A certificate of occupancy for commercial property shall be valid until the property is sold or transferred or the occupancy has changed.

(B) No part of this section shall be so construed as to prevent the city from investigating any complaint of hazardous conditions in any building, brought to the city's attention by a responsible party, nor to prevent any building official from acting on violations discovered or suspected under the plain view doctrine.

(Ord. 239, passed 11-2-98)

§ 157.11 CONDITIONAL CERTIFICATE OF APPROVAL.

In the event, for any reason, an owner requests that a certificate of approval be issued prior to complete compliance with the provisions of this ordinance, and if the absence of complete compliance does not, in the judgment of the building official, constitute a material health or safety hazard, a conditional certificate of approval may be issued upon the condition that complete compliance be achieved within a reasonable time specified by the building official, but not more than 60 days for good cause. In the event of issuance of a conditional certificate of approval, the owner shall notify said department by or before the time period specified for achieving compliance that said conformance has been achieved. A certificate of approval shall then be issued if the building official determines compliance after inspection.

(Ord. 239, passed 11-2-98)

§ 157.12 CONDITIONAL CERTIFICATE OF APPROVAL - BOND REQUIRED.

The building official shall require submission of a cash or surety bond in an amount equal to 150 percent of the estimated cost of repairs as determined by the building official prior to issuance of a conditional certificate of approval or in the event the official agrees to extend the time for compliance or in the event the inspection of the premises, buildings or structures after the time set forth for compliance has expired reveals that all the deficiencies have not been corrected. The bond or any moneys deposited as same shall be refunded within 30 days after certificate of approval is issued.

(Ord. 239, passed 11-2-98)

§ 157.13 REGISTRATION OF RENTAL DWELLINGS.

All dwellings, as defined by this chapter, which are leased or otherwise made available for rental purposes shall be registered by the owner with the city clerk's office at city hall.

(A) Time periods for registration.

(1) All existing rental dwellings shall be registered within 90 days of the effective date of this chapter.

(2) All newly constructed or newly converted rental dwellings shall be registered within 30 days of the issuance of the certificate of occupancy by the city of Bangor.

(3) A rental dwelling, which is sold, transferred or conveyed, shall be re-registered by the new owner within 30 days of the date of the deed, land contract or other instrument of conveyance.

(4) All existing non-rental dwellings, which are converted to rental dwelling without issuance of a certificate of occupancy, shall be registered within 30 days from the date on which the property is first occupied for rental purposes.

(B) *Required information.* The owner of a rental dwelling shall submit the following information to the city clerk's office at Bangor city hall on forms prescribed by the city.

- (1) The address of the rental dwelling;
- (2) The number of rental units within the structure;
- (3) The name, residence address, business telephone and home telephone of the owner;
- (4) The name, residence address, business address and business telephone of the responsible agent designated by the owner;
- (5) The date of registration of the rental dwelling;
- (6) Name of current tenant.

(C) *Fee; administrative late charge.* No registration fee shall be assessed to the owner of a rental dwelling by the city if registration complies with the provisions of this chapter. An administrative late charge as established by a resolution adopted by the city council per dwelling unit, boarding house, dormitory, or rooming house, shall be paid by the owner if registration of a rental dwelling does not comply with the provisions of this chapter.

(D) *Incorrect and outdated registration information.* An owner who fails to provide correct or current registration information shall be in violation of the provisions of this chapter.
(Ord. 239, passed 11-2-98)

§ 157.14 APPEALS.

Any violation notice may be appealed to the five members board of construction appeals established by the city council. The appeal shall be in writing and shall be filed within ten days of receipt of the violation notice. The appeal fee, in an amount of \$25.00, shall be paid at the time of filing. The board shall have no authority to waive, vary or modify the provisions of this, or any other, ordinance. The violation notice shall contain a notification of the appeal rights.
(Ord. 239, passed 11-2-98)

§ 157.99 PENALTY AND ENFORCEMENT.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment. In addition to the fine and cost imposed for violation of this chapter, the owner shall pay the administrative late charge prescribed in § 157.13.
(Ord. 239, passed 11-2-98)

CHAPTER 158: WELLHEAD PROTECTION OVERLAY ZONE

Section

- 158.01 Purpose
- 158.02 Definitions
- 158.03 Principal land uses permitted; prohibited
- 158.04 General provisions
- 158.05 Site plan review requirements
- 158.06 Determination of applicability
- 158.07 Conditions for approval or denial
- 158.08 Exemptions and waivers
- 158.09 Appeals
- 158.10 Penalties and costs

§ 158.01 PURPOSE.

(A) The city has determined that:

- (1) Certain groundwater underlying the city is the sole source of the city's drinking water.
- (2) Groundwater aquifers are integrally connected with the surface water, lakes, and streams which constitute significant public health, recreational and economic resources of the city and surrounding area.
- (3) Spills and discharges of petroleum products, sewage and hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

(B) Therefore, the city has enacted an overlay ordinance to initiate the following actions:

- (1) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the city, and to protect them from adverse land use development or land use practices.
- (2) Preserve and protect sources of drinking water supply for public health and safety.
- (3) Conserve the natural resources of the city and the surrounding area.

(4) Provide a level of protection of the financial investment that the city has in its drinking water supply.

(5) Assure that state regulations which help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.

(Ord. 251, passed 9-5-00)

§ 158.02 DEFINITIONS.

AQUIFER. A geologic formation, group of formations or part of formations capable of storing and yielding a significant amount of groundwater to wells or springs.

BEST MANAGEMENT PRACTICES. Measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water or groundwater.

DEVELOPMENT. The construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

ENVIRONMENTAL CONTAMINATION. The presence or release of a hazardous substance or other substance, in a quality, which is or may become injurious to the environment, or to the public health, safety, or welfare.

FACILITY. Any building, structure, installation or property from which there may be a discharge of hazardous substances.

HAZARDOUS SUBSTANCE. A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term **HAZARDOUS SUBSTANCE** includes, but is not limited to, any of the following:

(1) Hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767.

(2) Hazardous waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

(3) Regulated substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

(4) Hazardous substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

(5) Used oil.

- (6) Animal waste or byproducts, or carcasses.

PRIMARY CONTAINMENT FACILITY. A tank, pit, container, pipe or vessel of first containment of a hazardous substance.

SECONDARY CONTAINMENT FACILITY. A second tank, catchment pit, or vessel that limits and contains liquid or hazardous substance leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent future environmental contamination of land, ground water or surface water.

UNDERGROUND STORAGE TANK SYSTEM. A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

USED OIL. Any oil which had been (a) refined from crude oil, (b) used, and (c) as a result of such use contaminated by physical or chemical impurities.

WELL. A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Wells Construction and Pump Installation Code, Part 127, Public Act 368 of 1978, as amended, and rules.

WELLHEAD PROTECTION AREA (WHPA). The area around and upgradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.

WELLHEAD PROTECTION OVERLAY ZONE. The Wellhead Protection Area as outlined on the overlay zoning map.
(Ord. 251, passed 9-5-00)

§ 158.03 PRINCIPAL LAND USES PERMITTED; PROHIBITED.

Proposed land use is specified by applicant and confirmed by the City Planning Commission. Permitted land uses in the Wellhead Protection Overlay Zone include all those permitted uses as allowed in the underlying zoning district, except for the following:

- (A) Petroleum product manufacturing (including coal).

- (B) Commercial salvage yards and/or scrap processing.

- (C) Oil and gas drilling.

(Ord. 251, passed 9-5-00)

§ 158.04 GENERAL PROVISIONS.

These provisions shall apply to all properties within the Wellhead Protection Overlay Zone, including private, commercial, industrial, residential and public properties, which use include the storage or generation of hazardous substances in quantities greater than 100 kilograms (approximately 220 pounds or 25 gallons) per month, and which require site plan review under provisions of this chapter or § 154.013 of the City Zoning Ordinance. The general provisions apply to entire property parcels, providing parcel is at least partially included in the Wellhead Protection Overlay Zone.

(A) Groundwater protection standards.

(1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.

(2) Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.

(3) Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable state and federal regulations.

(4) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with the city's Industrial Pretreatment Ordinance.

(5) Sites that at any time use, store or generate substances in quantities greater than 100 kilograms that include hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

(6) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.

(7) Bulk storage of pesticides shall be in accordance with applicable county, state and federal regulations.

(B) Aboveground storage and use areas for hazardous substances.

(1) Primary containment of hazardous substances shall be product tight.

(2) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers with a volume of less than 40 gallons and packaged for retail use shall be exempt from this item.

(3) Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation.

(4) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable county, state and federal regulation.

(5) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetlands, groundwater, or soils.

(C) Underground storage tank systems.

(1) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality.

(2) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality. Leak detection, secondary containment, corrosion protection, spill prevention and overflow protection requirements shall be met.

(D) Well abandonment. Out of service wells shall be sealed and abandoned in accordance with applicable state requirements.

(E) Well construction.

(1) Well drilling, construction and installation shall only be performed by State of Michigan Registered Well Drillers.

(2) Well construction shall be completed in accordance with Part 127 of Public Act 368 of 1978, as amended, and rules.

(3) Well construction shall include fully grouting the entire length of the well casing in accordance with Part 127 of Public Act 368 of 1978, as amended, and rules.

(F) *Sites with contaminated soils and/or groundwater.*

(1) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and environment.

(2) Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial action plans.

(3) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(G) *Construction standards.*

(1) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.

(2) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container volume of over 40 gallons that contains hazardous substances shall have secondary containment.

(3) If the contractor will be storing or handling hazardous substances that require a Material Safety Data Sheet (MSDS), the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.

(4) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable state and federal regulations.

(5) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(H) *Maintenance.* In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where hazardous substances are handled or stored.

(I) *Exclusions.*

(1) A limited exclusion from the general provisions is hereby authorized for hazardous substances as follows:

(a) The hazardous substance is packaged for personal or household use or is present in the same form and concentration as a product packaged for use by the general public.

(b) The total excluded substances containing hazardous substances may not exceed 50 gallons or 400 pounds at any time.

(2) A limited exclusion from the general provisions is hereby authorized for non-routine maintenance or repair of property in the Wellhead Protection Overlay Zone provided the uses are limited as follows:

(a) The aggregate of hazardous substances may not exceed 50 gallons or 400 pounds at any time.

(b) The total use of substance containing hazardous substances may not exceed 100 gallons or 800 pounds at any time.

(Ord. 251, passed 9-5-00)

§ 158.05 SITE PLAN REVIEW REQUIREMENTS.

(A) Specify location and size of interior and exterior areas and structures to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous substances.

(B) Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated stormwater or wash water, and all similar uses.

(C) Specify location of existing and proposed wells.

(D) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

(E) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.

(F) Submit "City of Bangor State and County Environmental Permits Checklist."

(G) Refer to § 154.013 regarding Site Plan Review of the City Zoning Ordinance (Chapter 154 of Title XV) for additional requirements.

(Ord. 251, passed 9-5-00)

(3) Any person or person violating any of the provisions of this chapter shall be liable to the city for any expense, loss, or damage caused by such violation. The city shall bill the person and persons for the costs incurred by the city (caused by the violation).
(Ord. 251, passed 9-5-00)