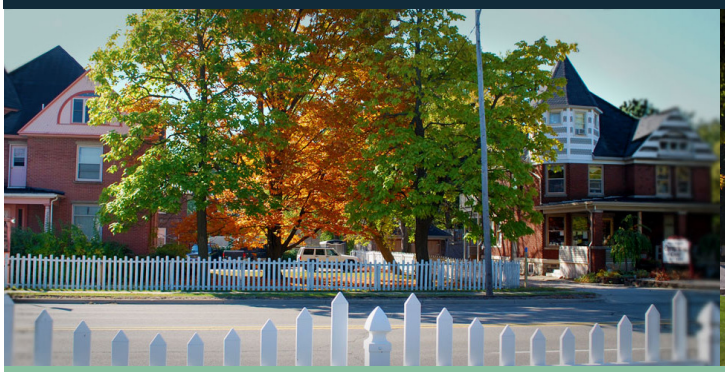
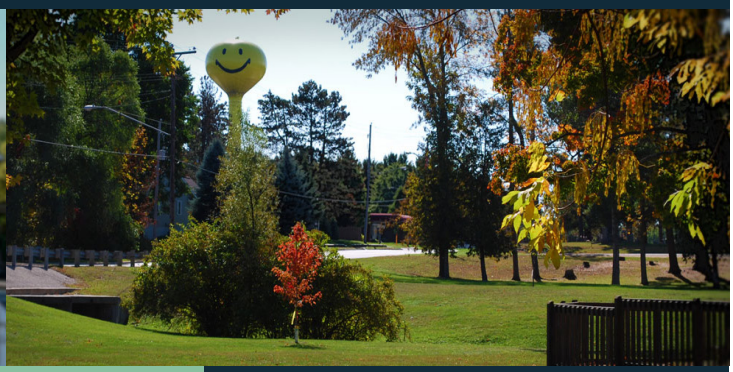
Zoning Ordinance



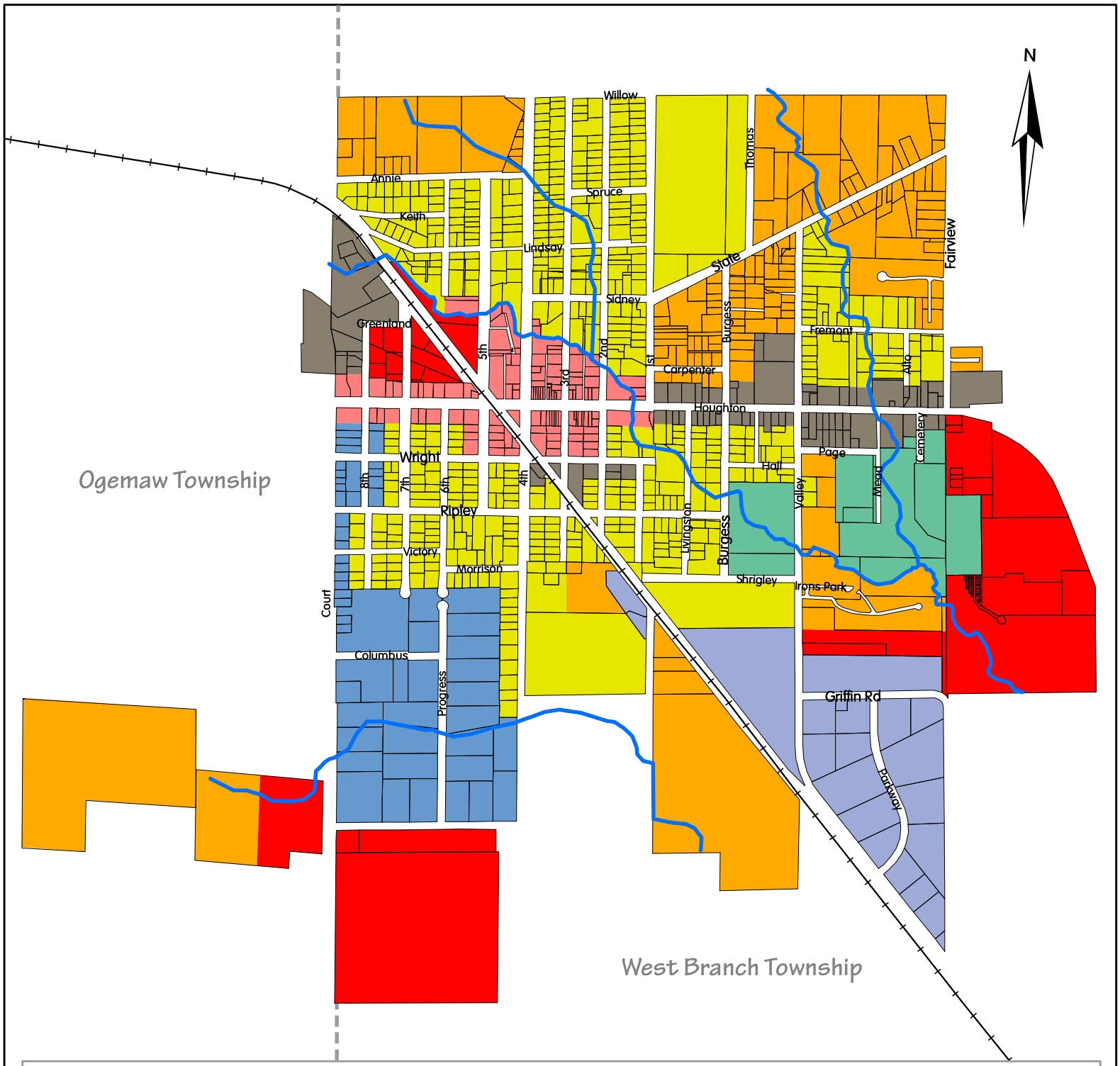


City of West Branch

Ogemaw county, Michigan

141 North 4th Street
West Branch, MI 48661
989-345-0500
www.westbranch.com

Adopted 12/16/19 Effective 12/26/19



Zoning Districts

- R-1 (Single Family Residential District)
- R-M (Multiple Family District)
- MU (Mixed Use District)
- O-S (Office Service District)
- CBD (Central Business District)
- G-B (General Business District)
- IND (Industrial District)
- Parks

CITY OF West Branch MICHIGAN

0 0.25 0.5 Miles

DISCOVER Northeast Michigan EAST OF EXPECTED

Prepared by the Northeast Michigan Council of Governments www.nemcog.org

City of West Branch
ZONING ORDINANCE

City of West Branch
Ogemaw County
Michigan

Adopted: December 16, 2019

Effective: December 26, 2019

Prepared with the assistance of:

Northeast Michigan Council of Governments
www.discovernortheastmichigan.org

In partnership with:

Michigan Economic Development Corporation Redevelopment Ready Communities (RRC)
www.miplace.org/programs/redevelopment-ready-communities

Cover Photo Credit: West Branch Tourism Bureau

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Article 1
Purpose & Authority

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Section 1.1 Title

This Ordinance shall be known and cited as the City of West Branch Zoning Ordinance and shall be referred to herein as "this Ordinance."

Section 1.2 Authority

The City Council provides for this Zoning Ordinance pursuant to the **Michigan Zoning Enabling Act, 2006 PA 110, as amended, MCL 125.3101 et. seq**. Such enabling act is hereby made a part of this Ordinance just as if said Act were repeated word for word herein. Per **Section 9.1**, this Ordinance hereby establishes a Planning Commission, hereafter known as the City of West Branch Planning Commission.

Section 1.3 Purpose

The purpose of this Ordinance shall be to promote the public health, safety, and general welfare by:

A. Providing for the orderly development of the City.

B. Providing, in the interests of health and safety, conditions under which certain buildings and structures may hereafter be erected and used. Such provisions are intended to provide for adequate light, air, and convenience of access to secure safety from fire and other dangers.

C. Facilitating the development of an adequate system of transportation, education, sewage disposal, and safe and adequate water supply conforming to the requirements of the health department and other public requirements.

D. Conserving life, property, and natural resources, and the expenditure of public funds for improvements and services to conform with the most advantageous uses of land, resources, and properties.

E. To avoid undue concentration of population by regulating and limiting the height and bulk of buildings, limiting and determining the size of yards, courts, and other open spaces, regulating the density of population and regulating and restricting the location of uses and buildings.

Section 1.4 Intent & Conflicting Laws/Regulations

A. This Ordinance is not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance or of any private restrictions placed upon property by covenant, deed, or other private agreement.

B. Where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or lot coverage, or requires greater lot areas, or larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, or by such private restrictions, the provisions of this Ordinance shall control except where legally pre-empted by such opposing law.

C. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

D. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall prevail.

E. The graphics, tables and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics.

Section 1.5 Prior Regulations & Requirements of Land & Buildings

The lawful use of any dwelling, building, or structure, and of any land or premises as existing and lawful at the time of enactment of this Ordinance or any subsequent amendment to this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance, provided that this provision does not waive the applicability of any other law or ordinance intended to protect the health, safety, and welfare of the public.

Section 1.6 Legal Basis

This Ordinance is enacted and administered pursuant to **Michigan Zoning Enabling Act, 2006 PA 110,** as amended, MCL 125.3101 et. seq.

Section 1.7 Effective Date

The City of West Branch Zoning Ordinance is effective on December 26, 2019.

Article 2 Definitions

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Section 2.1 Construction of Language

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, a limited liability company, or any other similar entity or their agents, as well as an individual.

B. The present tense includes the future tense, and the singular number includes the plural, and the plural number includes the singular.

C. The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied.

D. The word "shall" is mandatory; the word "may" is permissive.

E. The particular shall control the general.

F. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

G. A "building" or "structure" includes any part thereof.

H. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows.

a. "And" indicates that all the connected items, conditions, provisions or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

c. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

I. Terms not herein defined shall have the meaning customarily assigned to them.

J. "City" shall refer specifically to the City of West Branch.

Section 2.2 Specific Terms

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

A

ABANDONMENT: Unless otherwise defined by this Ordinance, abandonment shall mean the cessation of a permitted activity in, or a permitted use of a dwelling structure, or lot, other than that which would normally occur on a seasonal basis, and that has fallen into disrepair or is neglected in some way for a period of six (6) months or longer. Abandoned buildings are regulated by **Chapter 153 of the City of West Branch Code of Ordinances (Blight and Nuisance Regulations**).

ABOVE GROUND LEVEL (AGL): A measurement of height from the natural grade of a site to the highest point of a structure.

ABUTTING: Having property or district line in common, e.g., two lots are abutting if they have property lines in common.

ACCELERATED SOIL EROSION: The increased removal of the land surface that occurs as a result of human activities.

ACCESS: A way of approaching or entering a property.

ACCESSORY BUILDING or ACCESSORY STRUCTURE: Any unattached subordinate building or structure, which is incidental to the principal building and located on the same lot with the principal building. Accessory buildings includes detached garages, sheds, storage buildings, and similar buildings. Accessory structures includes decks, patios, open porches, paved terraces and similar structures. Fences and walls are not considered accessory structures.

ACCESSORY DWELLING UNIT: A secondary residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Accessory dwelling units shall be developed in accordance with the standards set

forth in **Section 7.21** and only in those zoning districts where the use is listed.

ACCESSORY USE: Any use customarily incidental and subordinate to the principal use of the premises but does not include residential occupation.

ACRE: A measure of land area containing 43,560 square feet.

ADDITION: A structure added to the original structure at some time after the completion of the original.

ADJACENT PROPERTY: All lands which adjoin any side or corner of a specific parcel of land including, but not limited to, those lands separated from the parcel by a road right-of-way, easements or public utility rights-of-way.

ADJACENT PROPERTY OWNERS: Those property owners or residents bordering, abutting a corner or across the street from the subject property.

ADULT FOSTER CARE FACILITY: A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

A. An adult foster care facility does not include the following:

1. A nursing home licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.

2. A home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.

3. A hospital licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.

4. A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of community health under the **Mental Health Code, 1974 PA 258**, MCL 330.1001 to 330.2106.

5. A county infirmary operated by a county department of social services or family independence agency under Section 55 of the **Social Welfare Act, 1939 PA 280**, MCL 400.55.

6. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under **1973 PA 116**, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:

   a. Two (2), if the total number of residents is ten (10) or fewer.

b. Three (3), if the total number of residents is not less than eleven (11) and not more than fourteen (14).

c. Four (4), if the total number of residents is not less than fifteen (15) and not more than twenty (20).

d. Five (5), if the total number of residents is twenty-one (21) or more.

7. A foster family home licensed or approved under **1973 PA 116**, MCL 722.111 to 722.128, that has a person who is eighteen (18) years of age or older placed in the foster family home under section 5(7) of **1973 PA 116**, MCL 722.115.

8. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

9. A facility created by the **Michigan Veteran's Facility Act 1885 PA 152**, MCL 36.1 to 36.12.

10. An area excluded from the definition of adult foster care facility under Section 17(3) of the **Continuing Care Community Disclosure Act, 2014 PA 448**,MCL 554.917

11. A private residence with the capacity to receive at least one (1) but not more than four (4) adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

B. The following additional definitions shall apply in the application of this Ordinance.

1. **ADULT DAY CARE FACILITY:** A facility receiving adults for care for periods of less than twenty four (24) hours in a day, for more than two (2) weeks in any calendar year. Care for persons related by blood or marriage to a member of the family occupying the dwelling is excluded from this definition.

2. **ADULT FOSTER CARE FAMILY HOME:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

3. **ADULT FOSTER CARE SMALL GROUP HOME:** An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

4. **ADULT FOSTER CARE LARGE GROUP HOME:** A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal

care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

5. **ADULT FOSTER CARE CONGREGATE FACILITY:** An adult foster care large group home with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

6. **STATE-LICENSED RESIDENTIAL FACILITY:** A structure constructed for residential purposes that is licensed by the State under the **Adult Foster Care Facility Licensing Act, 1979 PA 218**, MCL 400.701 to 400.737, or **1973 PA 116**, MCL 722.111 to 722.128, and provides residential services for six (6) or fewer individuals under twenty-four (24) hour supervision or care. The licensee is NOT a member of the household nor is an occupant of the residence.

AGGRIEVED PERSON: A person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

AISLE: The traveled way by which cars enter and depart parking places.

ALLEY: A public thoroughfare that affords only a secondary means of access to abutting property.

ALTERATION OF BUILDING: A change in the supporting members of a building, an addition to, or a diminution, a change in use, or a conversion of a building or a part thereof.

ANIMAL (WILD OR EXOTIC): Animals, which are wild by nature and not customarily domesticated. This definition does not include birds, small rodents, or small, nonpoisonous reptiles commonly used for educational or experimental purposes, or as pets. Exotic animals are often not indigenous, are undomesticated, unusual in appearance, sometimes venomous, and can be potentially dangerous to humans if they escape. Exotic fish are not considered exotic animals.

ANIMAL HOSPITAL: see **VETERINARY HOSPITAL**

APARTMENT: see **DWELLING: MULTIPLE-FAMILY DWELLING**

APPEAL: The process, as prescribed in this Ordinance, for contesting a decision made by the Zoning Administrator or decision made by the Planning Commission.

APPLICANT: A person or entity submitting an application for review and action by the City or any of its departments or commissions.

APPROVED PLAN: A plan that has been granted final approval by the appropriate approving authority.

APPROVING AUTHORITY: The agency, board, group, or other legally designated individual or authority that has been charged with review and approval of plans and applications.

ARCHITECTURAL FEATURES: Architectural features of a building shall include cornices, eaves, gutters, sills, lintels, bay windows, chimneys, decorative ornaments, or similar features.

AREA: see **LOT AREA**

ASSEMBLY BUILDING OR HALL: A building for the primary purpose of group gatherings. Also called a "Place of Public Assembly."

ASSISTED LIVING HOME: see **INSTITUTION, HUMAN CARE**

ATTACHED: Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to it.

ATTACHED SINGLE FAMILY DWELLING: see **DWELLING: SINGLE-FAMILY ATTACHED DWELLING**

ATTIC: That part of a building that is immediately above the ceiling beams of the top story and wholly or partly within the roof framing.

AUTOMOBILE: A self-propelled, free moving vehicle, with four (4) or more wheels, primarily for conveyance on a street or roadway.

AUTOMOTIVE/VEHICLE REPAIR: General repair, rebuilding, or reconditioning of engines, motor vehicles or trailers; collision service, including body frame or fender straightening or repair; overall painting or paint shop; and vehicle steam cleaning.

AUTO SERVICE STATION: see **GAS STATION**

AVERAGE: For the purpose of this Ordinance, the term, "average" shall be an arithmetic mean.

AWNING: See **CANOPY**

B

BANK: A financial institution.

BAR/TAVERN: A building or portion thereof where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

BASEMENT: See **State of Michigan adopted building code**.

BED AND BREAKFAST: A use that is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, in which transient guests are provided a sleeping room and breakfast in return for payment, and that does not provide separate cooking facilities for such guests.

BERM: An earthen mound of definite height and location designed to serve as an obscuring device in carrying out the requirements of this Ordinance.

BLOCK: A property surrounded by streets or abutting one side of a street and situated between the two nearest intersecting streets, or bounded by a combination of streets, waterways, parks, unplatted acreage, corporate boundary lines, or other natural or man- made, physical or artificial barrier to

continual development.

BOARD OF APPEALS: The Zoning Board of Appeals of the City of West Branch.

BOARDING HOUSE: See **ROOMING HOUSE OR BOARDING HOUSE**

BODY PIERCING PARLOR: see **TATTOO/BODY PIERCING PARLOR**

BODY SHOP: see **AUTOMOTIVE/VEHICLE REPAIR**

BREWPUB: A facility where beer is produced, stored and sold for consumption on or off the premises that meets the requirements of the Michigan Liquor Control Commission, where no more than five thousand (5,000) barrels of beer are produced per year.

BUFFER: Open space, landscaped areas, fences, walls, berms or any combination thereof to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances. A greenbelt is considered a buffer.

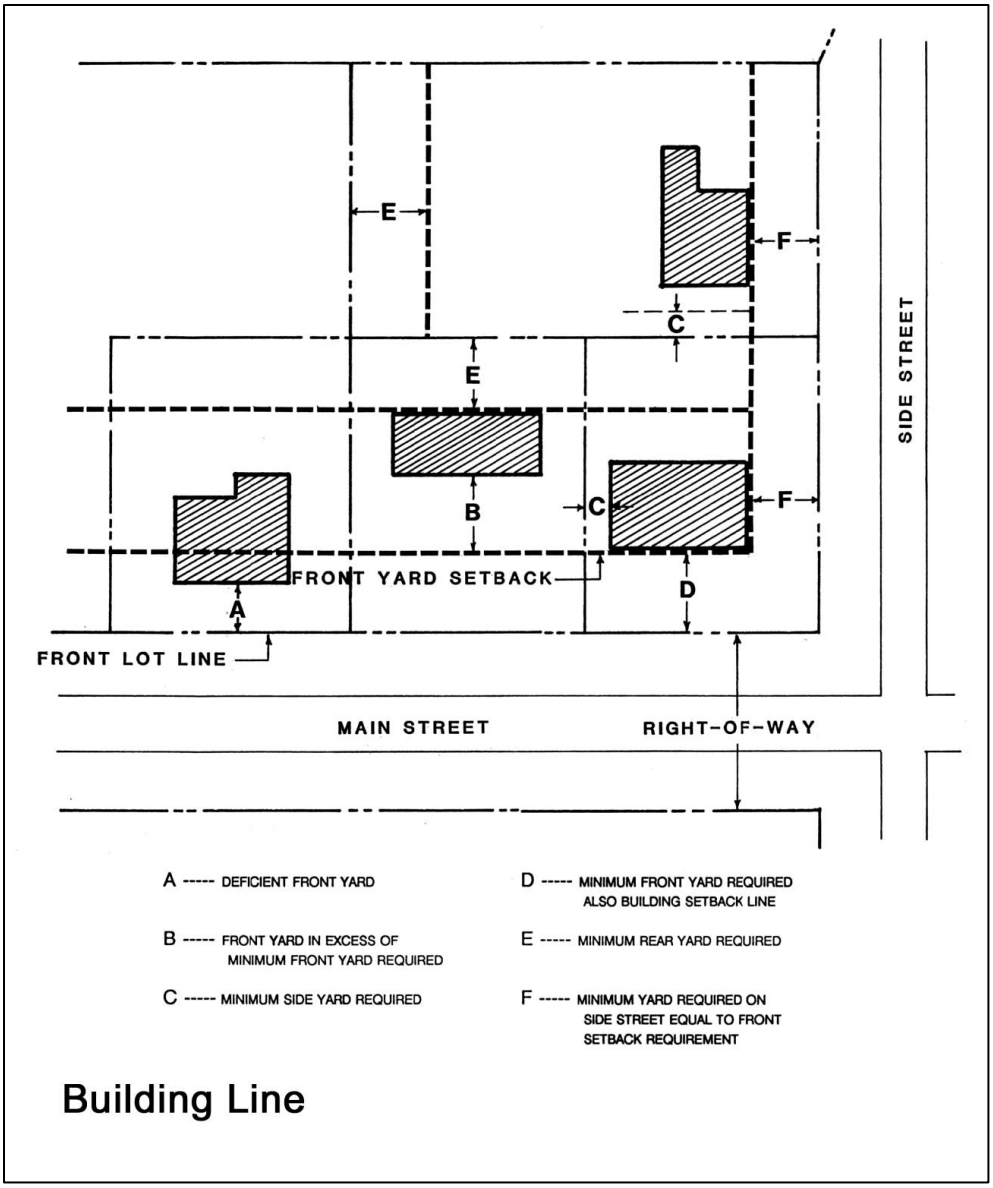
BUILDABLE AREA: The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

BUILDING: A structure erected on-site, a manufactured home, or a premanufactured or pre-cut structure that is above or below ground and is designed primarily for the use or intended use of shelter, support, or enclosure of persons, animals, or property of any kind.

BUILDING AREA: The horizontal area measured within exterior walls of the ground floor of all principal and accessory buildings on a lot.

BUILDING HEIGHT: see **HEIGHT OF BUILDING**

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



Building Line

BUILDING OFFICIAL: Person who is licensed pursuant to the State of Michigan's regulation to enforce and administer the adopted building code within the City/County.

BUILDING, PRINCIPAL: A building in which is conducted the principal use of the premises on which it is situated.

BUSINESS CENTER: A business center is more than one (1) business on the same parcel.

BUSINESS SERVICES: Establishments primarily engaged in rendering services to business establishments for a fee or on a contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services, protective services, equipment rental and leasing, commercial research, development and testing, photo finishing, and personal supply

services.

C

CAMPGROUND: See **RECREATIONAL VEHICLE (RV) PARK/CAMPGROUND**

CANOPY: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

CAR WASH: A structure containing facilities for washing automobiles using a chain conveyer or other method of moving the cars along, or machinery that moves around a stationary vehicle, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

CARRIER: A company that provides wireless service.

CARRY-OUT RESTAURANT: see **RESTAURANT, DRIVE-IN/DRIVE-THROUGH/FAST FOOD**

CELLULAR TOWER: see **WIRELESS COMMUNICATION FACILITY: WIRELESS COMMUNICATIONS SUPPORT STRUCTURE**

CEMETERY: Any publicly or privately owned place for the interment of human remains.

CERTIFICATE OF OCCUPANCY: A document issued by the Building Official allowing the occupancy or use of a building and certifying that the structure or use has been constructed and/or will be used in compliance with all applicable municipal codes and ordinances and approved plans and specifications.

CHILD CARE ORGANIZATION: A facility for the care of children under eighteen (18) years of age, as licensed and regulated by the State under **1973 PA 116** and the associated rules promulgated by the State. Such organizations shall be further defined as follows:

A. **CHILD CARE CENTER or DAY CARE CENTER:** A facility, other than a private residence, receiving more than six (6) preschool or school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative preschool, pay group, or drop-in center. CHILD CARE CENTER or DAY CARE CENTER does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

B. **CHILD CARING INSTITUTION:** A child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a twenty-four (24) hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home, that is described as a small child

caring institution, owned, leased, or rented by a licensed agency providing care for more than four (4) but less than thirteen (13) minor children. Child caring institution also includes institutions for developmentally disabled or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260, a boarding school licensed under Section 1335 of the **Revised School Code, 1976 PA 451**, MCL 380.1335, a hospital or facility operated by the state or licensed under the **Mental Health Code, 1974 PA 258**, MCL 330.1001 to 330.2106, or an adult foster care family home or an adult foster care small group home licensed under the **Adult Foster Care Facility Licensing Act, 1979 PA 218**, MCL 400.701 to 400.737, in which a child has been placed under section 5(6).

C. **FAMILY DAY CARE HOME:** A private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

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

CHURCHES/SYNAGOGUES/MOSQUES: see **INSTITUTION, RELIGIOUS**

CLEAR VISION: A triangular area formed at the intersection of any street right-of-way lines where no visual obstruction of sight may exist between the heights of three (3') feet and eight (8') feet. See **Section 3.15**.

CLUB/LODGE/FRATERNAL ORGANIZATION: An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics, veterans, scouts, hobbies, or the like, but not for profit, and open only to members and not the general public.

CLUSTER: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

CO-LOCATION: see **WIRELESS COMMUNICATION FACILITY: CO-LOCATION**

COMMERCIAL: A term relating to the use of property in connection with the purchase, sale or trading of goods for personal services or maintenance of service offices or recreation or amusement enterprise or garage/basement/porch sales lasting more than fourteen (14) days during any twelve (12) month period. See **MALL**.

COMMERCIAL SCHOOL/TRADE SCHOOL: A school or facility offering training to perform a specific trade. Examples of commercial or trade schools are beauty and barbering schools, design schools, mechanics schools, etc.

COMMISSION: The Planning Commission of the City of West Branch.

COMMON OPEN SPACE: Common open space shall mean land within a planned unit development or site condominium development, under the common ownership of all occupants in the planned unit development, to be used for park, recreation, or environmental amenity. These lands shall not include public or private streets, driveways, or parking areas.

CONDOMINIUM: see **PLANNED UNIT DEVELOPMENT (PUD)**

CONDITIONAL REZONING: A rezoning that is conditioned by a specific use and approved site plan voluntarily proposed by the applicant.

CONDOMINIUM, SITE see **PLANNED UNIT DEVELOPMENT (PUD)**

CONTRACTOR: General contractors and builders engaged in the construction of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction, and utility construction. Also refers to special trade contractors such as electricians, plumbers, HVAC, excavators, well-drillers, landscapers, and the like.

CONTRACTOR, LANDSCAPE: Landscaping includes businesses principally engaged in lawn mowing and yard maintenance. It also includes decorative and functional alteration, planting and maintenance of such grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage/irrigation facilities) are accessible and on the same parcel as the principal use. Landscape contractor also includes businesses that apply fertilizers, pesticides and other treatments for plants, trees and grass. This definition also includes tree services and commercial plant maintenance services.

CONTRACTOR'S STORAGE YARD: A portion of the lot or parcel upon which a contractor maintains its principal office or a permanent business office. Designation of the lot or parcel as a contractor's storage yard would allow this area to be used to store and maintain equipment and other materials customarily used in the trade carried on by a contractor. If permitted to be used in this manner, the entire lot or parcel would then be classified as a "contractor's storage yard" and will be required to conform to all applicable Zoning District standards and other legislative regulations.

CONVALESCENT OR NURSING HOME: see **INSTITUTION, HUMAN CARE**

CORNER LOT: see **LOT, CORNER**

COTTAGE INDUSTRY: A Home Occupation which, due to the nature of the investment or operation, includes one or more of the following aspects:

A. requires regular visits by clients or customers;
B. needs frequent delivery or shipment of goods;
C. conducts regular operations or store materials outside of the residence;
D. employs two or more individuals who reside off premises;

E. and, has the potential to rapidly increase in size and intensity

COUNTY: County shall mean Ogemaw County unless the specific use or the context indicates a different reference.

COVERAGE: see **LOT COVERAGE**

D

DECK: A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the principal building. A deck may be open or partially or completely covered by a roof structure.

DENSITY: The intensity of development in any given area, measured in this Ordinance by the number of dwelling units per acre.

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

DISPLAY PUBLICLY: The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than adult media are on display to the public.

DISTRIBUTION CENTER: A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

DISTRICT: see **ZONE**

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

DUMPSTER: A container capable of holding a volume of material greater than two (2) cubic yards and used for the purpose of collecting garbage, solid or liquid waste, or refuse of any type.

DWELLING: Any building or portion thereof usable exclusively for residential purposes with one or more habitable rooms occupied or intended for occupancy with facilities for living, sleeping, cooking and/or eating. A dwelling is classified as one of the following:

A. **SINGLE-FAMILY DWELLING**: A building containing not more than one (1) dwelling unit designed for residential use.

   1. **DWELLING, SINGLE-FAMILY DETACHED**: A building designed exclusively for and occupied exclusively by one (1) family that is separate and distinct from any other dwelling. A single

family dwelling that does not share a party wall with any other dwelling is a detached single family dwelling.

2. **DWELLING, SINGLE-FAMILY ATTACHED**: A dwelling designed for occupancy by one (1) family in a row of at least (3) three such units in which each unit has its own access to the outside, no unit is located over another, and each unit is separated from any other unit by one or more vertical common fire-resistant party walls (also known as a townhouse or rowhouse).

B. **TWO-FAMILY DWELLING (DUPLEX/TOWNHOUSE)**: A building containing no more than two (2) separate dwelling units designed for residential use.

C. **MULTIPLE-FAMILY DWELLING**: A building containing three (3) or more dwelling units designed for residential use but not those falling under the definition of **DWELLING, SINGLE-FAMILY ATTACHED**. Also known as an **APARTMENT** building. Multiple-Family Dwellings include "stacked flats" which are rowhouses/townhouses that are divided into upper and lower units.

DWELLING UNIT: One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically independent of any other group of rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. But in no case shall a travel trailer, automobile chassis, or tent be considered a dwelling.

E

EASEMENT: Any private or dedicated public way other than a street or alley, providing a secondary means of access to a property.

EAVE: The projecting lower edges of a roof overhanging the wall of a building.

EGRESS (EXIT): An exit from a building or site.

ELDERLY HOUSING: see **SENIOR HOUSING**

ELEVATION, VIEW: An architectural or engineered rendering of each side of a building for purposes of site plan review.

EMISSION: A discharge into the air or water.

ENGINEERED HOME: see **MANUFACTURED HOME**

ENVIRONMENTALLY SENSITIVE AREA: An area with one or more of the following characteristics:

A. Slopes in excess of twenty (20%) percent
B. Floodplain
C. Soils classified as having a high water table
D. Soils classified as highly erodible, subject to erosion, or highly acidic

E. Land incapable of meeting percolation requirements
F. Land formerly used for landfill operations or hazardous industrial uses
G. Fault areas
H. Stream corridors
I. Estuaries
J. Aquifer recharge and discharge areas

EQUIPMENT RENTAL/SALES: A business that provides construction, household and other similar equipment for rent to the general public or contractors for a limited period of time.

ERECTED: The construction, alteration, reconstruction, placement upon, or any physical alteration to a piece of land, including the excavating, moving and filling of earth.

EROSION: The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission, distribution or collection systems, communication, supply, or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric sub-stations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith. Essential Services are those that are reasonably necessary to furnish adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare, but do not include buildings other than the buildings that are primarily enclosures or shelters of the mentioned equipment in this definition. Private wireless communication facilities, wind energy, and solar energy facilities are not considered Essential Services.

ESTABLISHMENT: An economic unit, generally at a single physical location, where business is conducted or services or industrial operations are performed.

EXCAVATION: The removal of rock, sand, soil, or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.

EXOTIC ANIMAL: see **ANIMAL (WILD OR EXOTIC)**

F

FAMILY:

A. An individual or a group of two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or

B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single non-commercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. Foster family homes and foster family group homes shall be considered a residential use of property for the purposes of zoning and shall be regulated similar to a single-family home.

FAMILY DAY CARE HOME: see **CHILD CARE ORGANIZATION**

FAST FOOD RESTAURANT: see **RESTAURANT, DRIVE-IN/DRIVE-THROUGH/FAST FOOD**

FENCE: A fence is an enclosing barrier, which is constructed or planted, in whole or in part, for purpose of denoting a boundary line between parties or to create a barrier between adjacent parcels. A fence is a privacy fence if it shall be so constructed or planted such that more than fifty percent (50%) of the surface area, measured perpendicular to the sides, consists of material which is solid or opaque.

FLEA MARKET: see **OUTDOOR USE, TEMPORARY**.

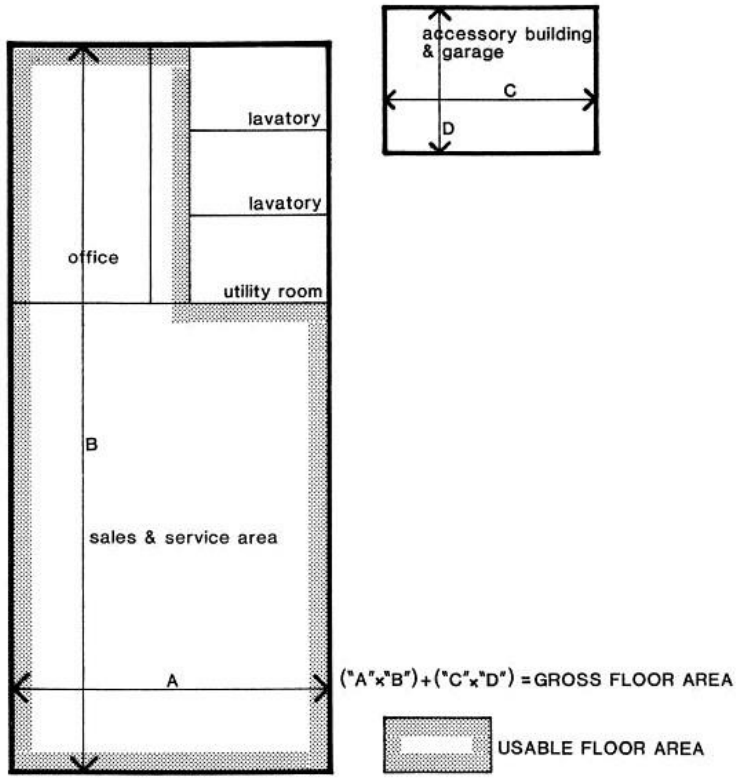
FLOODPLAIN: The relatively flat area or low lands adjoining the channel of watercourse or a body of standing water, that has been or may be covered by floodwater. Determination of a floodplain is made by the Federal Emergency Management Agency for those areas to be covered by flood insurance and consists of:

A. Contiguous areas paralleling a river, stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of one hundred (100) years.

B. Principal estuary courses of wetland areas that are part of the river flow system.

C. Contiguous area paralleling a river stream or other body of water that exhibits unstable soil conditions for development.

FLOOR AREA: The area of all floors computed by measuring the dimensions of the outside walls, excluding attic and basement floors, porches, patios, breezeways, carports, and garages, or portions of rooms with less than seven (7) feet of space between the floor and ceiling.



Floor Area Terminology

FLOOR AREA, USABLE: That area of a nonresidential building used for or intended to be used for the sale of merchandise or services. Such floor area that is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways, and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of usable floor area.

FOOD TRUCK: A wheeled vehicle from which food is sold that typically contains cooking facilities where food is prepared. Food trucks which are intended to operate continuously from a fixed location are regulated by this Ordinance. Food trucks which are transitory in nature are regulated by the **City of West Branch Code of Ordinances Chapter 111 Peddlers and Solicitors**.

FRATERNAL ORGANIZATION: see **CLUB/LODGE/FRATERNAL ORGANIZATION**

FUNERAL HOME/MORTUARY: A building used for the storage and preparation of the deceased for burial and display, and for ceremonies connected therewith before burial or cremation.

G

GARAGES: An accessory building customarily used for the storage of vehicles.

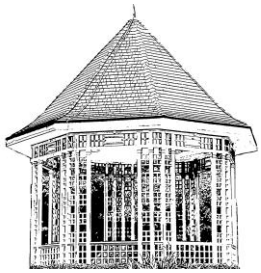
GARAGE SALE: see **YARD SALE**

GARBAGE: Waste material which will or may decompose and become offensive or dangerous to public health.

GAS STATION: A place where gasoline, kerosene, or any other motor fuel or lubricating oil or grease for operation of motor vehicles is offered for sale to the public and deliveries are made directly into

motor vehicles, including sale of accessories, greasing, oiling, and light motor service on the premises, but in no case to include automobile or truck mechanical repair. Convenience food sales and/or fast food restaurants may also be provided on the premises.

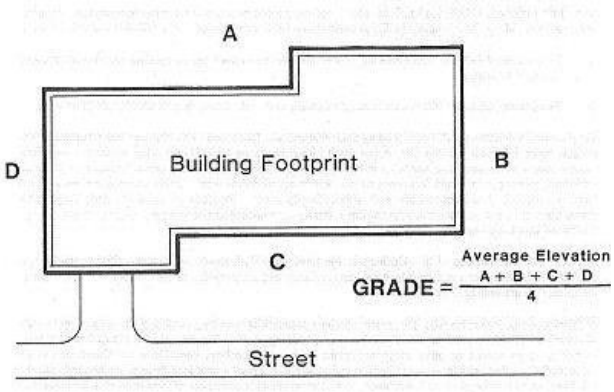
Gazebo

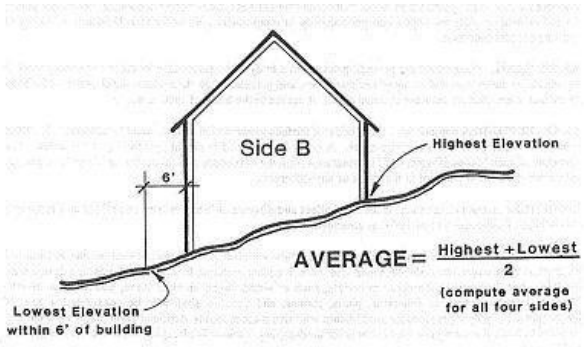


GAZEBO: A freestanding, roofed accessory building of an open ("see through") design on the sides. Gazebos shall be seventy-five (75%) open. The open area may be enclosed by screens.

GLARE: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GRADE: For purposes of this Ordinance, the level of the ground adjacent to the exterior walls of a building or structure. In the case of lots with a sloping terrain, the grade shall be the average elevation of the ground adjacent to the walls.





Grade

GRADING: Any stripping, excavating, filling, stockpiling, or any combination thereof, and also included shall be the land in its excavated or filled condition.

GREEN ROOF: A vegetated landscape built up from a series of layers that are installed on a roof surface as 'loose-laid' or modular (installed layer by layer on the roof or as pre-prepared layers in trays).

GREENBELT: see **BUFFER**

GREENHOUSE: A temporary or permanent building whose roof and sides are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment.

GROSS PUBLIC FLOOR AREA: The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

GROUND COVER: Grasses or other cultivated plants grown to keep soil from being blown or washed away, not including weeds or other overgrown, unkempt vegetation.

GROUNDWATER PROTECTION DEFINITIONS:

A. **AQUIFER**: A geologic formation, group of formations, or part of a formation capable of storing and yielding a significant amount of groundwater to wells or springs.

B. **BEST MANAGEMENT PRACTICES**: Measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water, or groundwater.

C. **DEVELOPMENT**: The carrying out of any construction, reconstruction, or alteration of surface of structure or change of land use or intensity of use.

D. **ENVIRONMENTAL CONTAMINATION**: The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment, or to the public health, safety, or welfare.

E. **FACILITY**: Any building, structure, or installation from which there may be a discharge of pollutants.

F. **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, hazardous substances as defined in the comprehensive environmental response, compensation, and liability act of **1980, Public Law 96-510, 94 Stat. 2676**; "hazardous waste" as defined in **Part 111 (Hazardous Waste Management) of the Natural Resources and Environmental Protection Act 1994 PA 451**, as amended; "petroleum" as defined in **Part 213 (Leaking Underground Storage Tanks) of the Natural Resources and Environmental Protection Act 1994 PA 451**, as amended.

G. **PRIMARY CONTAINMENT FACILITY**: A tank, pit, container, pipe, or vessel of first containment of a hazardous substance.

H. **SECONDARY CONTAINMENT FACILITY**: A second tank, catchment pit, pipe or vessel that contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground waters, or surface waters, of any pollutant that may emanate from said storage container or containers.

I. **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 PA 451**, as amended.

J. **USED OIL**: Any oil that had been (a) refined from crude oil, (b) used, and (c) as a result of such use contaminated by physical or chemical impurities.

K. **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 Well Construction and Pump Installation Code, Public Health Code Part 127, 1978 PA 368,** as amended, and administrative rules.

L. **WELLHEAD PROTECTION AREA (WHPA)**: A one-mile radius around the public water supply wells.

GROUNDWATER RUNOFF: Storm water that is discharged into a stream channel as spring or seepage water.

GROUP DAY CARE HOME: see **CHILD CARE ORGANIZATION**

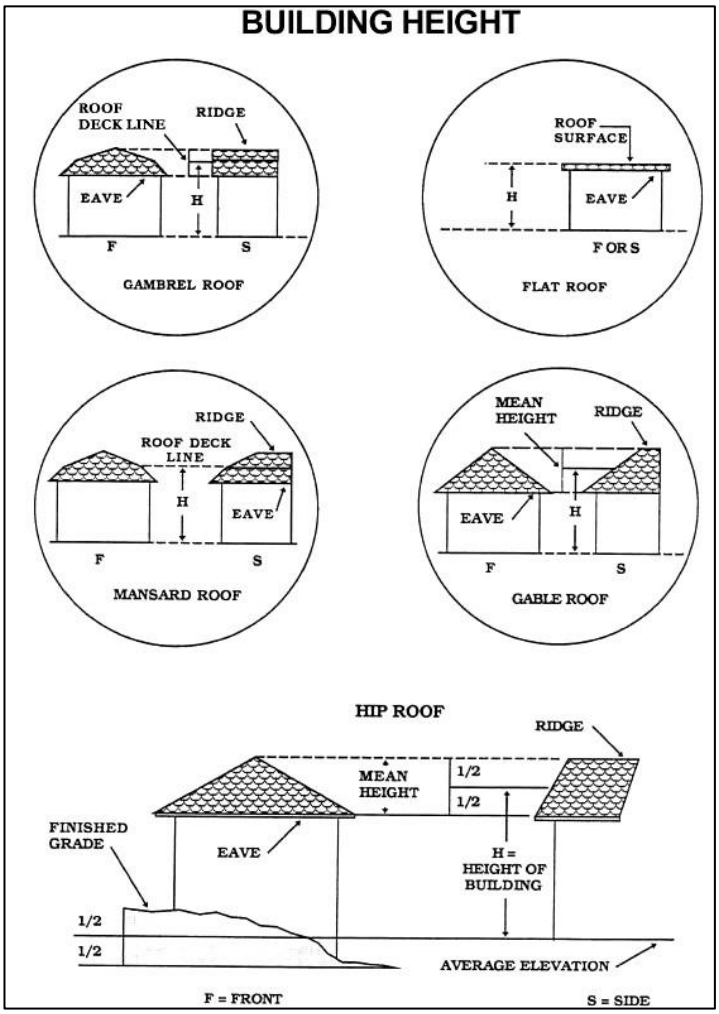
GUEST HOUSE. An accessory building on the same lot as a principal dwelling to be used as temporary lodging for the property owner's guests and not for commercial purposes, rental or profit. For the purpose of this Ordinance, a guest house is an **ACCESSORY DWELLING UNIT**.

H

HAZARDOUS MATERIALS: Any materials that have been declared to be hazardous by any agency of the State of Michigan or of the United States, including but not limited to toxic materials and metal hydroxides.

HEIGHT OF BUILDING: The vertical distance, measured from the adjoining curb level, to the highest point of the roof of the top story in the case of a 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. However, 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. *See Figure*.

HIGHWAY: A public thoroughfare or street, excluding alleys, but including federal, State and City roads and those appearing upon plats recorded in the office of the Register of Deeds and accepted for public maintenance.



HOME OCCUPATION: An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. Examples of Home Occupations include personal services, professional services and small item repair among others but may include any business carried on by one or more members of a family residing on the premises.

HOTEL: see **MOTEL**

I

IMPERVIOUS SURFACE: Any material that reduces and prevents the absorption of storm water into previously undeveloped land.

INDUSTRIAL PARK: A planned, coordinated development of a tract of land with two (2) or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation, and open space.

INFRASTRUCTURE: Facilities and services needed to sustain Industrial, Residential and Business activities.

INGRESS: Access or entry.

INN: An establishment in which sleeping rooms are available for rent by guests on a short-term basis and which offers meals to the public for compensation.

INSTITUTION, EDUCATIONAL: A school for kindergarten through twelfth grade or any colleges or universities authorized by the State to award degrees.

INSTITUTION, HUMAN CARE: A public or private facility for physical, as opposed to mental, care. A human care institution may include convalescent, assisted care facilities and nursing homes. It does not include State Licensed Residential Facilities for six (6) or fewer people in one (1) facility or home, or substance abuse rehabilitation facilities.

INSTITUTION, REHABILITATION: A public or private facility for mental or substance abuse rehabilitation. A rehabilitation institution may include inpatient or outpatient hospitals, halfway houses, and similar facilities.

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

INTERSECTION: The point where two (2) or more roads cross at grade.

J

JUNK: Parts of machinery, equipment, or motor vehicles, unused stoves, or other household appliances or furniture stored in the open, remnants of wood, metal or other material or other castoff material of any kind whether or not the same could be put to any reasonable use.

JUNK MOTOR VEHICLE: An automobile, truck, or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power, and will require major repairs before being made usable; or such a vehicle which does not comply with State or County laws or ordinances.

JUNK/SALVAGE YARD: A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned, or handled, including house and vehicle wrecking yards, used lumber yards, and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. A junk or salvage yard shall not include uses conducted entirely within a completely enclosed building; pawn shops and establishments for the sale, purchase, or storage of used cars in operable condition, salvaged machinery, used furniture, and household equipment; and the processing of used, discarded, or salvaged materials as part of manufacturing operations.

K

KENNEL: Any building or land used for the sale, keeping, boarding, treatment, or breeding of more than three (3) dogs or three (3) cats or other household pets more than six (6) months of age as a business.

L

LABORATORY:

A. **MEDICAL OR DENTAL**: A laboratory that provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.

B. **EXPERIMENTAL**: A building or part of a building devoted to the testing and analysis of any product or animal.

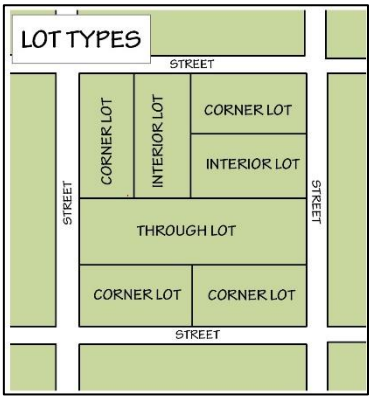
LAND: Ground, soil, or earth, including structures on, above, or below the surface.

LANDSCAPING: Any combination of existing or planted trees, shrubs, vines, ground covers, flowers, lawns, fences, fountains, pools, artworks, screens, walls, berms, benches, walks, paths, steps, terraces, and garden structures and any surface and subsurface structures, grading or excavation included on a landscape site plan.

LIBRARY: Institutions for the storage and circulation of books, compact discs, videotapes and other materials for use by the general public.

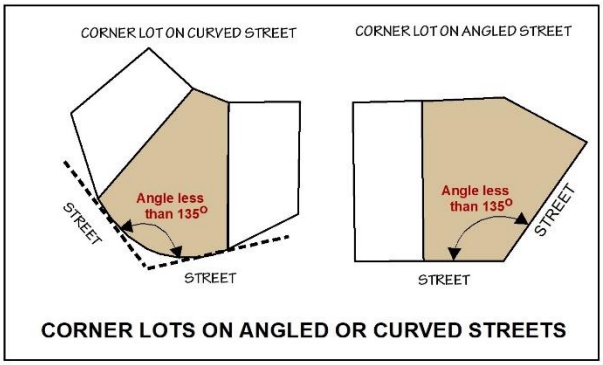
LOADING/UNLOADING SPACE: An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT: A lot is the parcel of land upon which the principal building including any accessories are placed together with the required yards of open space, the legal description of which is on file at the Register of Deeds. A lot is not limited to a recorded subdivision plat. The word "lot" shall include parcel and a unit of land within a planned unit development or site condominium which gives the owner exclusive rights to a building envelope of which a building is placed and limited rights to the yard area surrounding the building.



LOT AREA: The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

LOT, CORNER: Any lot having at least two (2) contiguous sides abutting upon a street, provided that the interior angle of the intersection of the two sides is less than one hundred and thirty- five (135˚) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lines with the street line, intersect at an interior angle of less than one hundred and thirty- five (135˚) degrees. The outside yard shall be the side yard adjacent to the street.



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

LOT DEPTH: The mean horizontal distance from the front street line to the rear lot line.

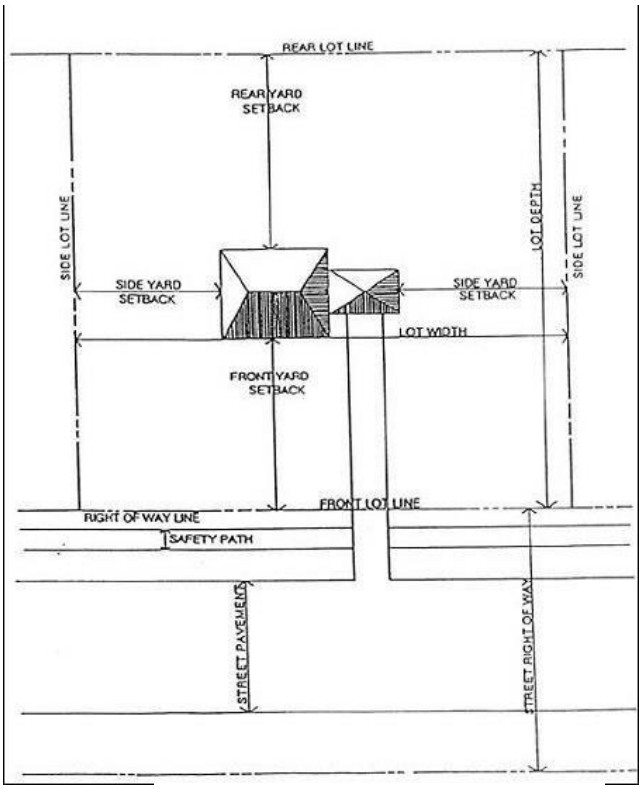
LOT, INTERIOR: Any lot other than a corner lot.

LOT LINES: Any line bounding a lot, including the following:

A. **FRONT LOT LINE**: The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the front lot line.

B. **REAR LOT LINE**: The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten (10) feet long, parallel to and most distant from the front lot line.

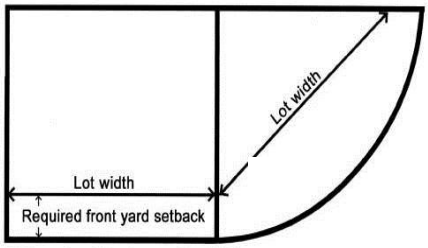
C. **SIDE LOT LINE**: Any line other than front or rear lot lines. A side lot line separating a lot from a street is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.



LOT, THROUGH: Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of through lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by City officials, and which actually exists as so shown, or any part of such parcel held in separate recorded ownership at the time of adoption of this ordinance.

LOT WIDTH: The lot width shall be considered the average of the width between side lot lines.



Lot Width

LOT, ZONING: A single tract of land that, 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.

LOUNGE: see **BAR/TAVERN**

LUMBER YARD: A commercial or wholesale facility where building materials are sold and where lumber and other construction materials are warehoused within an enclosed yard or building.

M

MALL: A shopping center where stores front on both sides of a pedestrian way that may be enclosed or open.

MANUFACTURED HOME: A factory-built structure, transportable in one (1) or more sections, that is built on a chassis and designed for use as a dwelling with or without a permanent foundation, constructed according to the standards promulgated by the U. S. Department of Housing and Urban Development, and which includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A manufactured home does not include a recreational vehicle.

MANUFACTURED HOME DEVELOPMENT: A parcel of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose, regardless whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

MANUFACTURED HOME SITE: A measured parcel of land within a Manufactured Home Development that is delineated by lot lines on a final development plan and which is intended for the placement of a manufactured home and the exclusive use of the occupants of such manufactured home.

MANUFACTURING, LIGHT: The production, processing, cleaning, testing, storage, and distribution of materials, goods, foodstuffs, and products. Light Manufacturing are those industries in which the modes of operation of the industry have no external effects and do not directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration. Marijuana products are not included in this definition.

MANUFACTURING, HEAVY: The production, processing, cleaning, testing, storage, and distribution of materials, goods, foodstuffs, and products. Heavy Manufacturing are those industries in which the modes of operation of the industry do have external effects and may directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration. Marijuana products are not included in this definition.

MARQUEE: Any hood, canopy, awning, or permanent structure that projects from a wall of a building, usually above an entrance.

MASSAGE STUDIO: An establishment offering massage therapy and/or bodywork by a massage therapist licensed under the direct supervision of a licensed physician.

MASTER PLAN: A comprehensive long-range plan intended to guide the growth and development of a community. The plan includes analysis, recommendations, and proposals for the community's population, economy, housing, transportation, community facilities and land use.

MEDIA: Anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CDs, other magnetic media, and undeveloped pictures.

MEDICAL MARIJUANA: The following definitions A through H are related to medical marijuana.

A. **ENCLOSED, LOCKED FACILITY**: That term as defined in Section 3 of **Initiated Law 1 of 2008**, as amended (**Michigan Medical Marijuana Act**, being MCL 333.26423).

B. **MARIJUANA FACILITY**: An enterprise at a specific location at which a licensee is licensed to operate under the **Medical Marijuana Facilities Licensing Act**, MCL 333.27101 et seq.; including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the **Michigan Medical Marijuana Act**, MCL 333.26421 et seq.

C. **MEDICAL MARIJUANA**: That term as defined in the **Public Health Code**, MCL 333.1101 et seq., the **Michigan Medical Marijuana Act**, MCL 333.26421 et seq.; the **Medical Marijuana Facilities Licensing Act**, MCL 333.27101 et seq.; and the **Marijuana Tracking Act**, MCL 333.27901 et seq.

D. **PERSON**: An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

E. **PRIMARY CAREGIVER**: That term defined in Section 3 of **Initiated Law 1 of 2008**, as amended (**Michigan Medical Marijuana Act**, being MCL 333.26423) who is at least 21 years old and who has been registered by **State Department of Licensing and Regulatory Affairs** or any successor agency to assist with a Qualifying Patients' use of medical marijuana.

F. **PRIMARY CAREGIVER FACILITY**: A building in which the activities of a Primary Caregiver are conducted.

G. **QUALIFYING PATIENT**: That term defined in Section 3 of **Initiated Law 1 of 2008**, as amended (**Michigan Medical Marijuana Act**, being MCL 333.26423) who has been diagnosed by a physician as having a debilitating medical condition as provided by the Michigan Medical Marijuana Act and who has obtained a duly issued registry identification card from the **State Department of Licensing and Regulatory Affairs** or any successor agency.

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY: The State of Michigan Department charged with overseeing environmental issues. Includes any subsequently-named State of Michigan department including the formerly-named Department of Environmental Quality.

MINI-STORAGE/SELF STORAGE: A structure containing separate storage areas of varying sizes that are leased or rented on an individual basis.

MOBILE HOME: see **MANUFACTURED HOME**

MORTUARY: see **FUNERAL HOME/MORTUARY**

MOTEL: A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transients traveling by automobile. The term "motel" shall include buildings designed as auto courts, tourist courts, motor hotels, hotels and similar names that are designed as integrated units of individual rooms under common ownership. For the purposes

of this Ordinance, "motel" and "hotel" have the same meaning.

MUNICIPALITY: The City of West Branch.

MUSEUM: A building having public significance by reason of its architecture or former use or occupancy or building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

N

NATURAL RETENTION AREA: A naturally occurring pond or wetland that retains storm water runoff.

NONCONFORMING STRUCTURE, LEGAL: Any structure, building or portion thereof lawfully existing at the time this Ordinance became effective and that does not comply with the current Ordinance's regulations.

NONCONFORMING LOT, LEGAL: A lot, the area, dimensions or location of which was lawful prior to the adoption, revisions, or amendment of this Ordinance; but which fails, by reason of such adoption, revisions, or amendment, to conform to current requirements of the Zoning District.

NONCONFORMING SIGN, LEGAL: Any sign lawfully existing as of the effective date of this Ordinance, or amendment thereto, but which does not conform to all the standards and regulations of the adopted or amended Ordinance.

NONCONFORMING USE, LEGAL: Any property use that was lawful at the time the Zoning Ordinance became effective and which now does not comply with the use regulations of the Zoning District in which it is located.

NONPROFIT ORGANIZATION: An organization with federal tax status as a non-profit.

NORTH POINT or NORTH ARROW: The designation on a map illustrating the direction of north.

NOXIOUS: Offensive or disturbing.

NUISANCE: An offensive, annoying, unpleasant, or obnoxious thing, or practice, a cause or source of annoyance, especially a continual or repeated invasion of a use or activity that invades the property line of another so as to cause harm or discomfort to the owner or resident of that property.

NURSERY, PLANT MATERIALS: Any lot or structure used for the growing, harvesting, processing, storing, and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales.

O

OCCUPANCY PERMIT: A required permit allowing occupancy of a building or structure after it has been determined that the building meets all of the requirements of applicable Ordinances.

OCCUPANCY PERMIT, TEMPORARY: A certificate of occupancy that is issued for a fixed time period to allow occupancy, because seasonal or specified unique conditions make it impossible to complete all needed external improvements.

OFFICE: A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OFFICE BUILDING: A building used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity; it may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OPEN SPACE (see **YARDS**): That part of a zoning lot, including courts or yards, which:

A. Is open and unobstructed from its lowest level to the sky, and

B. Is accessible to all residents upon the zoning lot, and

C. Is not part of the roof of that portion of a building containing dwelling units, and

D. Is comprised of lawn and landscaped area, and

E. Is not part of the roof of an attached garage if said roof is used for a swimming pool deck or recreation deck; and is not higher than twenty-three (23) feet above grade; and is directly accessible by passageway from the residential building.

OUTDOOR SALES: Uses not conducted from a wholly enclosed building, operated for a profit, and including the following uses: Sale of bicycles, manufactured homes, travel trailers, motor vehicles, boats, recreational equipment, farm implements, contractor's equipment, or home equipment sales or rental services.

OUTDOOR STORAGE: A land area occupied and used for open storage of products, building materials, sand, gravel, stone, lumber, equipment and other supplies.

OUTDOOR USE: A use, the majority of which is carried outside of a structure of any kind. These may include outdoor displays of merchandise, outdoor eating areas, outdoor storage and outdoor recreation under certain circumstances.

OUTDOOR USE, TEMPORARY: A use carried out in an open area or uncovered or temporary structure that is disbanded when the designated time period, activity or use for which the temporary structure was erected has ceased.

OWNER: A person holding any legal, equitable, option or contract of interest in land.

P

PARK: An open area designed for the active and/or passive use of the general public and which may or may not contain playground or exercise facilities and equipment.

PARKING ACCESS: The area of a parking lot that allows motor vehicles ingress and egress from the street to the parking aisle or parking space.

PARKING AISLE: The area behind a parking space used for backing and turning into and out of the parking space.

PARKING AREA: An area used for the parking, parking aisle, or access of motor vehicles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

PARKING AREA, TOTAL: The parking lot and all connecting access drives and landscaping.

PARKING LOT: An off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles.

PARKING, OFF-STREET: Any parking area located on the same property it is intended to serve or on a joint use or nearby lot.

PARKING SPACE: Any vehicle accessible area designated for vehicle parking and exclusive of drives and aisles.

PATIO: A paved open space, used for outdoor living purposes and constructed of any materials providing a hard, durable surface, placed directly on the ground. A patio may be open or partially or completely covered by a roof.

PORCH: Roofed area that, while it may be glassed or screened, is usually attached to, or part of, and with direct access to or from a building.

PERFORMANCE GUARANTEE: Means a cash deposit, certified check, irrevocable bank letter of credit or a performance or surety bond approved by the City of West Branch.

PERFORMANCE STANDARDS: A set of criteria or limits relating to nuisance elements (noise, odor, vibration, toxic and hazardous materials, radiation, flooding, and other similar occurrences) that a particular use or process may not exceed.

PERMANENTLY AFFIXED: To affix a structure to the ground or to another structure in accordance with the design and material specification of applicable building codes.

PERMITTED USE: Any use allowed by right in a Zoning District and subject to the restrictions applicable to that Zoning District.

PERSON: Any individual, partnership, organization, association, company, trust, corporation, limited

liability company, or any other similar entity or their agents. When used as a penalty provision, 'person' shall include the members of such partnership, the trustees of such trust, and the officers and members of such organization, association or corporation.

PERSONAL SERVICE: Establishments primarily engaged in providing services involving the care of a pet or person or his or her apparel. This includes hairdressers, dry cleaners, dog grooming, nail salons and similar establishments.

PLAN, FINAL: A site plan that has been approved by the Planning Commission.

PLAN, PRELIMINARY: A site plan that is under review by the Planning Commission or proper review authority and indicates the proposed layout of the subdivision, Planned Unit Development (PUD), or other development.

PLANNED UNIT DEVELOPMENT (PUD): A development, planned and developed as a unit, under unified control, developed according to comprehensive and detailed plans, including a program providing for the continual maintenance and operation of such improvements, facilities, and services which will be for the common use of the occupants of the planned unit development, includes cluster zoning, planned development, community unit plan, planned residential development, and other zoning requirements which are designed to accomplish the objective of a zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

PLANNING COMMISSION: Planning Commission shall mean the City of West Branch Planning Commission organized under **2008 PA 33, the Michigan Planning Enabling Act**, and operated under **2006 PA 110, the Michigan Zoning Enabling Act**, as amended, unless the specific use or the context indicates a different reference.

PLOT PLAN: The drawings and documents depicting and explaining all salient features of a proposed development which requires a zoning permit but is not required to prepare a site plan, in order to evaluate compliance with Zoning Ordinance standards and requirements.

POND: A permanent or temporary body of man-made open water that is more than 0.25 acres in size and less than 1.0 acre in size.

POND, DECORATIVE: A body of water less than 0.15 acre in size used for ornamental or decorative purposes only.

POTABLE WATER: Water suitable for drinking or cooking purposes.

PRINCIPAL BUILDING: A building in which is conducted the principal use allowed of the lot in the district in which it is situated.

PRINCIPAL USE: The primary and predominate use of the premises including customary accessory uses.

PRIVATE: Not publicly owned.

PROFESSIONAL SERVICES: Services offered to the general public such as law, medicine, engineering, accounting, and architecture.

PROCESSING: Any operation changing the nature of material or materials such as the chemical composition, physical qualities, or size or shape. Does not include operations described as fabrication, or assembly.

PUBLIC FACILITIES: Facilities that are owned and operated by a municipality, government agency, or publicly owned utility.

PUBLIC HEARING: A meeting announced and advertised in advance and open to the public, with the public being given an opportunity to speak or participate.

PUBLIC SERVICE UTILITY/INSTALLATION: Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under federal, State, or municipal regulations to the public, electricity, gas, steam, communication, telegraph, transportation, or water, sanitary sewer or storm sewer. A building, structure or use of land that provides a service that is essential to the general public's convenience or safety.

PUBLIC WAY: A highway, street, avenue, boulevard, road, lane, alley or other area specifically designated and continuously maintained for public access.

Q

QUORUM: A simple majority of the full membership of a board or agency.

R

RECREATIONAL FACILITY, COMMERCIAL INDOOR: A commercial recreational land use conducted entirely within a building including arcade, arena, athletics and health clubs, auditorium, bowling alley, community center, conference center, exhibit hall, gymnasium, pool or billiard hall, skating rink, swimming pool, tennis court, and similar uses.

RECREATIONAL FACILITY, COMMERCIAL OUTDOOR: Recreational uses conducted almost wholly outdoors, including golf driving ranges (not associated with a golf course), miniature golf, disc golf, firing ranges, water parks, amusement parks, and similar uses.

RECREATIONAL EQUIPMENT: Includes travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats and boat trailers, personal watercraft, snowmobiles, off-road vehicles of any kind, and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

RECREATIONAL VEHICLE (RV): A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. Also known as a travel trailer.

RECREATIONAL VEHICLE (RV) PARK/CAMPGROUND: A parcel of land reserved for the location of recreational vehicles, including building sites set aside for group camping and similar recreational vehicles.

RECYCLING FACILITY: The process by which waste products are reduced to raw materials and transformed into new and often different products.

RELIGIOUS INSTITUTION: see **INSTITUTION, RELIGIOUS**

RESEARCH AND DEVELOPMENT FACILITY: Any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. Development may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test-marketed, which is the interim step between full research and development and ultimate full-scale production.

RESIDENCE: A home, abode, or place where an individual is residing at a specific point in time.

RESIDENTIAL, RESIDENTIAL USE, or RESIDENTIAL DISTRICT: The use of land parcels for human habitation under the terms of this Ordinance. RESIDENTIAL shall not be construed or interpreted to mean the storage, sale (wholesale or retail), trade, transfer, fabrication, production, manufacture, or development of goods and services.

RESIDENTIAL HUMAN CARE AND TREATMENT FACILITY: A facility (not within a private residence) providing.

A. Emergency shelter and services for battered individuals and their children in a residential structure;

B. Shelter and services for individuals receiving care, counseling, crisis support and similar activities including court-directed services.

C. Emergency shelter for individuals who are homeless.

D. Services, programs and shelter for residents who are undergoing alcohol or substance abuse rehabilitation

RESOURCE RECOVERY FACILITY: A fully enclosed building where waste is sorted and classified by type and material, such as ferrous metal, nonferrous metal, aluminum, paper, newsprint, boxed board, plastic and glass colors. The purpose of such a building is to reuse the recovered materials.

RESTAURANT: A business located in a building where, in consideration for the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of goods that may be required for ordinary meals, and deriving the major portion of its

receipts from the sale of food and complying with state and federal health regulations.

RESTAURANT, DRIVE-IN/DRIVE THROUGH/FAST FOOD: A restaurant developed so that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle or to permit patrons to eat while in the motor vehicle, as well as within a building or structure, or primarily to provide self-service for patrons and food carry-out. Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with the consumption off the premises, and whose design or principal method of operation includes one or both of the following:

A. Food, frozen desserts, or beverages usually served in edible containers or in paper, plastic, or other disposable containers;

B. More than forty-five (45%) percent of the available floor space devoted to food preparation, related activities and other floor space not available to the public.

RESTRICTION: A limitation on property, which may be created in a deed, lease, mortgage, or other appropriate document, through certain zoning or subdivision regulations, or as a condition of approval of an application for development.

RESTRICTIVE COVENANT: A restriction on the use of land usually set forth in a deed or other appropriate document.

RETAIL TRADE: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods.

RIGHT-OF-WAY: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer, or other similar uses.

RIGHT-OF-WAY LINE: The boundary of a dedicated street, highway, or strip of land used or reserved for the placement or location of utilities and facilities.

ROAD FRONTAGE: The length of the lot line that borders a public or private road at the right-of-way line.

ROAD, PRIVATE: A way open to vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.

ROAD, PUBLIC: All public property reserved or dedicated for street traffic.

ROOMING HOUSE OR BOARDING HOUSE: A private residence, other than a hotel or motel, where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three (3) persons or more. A rooming house is not intended to provide short-term transient lodging for the general, traveling public.

RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across ground surface and is eventually returned to streams.

S

SALVAGE YARD: SEE **JUNK/SALVAGE YARD**

SANITARY LANDFILL: Any operation that is licensed by the State of Michigan or its agencies as a sanitary landfill or is subject to the requirement of having such a license.

SCALE: The relationship between distances on a map and actual ground distances.

SCHOOL: see **INSTITUTION, EDUCATIONAL**

SCREENING: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls or densely planted vegetation.

SEASONAL BUSINESS: A retail business or service business that is not normally used as a business for more than six (6) months during any one calendar year.

SENIOR HOUSING: A residential complex containing multiple family dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care where patients are confined to bed.

SETBACK: The minimum required horizontal distance measured from the front, side or rear lot line, whichever is applicable, of a lot of record to the nearest point of a building foundation for purposes of determining the minimum amount of open space surrounding the main structure on that lot.

SEXUALLY-ORIENTED BUSINESSES:

A. **ADULT ARCADE**: Any place to which the public is permitted or invited wherein coin-operated or slug-operated electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

B. **ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following.

   1. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or

2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it occupies twenty (25%) percent or more of the floor area or visible inventory within the establishment.

C. **ADULT MEDIA**: Magazines, books, videotapes, movies, slides, CD-ROMs or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexually oriented hard-core material.

D. **ADULT MEDIA STORE**: An establishment that rents and/or sells media, and that meets any of the following three tests:

1. Forty (40%) percent or more of the gross public floor area is devoted to adult media.

2. Forty (40%) percent or more of the stock-in-trade consists of adult media.

3. It advertises or holds itself out in any form as "XXX," "adult," "sex," or otherwise as a sexually oriented business other than adult media store, adult motion picture theater or adult cabaret.

E. **ADULT CABARET**: A nightclub, bar, restaurant, or similar commercial establishment that regularly features any of the following:

1. Persons who appear in a state of nudity;

2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;

3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or

4. Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

F. **ADULT MOTEL**: A hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;

2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

G. **ADULT MOTION PICTURE THEATER**: An establishment emphasizing or predominately showing sexually oriented movies.

H. **ADULT THEATER**: A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

I. **EXPLICIT SEXUAL MATERIAL**: Any hard-core material.

J. **HARD CORE MATERIAL**: Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

K. **HUMAN**: Besides the customary meaning, the term "human" shall also include non-living anthropomorphic devices, both physical and digital.

L. **LINGERIE MODELING STUDIO**: An establishment or business that provides the services of live models modeling lingerie to individuals, couples, or small groups in a room smaller than six hundred (600) square feet.

M. **NUDITY OR A STATE OF NUDITY**: Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following.

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

2. Material as defined in Section 2 of **Obscene Material, 1984 PA 343**, as amended. MCL 752.362.

3. Sexually explicit visual material as defined in Section 3 of **Disseminating, Exhibiting, or Displaying Sexually Explicit Matter to Minors, 1978 PA 33**, as amended, MCL 722.673.

N. **SADOMASOCHISTIC PRACTICES**: Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked.

O. **SEX SHOP**: An establishment offering goods for sale or rent and that meets any of the following tests:

1. The establishment offers for sale items from any two of the following categories:

    a. Adult media

    b. Lingerie

    c. Leather goods marketed or presented in a context to suggest their use for the sadomasochistic practices and the combination of such items constitutes more than ten (10%) percent of the stock-in-trade of the business or occupies more than ten (10%) percent of its floor area.

2. More than five (5%) percent of the stock-in-trade of the business consists of sexually oriented toys or novelties.

3. More than five (5%) percent of the gross public floor areas of the business are devoted to the display of sexually oriented adult toys or novelties.

P. **SEXUALLY ORIENTED BUSINESS**: An inclusive term used to describe collectively: adult cabaret; adult theater; adult motion picture theater; adult arcade; adult bookstore or video store; adult motel; escort agency; adult media store; adult bathhouse; adult massage shop; modeling studio; and/or sex shop; similar establishments.

Q. **SEXUALLY ORIENTED TOYS OR NOVELTIES**: Instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

R. **SPECIFIED ANATOMICAL AREA**:

1. Less than completely opaquely covered human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola.

2. Human genitals in a discernable turgid state, even if completely and opaquely covered.

S. **SPECIFIED SEXUAL ACTIVITY**: Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SEWAGE TREATMENT PLANT: A facility designed for the collection, removal, treatment, and disposal of waterborne sewage generated within a given service area.

SHORT TERM RENTAL: A dwelling which is unoccupied by the owner and which furnishes transient accommodations for periods of less than thirty (30) days.

SIGNS:

A. **SIGN**: A message, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and that is intended to direct attention to an

object, product, place, activity, person, institution, organization or business. This includes changeable copy and LED (light-emitting diode) Portable Signs. For this Ordinance, a national flag or official court or public office notice is not considered a sign. A sign located inside of a window shall not be regulated under this Ordinance.

B. For the purpose of this Ordinance, the following sign or sign-related terms are here defined:

1. **AREA, OR SURFACE AREA, OF SIGN**: Measurement of a sign includes the entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back and are at no point more than two (2') feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area. In the case of a sphere, the total area of the sphere shall be divided by four (4) to determine the maximum permitted sign area. The height of a sign shall be measured from the average grade of the lot at the setback line. If a sign includes a numeric address, the portion of the sign containing the address numbers shall not be counted toward the total square footage of the sign.

2. **ABANDONED SIGN**: A sign to which any of the following applies:

   a. The sign has remained blank over a period of one (1) year.
   b. The sign's message becomes illegible in whole or substantial part.
   c. A sign which has fallen into disrepair.

3. **ACCESSORY SIGN**: A sign which is subordinate to the primary sign and customarily incidental to, and on the same lot as, the principal sign. Accessory signs provide ancillary information to support the principal use of the premises.

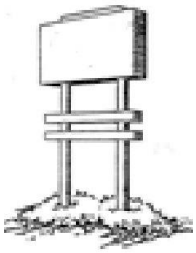
4. **CLUSTER SIGNS**: Wall, ground or freestanding signs for unified developments, such as shopping centers and office parks, and contains multiple signs on one structure or wall including one for each establishment and one for the complex as a whole.

5. **FREESTANDING SIGNS**: Signs that are supported from the ground by a structure and are not attached to a building. see **MONUMENT OR GROUND-MOUNTED SIGN**

6. **HEIGHT OF SIGN**: The vertical distance measured from the ground immediately beneath the sign to the highest point of the sign or its projecting structure.

7. **ILLUMINATED SIGN**: A sign that provides artificial light directly or through any transparent or translucent material.

Freestanding Sign



8. **LOCATION**: A lot, premise, building, wall or any place whatsoever upon which a sign is located.

9. **MARQUEE**: An identification sign attached to or made a part of a marquee, canopy, or awning projecting from and supported by the building.

10. **MESSAGE BOARD, ELECTRONIC (DIGITAL SIGN)**: Changeable copy/image signs in which the copy/image consists of an array of lights activated and deactivated.

11. **MESSAGE BOARD, STATIC**: Changeable copy/image signs in which the copy/image can must be changed manually by non-electronic means.

12. **MONUMENT or GROUND MOUNTED**: A freestanding sign where the base of the sign structure is on the ground or integrated into landscaping or other solid structural features other than support poles.

13. **PROJECTING SIGN**: A sign other than a wall sign, which is perpendicularly attached to, and projects from a structure or building wall not specifically designed to support the sign.

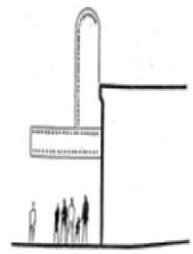
14. **ROOF LINE**: This shall mean either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette and where a building has several roof levels; this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

15. **ROOF SIGNS**: Signs placed on the roofs of buildings, supported by the roof and within the lines of exterior walls. If a wall extends above a roofline and supports a sign, it shall be considered a Wall Sign and not a Roof Sign in this Ordinance.

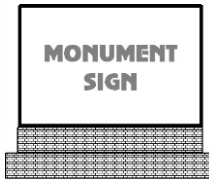
16. **SETBACK**: A distance measured from the outer boundary of a parcel in which erection of a sign is not permitted. A Front Setback is measured from the edge of the right-of-way of any abutting roadway. A Rear Setback is measured from the property line opposite the roadway. A Side Setback is measured from any other abutting property line. Corner lots shall require two front setbacks, but only one rear setback.

17. **STREET BANNERS**. Fabric signs suspended across public streets. The location and contents of each street banner must be specially approved by the County of Ogemaw.

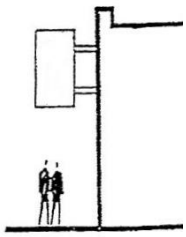
Marquee Sign



Monument or Ground Mounted Sign



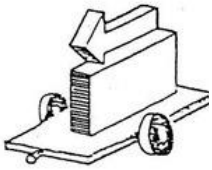
Projecting Sign



18. **TEMPORARY/PORTABLE SIGN**: A display sign, banner or other advertising device, with or without a structural frame, intended for a limited period of use. A temporary/portable sign is one that is not affixed permanently, designed to be transported, are able to be moved and are temporary in nature. Examples of signs designed to be transported include, but are not limited to, signs converted to "A" or "T" frames that sit on the ground or lean against a permanent structure; menus and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operation of the business. Portable Signs may be a printed banner, changeable copy or portable LED messaging units. Portable signs on a trailer or trailer frame and designed to be transported by means of wheels are NOT allowed in the City of West Branch. (see figure).

Temporary Sign

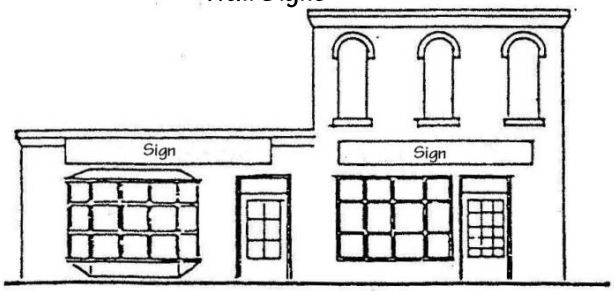
Portable Sign



19. **WALL SIGNS**: Signs permanently attached to the exterior wall of a building and projecting out from such walls no more than fourteen (14) inches. The area of the Wall Sign includes that area within a continuous line enclosing all letters and graphic symbols of the sign.

20. **WINDOW SIGNS**: Signs hung outside of a window and within the framework of any window of a business or residence.

Wall Signs



SINGLE OWNERSHIP: Ownership by one (1) person or by two (2) or more persons whether jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

SITE: Any plot or parcel of land or combination of contiguous lots or parcels of land.

SITE CONDOMINIUM: see **PLANNED UNIT DEVELOPMENT**

SITE PLAN: The development plan for one (1) or more lots, on which is shown the existing and proposed conditions of the lot, submitted for review and approval by the Planning Commission.

SITE PLAN REVIEW AND APPROVAL: The submission of plans for review and approval by the Planning

Commission, as required by this Ordinance and special use permits.

SLOPE: The degree of deviation of a surface from the horizontal, usually expressed as percent or degrees.

SOIL: All unconsolidated mineral and organic material, of whatever origin, that overlies bedrock and can be readily excavated.

SOIL RESOURCE EXTRACTION: All or any part of the process involved in the mining of minerals by removing excess materials and mining directly from the mineral deposits, open pit mining or minerals naturally exposed, mining by auger method, dredging and quarrying, underground mining and surface work incidental to an underground mine.

SPECIAL LAND USE: A use, permitted within certain Zoning Districts, that is generally compatible with permitted uses but which possesses characteristics that could impact adjacent properties and which requires individual review and public hearing to ensure compatibility with the character of the surrounding area, adjacent properties, and public services and facilities. Special land uses subject to conditions stated in this Ordinance and to any special conditions imposed by the Planning Commission to protect the use by right of other properties in the City. Also called "Special Use."

SQUARE FOOTAGE: The length multiplied by the width of a building, structure or use.

STADIUM: A large open or enclosed place used for games and major events, partly or completely surrounded by tiers of seats for spectators.

STATE LICENSED RESIDENTIAL FACILITY: see **ADULT FOSTER CARE: STATE-LICENSED RESIDENTIAL FACILITY**

STORAGE, BULK: The holding or stockpiling on land of material and/or products where such storage constitutes forty (40%) percent of the developed site area and the storage area is at least one (1) acre, and where at least three (3) of the following criteria are met by the storage activity:

A. In a bulk form or in bulk containers;

B. Under protective cover to the essential exclusion of other uses of the same space due to special fixtures or exposure to the elements;

C. In sufficient number, quantities, or spatial allocation of the site to determine and rank such uses as the principal use of the site;

D. The major function is the collection and/or distribution of the material and/or products rather than processing;

E. The presence of fixed bulk containers or visible stockpiles for a substantial period of a year.

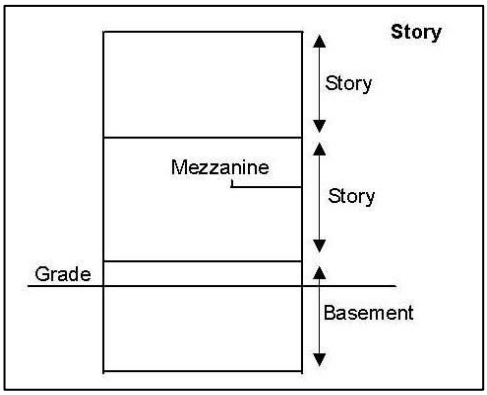
STORAGE, INDOOR: see **WAREHOUSE**

STORAGE, OUTDOOR: see **OUTDOOR USE**

STORM SEWER: A conduit that collects and transports runoff of storm water.

STORM WATER DETENTION: Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

STORY: That portion of a building included between the surface of any floor above the average elevation or ground at the foundation wall and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be considered a full story only if fifty (50%) percent or more of the vertical distance between the basement floor and the basement ceiling is above the ground level from which the height of the building is measured.



STORY, ONE-HALF: A story under the gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story and the floor area shall not exceed two-thirds (2/3) of the area of the floor below.

STREET: A public right-of-way that has been dedicated to the public and accepted for the purpose of providing access to abutting private lots or land, including space for curb, gutter, paving, and sidewalks.

STREET, COLLECTOR: A street that collects traffic from local streets and connects with minor and major arterials.

STREET, GRADE: The top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

STREET, MAJOR ARTERIAL: A street or highway so designated on the major road plan that is designed and intended to carry heavy traffic volumes.

STREET, MINOR ARTERIAL: A dedicated public way or recorded private street that affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

STREET, PRIVATE: A street that is not public as defined by this Ordinance.

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

STRUCTURE CHANGES OR ALTERATIONS: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

SUBDIVISION OR SUBDIVIDE: The division of single lot or parcel of land, or part thereof, into two (2) or more lots, tracts, or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential, commercial, or industrial purposes; or the division of a single lot, tract, or parcel of land, or a part thereof, into two (2) or more lots, tracts, or parcels by means of buildings, building groups, streets, alleys, parking areas, or leaseholds, for the purpose, whether immediate or future, of building development for residential, commercial or industrial purposes, provided, however, that divisions of land for agricultural purposes only, not involving any new street or easement of access, shall not be included.

SUBSTANCE ABUSE REHABILITATIONS CENTER: see **INSTITUTION, REHABILITATION**

SUPPLY YARD: A fenced yard for the open or enclosed storage of supplies, equipment, or merchandise.

SWALE: A depression in the ground that channels runoff.

T

TATTOO/BODY PIERCING PARLOR: An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following:

A. Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;

B. Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN: see **BAR/TAVERN**

TENANT: An occupant of land or premises who occupies, uses, or enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent.

THEATER: A building, or part of a building, devoted to showing motion pictures, or dramatic, musical, or live performances.

THOROUGHFARE: A thoroughfare is a road or street, which is intended to provide access for more than two (2) dwelling units. If the thoroughfare is maintained by the public, it is a public thoroughfare; if it is not maintained by the public but is generally open to members of the public for the passage of motor vehicles, it is a private thoroughfare. A way, which is principally a private driveway from which members of the public are generally excluded, shall not be considered a thoroughfare.

TRAILER: Any vehicle designed to be drawn by an automotive/motorized vehicle.

TRUCK AND RAILROAD TERMINALS:

A. A place where transfer between modes of transportation takes place.

B. A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

TOURIST HOME: An owner-occupied dwelling furnishing overnight sleeping quarters to transient guests and containing not more than three (3) guest bedrooms.

U

UNIFIED CONTROL: The combination of two (2) or more tracts of land, wherein each owner has agreed that his tract of land shall be developed as part of a planned development and shall be subject to the control applicable to the planned development.

USE, CHANGE OF: Any use which substantially differs from the previous use of a building or land, or which imposes other special provisions of law governing building construction, equipment, egress or ingress.

USE, LAWFUL: The legal use of any structure or land that conforms with all of the regulations of this Ordinance or any amendment that exists at the time of the enactment of this Ordinance or any amendment thereto. All other uses are considered nonconforming uses that may be deemed legal or illegal.

USED, OCCUPIED: These words are intended to include INTENDED, DESIGNED or ARRANGED to be used or occupied.

USE, TEMPORARY: A use in a temporary building or structure on a parcel, established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period granted in the administrative permit. Outdoor temporary uses are regulated by **Section 7.18**.

USED CAR LOT: see **OUTDOOR SALES**. A USED CAR LOT shall not be used for the storage of wrecked automobiles, the dismantling of automobiles, or the storage of automobile parts.

UTILITY OR PUBLIC SERVICE: see **PUBLIC SERVICE UTILITY/INSTALLATION**

V

VARIANCE: A modification of the required provisions of the physical development or land use standards of this Ordinance granted when strict enforcement of this Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the VARIANCE is granted.

VEHICLE, MOTOR: A self-propelled device used for transportation of people or goods over land surfaces, and licensed as a motor vehicle.

VEHICLE REPAIR: see **AUTOMOTIVE/VEHICLE REPAIR**

VEHICLE SALES: see **OUTDOOR SALES**

VETERINARY HOSPITAL: A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

VISIBLE: Visible means capable of being seen by a person of normal visual acuity.

W

WALL, OBSCURING: A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

WAREHOUSE: A building primarily used for the storage of goods and materials.

WATER SUPPLY SYSTEM: The system for the collection, treatment, storage, and distribution of potable water from the source of supply to the consumer.

WETLANDS: Areas delineated by the Department of Environment, Great Lakes and Energy as wetlands.

WHOLESALE SALES: Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY DEFINITIONS:

A. **WIND ENERGY FACILITIES (COMMERCIAL)**: Wind energy facilities, which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of wind energy facilities shall not include individual wind power generating facilities erected and used primarily for private use.

B. **WIND ENERGY FACILITIES (ON-SITE)**: A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control or conversion electronics which is intended to primarily replace or reduce on-site consumption of utility power.

C. **AMBIENT:** Ambient is defined as the sound pressure level exceeded ninety (90%) percent of the time.

D. **ANEMOMETER**: A device used to measure wind speed.

E. **dB(A)**: The sound pressure levels in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

F. **DECIBEL**: The unit of measure used to express the magnitude of sound pressure and sound intensity.

G. **HUB HEIGHT**: The distance measured from the ground level to the center of the turbine hub.

H. **SHADOW FLICKER**: Alternating changes in light intensity caused by the moving blade of a wind turbine casting shadows on the ground and stationary objects, such as the window of a dwelling.

I. **SOUND PRESSURE**: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

J. **SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

K. **WIND TURBINE (HORIZONTAL AXIS):** A wind energy system in which the rotor(s) rotate around a horizontal shaft.

L. **WIND TURBINE (VERTICAL AXIS):** A wind energy system in which the rotor rotates around a vertical shaft.

M. **WIND TURBINE GENERATOR TOTAL HEIGHT**:

1. **HORIZONTAL AXIS WIND TURBINE ROTORS**: The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

2. **VERTICAL AXIS WIND TURBINE**: The distance between the ground and the highest point of the wind turbine generator.

WIRELESS COMMUNICATION FACILITY: Any device, including cellular towers, used for transmitting and receiving radio waves, microwaves, and other similar frequencies.

A. **ALTERNATIVE TOWER STRUCTURE**: Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

B. **ANTENNA**: The surface from which wireless radio signals are sent and received by a personal wireless facility.

C. **CO-LOCATION**: The use of a single mount on the ground by more than one telecommunications carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

D. **EQUIPMENT SHELTER**: An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

E. **GUYED TOWER**: A monopole or lattice tower that is tied to the ground or other surface by cables.

F. **HEIGHT:** When referring to a Wireless Communication Facility, height shall mean the distance measured from ground level to the highest point on the Wireless Communication Facility, including the Antenna Array.

G. **LATTICE TOWER**: A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

H. **LICENSED CARRIER**: A company authorized by the **Federal Communication Commission (FCC)** to construct and operate a commercial mobile radio services system.

I. **PANEL ANTENNA**: A flat surface antenna usually developed in multiples.

J. **RADIO ANTENNA**: A signal-receiving device, the purpose of which is to receive radio signals from radio transmitters in the area.

K. **RADIO TOWER**: A signal-sending device, the purpose of which is to distribute radio signals from a radio transmitter or transmitters in the area.

L. **SMALL CELL WIRELESS FACILITY**: A wireless facility that meets both of the following requirements:

1. Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six (6) cubic feet.

2. All other wireless equipment associated with the facility is cumulatively not more than twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

A small cell wireless facility is not considered an accessory building or accessory structure.

M. **TOWER**: see **WIRELESS COMMUNICATIONS SUPPORT STRUCTURE**

N. **WIRELESS COMMUNICATIONS EQUIPMENT**: The set of equipment and network components used in the provision of wireless communications services, including, but not limited to antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

O. **WIRELESS COMMUNICATIONS SUPPORT STRUCTURE**: Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure. Also called "**TOWER**."

Y

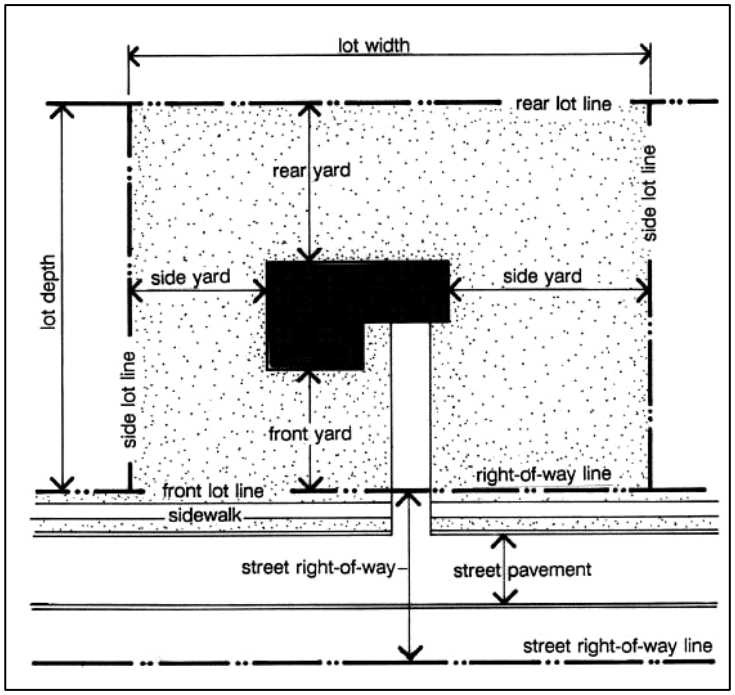
YARDS (see **OPEN SPACE**): Yard is the open ground space on a premises unoccupied by buildings and includes the following:

A. **FRONT YARD**: The yard extending across the full width of a premise between the nearest line of the principal building or accessory structure and the front line or highway right-of-way, as the case may be.

B. **SIDE YARD**: The yard extending the full depth (extending from the lot line or highway right-of-way line to the rear line of the premises) of a premise between the nearest line of the principal building or accessory structure and adjacent lot line.

C. **REAR YARD**: All open, unoccupied spaces on the same premises with the building, between the building and rear lot line.

D. **REQUIRED YARD**: A yard, as defined, that occupies the area of a required setback.



YARD SALE: A sales activity that takes place on an agriculturally or residentially zoned parcel for no more than five (5) consecutive days, twice in a calendar year. Sales that exceed this duration are Temporary Outdoor Uses regulated by **Section 7.18**.

Z

ZONE: A specifically delineated area or district in a municipality, within which regulations and requirements uniformly govern the use, placement, spacing, and size of lots and buildings.

ZONING: The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

ZONING ADMINISTRATOR: Zoning Administrator shall mean the City of West Branch Zoning Administrator.

ZONING BOARD OF APPEALS: Zoning Board of Appeals shall mean the City of West Branch Board of Appeals unless the specific use or the context indicates a different reference.

Article 3
General Provisions

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Section 3.1 Effect of Zoning

Zoning affects every structure and use, and extends vertically. The provisions of this Article shall apply to all districts, except as noted herein. The following shall apply to all of the City of West Branch.

A. **Conformance to Ordinance Required**.

1. In order to carry out the intent of this Ordinance, no use or activity on a piece of land shall be commenced or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, demolished, or moved upon any property unless it is in conformance with this Ordinance, with the provisions and intent of the specific zoning district in which it is located, and the applicable zoning permit and/or building permit has been obtained.

2. No building shall hereafter be erected or altered to exceed the height limitations, or to occupy a greater percentage of lot area, or intrude upon the required front yard, rear yard, side yard or inner or outer courts, or so as to accommodate or house a greater number of families, or so as to provide less space per dwelling unit than is specified for the zoning district in which such building is located.

B. **Required Area or Space.**

No lot area and no yard, court, parking area or other required space shall be so divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by expansion or acquisition of public rights-of-way for streets, roads or highways. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced. No parcel may be divided in a manner which conflicts with the requirements set forth in the **Michigan Land Division Act, 1967 PA 288**, as amended.

C. **Nuisances.**

If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or ceased by any legal means necessary. Such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.

D. **Legal Nonconformities**.

In the event that any lawful use, activity, building or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with this Ordinance, such use, activity, building or structure shall be considered a legal nonconformity and shall be allowed to remain as such. Nonconformities are regulated by **Section 3.27**.

E. **Continued Conformance with Requirements**.

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

F. **Moving of Buildings**.

The moving of a building to a different location shall be considered the same as erection of a new building, and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto.

Section 3.2 Zoning Lots

A. **New Lots to be Buildable**.

All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous

piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.

B. **Outlots.**

No new lots shall be created which do not meet the minimum lot size regulations of this Ordinance with the exception of parcels described and designated as "outlots" in a recorded plat which are so arranged or subdivided as to provide for one (1) or more principal buildings with a land area allocated to each building which is equal to or greater than the lot area required in the district, and the building and land complies with all other requirements of the district in which it is located.

Section 3.3 Access to a Street

All parcels created after the effective date of this Ordinance shall have access to a public street or approved private road. In addition, any parcel created after the effective date of this Ordinance, and in a commercial zoning district, shall have a hard surfaced approach to a public street. If more than two (2) dwellings are accessed by one (1) driveway, a private road must be constructed according to the standards for public roads.

Section 3.4 Required Water Supply & Sanitary Sewerage Facilities

No structure shall be erected, altered, or moved upon any parcel for regular occupation or use by humans or animals unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, and industrial waste. All such installations and facilities shall conform to all requirements of the **District Health Department #2** and applicable State agencies.

Section 3.5 Essential Services

The erection, construction, alteration, maintenance, and operation by public utilities or municipal departments or commissions, of essential services shall be permitted as authorized or regulated by law and other ordinances of the City of West Branch in any District, provided that, buildings meet the setback and dimensional requirements of the respective districts and the Zoning Administrator is notified at least sixty (60) days prior to any major construction, and provided a Zoning Permit is obtained.

Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

Section 3.6 Restoration of Unsafe Building/Barrier-Free Modification

A. **Unsafe Buildings**.

Nothing in this Ordinance shall prevent the strengthening of a lawful, conforming building or structure, or a point thereof, which has been declared unsafe by the Building or Public Health Inspector, nor the requirement to adhere to the lawful orders of such officials.

B. **Barrier-Free Modification**.

Nothing in this Ordinance shall prevent the modification of a non-residential building only as may be necessary to comply with barrier-free requirements and the **Americans with Disabilities Act**. A variance may be required.

Section 3.7 Unclassified Uses

The Planning Commission shall have the power, on written request of a property owner in any zoning district, to classify a use not listed with a comparable permitted or special use in the district and may grant a permit for such use, giving due consideration to the purpose of this Ordinance. Petition for such classification and permit shall be made through the office of the Zoning Administrator. If it is determined, by the Planning Commission, that there is no comparable use, then the use shall be allowed only by amendment of this Ordinance.

Section 3.8 Illegal Dwellings

The use of any portion of a basement or partially completed structure for dwelling purposes shall not be permitted unless a temporary certificate of occupancy has been issued by **Ogemaw County**. Garages, accessory buildings, motor homes, travel trailers, trucks, buses, or other such portable structures shall not be occupied for dwelling purposes except as otherwise allowed in this Ordinance.

Section 3.9 Dwelling Regulations

A. **Single Family Dwellings per Parcel**.

1. **R-1 and R-M**. Unless the structure is part of an approved Planned Unit Development or an approved accessory dwelling unit, only one (1) single family detached dwelling will be allowed to be erected on a parcel in the R-1 and R-M Districts.

2. **MU District**. More than one (1) single-family dwelling is allowed per parcel in the MU District as a Special Use.

B. **Attached Garage Yard Requirements**.

Attached garages shall be considered part of the principal building for the purpose of computing required yards.

C. **Compliance with District Requirements.**

Single-family dwellings, including attached additions, and detached accessory structures shall comply with the minimum floor area, setback requirements, and height limitations for the district in which the dwelling is proposed.

D. **Construction Standards**.

A single-family dwelling shall be constructed to meet or exceed the requirements of the Building Code in effect in Ogemaw County or the current United States Department of Housing and Urban Development (HUD) Mobile Home Construction and Safety Standards, as may be amended, whichever is applicable. Each manufactured home must bear an approved HUD certification label.

E. **Manufactured Homes**.

1. Prior to installation of a modular or manufactured home dwelling on the permanent foundation, any wheels and towing mechanism, including tongue, hitch assembly, and any other towing apparatus shall be completely removed. Axles may remain, although tires shall be removed. Additionally, no manufactured home shall have any exposed undercarriage or chassis.

2. Manufactured homes shall not be attached to each other. Additions, new roofs and accessory buildings may be attached to a manufactured home. Any additions to a manufactured home shall be constructed to the standards of the current building code in West Branch.

3. A manufactured home shall not be used as an accessory building.

4. No manufactured home shall be in storage on any lot or parcel in West Branch unless it is part of an approved manufactured home dealership or repair facility.

5. The manufactured home shall be installed according to the construction code in West Branch, and the construction of the unit shall comply with the **National Manufactured Home Construction and Safety Standards Act of 1974**, as amended.

Section 3.10 Accessory Buildings/Structures

A. **Accessory Buildings and Structures Attached to the Principal Building**.

Accessory buildings and structures, including front porches, enclosed porches and garages attached to the principal building shall be considered a part of that building for purposes of determining yard areas and setbacks.

B. **Location on Lot**.

1. Accessory buildings shall only be erected in a side or rear yard. Gazebos shall be permitted in the front yard and shall not occupy more than twenty-five (25%) percent of the front yard area.

2. Accessory structures may be located in any yard.

C. **Setbacks**.

1. **Accessory Buildings**. No detached accessory building shall be located closer than ten (10') feet to any principal building. Accessory buildings shall be setback at least five (5') feet to any side lot line or three (3') feet to any side or rear lot line.

2. **Accessory Structures**. Decks, open porches, paved terraces, and patios shall be setback at least five (5') feet from the side lot line and three (3') feet from the rear lot line. Decks, open porches, paved terraces, and patios shall conform to the front yard setback of the principal building.

D. **Height**.

Accessory buildings and accessory structures shall not exceed two (2) stories in height.

E. **Number of Accessory Buildings.**

Three (3) accessory buildings shall be permitted per residential lot. If the lot contains an attached garage, then the garage shall count as one (1) of the three (3) allowed and only two (2) additional accessory buildings shall be allowed on the lot.

F. **Accessory Building as a Dwelling**.

No portion of an accessory building in any zoning district is to be used as a dwelling unless permitted as an accessory dwelling unit.

G. **Stand-Alone Accessory Buildings**.

An accessory building shall not be permitted on a residential lot without a principal building unless the adjacent lot contains the principal building and is under the same ownership. In this case, the lots shall not be separated by a right-of-way and the lot shall not thereafter be sold separately.

H. **Materials**.

Accessory buildings using non-rigid materials to serve as walls or roof shall not be permitted.

I. **Nontraditional Storage Facilities.**

1. Truck bodies, school bus bodies, manufactured homes, travel trailers or other items built and intended for other uses shall not be used as permanent accessory buildings. Semi-trailers may be used as temporary storage for commercial and industrial uses. For commercial and industrial uses, use of semi-trailers for storage is limited to no more than twelve (12) consecutive months. Construction projects are exempted from this this subsection.

2. **Shipping Containers**. Shipping containers shall not be allowed to be used as accessory buildings.

J. **Permits**.

All accessory buildings and accessory structures require a zoning permit.

K. **Solar Energy Panels (freestanding, accessory)**.

Solar energy panels are regulated by **Section 7.22** (Solar Energy).

Section 3.11 Accessory Uses

A. **Parking and Storage of Recreational Vehicles and Recreational Equipment**.

Recreational vehicles, travel trailers, motorized homes, snowmobiles, boats and trailers of any type with a valid current license plate, legal for use in the State of Michigan, may be parked or stored outdoors in any residential zoning district or lot where a dwelling has been established subject to the following requirements:

1. **Number of Recreation Vehicles**. No more than three (3) Recreational Vehicles may be parked on a lot of record which is zoned and used for residential purposes, and ownership of same must be in the name of a member of the immediate family of the lot's owner, tenant or lessee.

2. **Storage in Yards.** Recreational Vehicles, and recreational Equipment including travel trailers, snowmobiles, jet skis, trailers, boats and the like, where parked or stored, shall be located only in the side or rear yard and, in addition, shall conform to the required yard space requirements for accessory buildings in the zoning district where located. Recreational equipment or vehicles parked in the side yard may not extend into the front yard area beyond the front line of the principal structure on the lot.

   In those instances where the rear yard is not accessible by means of a driveway or alley or has insufficient side yard clearance for the passage of recreational equipment, the Zoning Administrator may allow the parking or storage of such recreational vehicle or recreational equipment in the front yard. In those instances where a recreational vehicle or recreational equipment is to be parked or stored in a front yard, only the driveway portion of such yard shall be utilized and in no instance shall such recreational equipment be parked or stored closer than ten (10') feet from the front property line. Storage of a recreational vehicle or recreational equipment on a lot without a principal structure shall only occur if the lot upon which the recreational vehicle or recreational equipment is stored is adjacent to another lot

which is under the same ownership and contains a principal structure. Said lots shall not be separated by a public right-of-way.

3. **Connection to Utilities.** Recreational vehicle or recreational equipment parked or stored shall not be permanently connected to electricity, water, gas or sanitary facilities, and at no time shall same be used for permanent living, lodging or housekeeping purposes in any zoning district.

B. **Overnight Camping in an RV**.

Overnight camping in a Recreation Vehicle shall be limited to no more than thirty (30) days in any six (6) month period.

C. **Sale of Vehicles.**

A resident of a dwelling unit may have not more than two (2) motorized vehicles for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles. Vehicles for sale shall not be located in the public right-of-way and shall be set back at least five (5') feet from the property line.

Section 3.12 Temporary Buildings

A. **Temporary Dwelling Occupancy during Construction of a Dwelling**.

The owner of any land in any Zoning District may erect or move not more than one (1) temporary dwelling unit (including manufactured homes) upon the premises, and occupy the same for dwelling purposes during the actual construction of the dwelling thereon, for a period not to exceed one (1) year from date of issuance of a zoning permit. Application for a zoning permit for such use shall be made to the Zoning Administrator, the granting of which shall be contingent, among other things, on compliance with the following conditions:

1. The location of the temporary dwelling unit on the premises shall be in conformity with the setback requirements of the Zoning District. The Zoning Administrator shall have the authority to allow placement of a temporary dwelling unit not in conformance with setback requirements on a case by case basis.

2. The water, sewage and waste disposal shall be approved by the District Health Department, installation and approval of which shall precede occupancy of the temporary dwelling.

3. Temporary buildings used for dwelling purposes shall be removed within thirty (30) days after the completion or abandonment of the construction work. A six (6) month extension may be granted by the Zoning Administrator.

4. No annexes or additions shall be added to temporary dwellings.

B. **Temporary Buildings for Construction Offices.**

Temporary buildings may be utilized during construction for the storage of construction materials or for construction offices during a construction period as permitted herein. Temporary buildings used for construction purposes shall be removed within thirty (30) days after the completion or abandonment of the construction work.

C. **Dwelling as Sales Office**.

The Zoning Administrator may authorize for a dwelling house to be temporarily used as a sales and management office for the sale of homes within a development, provided all of the following requirements are complied with:

1. The house to be used as such office is built upon a lot approved as part of the approved development and is of substantially similar design as those houses to be sold within the subdivision or development.

2. No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.

3. Said dwelling house shall meet all other zoning restrictions of the zone in which it is located.

Section 3.13 Construction Debris

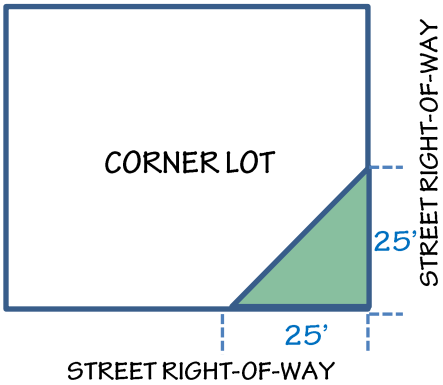
All construction debris shall be removed from the site within thirty (30) days after the completion or abandonment of the work. Failure or refusal to construction debris within thirty (30) days after the completion or abandonment of work constitutes a violation of this Ordinance. A six (6) month extension may be granted by the Zoning Administrator.

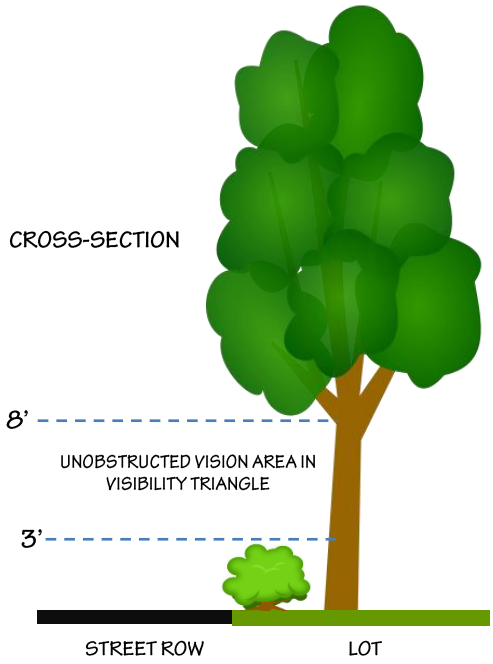
Section 3.14 Storage in Front Yards

The storage of goods or materials shall not be allowed in a front yard in any district unless otherwise allowed by this Ordinance.

Section 3.15 Corner Clearance

No fence, wall, shrubbery, sign or other obstruction to vision above the height of three (3') feet from the established street grades to a height of eight (8') feet shall be permitted within the triangular area formed at the intersection of any street right-of-way lines and a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25') feet from their point of intersection. No vehicle, trailer, boat or other conveyance shall be parked or stored upon any parcel in such a manner as to hinder or obstruct the clear vision of motorists or pedestrians on the public thoroughfare or entering or exiting the parcel. The Central Business District shall be exempt from this Section.





Section 3.16 Entranceway Structures

In all districts, entrance-way structures, including but not limited to, walls, columns and gates marking entrances to single-family subdivisions, multiple-family housing projects, commercial developments, industrial developments, mixed-use developments, or similar uses may be permitted and may be located in a setback, except as provided in **Section 3.15** above, provided that such entranceway structures shall be approved during the required Planning Commission review.

Section 3.17 Outdoor Sales

No outdoor sales are permitted on any property unless it is in association with a permitted outdoor sales use (such as a vehicle sales lot), community outdoor sales event, or if it is a yard sale in a residential district, or it is material also sold inside the store and is removed entirely from outside the store at the close of business each day. The Planning Commission may approve permanent outdoor display areas during site plan review. If outdoor sales are located within a commercial district, the use of the sidewalk shall not reduce the walkable width of the sidewalk to less than six (6') feet.

Section 3.18 Dumpsters

A. In all districts, permanent dumpsters must be screened with an opaque fence or wall on three (3) sides. The screening shall be six (6') feet high or equal to the height of the container, whichever is greater.

B. Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six (6) 30-gallon cans or more. Aprons shall be provided for loading of bins with a capacity of one and a half (1.5) cubic yards or more.

C. Temporary dumpsters are exempted from this Section.

Section 3.19 Fences, Walls and Hedges

A. **General Standards**.

1. **Permit.** Prior to construction, reconstruction or establishment of a fence, wall or screen regulated by this Section, a permit shall be obtained from the Zoning Administrator.

2. **Property Lines.** It shall be the responsibility of the property owner to locate the correct property line between lots. A survey by a licensed surveyor is strongly recommended. The Zoning Administrator may require a survey by a licensed surveyor prior to issuing a permit for a fence or wall.

3. **Materials.** Fence and wall materials may include treated wood, painted/stained wood, treated split rail, wrought iron, brick, stone, masonry block, vinyl, chain link, or other materials commercially designed for fence construction. Scrap lumber, plywood, woven wire, sheet metal, plastic or fiberglass sheets, old signage, old doors, or other materials not designed for fence construction are prohibited.

4. **Chain Link.** Chain link fences shall be constructed of materials specifically designed by fence manufacturers for such use. Fences will have top rails between supporting posts and caps on end or corner posts. No chain link fences are permitted in the front yard.

5. **Maintenance.** All fences shall be maintained in their upright condition. Missing boards, pickets or posts shall be replaced in a timely manner with material of the same type and quality.

6. **Barbed Wire & Electric Fences.** Barbed wire, electrified components or similar fencing that is likely to cause injury shall not be used in any residential district.

7. **Finished Side of Fence.** All fences shall be installed so that the finished side is facing out. All supporting posts and cross members of all fences shall face toward the interior of the lot of the person erecting the fence.

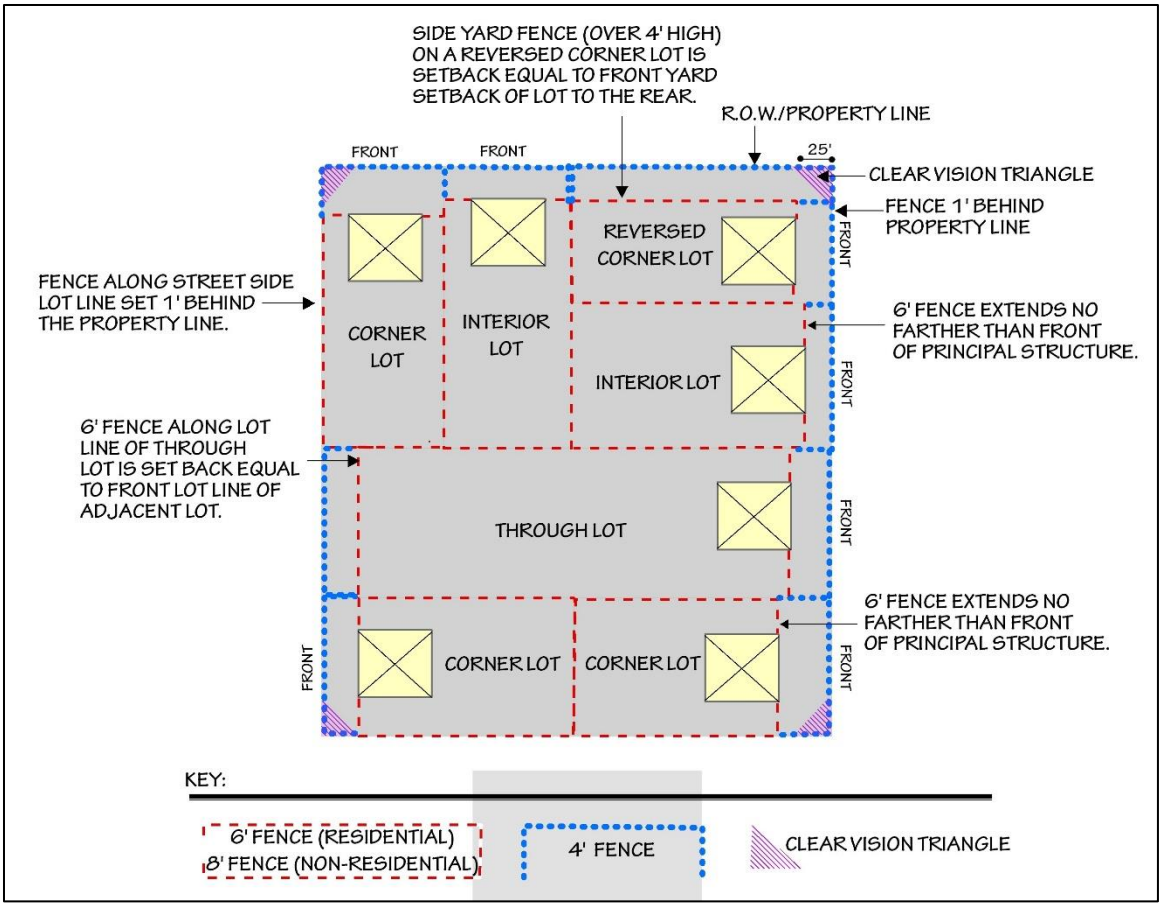
8. **Setbacks**. Fences and walls shall be located outside of the road right-of-way and shall be located at least one (1') foot inside all property lines. On a reversed corner lot, a fence over four (4') feet in height but no greater than six (6') feet in height shall be no closer to the street side lot line than the front yard setback line of the lot to the rear (see diagram).

9. **Hedges.** Hedges are not limited in height and shall not encroach on adjacent property or the right-of-way.

10. **Corner Clearance.** Fences or walls shall not be placed in any corner clearance area pursuant to **Section 3.15**.

B. **Fence & Wall Standards**.

	Residential Lots	Non-Residential Lots
Front Yard	Fences may be up to four (4') feet high.	
	Fences higher than four (4') feet shall not extend beyond the front of the principal building.	
Side Yard	Fences may be up to six (6') feet high.	Fences may be up to eight (8') feet high.
Rear Yard	Fences may be up to six (6') feet high.	Fences may be up to eight (8') feet high.
Through Lots	Front yard fence standards shall be observed along both street frontages. Front yard fences shall be no higher than four (4') feet. Fences higher than four (4') may not extend beyond the front of the principal building or, if no principal building exists, the front yard setback. A fence over four (4') feet (but no greater than six (6') feet on a residential lot and no greater than eight (8') feet on a non-residential lot) may be erected along either street frontage if the fence is set back equal to or greater than the front yard setback of the district.	



Section 3.20 Buffering Regulations

A. **Intent**.

The intent and purpose of the buffer zone is to protect residential uses from the negative impacts associated with nonresidential uses where residential and nonresidential uses abut. These negative impacts include noise, debris, odors, dust, dirt, traffic, soil erosion, rain water runoff and in some cases visible aspects of the abutting use. The buffer zone is also intended to prevent and improve blight in both residential and commercial areas by encouraging improvements to uses that abut residential districts.

The objectives of this approach are:

1. To give the Planning Commission and the proponent as much opportunity to achieve the regulations by any suitable means.

2. To encourage business owners to continue to invest in commercial improvements, including relocating on lots where a strict interpretation of the distance requirement cannot be met.

B. **When Required**.

Buffers are required for non-residential property on the side which abuts residentially-zoned property or any residential use. Buffers are required even when the residentially-zoned adjacent lot is unimproved. A buffer will be required when any non-residential use is expanded by way of an addition or demolition or a special land use approval is requested or a site plan review is requested. Otherwise, buffers are not required on commercial lots that are already developed as such.

A buffer may consist of both physical distance separation and a physical sight, sound and odor separation as described in this Ordinance by a fence, wall or screen.

C. **Criteria.**

1. Prior to site plan review by the Planning Commission, the Zoning Administrator shall make recommendations, if requested by the developer, as to the character of the buffer that may be required at the site.

2. The Planning Commission shall determine the character of the buffer based on the following criteria:

   a. Traffic impact
   b. Increased building and parking lot coverage.
   c. Increased outdoor sales, display and manufacturing area.
   d. Physical characteristics of the site and surrounding area such as topography, vegetation, etc.
   e. Visual, noise and air pollution levels.
   f. Health, safety and welfare of the City.

3. A buffer may consist of **any or all** of the following:

   a. **Buffer area distance**. The distance required to be achieved between zones, in addition to the required yard on the side on which a residential district abuts a commercial or industrial districts, shall be according to the following table:

District	Distance between residential zone or use
I	45'
GC	30'
CBD	20'
OS	20'

   b. **Landscape Screen, Fence, or Wall**. Continuous rolling screen six (6') feet in height comprised of plant material, screen walls or fences or any combination of these elements is required pursuant to the construction standards in **subsection D** below. Wall heights may vary as shown in **subsection D** below.

D. **Construction Standards**.

1. **Landscape Screens and Fences**. If a landscape screen or fence is used for all or part of the buffer area then:

   a. The equivalent of two (2) shrubs are required per thirty (30') feet of wall or fence with at least fifty (50%) percent being twenty-four (24") inches high at the time of planting and none being less than twelve (12") inches at the time of planting.

   b. All required plants shall be placed on the side facing the exterior of the non-residential property.

   c. Two (2) evergreen trees must be planted for every thirty (30') linear feet.

   d. Continuous rolling screen at least six (6') feet in height comprised of plant material, screen walls or fences, or any combination of these elements is required.

   The Planning Commission may modify these requirements based on the site plan submitted.

2. **Walls.** If a wall is used for all or part of the buffer then, for those districts and uses listed below there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall as required below.

   a. Off-street parking area requirements: 4'6" high wall.

   b. O-S, CBD, GB Districts: requirements: 4'6" high wall.

   c. IND District (open storage areas, loading and unloading areas and service areas) requirements: five (5') foot to eight (8') foot high wall.

3. **General Standards**.

   a. Required screening fences and walls shall be located on the lot line except where underground utilities interfere or in cases where the Planning Commission approves another location. The Planning Commission may approve screening fences and walls to extend to the front lot line. Required screening fences and walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required fences or wall on a given block will be a major consideration of the Planning Commission in reviewing such request.

   b. Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as such openings as may be approved by the Zoning Administrator. All walls herein required shall be constructed of materials approved by the Zoning Administrator to be durable, weather resistant, rust proof and easily maintained; and wood or wood products shall be specifically excluded.

c. Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42”) inches below a grade approved by the Zoning Administrator and shall not be less than four (4”) inches wider than the walls to be erected.

d. Masonry walls may be constructed with openings above thirty (32”) inches above grade provided such openings are not larger than sixty-four (64”) square inches, provided that the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum wall height requirement.

e. All areas outside of planting beds shall be covered with grass or other living ground cover.

f. Buffers are required to extend into the front yard area but shall not be closer to a road right of way than fifteen (15’) feet. The Planning Commission may require the buffer to extend to the road right of way if it deems it necessary to accomplish the intent of this ordinance.

g. All plantings including grass must be maintained in good healthy condition and must be replaced if they should die at any time.

h. Buffer areas must be designed by a person who is a licensed landscaper, certified landscape designer, engineer or architect. A drawing of all required landscaping, top and side profile, must be submitted to the Planning Commission for review prior to site plan approval.

i. The Planning Commission may require a performance bond, cash, irrevocable letter of credit, or other similar financial assurance satisfactory to the City. All financial deposits must be deposited with the City prior to the issuance of a building permit, in the amount of the Planning Commission's estimated cost of installing landscaping on a parcel and shall be held until all approved landscaping is installed. If landscaping is not installed in accordance with the approved site plan as determined solely by the City, the deposited financial assurance may be used to install the required landscaping and only any unused portion thereof will be returned.

Section 3.21 Landscaping

A. In the Office, General Commercial and Industrial Districts as well as on non-residential lots in the Mixed Use District, the front yard area of each site shall be landscaped with an effective combination of trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. The entire area between the right-of-way and ten (10') feet in back of the front property line shall be landscaped, except for any access driveway in said area.

B. Side and rear yard areas not used for parking or storage shall be landscaped utilizing ground cover and/or shrub and tree materials.

C. Undeveloped areas proposed for future expansion shall be maintained in a weed-free condition.

D. **Prohibited Trees**.

Prohibited trees are listed within the "City Tree Plan" including the following:

1. Box Elder
2. Soft Maples (Red silver)
3. Elms that are not resistant to disease
4. Nannyberry
5. Paw Paws
6. Mugo Pines
7. Poplars
8. Willows
9. Horse Chestnut (nut bearing)
10. Tree of Heaven
11. Catalpa

E. **Quality.**

Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Ogemaw County, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

F. **Composition.**

A mixture of plant material, such as evergreen trees, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

G. **Non-Plant Materials**.

The Planning Commission may approve landscaping consisting of non-plant materials, if appropriate. Such materials may consist of but are not limited to rock, paving stones, patterned concrete, bark, and wood chips.

H. **Drainage Patterns and Visibility**.

All landscape materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.

I. **Access**.

All plant material shall be planted in a manner so as not to obstruct access to or view of fire hydrants or other fire connections, not interfere with utility lines (above and below ground) and public

roadways. Landscape materials shall not constitute a nuisance to neighboring properties.

J. **Berms.**

Berms shall be constructed with slopes not to exceed a 1:3 gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.

K. **Minimum Plant and Tree Size**.

Minimum plant sizes at time of installation:

Deciduous Canopy Trees	2½“	dbh (diameter at breast height)
Deciduous Ornamental Trees:	2”	dbh
Evergreen Tree:	5’	height
Narrow Evergreen Trees	3’	height
Deciduous Shrub:	2’	height
Large Evergreen Shrub:	2’	height
Spreading Evergreen Shrub:	18” – 24” spread	

L. **Installation, Maintenance, and Completion**.

1. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.

2. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a strong and healthy condition, free from refuse, debris and insects. All materials used to satisfy the requirements of this Ordinance which become unhealthy or dead shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

Section 3.22 Wild or Exotic Animals/Livestock

No wild, exotic or vicious animal shall be kept permanently or temporarily in any district in the City except in an accredited American Association of Zoologies Parks and Aquariums facility. No livestock shall be kept in the City. Animals are regulated by **Section 90.01 through 90.51 of the West Branch Code of Ordinances**.

Section 3.23 Voting Place

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

Section 3.24 Permitted Yard Encroachments

The following items may project into required side or rear yards for the principal building.

A. Structural elements such as cornices, sills, chimneys, gutters, and similar features projecting a maximum of four (4’) feet from the building.

B. Fire escapes, outside stairways, and balconies, if of open construction, projecting a maximum of five (5') feet.

C. Signs, subject to provisions of **Section 3.30**.

D. Decks, open porches, paved terraces, and patios are considered accessory structures and are regulated by **Section 3.10**.

Section 3.25 Permitted Height Exceptions

The following exceptions shall be permitted to height limitations in **Article 4: District Regulations**, subject to an approved site plan. These permitted exceptions shall not be for human occupancy or dwelling.

A. Appurtenances to mechanical or structural functions, such as elevator and stairwell penthouses, ventilators, heating or air conditioning equipment, water storage tanks, and safety equipment shall be permitted to a maximum height of fifty-five (55') feet in any Commercial Zoning District and sixty (60') feet in the Industrial Zoning District.

B. Special structures, such as chimneys or smoke stacks, radio or television transmitting towers or antennas, or microwave relay towers shall be permitted to a maximum height of one hundred seventy five (175') feet in any Commercial Zoning Districts or in any Industrial Zoning District, subject to the Special Use Regulations for accessory uses.

C. Structures for purely ornamental purposes such as religious spires, belfries, cupolas, domes, ornamental towers and monuments shall not exceed seventy-five (75’) feet in height.

D. Flag poles and their attendant facilities shall be permitted in all districts provided the total height of the flag pole and any appurtenances does not exceed ten (10') feet above the roof line of any building located on the lot or a height equal to the distance from the base of the flagpole to any lot line of the property. Flagpoles may be allowed in required front, rear and side yard setbacks. Flag pole footings and anchoring devices shall be subject to review and approval of the City and/or Ogemaw County Building Authorities.

Section 3.26 Excavations, Holes & Ponds

A. The construction, maintenance or existence within the City of West Branch of any unprotected, unbarricaded, open or dangerous excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to public health, safety or welfare, is prohibited. This Section shall not prevent any excavation permitted by a permit issued by the City.

B. This Section shall not apply to streams, natural bodies of water or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of the State of Michigan, Ogemaw County, the City of West Branch or any other governmental agency.

C. Only decorative ponds are permitted within the City.

Section 3.27 Nonconformities

A. **Intent**.

It is the intent of this Section to permit the continuation of any lawful use of a building or land existing as of the effective date of this Ordinance. However, it is hereby declared that nonconformance with the provisions of this Ordinance is not in the best interests of the City and ought to be discontinued as circumstances permit. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

B. **Historic Properties**.

1. Any nonconforming property in the City of West Branch that is listed on the State or National Register of Historic Places is specifically excluded from any requirement of this Section, which would damage the historic character of the property.

2. When any such property is the subject of any administrative decision, the input of Michigan's State Historic Preservation Officer shall be requested in writing not less than thirty (30) days before any regulatory action may take effect.

3. Historic buildings and structures built or located in 1930 or before may be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of this Ordinance, provided such expansion, enlargement, extension or location is approved by the Planning Commission and further subject to site plan approval in accordance with **Article 5**.

In approving or disapproving site plans, the Planning Commission shall consider off-site impacts of the structure on abutting and surrounding uses, especially residences.

C. **Change in Tenancy or Ownership.**

There may be a change of tenancy, ownership, or management of any existing nonconforming uses or structures provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this Ordinance.

D. **Repair of Nonconforming Structure or Building Used for Nonconforming Use**.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official or to comply with barrier-free requirements of the Americans with Disabilities Act (a variance may be required). Nothing in this Ordinance shall prevent any alteration, improvement or repair as required by the Health Department as necessary to protect the public health, safety, and welfare.

E. **Nonconforming Structures.**

1. **Alterations to Nonconforming Structures**. Alterations to nonconforming structures are permitted, however no structure may be enlarged or structurally altered in such a way as to increase its nonconformity. A reduction of the degree of nonconformance in one respect is not permitted to offset an increase in the degree of nonconformance in another respect. Thus, square footage may not be "traded" from one portion of a building to another.

2. **Destruction of Nonconforming Structures**. Any lawful nonconforming structure that is completely destroyed by fire, explosion or act of God or the public enemy, or by other accidental causes shall be rebuilt in conformance with this Ordinance. However, if the foundation of the structure remains and is usable and/or the structure is not completely destroyed, then said structure may be rebuilt in the original footprint.

3. **Relocation of Nonconforming Structures**. Should a structure which is nonconforming due to setbacks be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

F. **Nonconforming Uses.**

1. **Expansion of Nonconforming Use**.

   a. A nonconforming use may be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. Setbacks of the district shall be adhered to.

   b. A nonconforming use may be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance. Setbacks of the district shall be adhered to.

c. A building which is used for a nonconforming use may be expanded. If the structure is also nonconforming, **subsection E.1** above applies.

d. The Planning Commission is the body responsible for reviewing and deciding upon the expansion of a Nonconforming Use.

2. **Changing Uses**. If no structural alterations are made, the Zoning Board of Appeals may authorize a change from one nonconforming use to another nonconforming use, PROVIDED the proposed use would be more suitable to the zoning district in which it is located, than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.

3. **Reconstruction and Restoration**. Any lawful nonconforming use damaged by fire, explosion or act of God, or by other causes may be restored, rebuilt or repaired.

   All such restoration must be started at the completion of the police or insurance investigation, if applicable, and diligently pursued to completion. The Planning Commission may extend the period of time for restoration of any such building or structure when a bona fide emergency renders it impossible to make the restoration of the building or structure within the required time period. Any basements, large holes, etc. remaining on the site after removal of the structure shall be filled in and leveled at the completion of the police or insurance investigation, if applicable, and diligently pursued to completion.

4. **Abandonment of Nonconforming Use.** If a property owner has the intent to abandon a nonconforming use of land and in fact abandons a nonconforming use of land for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

   a. Whether utilities such as water, gas, and electricity to the property have been disconnected.

   b. Whether the property, buildings, and grounds have fallen into disrepair.

   c. Whether signs or other indications of the existence of the nonconforming use have been removed.

   d. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.

   e. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

G. **Nonconforming Lots.**

Any nonconforming lot of record may be used for any purpose authorized by the district in which it is located. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.

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

Section 3.28 Exterior Lighting

A. **Intent and Purpose**.

The purpose of glare and exterior lighting standards is to create and maintain safe nighttime environments for both pedestrians and drivers on public roadways and right-of-ways by minimizing brightly lighted surfaces and lighting glare; to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow”; and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Zoning Ordinance.

B. Light and Glare from Indirect Sources.

1. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.

2. The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.

3. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

C. Exterior Lighting from Direct Sources.

1. **Lighting for safety.** Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.

2. **Lighting not to be a nuisance.** Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which created a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.

3. **Lighting shielding.** Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.

4. **Light fixture height.** Except as noted below, lighting fixtures shall not exceed a total height of twenty-five (25') feet. In portions of a site located within one hundred (100') feet of a residential area, lighting fixtures shall not exceed a total height of twenty (20') feet. The Planning Commission may modify this standard.

5. **Lighting shown on site plans.** All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, and traffic safety.

6. **Upward directional lighting**. All lighting used for the external illumination of buildings and flags with lights directed in an upward direction so as to feature said buildings and flags, shall be placed and shielded so as not to interfere with the vision of persons on adjacent streets or adjacent property.

7. **Moving Lights**. All illumination of any outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. Beacon, strobe and search lights are not permitted.

8. **Interference with Traffic Control Devices**. No colored lights shall be used at any location where it may be confused with or construed as traffic control devices.

9. **Gas Stations**. Ceiling lights in gas pump island canopies shall be recessed.

D. Exempted Areas and Types.

The following types of outdoor lighting shall not be covered by this Ordinance:

1. Temporary holiday lighting and decoration.

2. Lights located within the public right-of-way or easement.

3. Temporary lighting needed for emergency services or to perform nighttime road construction on major thoroughfares.

4. Temporary lighting for civic activities, fairs, or carnivals provided the lighting is temporary.

5. Lighting required by the **Federal Communications Commission**, **Federal Aviation Administration**, **Federal Occupational Safety and Health Administration**, or other applicable Federal or State agencies.

6. Lighting for recreational facilities: shall conform to the requirements set forth in the most current edition of the **Illuminating Engineering Society of North America (IESNA)** RP-6 Recommended Practice for Sports and Recreational Area Lighting and the IESNA Lighting Handbook.

E. **Sign Lighting**.

Lighting for signs is regulated in **Section 3.30.**

Section 3.29 Circulation, Parking & Loading Space

A. **Intent and Authority**.

This Section is intended to provide efficient and safe access management and adequate parking areas for specific uses as well as promote the efficient use of land. It also seeks to prevent adverse environmental impacts of large paved areas. The Planning Commission shall have the authority to grant deviations from this **Section 3.29** where such deviations would not be detrimental to public health, safety and welfare.

B. **Pedestrian Travelways**.

1. **Required Pedestrian Walkways within the Lot**. All developments except for single- and two-family dwellings shall provide clearly defined pedestrian travelways from the public sidewalk to main entrances of the buildings or to the sidewalk fronting the building in the case of a multi-entrance building. Pedestrian-scale lighting shall be included, where appropriate.

2. **Standards for Pedestrian Walkways**. Pedestrian walkways shall be designed to be recognizable to both drivers and pedestrians. Any combination of at least two (2) of the following walkway treatments shall be used:

   a. Constructing the walk/crosswalk with different materials, such as concrete or brick or other materials approved or recognized under **The Americans with Disabilities Act (ADA)** requirements;

   b. Placing bollards at sufficient regular intervals to delineate the walk/crosswalk;

c. Aligning planting islands to define the walk/ crosswalk;

d. Raising the walk/ crosswalk; and

e. Painting pavement with walk/crosswalk striping.

Pedestrian travelways shall be physically separate from the parking area except where they cross a vehicle maneuvering lane, in which case the travel way shall be defined with a separate and contrasting material such as the use of a textured concrete or brick paver.

3. **Public Sidewalk**. A public sidewalk shall be installed for all new development if no sidewalk exists. The sidewalk must be constructed according to **Section 94.20-94.28 of the Code of Ordinances**. Street trees must be planted at intervals of not less than forty (40) feet apart.

C. **Bicycle Parking**.

1. **Required Bicycle Parking.** Buildings with an area of over ten thousand (10,000) square feet in size and which contain commercial establishments, educational institutions, or multi-family residential establishments shall provide bicycle parking.

2. **Bicycle Parking Substitution.** In off-street parking areas with twenty-five (25) or more automobile parking spaces, bicycle parking spaces may be substituted for automobile parking spaces at the rate of ten (10) bicycle spaces per one (1) off-street parking space with a maximum of ten (10) automobile spaces replaced with bicycle parking.

D. **Motor Vehicle Parking – General Standards**.

1. **Parking Required**. In all zoning districts, except the CBD, off-street parking facilities for the storage and parking of motor vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said principal building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

2. **Compliance Required**. Off-street parking and loading provisions of this Section shall apply to the following:

a. **New Construction**. For all buildings and structures erected and all uses of land established after the effective date of this Ordinance.

b. **Enlargement**. Whenever a building is expanded resulting in an increase in the required parking.

c. **Change in Use**. Whenever the use of a building or portion of a building is changed to accommodate a use requiring more parking than the former use.

d. **Parking Area Construction and Expansion (For all new parking areas and whenever existing parking areas are expanded or upgraded).** Normal maintenance, such as re-grading of legal nonconforming gravel parking areas or the addition of top coat or sealer to existing paved parking areas, will not trigger full off-street parking compliance; however, pulverizing an existing asphalt, concrete or other paved parking surface, the outright removal or substantial modification of the paved surface in preparation for paving and demolition by neglect which serves to return a parking area substantially to gravel or other aggregate surface, shall, for the purposes of this code, be considered a new parking area.

3. **Compliance Not Required**. Regulations pertaining to off-street parking shall not apply to:

   a. Buildings in existence at the time of adoption of this Ordinance; or

   b. Uses within the Central Business District.

4. **Existing Off-Street Parking at Effective Date of Ordinance**. Off-street parking existing at the effective date of this Ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.

5. **Location of Parking**.

   a. **Single- and Two-Family Dwellings**. The off-street parking facilities required for single- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Section.

   b. **Multiple-Family and Single-Family Attached Residential**. The off-street parking facilities for multiple-family dwellings and single-family attached dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as set forth in this Section.

   c. **Other Land Uses**. The off-street parking facilities required for all other uses, besides those listed in **subsections a and b** above, shall be located on the lot or within five hundred (500') feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.

      For all institutional, public, or essential services in a residential district, the required parking area shall be provided on the same lot with the buildings or on a lot immediately adjacent, under the same ownership.

6. **Excessive Parking Space**. A maximum of one hundred twenty (120%) percent of the required number of parking spaces may be provided (rounded down to the nearest whole number). Provision of more than one hundred twenty (120%) percent of the requirement will require a variance from the Zoning Board of Appeals.

7. **Combined Parking Bonus (Uses Overlapping in Hours)**. In case of a situation where there is more than one (1) use in a single structure or for two (2) structures on the same lot, the following off-street parking reductions may apply:

    a. For two (2) uses per structure, eighty (80%) percent of the otherwise combined required parking (20% reduction).

    b. For three (3) uses, seventy-five (75%) percent of the otherwise combined required parking (25% reduction).

    c. For four (4) uses, seventy (70%) percent of the otherwise combined required parking (30% reduction).

    d. For five (5) or more, (65%) percent of the otherwise combined required parking (35% reduction).

    e. In no case shall less than sixty-five (65%) percent of the otherwise combined required parking be allowed.

8. **Shared Parking (Uses NOT Overlapping in Hours).** Joint use of the same parking area may be permitted for two (2) or more uses located on the same, adjacent, or nearby parcels provided that the developer or owner demonstrates to the satisfaction of the City that the uses will not overlap in hours of operation or in demand for shared spaces. Shared parking shall contain enough parking spaces to satisfy the parking requirements for the use requiring the largest number of spaces. The owners of all parcels used for or making use of shared parking areas shall record a commitment stating that the uses will not overlap in hours of operation or in demand for shared spaces. The commitment shall be binding on future owners of the property(s) and shall be recorded with the Register of Deeds. Shared parking areas shall be located not more than five hundred (500') feet from the uses they are intended to serve and shall be connected to that use by a defined pedestrian walkway.

9. **Reduction of Parking Spaces**. For development in any zoning district, the Planning Commission shall have the power to reduce the number of required parking spaces in the case of shared drives, shared parking or other circumstances where a reduction in parking will contribute to the safety, function or overall site design or where it has been demonstrated that less parking spaces would be adequate for the customary operation of a use.

10. **Application**. All developers of new or revised parking areas shall submit plans to the City Zoning Administrator showing the location, design, size, shape, landscaping, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, and any other features of the parking lot. The site plan for any new or revised parking areas shall be presented for site plan approval by the Planning Commission.

11. **Use of Parking Lot.** No commercial repair work, commercial servicing, or selling of any kind except for periodic garage or yard sales shall be conducted on parking areas unless otherwise permitted by this Ordinance.

E. **Motor Vehicle Parking – Design Standards**.

The design and construction of parking areas shall conform to the following requirements:

1. Parking space and maneuvering lane size shall comply with the following table:

Parking Pattern	Maneuvering Lane Width, ft.	Parking Space Width, ft.*	Parking Space Length, ft.*	Total Width of One Tier of Spaces Plus Maneuvering Lane, ft.	Total Width of Two Tiers of Spaces Plus Maneuvering Lane, ft.
0° (parallel parking)	12 24	8 8	24 24	20 32 – one-way	28 40 – two-way
30° to 53°	12	9	20	32	52
54° to 60° 61° to 74°	15 15	9 9	21 21	36 ½ 36 ½	58 58
75° to 90°	20	9	18	40	60

*The required parking space size may be reduced by ten (10%) if the space is marked for compact cars. Up to thirty (30%) of the parking spaces may be marked for compact cars.

2. **Handicapped Spaces**. All parking areas shall meet the requirements of all current barrier-free design specifications for Michigan.

3. **Cart Corrals**. Parking areas for retail uses that include the use of carts shall have cart corrals to contain carts.

4. **Lighting**. Any lighting fixtures used to illuminate any off-street parking area shall be so installed as to divert the light away from any adjoining premises and public roads, and no source of light shall spill beyond the lot lines of the property upon which it is located.

   Off-street parking areas provided for any multiple family housing, business, industrial or institutional use must be provided with sufficient lighting to allow safety for users at any time. No direct rays from said fixtures shall be directed at adjacent properties or public streets.

5. **Drainage**. All off-street parking areas shall be drained so as to prevent any increase in drainage to abutting properties and the drainage area shall be constructed of graded aggregate materials which will have a dust-free surface resistant to erosion by wind and water. All drainage for parking areas greater than five thousand (5,000) square feet in size shall have on-site drainage with discharge to a storm sewer.

6. **Backing onto Public Road**. All off-street parking areas that make it necessary for vehicles to back out directly onto a public road are prohibited, except for single-family and duplex residential driveways.

7. **Driveway Opening**. Each off-street parking driveway opening to a public street must be approved by the agency having jurisdiction over the street following site plan review by the Planning Commission. If the public street is paved, the driveway must be paved for at least the length required for stacking area as defined in **subsection G** below. Lanes for entering and exiting traffic shall be clearly marked on the pavement. Each driveway shall intersect a public street at a ninety (90˚) degree angle where possible.

8. **Clear Vision Area.** All off-street parking driveways shall have a clear vision area unobstructed by Accessory Structures or plantings, within twenty (20') feet of any Public Street Right-of-Way, for a sight distance of thirty (30') feet along the near edge of the pavement in either direction.

9. **Striping**. Except for parallel parking, all parking spaces on paved surfaces shall be clearly marked with striping that shall be maintained.

10. **Landscaping**.

    a. **Perimeter Landscaping**. In the O-S, G-B, and IND Districts, off-street parking shall be permitted to occupy required front, side and rear yards after approval of the parking plan layout, provided that there shall be maintained a minimum landscaped setback of ten (10') feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.

    b. **Interior Landscaping**. Parking areas totaling seventy-six (76) or more spaces shall provide a minimum of ten (10%) percent interior landscaping. Parking areas totaling twenty-five (25) to seventy-five (75) spaces shall provide a minimum of five percent (5%) interior landscaping. Interior landscaping may be transferred to the perimeter of the lot(s) if interior landscaping is not possible. Plant material within parking lots shall provide for safe visibility and maintain clear sight lines between three (3') and eight (8') feet from the top of the curb. Interior landscaping shall occur in any combination of planting islands, planting peninsulas and entrance ways.

11. **Screened**. Off-street parking areas shall be effectively screened on any side that abuts a residential use or institutional use pursuant to **Section 3.20**.

12. **Surface**. Parking is permitted on a hard surfaced drive or parking lot only. Parking is not permitted on the grass in front of the principle building. The parking area shall be a paved surface with an asphalt, concrete, or similar durable and dustless surface, and shall be graded and drained to dispose of all surface water. Paved surfaces are required in all districts except those listed in **subsection E.12.a** below. Pavement must consist of at least six inches (6") of reinforced concrete or two inches (2") of bituminous surface laid over six inches (6") of compacted crushed stone. Hard surface must be in place within one (1) year of occupancy.

a. **Exceptions**. All parking shall be on an approved paved surface with the exception of parking for single-family residential, two-family residential, campgrounds, RV parks, cemeteries, parks and other outdoor recreational uses.

13. **Shared Access**. The Planning Commission must require shared access between and among uses where feasible, excluding single-family and two-family residential uses. Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access. This requirement applies to driveways and access drives associated with site redevelopment or new construction. In the case of new development, a joint driveway agreement must be signed by all property owners involved prior to a permit being issued. Driveways must be designed to allow joint access in the future, where feasible, and an agreement to allow future use of the drive for joint access must be signed at the time of site plan approval. Shared drives must be shown on site plans at the time of review by the Planning Commission. Refusal to design a site with provisions for joint access or refusal to participate in a joint access agreement is justification for site plan denial by the Planning Commission.

14. **Driveway Closure**. Nonconforming driveways, per this Ordinance, shall be made to be less nonconforming at the time a site is redeveloped. Lessening the degree of driveway nonconformance may include the Planning Commission requiring closing a driveway or combining driveways or access points at the time of site plan review in instances where there is redevelopment or a change in use.

F. Motor Vehicle Parking – Number of Spaces Required.

Parking or storage of motor vehicles shall be provided for in all districts in connection with all industrial, commercial, business, trade, institutional, recreational, or dwelling uses and similar uses.

1. **Unlisted Uses**. If a use is not specifically listed, the parking requirements of a similar or related use shall apply as determined by the Zoning Administrator.

2. **Mixed Uses**. Parking spaces will be determined by all uses proposed on the parcel.

3. Parking spaces may count toward the requirement for a parcel if they are located on it or on an adjoining parcel where the farthest space is not over five hundred (500') feet from the nearest public entrance to the principal building, with a continuous paved walkway between the lot and entrance.

4. **Floor Area**. In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the total floor area, except that such floor area need not include any area used for incidental service, storage installations of mechanical equipment, penthouses, housing ventilators and heating systems, and similar uses.

5. **Fractional Spaces**. When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (½) shall be disregarded, and fractions over one-half (½) shall require one parking space.

6. The Planning Commission may reduce the number of required parking spaces if electric charging stations are included in the parking plan.

7. The Planning Commission may reduce the number of parking spaces in all cases pursuant to **subsection D.9**.

Parking Requirements

Use	Number of Parking Spaces Required
EMPLOYEE PARKING FOR ALL USES	1 PARKING SPACE FOR EVERY 1 EMPLOYEE ON THE LARGEST SHIFT (UNLESS OTHERWISE NOTED) IN ADDITION TO THE REQUIREMENTS LISTED BELOW.
Residential	
Bed and Breakfasts/Rooming houses/Tourist Home/Boarding House	1 for each sleeping room plus 2 for the owner/resident manager.
Home Occupations/Cottage Industry	2 spaces per dwelling plus additional to accommodate clients.
Housing for the elderly	1 for each unit.
Manufactured Homes located in a Manufactured Housing Community	2 for each manufactured home site.
Multiple family	2 per each dwelling unit.
One-family and two-family	2 for each dwelling unit.
State-Licensed Residential Facilities (Adult Foster Care Homes 6 or less people)	2 for each establishment.
Commercial	
Beauty parlor or barber shop	2 per chair or booth.
Bowling alley	4 spaces per lane. If in addition to alleys, patrons are provided with assembly halls, bars, restaurants, or other businesses, additional off-street parking spaces will be required in accordance with regulations of this section for the uses.
Clubs and lodges (private)	1 for each 3 active members plus 1 for each 100 square feet of floor space.
Dance Halls, Roller Rink, Exhibition Halls, Places of Public Assembly	1 for every 4 occupants by maximum capacity.
Gas Station	1 space for each service bay.
Laundromats	1 space for every 2 washing machines or 200 square feet of floor area, whichever is greater.
Motel, hotel, or other commercial lodging establishments	1 for each sleeping room. If, in addition to sleeping rooms, patrons are provided with assembly halls, bars, restaurants, retail shops or other businesses, additional off-street parking spaces shall be required for the other uses in accordance with the regulations of this Section for those uses
Mini-warehouses, self-storage establishments	1 per 10 storage units, equally distributed throughout the storage area.
Funeral home; mortuary	4 spaces for each viewing room or 1 space for each 50 square feet of gross floor area, whichever is greater, plus 1 space for each fleet vehicle.
Furniture sales, retail	1 space for each 500 square feet of building floor area.
Office buildings including banks, businesses, and other professional offices	1 space for each 200 square feet of building floor area but in no case less than 5 spaces.
Open air business	1 for each 600 square feet of lot area.
Plumbing, printing, and similar service shops	1 for each 300 square feet of floor area.
Research, medical or optical laboratory	1 space per 300 square feet.

Restaurants, taverns, bars, cocktail lounges, and similar eating establishments	1 for each 4 seats provided for patron use.
Recreation, Commercial Indoor	1 space for each 100 square feet of building floor space.
Recreation, Commercial Outdoor	25% of the lot area but in no case less than 10 spaces.
Retail sales and personal services, self-serve food market or supermarket	1 space per 150 square feet of public floor area. In addition, for uses over 100,000 square feet of retail use, a maximum of 1 space per 150 square feet will be permitted.
Vehicle sales	1 space for each 500 square feet of sales floor area.
Vehicle service garages	1 space for each 500 square feet of building floor area.
Veterinary clinics; animal hospitals	1 for each examination room.
Institutional	
High Schools and institutions of higher learning	1 for each 5 students plus parking requirements for gym, auditorium and athletic field if they are included.
Elementary, middle, and junior high schools	1 space for each 30 students of maximum enrollment capacity plus 1 for each 8 auditorium seats.
Hospitals; convalescent homes; assisted living facility	1 space for each hospital bed and 1 space for each 3 convalescent home bed.
Jails	1 space for every 5 cells in addition to off street loading spaces for delivery and transport vehicles.
Libraries and museums	1 space for each 800 square feet of floor area.
Nursery schools, day nurseries, or child day care centers (non-residential)	1 space for each 5 children of licensed authorized capacity or 1 space for every 10 children if adequate drop-off facilities are provided.
Places of public assembly	1 space for each 3 seats. Where those in attendance occupy benches, pews, or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat.
Post offices	1 space per official vehicle plus 1 space per 200 square feet
Recreational facility	3 spaces for every 1,000 square feet of gross floor area.
Theaters, auditoriums and stadiums	1 space for every 4 seats.
Industrial	
Warehouse and/or storage building; Lumber supply yards; Wholesale uses; Truck terminal	2 spaces for each employee. If retail sales exist, required parking spaces shall be determined by using retail floor space requirements for the building floor area used for retail in conjunction with the employee requirement.

G. **Stacking Spaces for Drive-Through Establishments**.

1. An off-street stacking space is defined as an area with a minimum width of ten (10’) feet and a minimum length of twenty (20’) feet and shall not include the use of any public space, street, alley or sidewalk and shall be located entirely within any commercial district.

2. Uses occupied or built for the purpose of serving customers in their vehicles by a service window or similar arrangements, off-street stacking spaces shall be provided as shown in the following chart.

3. Drive-through lanes shall not utilize any space which is necessary for adequate access to parking spaces from internal maneuvering lanes.

4. Drive-through lanes shall have a minimum centerline radius of twenty (20') feet unless the Planning Commission approves a deviation from this standard.

5. Drive-through lanes shall be striped, marked, or otherwise distinctively delineated.

6. No stacking space shall be located closer than fifty (50') feet to any lot in any residential district, unless wholly within a completely enclosed building or enclosed on all sides facing residential zones, by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six (6') feet in height.

USE SERVED BY DRIVE-THROUGH LANE	MINIMUM STACKING REQUIREMENTS (PER LANE)
1. Restaurant	The distance between the order board and the pick-up window shall store four (4) vehicles, and storage shall be provided for four (4) vehicles in advance of the menu board (not including the vehicles at the pick-up window and menu board)
2. Financial Institution	Six (6) vehicles per lane inclusive of the vehicle at the window.
3. Car Wash (coin-operated)	Three (3) vehicles in advance of the washing bay and storage for one and one-half (1½) vehicles beyond the washing bay as a drying and vacuum area.
4. Car Wash (tunnel wash)	Four (4) times the maximum capacity of the car wash in advance of the tunnel and three (3) vehicles beyond the tunnel for drying areas.
5. Child Care Center	One (1) vehicle per fifteen (15) children inclusive of the vehicle at the drop-off point. No parking area or maneuvering lanes shall be permitted between the drop-off point and the principal entrance to the building.
6. Dry Cleaners	Four (4) vehicles per lane inclusive of the vehicle at the window.
7. Quick Oil Change	Four (4) vehicles per lane inclusive of vehicle being serviced.
8. Convenience Market	Three (3) vehicles per lane inclusive of the vehicle at the window.
9. Other Uses	For uses not listed above, the Planning Commission shall make a determination of minimum required vehicle stacking at the time of site plan review, based upon analysis by the Traffic Engineer and City Planner.

H. **Loading and Unloading Areas**.

1. **Industrial Districts**. In all districts for every building, or part, hereafter erected, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, or block of stores of over ten thousand (10,000) square feet, wholesale store or warehouse, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same premises off-street loading spaces as determined by the Planning Commission.

2. **Commercial Districts**. If a use requires a loading space, then one shall be provided. In no case shall loading or unloading take place in such a manner that the right of way is occupied, clear vision area obstructed, or safe and efficient circulation negatively impacted.

Section 3.30 Signs

A. **Intent and Purpose.**

The intent and purpose of these standards are to regulate the location, size, construction, and manner of display of signs designed to be visible to the public in a manner which does not restrict content while recognizing the communication needs of the public and minimizing their harmful effects on the public health, safety and welfare. The provisions of this Section are intended to apply the minimum amount of regulation in order to:

1. Maintain and enhance the aesthetics of the community.
2. Avoid excessive signage.
3. Avoid obstacles, distractions, or traffic hazards that impair a traveler's ability to see pedestrians, traffic signs, or vehicles.
4. Enhance the effectiveness of necessary directional and warning signs.
5. Preserve property values.
6. Provide for the effectiveness of permitted signs.
7. Require structurally safe signs.

B. **Substitution Clause**.

Any sign that can be displayed under the provisions of this Ordinance may contain a non-commercial message.

C. **Signs Exempt from Permits**.

1. Signs erected by an official governmental body, public utility, or historic agency.

2. Signs not readable by motorists or pedestrians on any road, alley, water body, public lands, or adjacent parcels.

3. Legal postings

4. Temporary Signs (see **subsection F** for standards).

5. Permanent Accessory Freestanding Signs not to exceed one and a half (1.5) square feet on non-residential property. Accessory freestanding signs shall not exceed a height of three (3') feet.

6. Signs or tablets, not to exceed eight (8) square feet in area, when cut into any masonry surface or constructed of bronze or other incombustible material and affixed to the exterior wall of the building.

7. Signs painted on or permanently attached to legally licensed vehicles that are used upon the highways for transporting persons, goods or equipment.

8. Traffic or other municipal signs including, but not limited to, the following, legal notices, historic site designations, municipal facility directional signs, street or traffic signs, railroad crossing signs, danger and other emergency signs as may be approved by the City or any Federal, State or County agency having jurisdiction over the matter of the sign. Such signs may be located in any zoning district. However, all signs on governmental property on which a municipal building is located shall meet the commercial zoning district requirements stated herein at the discretion of the Zoning Administrator.

9. Signs erected by community groups around the time of community special events. Such signs shall be approved by the City Council or City Manager.

10. Painting, re-painting, cleaning, maintenance, repair, and change of sign message or graphics shall not be considered erection or alteration of a sign which requires issuance of a Permit, provided that no structural alterations or additions to the display area are made.

D. **Permit Procedure**.

Prior to construction or establishment of any sign, except as otherwise specifically noted in this Ordinance, a permit shall be obtained from the City. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six (6) months after the date of the permit.

1. **Applications**. Application for a permit to construct or locate a permanent sign shall be obtained from the City. Review of applications can be done through the site plan review process in instances where a site plan is required. The application shall include the following information:

   a. Name, address, telephone number of the landowner, developer, or petitioner.

   b. A map of the property at a scale of 1"=20' showing the location and type of existing structures on the site, property boundaries, location and type of structures or adjacent properties, road rights-of-way, entrances and exits onto the subject property and exact location of the proposed sign(s) with setback from all structures and property lines. The drawings submitted for sign permits must comply with all pertinent aspects of the approved site plan in instances where a site plan is required.

   c. An elevation drawing of the proposed sign(s) depicting its design, lettering, method of illumination and other relevant information. The dimensions of the height and length, and width of the sign(s) and height between ground elevation and the bottom of the sign, shall be noted.

   d. In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be depicted.

   e. The proposed dates of construction and completion of the sign.

f. Structural information necessary to comply with all current building codes.

g. In the case of a portable sign, the length of time the proposed sign will be on the site.

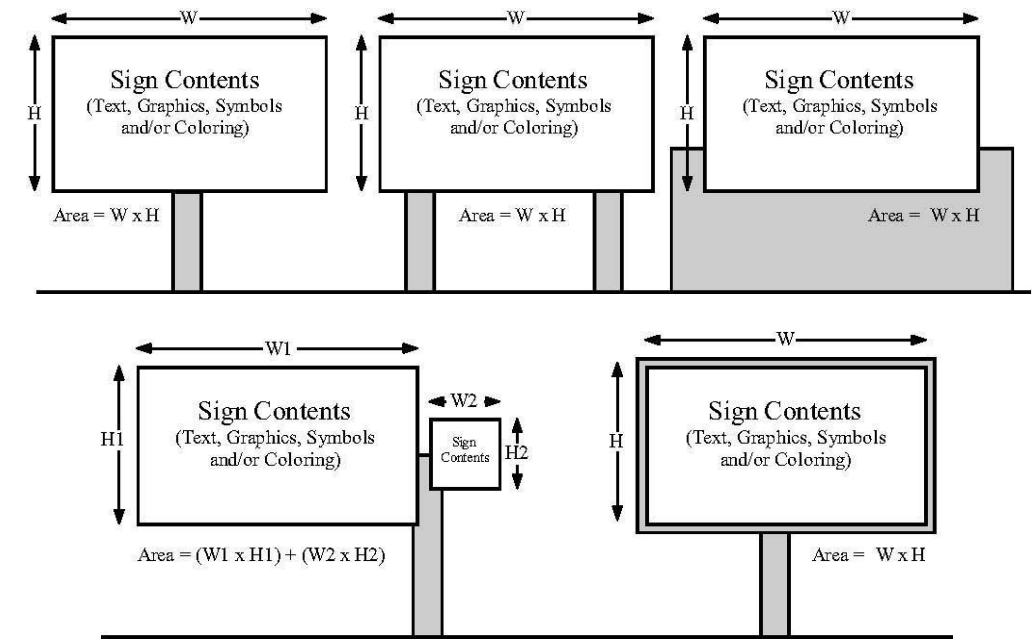
h. A fee shall be paid to the City for each sign permit.

2. **Portable/Temporary Signs.** Temporary signs do not require a permit and shall be located on the premises to be served for not more than sixty (60) days unless otherwise provided by this Ordinance.

3. **Variances**. The Planning Commission shall have the ability to approve variances in the standards contained within this Section. Such variances shall not be detrimental to the public health, safety, and welfare and shall serve the intent and purpose of this Section. No public hearing shall be required.

E. **Measurement of a Sign**.

Measurement of a sign includes the entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed (see diagrams below). This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back and are at no point more than two (2') feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area. In the case of a sphere, the total area of the sphere shall be divided by four (4) to determine the maximum permitted sign area. The height of a sign shall be measured from the average grade of the lot at the setback line.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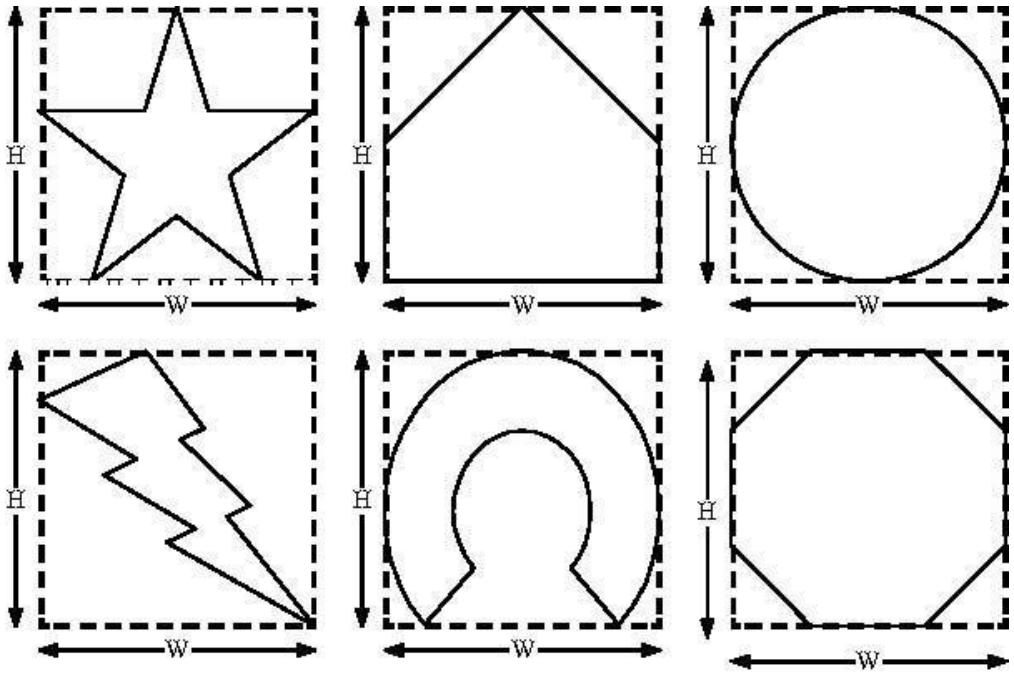
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F. **Signs Permitted**.

District	Type	# per Parcel	Maximum size	Height
R-1 R-M MU	**Freestanding, Primary Signs (permanent)** *(single- & two-family residential uses)*	1	6 ft^2	3'
	Freestanding, Primary Signs (permanent) *(multi-family & non-residential uses)*	1 per road frontage	32 ft^2	6'
	Message Boards *(non-residential uses)*	1 per road frontage	32 ft^2	6'
	Wall Signs (permanent) *(single- & two-family residential uses)*	1	4 ft^2	Not to exceed height of wall
	Wall Signs (permanent) *(multi-family & non-residential uses)*	---	25% of each building wall	---
	Temporary/Portable Signs *(single- & two-family residential uses)*	16 ft^2 (total of all temporary signs)		5'
	Temporary/Portable Signs *(single- & two-family residential uses)*	32 ft^2 (total of all temporary signs)		5'
OS G-B IND	**Freestanding, Primary (permanent)**	1 per road frontage	32 ft^2	12'
	Message Boards (including digital)	1 per street or alley	24 ft^2	12' (for freestanding)
	Wall Signs (permanent)	---	25% of each building wall	Not to exceed height of wall
	Canopy	1 per road frontage	Length of front face	Roof line
	Projecting	1	20 ft^2	Bottom of sign shall be a minimum of 8' from sidewalk
	Temporary/Portable	32 ft^2 (total of all temporary signs)		---
	Sail-Type Temporary Signs (also known as flag banners and feather flags)	1 (32 ft^2 each) per 20 linear feet of road frontage		

Number: Each property is allowed the various types of signs listed in combination.

Lighting: Only signs for multi-family and non-residential uses may be illuminated provided the light does not negatively affect adjacent properties or the visibility of traffic or pedestrians.

Additional Signage: Parcels with greater than 400 lineal feet of frontage may be granted additional signage by the Planning Commission.

Signs on Lots Containing Multiple Establishments. See **subsection G** below.

District	Type	# per Parcel	Maximum size	Height
CBD (see subsection H for additional regulations in the DDA)	**Freestanding, Primary (permanent)**	1 per street or alley	24 ft^2	12'
	Message Boards (including digital)	1 per street or alley	24 ft^2	12' (for freestanding)
	Canopy or Marquee	1 per street or alley	Length of front face	Height: Bottom of 2nd story window. Bottom of sign shall be a minimum of 8' from sidewalk
	Wall	---	25% of each building wall	Not to exceed height of wall
	Projecting Signs	1	20 ft^2	Bottom of sign shall be a minimum of 8' from sidewalk
	Temporary/Portable	32 ft^2 (total of all temporary signs)		5'
	Sail-Type Temporary Signs (also known as flag banners and feather flags)	1 (32 ft^2 each) per 20 linear feet of road frontage		

Number: Each property is allowed the various types of signs listed in combination.

Lighting: Only signs for multi-family and non-residential uses may be illuminated provided the light does not negatively affect adjacent properties or the visibility of traffic or pedestrians.

Additional Signage: Parcels with greater than 400 lineal feet of frontage may be granted additional signage by the Planning Commission.

Signs on Lots Containing Multiple Establishments. See **subsection G** below.

G. **Lots Containing Multiple Establishments**.

On lots which contain multiple non-residential establishments, the following shall apply:

1. **Projecting Signs**. Each establishment shall be permitted one (1) projecting sign each at the sizes listed in **subsection F** above.

2. **Freestanding Cluster Signs**. In addition to the primary freestanding sign(s) allowed above, each establishment shall be allowed an additional one (1') foot by four (4') foot sign on the same structure as the primary sign. The entire cluster signs shall not exceed twenty-five (25') feet in height.

H. **Additional Sign Requirements within the Central Business District (CBD)**.

1. **Location of CBD District for Sign Regulations**. Signs located on Houghton Ave. (M-55/BL I-75) within the CBD are regulated by this subsection.

2. **Material**. Materials used for construction must be wood, material that simulates wood or a traditional matte finish metal. Sheet plastic, Plexiglas, vinyl and other synthetic materials that do not simulate wood are prohibited unless waived by the Planning Commission.

3. **Changeable Copy**. Changeable copy using individually placed letters is prohibited on all signs including sandwich board signs. Chalkboards are permitted.

4. **Lighting**. All lighting must be achieved through floodlights mounted on ground, structure or sign or internal lighting. External lighting must be properly shielded. Digital signs and rotating ("chasing") lights are allowed, however signs shall not contain a moving message.

I. **Window Signs**.

1. **Signs in Windows**. Window signs must conform to all the requirements of this Section and shall not exceed twenty-five percent (25%) of the entire glass area of the building frontage.

2. **Internal Illumination**. Internally illuminated window signs shall remain illuminated only during hours when the building use for which the sign is intended is open to the general public for the transaction of business.

J. **Sandwich Signs**.

Sidewalk sandwich signs shall meet the following conditions:

1. Signs shall be two-sided.
2. Signs shall be securely hinged at top and property stabilized with 36" of chain or the equivalent and properly screened weighting mechanism.
3. Shall not exceed a display area 48" by 28".
4. Signs shall be placed so that no part of the traveled sidewalk is blocked.
5. The sign must be removed when business is not open.
6. Signs in violation of any of the provisions of this ordinance shall be removed upon request by the City Manager or the duly designated representative.

K. **Prohibited Signs**.

Signs are prohibited that:

1. Are of a size, location, movement, content, coloring, or manner of illumination that may be confused with or construed as a traffic control device or emergency vehicle.
2. Obstruct a motorist's view of any traffic signs, street sign, or traffic signal.
3. Are not properly anchored or secured to a building or the ground (except temporary signs).
4. Contain statements, words, or pictures of an obscene nature which would appeal predominantly to a prurient interest in sexual conduct, depict or describe sexual conduct in a patently offensive way, and be offensive, rude, lewd or disgusting according to accepted moral standards as determined by the Zoning Administrator.
5. Are located within or overhang the public right-of-way or on public property, unless otherwise specified herein or are erected by a public agency.

L. **Illumination/Digital Signs**.

1. There shall be no flashing, oscillating, or intermittent illumination of any sign located in the line of vision of a traffic control device or interfering with safe vision along any roadway, especially at intersections.
2. All illuminated signs shall be designed and located to prevent the light from being cast upon adjoining residences.

3. The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard. In the residential districts, only non-dwelling use signs may be illuminated.

4. **Digital Signs**.

   a. A digital sign shall be allowed to have changing messages, scrolling message, and animation, but shall not be allowed to contain flashing elements.

   b. The electronic elements shall be of an intensity that the brightness and motion shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles on public or private streets, driveways or parking areas.

   c. A digital sign shall contain a default mechanism that freezes the sign in one position if a malfunction occurs.

   d. A digital sign shall contain a mechanism to automatically adjust the intensity of its display according to natural ambient light conditions.

   e. Instruments which use technology to display or project digital messages onto windows or walls of buildings shall be considered a digital sign and shall be subject to all provisions of this Ordinance.

M. **Nonconforming Signs**.

Nonconforming signs are signs that do not comply with the regulations in this Ordinance including the size regulations of the zoning district in which located.

1. Nonconforming signs that were otherwise lawful on the effective date of this Zoning Ordinance may be continued.

2. No person shall increase the size of nonconformity of a nonconforming sign.

3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Section.

4. If a nonconforming sign is destroyed by natural causes or the public enemy or is willingly removed, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all provisions of this Zoning Ordinance. The remnants of the former sign structure not usable for a new conforming sign shall be removed within sixty (60) days. For purposes of this Section, a nonconforming sign is considered destroyed if it is damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.

5. Subject to the other provisions of this Section, nonconforming signs may be repaired, maintained, serviced, or repainted if the framework and/or the size and/or shape of the sign remain unchanged. If such framework is altered or removed or the size and/or shape of the sign are altered, said sign must be changed to a conforming sign.

N. **Construction and Maintenance**.

The construction of any sign shall be such that it will withstand all wind and vibration forces that can be normally expected to occur in the vicinity. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements. No sign permit shall be issued until the Building and Zoning inspectors are satisfied the sign to be constructed complies with the provisions of this Ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing, anchorage and foundation.

O. **Abandoned Signs**.

1. An abandoned sign is any sign to which any of the following applies:

   a. has remained blank over a period of one (1) year.

   b. The sign's message becomes illegible in whole or substantial part.

   c. A sign which has fallen into disrepair.

2. In the event that a sign is determined to be abandoned, the Zoning Administrator shall give notice in the form of a letter to the property owner that the sign has been determined to be abandoned. The property owner shall have ninety (90) days to remove said sign. Upon the expiration of ninety (90) days, the Zoning Administrator shall give a second notice in the form of a letter. If the sign has not been removed upon the expiration of thirty (30) days from the date of the second notice, the Zoning Administrator is authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner or lessee of the sign or, if such person cannot be found, by the owner of the building or structure or property to which such sign or structure is affixed. If such expense is not paid, the City shall have a lien on the property and such cost shall be added to the tax bill for the property.

P. **Small Off-Premise Signs.**

Small off-premise signs shall be allowed on private property provided there exists a written agreement between the property owner and the sign owner. Said agreement shall be on file with the City.

1. Small off-premise signs shall only be permitted on non-residential lots.

2. Small off-premise signs may be located on vacant or occupied lots. Small off-premise signs on occupied lots shall NOT count toward the lot's sign limitations.

3. Small off-premise signs shall be no greater than sixteen (16) square feet.

4. Two (2) small off-premise signs shall be allowed on lots located at intersections.

5. One (1) small off-premise sign shall be allowed on lots NOT located at intersections.

6. Small off-premise signs require approval by the Planning Commission.

Q. **Severance Clause.**

Provisions of this Section shall be deemed to be severable, and should any section, subsection, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Section as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Section to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

Section 3.31 Stormwater Management/Onsite Drainage & Runoff

A. No premises shall be filled or graded so as to discharge surface runoff on abutting premises in such a manner that will cause inconvenience or damage to adjacent properties. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.

B. **Uses other than Single-Family and Two-Family Dwellings.**

1. The property owner or developer is required to retain on site all stormwater drainage in excess of natural conditions. This provision may require stormwater retention ponds where appropriate. An exception can be made for water leaving the site via an existing stormwater pipe or through other stormwater facilities which will be developed at the same time as the proposed new use. All stormwater facilities, including detention or retention ponds, shall be designed at minimum to handle a storm with the projected frequency of once every ten (10) years (ten year design storm).

2. Storm water management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff and soil erosion from the proposed development.

3. The use of swales, rain gardens, and vegetated buffer strips is encouraged in cases where the Planning Commission deems it to be safe and otherwise appropriate as a method of storm water conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants. Such systems shall be permitted within required setbacks.

4. Rainwater collection systems on roofs may be utilized to fulfill some stormwater management requirements.

5. Permeable parking lots may be utilized to fulfill some stormwater management requirements.

Section 3.32 Groundwater Protection

A. **Purpose**.

The City of West Branch has determined that:

1. The groundwater underlying the City is the sole source of the City's drinking water.

2. Groundwater aquifers are integrally connected with, and flow into, the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the City.

3. Spills and discharges of petroleum products, sewage and other 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.

Therefore, the City of West Branch has enacted an ordinance to:

4. Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the City, and protect them from adverse development or land use practices.

5. Preserve and protect present and potential sources of drinking water supply for public health and safety.

6. Conserve the natural resources of the City.

7. Protect the financial investment of the City in its drinking water supply and to meet State requirements for wellhead protection.

8. Assure that State regulations, which help protect groundwater, are implemented consistently when new or expanded development proposals are reviewed.

B. **Definitions**.

Groundwater Protection definitions are found in Article 2 under "**Groundwater Protection Definitions**."

C. **Scope**.

These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month equal to about twenty-five (25) gallons or two hundred twenty (220) pounds, and which

require site plan review under the provisions of this Ordinance.

D. **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. Storm water 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 of West Branch's Code of Ordinances being Subsection 51.055 through 51.061.**

5. Sites at which hazardous substances are stored, used, or generated 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. In determining conformance with the standards of this Ordinance, the City shall take into consideration all publications of the **Saginaw Bay Watershed Council**, and other applicable references.

8. Bulk storage of pesticides shall be in accordance with **Part 83 (Pesticide Control) of the Natural Resources and Environmental Protection Act, 1994 PA 451).**

E. **Aboveground Storage and Use Areas for Hazardous Substances and Polluting Material**.

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 of 10 gallons or less 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 accumulations 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 requirements of the **Natural Resources and Environmental Protection Act, 1994 PA 451**, as amended.

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, wetland, groundwater or soils.

6. The location of the aboveground storage of hazardous substances and methods of primary and secondary containment shall be clearly illustrated on the site plan.

F. **Underground Storage Tanks**.

1. Existing or 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 Environment, Great Lakes, and Energy**.

2. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the **Michigan Department of Environment, Great Lakes, and Energy**. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by City officials for five (5) years.

3. All underground storage tanks, which have been out of service for nine (9) months, shall be removed from the site.

G. **Well Abandonment**.

Out of service wells shall be sealed and abandoned in accordance with applicable requirements of the State of Michigan.

H. **Sites with Contaminated Soils and/or Groundwater**.

1. Site plans shall take into consideration the locations and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.

2. Development shall not be allowed on contaminated areas of a site unless information from the **Michigan Department of Environment, Great Lakes, and Energy** is available indicating that cleanup will proceed in a timely fashion.

3. Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial actions plans.

4. 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.

I. **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 of over twenty-five (25) gallons or two hundred twenty (220) pounds containing hazardous substances shall have secondary containment.

3. If the contractor will be storing or handling hazardous substances that require a manufacturer's material safety data sheet, 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.

J. **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 chemicals are handled or stored.

K. **Review Requirements**.

1. Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, loading/unloading, recycling, or disposal of hazardous materials.

2. Specify location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated storm water or wash water, and all similar uses.

3. Specify location of existing and proposed wells.

4. Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

5. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.

6. Submit "City of West Branch Environmental Permits Checklist."

7. Refer to **Article 5** for additional requirements.

L. **Determination of Applicability**.

It shall be the responsibility of any person owning real property and/or owning and operating a business within the City of West Branch corporate limits to make a determination of the applicability of this Section as it pertains to the property and/or business under his or her ownership or operation and his or her failure to do so shall not excuse any violations of said Section.

M. **Exemption and Waivers**.

The transportation of any hazardous substance shall be exempt from the provisions of this Section provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage, or disposal facility.

N. **Appeals**.

Appeals can be filed as allowed for in **Article 8** of this Ordinance.

O. **Penalties and Costs**.

Any person or persons who is found to have violated an order of the City of West Branch Planning Commission or who willfully or negligently fails to comply with any provision of this Ordinance and the orders, rules, and regulations and permits issued hereunder, are enforceable under the City Ordinance covering Municipal Civil Infractions and the rules adopted **(Sections 10.99 - 10.111)**.

Any person or persons violating any of the provisions of this Ordinance shall be liable to the City for any expense, loss, or damage caused by such violation. The City shall bill the person or persons for the costs incurred by the City caused by the violation.

Section 3.33 Performance Standards

A. **Smoke and Air Contaminants**.

It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by Federal and/or State regulatory authorities.

B. **Drifted or Blown Material**.

Property owners shall take appropriate measures to ensure the prevention of drifting of airborne particles or debris beyond their lot lines. Any such activity shall be promptly abated upon notification by the City. During times of stockpiling or removal, excavation or grading, those measures, necessary and practical (dampening, etc.), will be taken to minimize the blowing and drifting of material.

C. **Odors**.

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

1. For new facilities (commercial or industrial), the most recent technologies shall be utilized to reduce odors, as part of or in addition to any conditions included in State and/or Federal regulatory agency air/water quality permit(s). As part of site plan review the applicant shall demonstrate that all measures technologically available and financially viable to mitigate the emission of noxious odors will be incorporated into the design of the facility.

2. For existing commercial and industrial facilities, odors resulting from the production process that are within the limits established by State and/or Federal regulatory agencies in approved permits shall not be considered in violation of this Ordinance. This does not exempt any business from the responsibility to take all necessary technologically feasible and financially viable measures to reduce such odors, and to comply to with any new standards required as part of a renewed or new State and/or Federal regulatory agency environmental permits.

D. **Gases**.

The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

E. **Electrical Disturbance, Electromagnetic, or Radio Frequency Interference**.

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the

operation of any equipment not owned by the creator of such disturbance is adversely affected.

F. **Glare and Heat**.

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

G. **Noise**.

Noise shall comply with **Section 95.2** of the Code of Ordinances (Noise).

H. **Vibration**.

All machinery shall be so mounted and operated that vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses. Vibrations resulting from temporary construction activity shall be exempt from the requirements of this Section.

Section 3.34 Fire Hazard

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

Section 3.35 Safety

Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, landfills, sanitary landfills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety and welfare.

Section 3.36 Dumping & Storage of Materials

A. Dumping of Usable Materials.

Usable materials, such as but not limited to soil, clay, gravel, or similar materials, which have been dumped/piled on a lot shall not be allowed to be piled for longer than one (1) year if no construction is occurring on the site or as long a building permit is in effect if construction is occurring on the site.

Material to be placed on the site shall be of such a composition as not to create potential contamination of the natural environment including groundwater, vegetation, soils and surface waters. No dumping of soil, sand, clay, gravel, or similar material shall be undertaken that appreciably increases the surface runoff reaching adjacent or surrounding property. Surface runoff shall be

dissipated by retention on the development parcel, percolation into the soil, evaporation, or by transport by natural drainage way or conduit to any appropriate point of discharge.

B. Dumping of Waste Materials.

1. The dumping of garbage is prohibited in the City. Garbage must be collected and hauled away by a licensed sanitation company and deposited in a certified landfill. The collection, accumulation, storage or disposal of waste material, used construction material, junk, or debris, is prohibited, except under the following circumstances as properly sealed and adequately concealed materials:

   b. Such practices occur in a junk yard or recycling facility authorized under this Ordinance and are included in the approved site plan.

   c. Such practices are a necessary accessory use to a commercial or industrial use authorized under this Ordinance and are included in the approved site plan.

2. The dumping of hazardous substances and/or nuclear wastes shall not be allowed within the City of West Branch, except as permitted by **1978 PA 113, as amended** (Radioactive Waste, being MCL 325.491 et. seq.).

C. **Temporary Storage of Used Materials.**

The temporary storage, collection or placing of used or discarded material, such as lumber, scrap iron, slag, ashes or other such matter shall be allowed only during demolition and or construction periods, not to exceed the effective period of the building permit. Temporary storage must comply with all Federal and State Regulations. After the expiration of the building permit or after construction is complete, the Zoning Administrator shall require the removal of such material. Such removal shall take place in a time frame at the discretion of the Zoning Administrator after written notice is sent by the Zoning Administrator to the person or persons responsible for said storage, notifying him/her that such material must be removed and stating the date on which such materials must be removed from the premises.

Section 3.37 Green Zoning

The following regulations are intended to encourage environmentally-conscious and energy efficient development practices. Regulations contained within this Section may modify other regulations contained elsewhere in this Ordinance.

A. **District Regulations**.

1. For buildings that are **LEED (Leadership in Environmental Design)** certified, the Planning Commission may approve reduced setbacks, an increase in maximum building height, or an increase in the maximum lot coverage allowable. Applicants shall present evidence that the building will be LEED-certified upon completion.

2. Within PUDs, site condominiums, and multi-family developments, the Planning Commission may approve reduced setbacks, an increase in maximum building height, or an increase in the maximum lot coverage allowable provided sufficient open space is provided. Development in dedicated open space areas may include a recreational trail, picnic area, children's play area, greenway, farm or linear park. Open space within PUDs are regulated by **Section 7.13.D**.

3. In the O-S, G-B, and IND Districts, the maximum lot coverage percentage in the district may be eliminated for lots which contain buildings with a Green Roof.

4. Alternative energy systems that are operated by the City of West Branch shall be permitted in all Districts.

B. **Encroachments**.

1. Rain barrels, compost piles, greenhouses, hoop houses, and recycling collection stations shall be permitted within setbacks. Such structures shall not be permitted in the front yard.

2. Insulation which is added to existing buildings may encroach into the setback and is exempted from floor area calculations and maximum lot coverage percentages.

3. Sun control devices/awnings may encroach into setbacks. These devices do not count toward the maximum lot coverage percentage.

Article 4
District Regulations

Sec	Name	Pg
4.1	Zoning Districts	4-1
4.2	Official Zoning Map	4-1
4.3	Scope & Application of District Regulations	4-3
4.4	R-1 Single Family Residential District	4-5
4.5	R-M Multiple Family Residential District	4-8
4.6	MU Mixed Use District	4-11
4.7	O-S Office Service District	4-15
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4.12	Schedule of Regulations	4-38

Section 4.1 Zoning Districts

For the purposes of this Ordinance, all land within the City of West Branch, except streets, are divided into the following Zoning Districts:

R-1	Single Family Residential District
R-M	Multiple-Family District
MU	Mixed Use District
O-S	Office Service District
CBD	Central Business District
G-B	General Business District
IND	Industrial District

Section 4.2 Official Zoning Map

A. **Official Map**.

The boundaries of Zoning Districts are defined and established as shown on a map, entitled "City of West Branch Zoning Map," that accompanies this Ordinance. This map, with all explanatory text, is a part of this Ordinance. The official Zoning Map shall be kept and maintained by the City Clerk or his/her designee and is available to view and purchase at the City office.

B. **Interpretation of Boundaries**.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following streets, highways, alleys, or easements shall be presumed to follow the centerline of said roadways or easements.

2. Boundaries indicated as approximately following City boundary lines or property lines shall be presumed to follow said lines.

3. Boundaries indicated approximately parallel to the center lines of streets or highways shall be interpreted as being parallel to and at such distance from as indicated by given distance or scaled dimension.

4. The boundary indicated as following the centerline of a stream or river shall be construed as following such centerline.

5. A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.

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

C. **Zoning of Annexed Areas**.

Whenever any area is annexed to the City of West Branch, one of the following conditions will apply:

1. Land that is zoned previous to annexation shall be classified as being in whichever district of this Ordinance most closely conforms with the zoning that existed prior to annexation, such classification to be recommended by the Planning Commission to the City Council and the Council shall approve same by resolution.

2. Land not zoned prior to annexation shall be automatically classified as an R-1 District until a Zoning Map for said area has been adopted by the City Council. The Planning Commission shall recommend the appropriate zoning districts for such area within three (3) months after the matter is referred to it by the City Council.

D. **Zoning of Vacated Areas**.

Whenever any street, highway or other public right-of-way shall have been vacated by official government action and when such right-of-way lands attach to and become part of the land adjoining said right-of-way, such right-of-way property shall automatically acquire and be subject to the provisions of the zoning district of the abutting property without further governmental action. In the case of a vacated right-of-

way which also served as a district boundary, the centerline of such vacated right-of-way shall remain the boundary line and the lands on either side of said centerline shall become attached to their respective adjoining properties without further governmental action.

E. **Zoning of Filled Areas**.

Whenever, after appropriate permits are obtained, any fill material is placed so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area.

F. **Street and Alley Rights-of-Way.**

All streets and alley rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets or alleys. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

Section 4.3 Scope & Application of District Regulations

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare.

No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except as herein described by this Ordinance. Except as hereinafter provided, district regulations shall be applied in the following manner.

A. **Uses in Districts.**

1. **Permitted Uses.** Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts or **Table 4.11** or are similar to such listed uses.

2. **Special Uses.** Special uses are permitted after review and approval by the Planning Commission only if specifically listed as a Special Use in the various zoning districts or **Table 4.11** or are similar to such listed uses.

B. **Application of Area and Width Regulations**.

1. The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located.

2. Every new parcel of land shall meet the minimum lot width requirements set forth in **Section 4.12: Schedule of Regulations** and shall have frontage on and/or direct access to a public road.

   a. **Measuring Lot Width**. Lot width shall be considered the average of the width between side lot lines.

C. **Application of Yard Regulations.**

1. Setbacks shall be measured from the building's foundation.

2. No part of a yard required for any building for the purposes of compliance with this Ordinance shall be included as a part of a yard or other open space similarly required for another building.

3. All front yard setback lines shall be the minimum perpendicular distance measured from the right-of-way of the road upon which a lot or parcel fronts to the nearest point of the principal structure.

4. All side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line parallel thereto.

5. Decks, open porches, paved terraces, and patios shall be setback at least five (5') feet from the side lot line and three (3') feet from the rear lot line. These structures shall conform to the front setback of the principal building. Enclosed porches are considered part of the principal structure.

6. No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way.

7. **Through Lots**. Where lots have double street frontage, as distinguished from corner lots, the required front yard setback shall be provided on both streets.

D. **Application of Height Regulations.**

1. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, except as otherwise provided in this Ordinance.

2. **Exceptions to Height Limitations**. See **Section 3.25**.

E. **Administrative Deviations.**

An Administrative Deviation is a permitted deviation from the requirements of the Zoning District which are approved by the Zoning Administrator or the Planning Commission.

1. The Zoning Administrator or Planning Commission may make modifications to minimum dimension requirements of not greater than one (1') foot for yard and/or height where no alternative plan can be suitably developed for a property.

2. Parking may be permitted nearer to the street right-of-way where no other location or parking arrangement is possible provided that the location of parking ensures compatibility with the surrounding buildings and the pedestrian environment of the site and area.

3. The Planning Commission may approve modifications of the design standards in the CBD, including building height, in order to allow for creativity and flexibility in design, while maintaining the intent of the district regulations.

Section 4.4 R-1 Single Family Residential District

R-1

A. **Purpose.**

This district is intended primarily for single-family residential uses together with compatible uses. The purpose of this zone is to encourage a residential environment of low-density dwellings.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-1**
Accommodation & Food/Event Services	
Bed & Breakfasts & Tourist Homes	**S**
Rooming Houses/Boarding Houses	**P**
Short Term Rental Homes	**P**
Commercial, Services & Retail	
Kennels/Dog Clubs ***(§7.10)***	**S***
Offices, Professional (professional services) ***(§7.25)***	**S***
Personal Services (beauty shops, tailoring, nail salons, massage studio) ***(§7.25)***	**S***
Communications	
Small Cell Wireless Facilities ***(§7.19)***	**P***
Educational Services, Religion & Social Institutions	
Educational Institutions (includes K-12 and colleges/universities)	**S**
Religious Institutions & Customary Accessory Uses	**S**
Human Care & Social Assistance	
Adult Day Care Facility (12 or less adults) - in private home	**P**
Adult Foster Care Family Homes (6 or less adults)	**P**
Adult Foster Care Small Group Home (7-12 adults)	**S**
Child Care Home, Family (6 or less) ***(§7.5)***	**P***
Child Care Home, Group (7 -12) ***(§7.5)***	**P***
Residential Facility for Battered Women & Children (in a private residence)	**P**
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-1**
Manufacturing, Mining & Waste Management	
Mining/Soil Resource Extraction (including sand, gravel, rock & mineral extraction)	**S**
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	**P***
Planned Unit Developments, Residential ***(§7.13)***	**S***
Site Condominium Development ***(§7.13)***	**S***
Residential Uses	
Accessory Dwelling Units/Guest Houses ***(§7.21)***	**S***
Home Occupations ***(§7.8)***	**P***
Cottage Industries ***(§7.8)***	**S***
Single-Family Detached Dwelling	**P**
Utilities & Energy	
Public Service Utility/Installations ***(§7.14)***	**S***
Solar Energy (Accessory Panels) ***(§7.22)***	**P***

C. **Development Standards.**

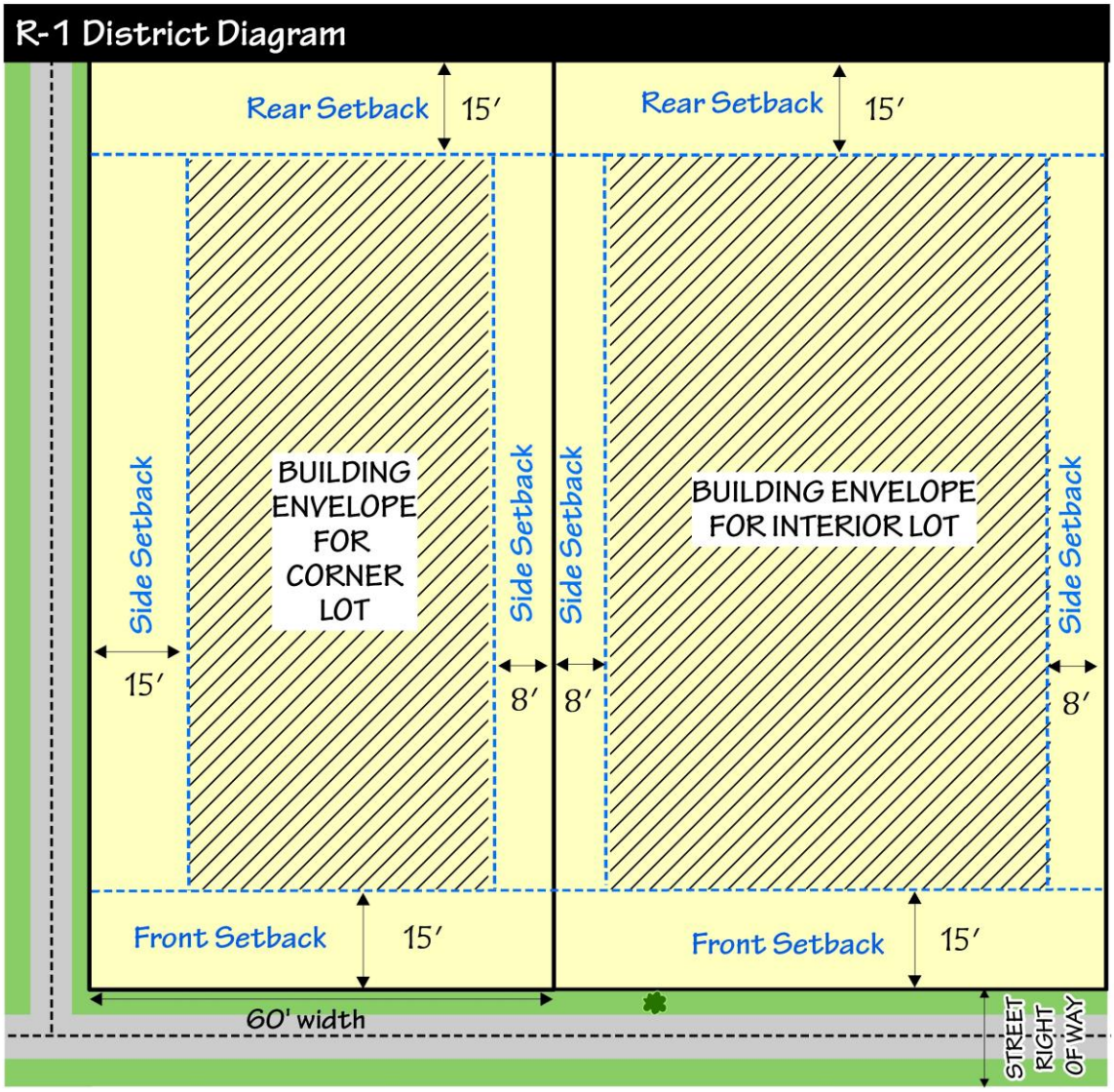
R-1

Table 4.4

1. Lot & Structure Standards			
a.	Lot Area		**7,200 sq ft**
b.	Lot Width (min.)		**60 ft**
c.	Building Height (max.)		**45 ft**
d.	Dwelling Unit Size (min.)	The Planning Commission shall have the authority to approve principal dwelling units less than the minimum dwelling unit size and/or dimension. No public hearing shall be required.	**1,200 sq ft**
e.	Dwelling Unit Dimension (min.)		**24 ft**
f.	Lot Coverage of Structures (max.)		**60%**
2. Setbacks			
a.	Front (min.)		**15 ft**
b.	Rear (min.)		**15 ft**
c.	Side (min.)		**8 ft**
d.	Side - street - corner lot (min.)		**15 ft**
3. Additional Development Standards			
a.	Accessory Buildings		Regulated by **§3.10**.
b.	Screening/Buffering		When a non-residential use abuts a residential use or district, screening is required per **§3.20**.
c.	Fences		Regulated by **§3.19**.
d.	Permitted Yard Encroachments		Regulated by **§3.24**.
e.	Permitted Height Exceptions		Regulated by **§3.25**.
f.	Green Zoning		Regulated by **§3.37**.
g.	Dwelling Regulations		Regulated by **§3.9**.

Figure 4.4

R-1


R-1 District Diagram
Rear Setback
15′
Rear Setback
15′
Side Setback
15′
BUILDING ENVELOPE FOR CORNER LOT
Side Setback
8′
Side Setback
8′
BUILDING ENVELOPE FOR INTERIOR LOT
Side Setback
8′
Front Setback
15′
Front Setback
15′
60' width
STREET RIGHT OF WAY

Section 4.5 R-M Multiple Family Residential District

R-M

A. **Purpose.**

This district is designed to provide sites for multiple-family dwelling structures in addition to single-family, and related uses which will generally serve as zones of transition between nonresidential districts and the lower density one- family residential districts. The multiple-family district is further provided to serve the limited needs for the apartment type of unit in an otherwise low density, single-family community.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-M**
Accommodation & Food/Event Services	
Bed & Breakfasts & Tourist Homes	**S**
Rooming Houses/Boarding Houses	**P**
Short Term Rental Homes	**P**
Commercial, Services & Retail	
Kennels/Dog Clubs ***(§7.10)***	**S***
Offices, Professional (professional services) ***(§7.25)***	**S***
Personal Services (beauty shops, tailoring, nail salons, massage studio) ***(§7.25)***	**S***
Communications	
Small Cell Wireless Facilities ***(§7.19)***	**P***
Educational Services, Religion & Social Institutions	
Educational Institutions (includes K-12 and colleges/universities)	**S**
Religious Institutions & Customary Accessory Uses	**S**
Human Care & Social Assistance	
Adult Day Care Facility (12 or less adults) - in private home	**P**
Adult Foster Care Family Homes (6 or less)	**P**
Adult Foster Care Small Group Home (7-12 adults)	**S**
Child Care Home, Family (6 or less) ***(§7.5)***	**P***
Child Care Home, Group (7 -12) ***(§7.5)***	**P***
Child Care Center/Nursery School (not in home) ***(§7.5)***	**S***
Human Care Institution (public or private facility for physical care. i.e. nursing homes, assisted living homes but not hospitals)	**S**
Residential Facility for Battered Women & Children (in a private residence)	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-M**
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	**P**
Manufacturing, Mining & Waste Management	
Mining/Soil Resource Extraction (including sand, gravel, rock & mineral extraction)	**S**
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	**P***
Cemeteries including Columbaria & Mausoleums (human or pet)	**P**
Planned Unit Developments, Residential ***(§7.13)***	**S***
Site Condominium Development ***(§7.13)***	**S***
Public Facilities	
Police & Fire Stations; Correctional Facilities/Jails ***(§7.14)***	**S***
Residential Uses	
Accessory Dwelling Units/Guest Houses ***(§7.21)***	**S***
Home Occupations ***(§7.8)***	**P***
Cottage Industries ***(§7.8)***	**S***
Manufactured Housing Community (with accessory uses such as laundry facilities, office building, & community building) ***(§7.11)***	**S***
Multiple-Family Dwelling Units (Apartments)/Stacked Flats	**P**
Senior Housing	**P**
Single-Family Detached Dwelling	**P**
Single-Family Attached Dwelling (townhouses)	**P**
Two-Family Dwelling (duplex)	**P**
Utilities & Energy	
Public Service Utility/Installations ***(§7.14)***	**S***
Solar Energy (accessory panels) ***(§7.22)***	**P***

C. **Development Standards**.

Table 4.5

1. Lot & Structure Standards

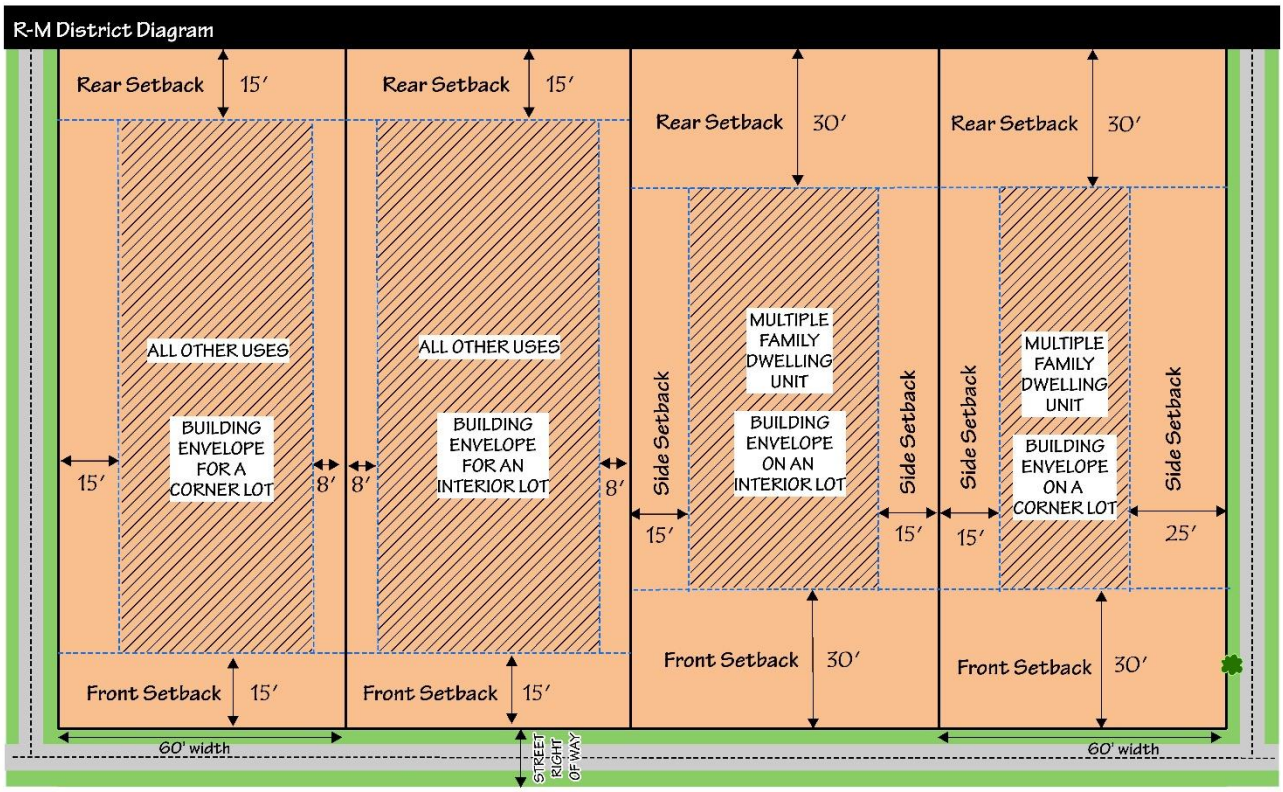
a.	Lot Area (min.)	**7,200 sq ft**	
b.	Lot Width (min.)	**60 ft**	
c.	Building Height (max.)	**45 ft**	
d.	Dwelling Unit Size (min.)	**600 sq ft**	The Planning Commission shall have the authority to approve dwelling units less than the minimum dwelling unit size and/or dimension. No public hearing shall be required.
e.	Dwelling Unit Dimension (min.)	**24 ft**	
f.	Lot Coverage of Structures (max.)	**60%**	

2. Setbacks

		Multiple-Family Dwellings	All Other Uses (Single-Family Detached and Attached, Duplex, Non-Residential)
a.	Front (min.)	**30 ft**	**15 ft**
b.	Rear (min.)	**30 ft**	**15 ft**
c.	Side (min.)	**15 ft**	**8 ft**
d.	Side - street - corner lot (min.)	**25 ft**	**15 ft**

3. Additional Development Standards

a.	Accessory Buildings	Regulated by **§3.10**.
b.	Screening/Buffering	When a non-residential use abuts a residential use or district, screening is required per **§3.20**.
c.	Fences	Regulated by **§3.19**.
h.	Permitted Yard Encroachments	Regulated by **§3.24**.
d.	Permitted Height Exceptions	Regulated by **§3.25**.
e.	Green Zoning	Regulated by **§3.37**.
f.	Dwelling Regulations	Regulated by **§3.9**.


R-M District Diagram
Rear Setback
15′
ALL OTHER USES
BUILDING ENVELOPE FOR A CORNER LOT
15′
8′
Front Setback
15′
60' width
Rear Setback
15′
8′
8′
ALL OTHER USES
BUILDING ENVELOPE FOR AN INTERIOR LOT
Front Setback
15′
STREET RIGHT OF WAY
Rear Setback
30′
Side Setback
15′
MULTIPLE FAMILY DWELLING UNIT
BUILDING ENVELOPE ON AN INTERIOR LOT
Side Setback
15′
Front Setback
30′
Rear Setback
30′
Side Setback
15′
MULTIPLE FAMILY DWELLING UNIT
BUILDING ENVELOPE ON A CORNER LOT
Side Setback
25′
Front Setback
30′
60' width

Section 4.6 MU Mixed Use District

MU

A. **Purpose.**

This district is intended to accommodate a mix of single-family residential, mixes uses, business and office uses in addition to other compatible uses which support the primary uses in the district and the surrounding community.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Accommodation & Food/Event Services	
Assembly Buildings (including convention centers, conference centers, banquet halls, wedding venues)	S
Bars/Taverns	P
Bed & Breakfasts & Tourist Homes	S
Caterers/Food Service Contractors	P
Coffee Shops	P
Food Trucks	P
Hotels & Motels (attached or detached units)	S
Inns	S
Restaurants without Drive-Through	P
Rooming Houses/Boarding Houses	P
Short Term Rental Homes	P
Arts, Entertainment & Recreation	
Archery & Firearms Ranges (& as accessory use), Indoor ***(§7.4)***	S*
Art Galleries & Art Studios	P
Commercial Recreational Facility, Outdoor (ex – go karts; mini golf; disc golf; driving range; rinks, courts; archery/firearms ranges; bandshells) ***(§7.4)***	S*
Equipment Rental, Non-Motorized Recreational (Outfitter)	P
Equipment Rental, Motorized Recreational	S
Museums	P
Private Clubs; Lodges; Fraternal Organizations	S
Theaters & Performance Facilities, Indoor	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Commercial, Services & Retail	
Automotive Tire Sales & Installation	S
Automotive Oil Change	S
Automotive Rental/Limousine Services	P
Banks/Financial Institutions	P
Dog Grooming	S
Drive-Through Establishments (other than restaurant)	S
Electronic & Precision Equipment Repair & Maintenance (personal goods)	S
Equipment Rental & Sales	S
Funeral Homes & Mortuaries	P
Furniture Refinishing (Upholsterers)/Furniture Repair	S
Greenhouses; Nurseries; Landscaping Establishment	P
Health Spa	S
Kennels/Dog Clubs ***(§7.10)***	S*
Laundromats/Dry Cleaners	S
Offices, Professional (professional services)	P
Personal Services (beauty shops, tailoring, nail salons, massage studio)	P
Photofinishing/Photographers	P
Printing/Binding/Publishing of Print Material/Newspaper Offices	P

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Commercial, Services & Retail	
Retail	
Automotive Accessory Sales	**P**
Antique Stores	**P**
Bait & Tackle Shops	**P**
Bakeries/Confectionaries	**P**
Bicycle Shops	**P**
Building & Garden Equip. & Supplies Dealers	**P**
Clothing, Clothing Accessory & Shoe Stores (including shoe repair)	**P**
Convenience Stores	**P**
Electronics & Appliance Stores	**P**
Farm & Feed Supply Stores	**P**
Farm Market	**P**
Florists	**P**
Food & Beverage Stores (& similar commodities for consumption off the premises)	**P**
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)	**P**
General Merchandise Stores/ Retail	**P**
Gift Shops	**P**
Hardware Stores	**P**
Health & Personal Care Stores	**P**
Office Supply Stores	**P**
Pet Stores	**P**
Resale Shops/Thrift Shops	**P**
Sporting Goods, Hobby, Book & Music Stores	**P**
Small-Scale Craft Making	**P**
Studios for Dance, Music, Karate, etc	**P**
Tattoo/Body Piercing Parlors	**P**
Veterinary Hospital with outdoor area	**P**
Veterinary Hospital/Office with no outdoor animal area	**P**
Communications	
Small Cell Wireless Facilities ***(§7.19)***	**P***
Construction & Contractors	
Special Trade Contractors Offices & Showrooms – no outdoor storage (construction, electrical, plumbing, heating, excavation, well-drilling, etc)	**P**
Educational Services, Religion & Social Institutions	
Educational Institutions (includes K-12 & colleges/universities)	**S**
Religious Inst. & Customary Accessory Uses	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Human Care & Social Assistance	
Adult Day Care Facility (12 or less adults) - in private home	**P**
Adult Day Care Facility (not in private home)	**S**
Adult Foster Care Family Homes (6 or less adults)	**P**
Adult Foster Care Small Group Home (7-12 adults)	**S**
Child Care Home, Family (6 or less) ***(§7.5)***	**P***
Child Care Home, Group (7 -12) ***(§7.5)***	**P***
Child Care Center /Nursery School (not in home) ***(§7.5)***	**P***
Health Care/Dental/Optical Clinics/Hearing Clinics	**S**
Residential Facility for Battered Women & Children (in a private residence)	**P**
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	**P**
Manufacturing, Mining & Waste Management	
Mining/Soil Resource Extraction (incl Sand, Gravel, Rock & Mineral Extraction)	**S**
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	**P***
Mixed Uses (Commercial/Residential in one building & in separate buildings on one lot)	**S**
Planned Unit Developments, Residential ***(§7.13)***	**S***
Planned Unit Developments, Commercial ***(§7.13)***	**S***
Site Condominium Development ***(§7.13)***	**S***
Public Facilities	
Governmental Office Buildings ***(§7.14)***	**P***
Libraries ***(§7.14)***	**P***
Police & Fire Stations; Correctional Facilities/Jails ***(§7.14)***	**P***
Residential Uses	
Accessory Dwelling Units/Guest Houses ***(§7.21)***	**S***
Dwelling Units above a Commercial Establishment	**P**
Home Occupations ***(§7.8)***	**P***
Cottage Industries ***(§7.8)***	**P***
Manufactured Housing Community (with accessory uses such as laundry facilities, office building, & community building) ***(§7.11)***	**S***
Senior Housing	**P**
Single-Family Detached Dwelling	**P**
Single-Family Attached Dwelling (Townhouses; Condominiums)	**S**
Two-Family Dwelling (duplex)	**S**

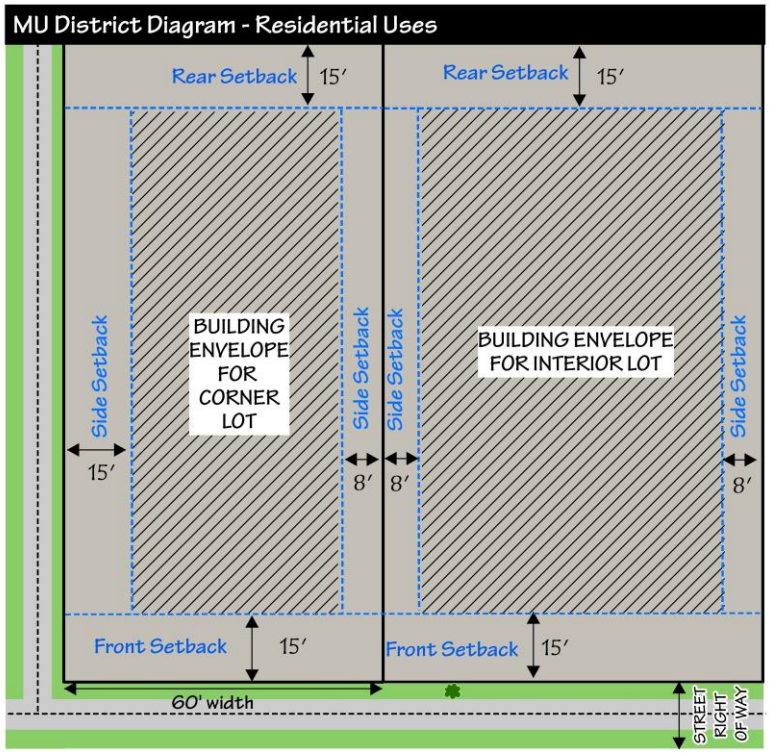
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Transportation, Storage & Wholesale	
Scenic & Sightseeing Transportation/Ground Passenger Transportation - Pick-Up/Drop-Off Facilities only	**P**
Storage - Outdoor Facility (Commercial) ***(§7.12)***	**S***
Wholesale Sales	**P**

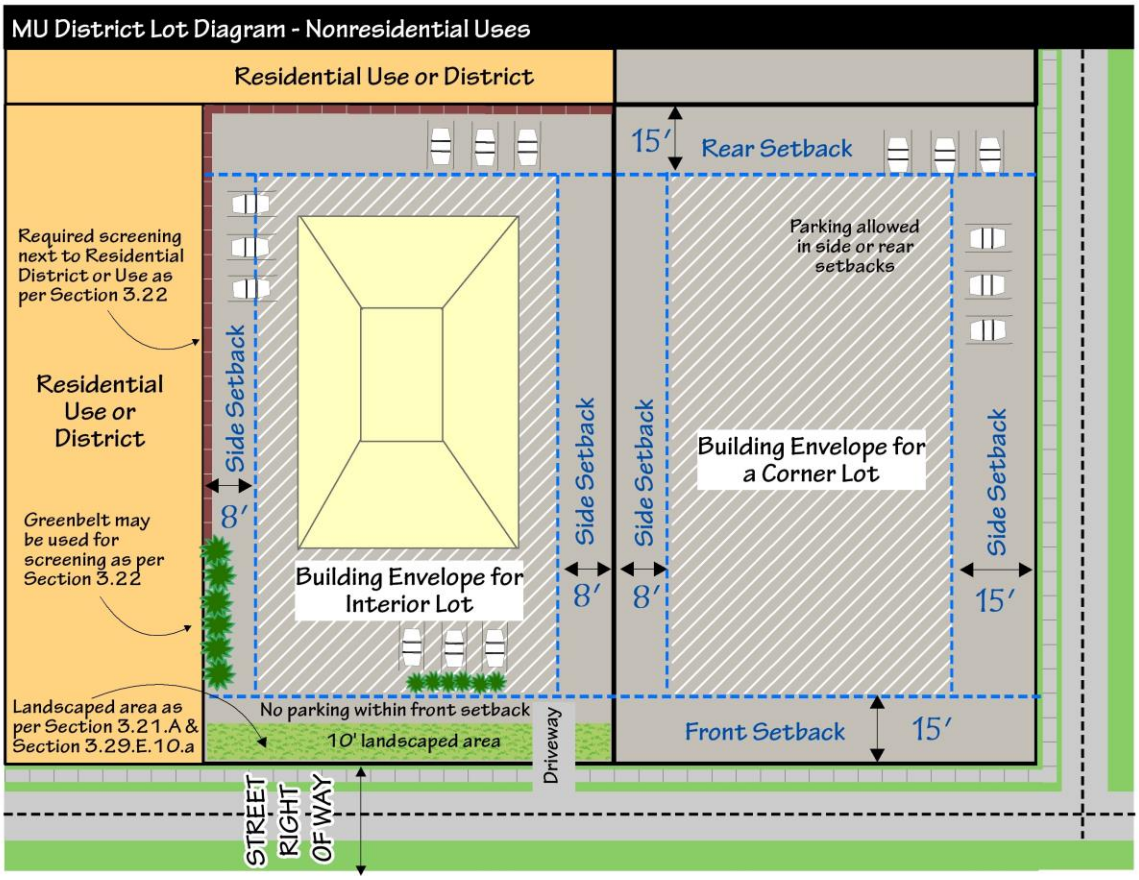
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Utilities & Energy	
Public Service Utility/Installations ***(§7.14)***	**S***
Solar Energy Facility (Utility-Scale) ***(§7.22)***	**S***
Solar Energy (Accessory Panels) ***(§7.22)***	**P***

C. **Development Standards**.

Table 4.6

1. Lot & Structure Standards			
a.	Lot Area	**7,200 sq ft**	
b.	Lot Width (min.)	**60 ft**	
c.	Building Height (max.)	**45 ft**	
d.	Dwelling Unit Size (min.)	**1,200 sq ft**	The Planning Commission shall have the authority to approve principal dwelling units less than the minimum dwelling unit size and/or dimension. No public hearing shall be required.
e.	Dwelling Unit Dimension (min.)	**24 ft**	
f.	Lot Coverage of Structures (max.)	**60%**	
2. Setbacks			
a.	Front (min.)	**15 ft**	
b.	Rear (min.)	**15 ft**	
c.	Side (min.)	**8 ft**	
d.	Side - street - corner lot (min.)	**15 ft**	
3. Additional Development Standards			
a.	Accessory Buildings	Regulated by **§3.10**.	
b.	Screening/Bufffering	When a non-residential use abuts a residential use or district, screening is required per **§3.20**.	
c.	Fences	Regulated by **§3.19**.	
d.	Parking	Nonresidential Uses: Parking shall not be located in the front setback. If parking is located within the front yard (behind the front setback line), screening shall be required in the form of landscaping or a decorative fence. The Planning Commission may waive this requirement on a case by case basis. **§3.29**	
e.	Permitted Yard Encroachments	Regulated by **§3.24**.	
f.	Permitted Height Exceptions	Regulated by **§3.25**.	
g.	Green Zoning	Regulated by **§3.37**.	
h.	Dwelling Regulations	Regulated by **§3.9**.	


MU District Diagram - Residential Uses
Rear Setback
15′
Rear Setback
15′
BUILDING ENVELOPE FOR CORNER LOT
BUILDING ENVELOPE FOR INTERIOR LOT
Side Setback
15′
Side Setback
8′
Side Setback
8′
Side Setback
8′
Front Setback
15′
Front Setback
15′
60' width
STREET RIGHT OF WAY


MU District Lot Diagram - Nonresidential Uses
Residential Use or District
15′
Rear Setback
Required screening next to Residential District or Use as per Section 3.22
Parking allowed in side or rear setbacks
Residential Use or District
Side Setback
8′
Greenbelt may be used for screening as per Section 3.22
Building Envelope for Interior Lot
Side Setback
8′
Side Setback
8′
Building Envelope for a Corner Lot
Side Setback
15′
Landscaped area as per Section 3.21.A & Section 3.29.E.10.a
No parking within front setback
10' landscaped area
Driveway
Front Setback
15′
STREET RIGHT OF WAY

Section 4.7 O-S Office Service District

O-S

A. **Purpose.**

This district is designed to accommodate office buildings and uses that provide basic personal services.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	O-S
Accommodation & Food/Event Services	
Coffee Shops	P
Food Trucks	P
Restaurants without Drive-Through	S
Arts, Entertainment & Recreation	
Art Galleries & Art Studios	P
Private Clubs; Lodges; Fraternal Organizations	S
Commercial, Services & Retail	
Banks/Financial Institutions	P
Business Incubator (Food Incubator listed under Manufacturing)	P
Business Services & Computer Repair	P
Film Production Facilities & Recording Studios (including sound stages & related activities)	P
Funeral Homes & Mortuaries	P
Health Spa	P
Medical Laboratories	P
Offices, Professional (Professional Services)	P
Office Developments	P
Personal Services (beauty shops, tailoring, nail salons, massage studio)	P
Photofinishing/Photographers	P
Printing/Binding/Publishing of Print Material/Newspaper Offices	P
Retail	
Bakeries/Confectionaries	P
Pharmacies/Medical & Optical Supplies	P
Veterinary Hospital with outdoor area	P
Veterinary Hospital/Office with no outdoor animal area	P

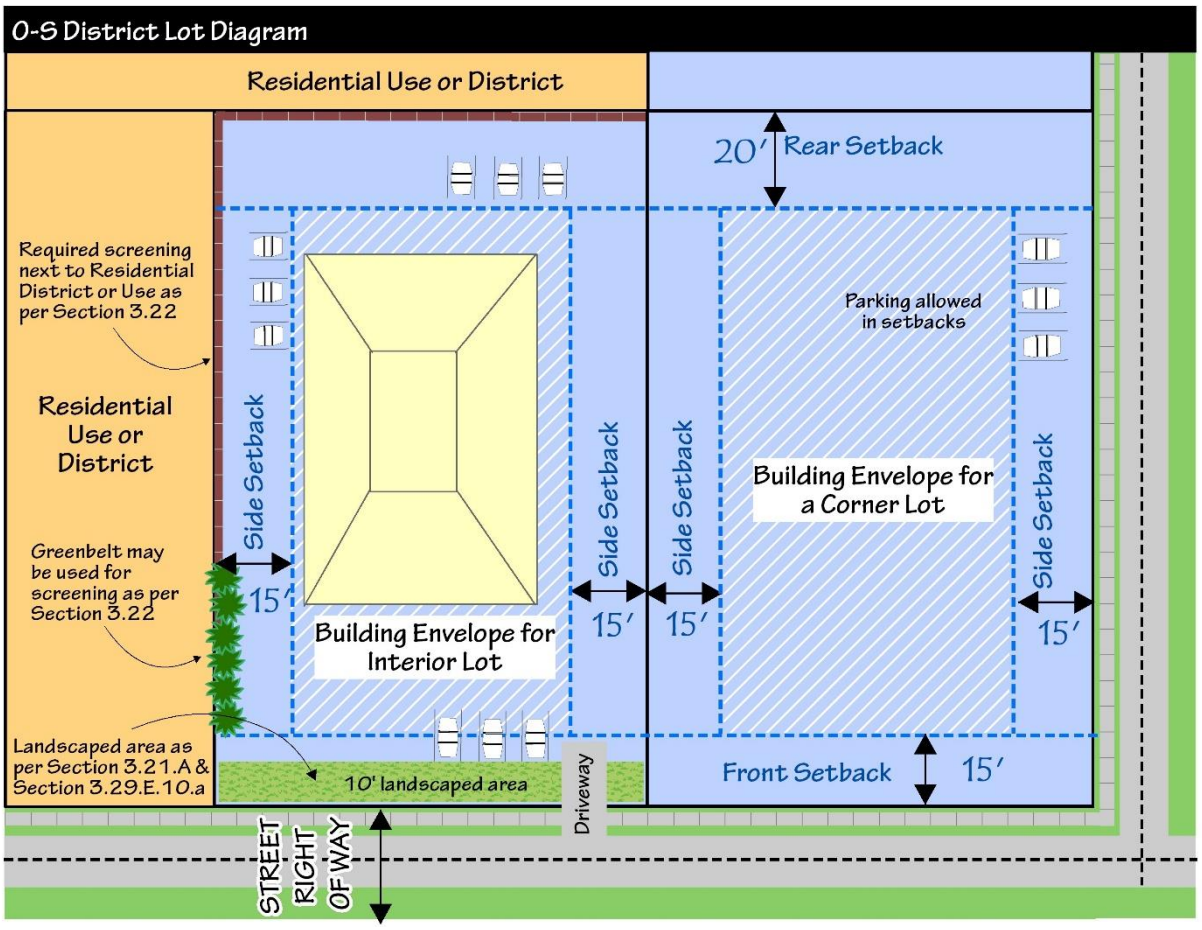
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	O-S
Communications	
Small Cell Wireless Facilities ***(§7.19)***	P*
TV/Radio Broadcasting Stations (with tower) ***(§7.19)***	S*
Educational Services, Religion & Social Institutions	
Colleges/Universities/Institutions of Higher Learning	P
Commercial Schools; Trade Schools	P
Religious Institutions & Customary Accessory Uses	S
Human Care & Social Assistance	
Adult Day Care Facility (not in private home)	P
Adult Foster Care Large Group Home (13-20 adults)	P
Adult Foster Care Congregate Facilities (over 20 adults)	P
Child Care Center/Nursery School (not in home) ***(§7.5)***	P*
Child Caring Institution	S
Health Care/Dental/Optical Clinics/Hearing Clinics	P
Hospitals	P
Human Care Institution (public or private facility for physical care. i.e. nursing homes, assisted living homes)	P
Rehabilitation Institutions	P
Manufacturing, Mining & Waste Management	
Mining/Soil Resource Extraction (incl Sand, Gravel, Rock & Mineral Extraction)	S
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	P*
Public Facilities	
Governmental Office Buildings ***(§7.14)***	P*
Police & Fire Stations; Correctional Facilities/Jails ***(§7.14)***	P*

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**O-S**
Residential Uses	
Home Occupations ***(§7.8)***	**P***
Single-Family Detached Dwelling, Existing & occupied at time of Ordinance	**P**
Transportation, Storage & Wholesale	
Scenic & Sightseeing Transportation/Ground Passenger Transportation - Pick-Up/Drop-Off Facilities only	**P**
Storage - Outdoor Facility (Commercial) ***(§7.12)***	**S***
Utilities & Energy	
Solar Energy Facility (Utility-Scale) ***(§7.22)***	**S***
Solar Energy (Accessory Panels) ***(§7.22)***	**P***

C. **Development Standards**.

Table 4.7

1. Lot & Structure Standards		
a.	Lot Area (min.)	**None**
b.	Lot Width (min.)	**None**
c.	Building Height (max.)	**45 ft**
d.	Lot Coverage of Structures (max.)	**75%**
2. Setbacks		
a.	Front (min.)	**15 ft**
b.	Rear (min.)	**20 ft**
c.	Side (min.)	**15 ft**
d.	Side - street - corner lot (min.)	**15 ft**
3. Additional Development Standards		
a.	Accessory Buildings	Regulated by **§3.10**.
b.	Screening	When a non-residential use abuts a residential use or district, screening is required per **§3.20**.
c.	Fences	Regulated by **§3.19**.
d.	Parking	Regulated by **§3.29**.
e.	Permitted Yard Encroachments	Regulated by **§3.24**.
f.	Permitted Height Exceptions	Regulated by **§3.25**.
g.	Green Zoning	Regulated by **§3.37**.


O-S District Lot Diagram
Residential Use or District
20′ Rear Setback
Required screening next to Residential District or Use as per Section 3.22
Parking allowed in setbacks
Residential Use or District
Side Setback
Side Setback
Side Setback
Side Setback
Building Envelope for a Corner Lot
Greenbelt may be used for screening as per Section 3.22
15′
15′
15′
15′
Building Envelope for Interior Lot
Landscaped area as per Section 3.21.A & Section 3.29.E.10.a
10' landscaped area
Driveway
Front Setback
15′
STREET RIGHT OF WAY

Section 4.8 CBD Central Business District

CBD

A. **Purpose.**

This district is designed to provide for the great variety of retail stores and related non-retail activities which occupy the prime retail frontage by serving the needs of the entire municipal area as well as a substantial area of the adjacent and surrounding residential developments and agricultural area beyond the municipal limits. The district regulations are designed to promote convenient pedestrian shopping and stability of retail development by encouraging a continuous retail frontage along with an appropriate mix of non-retail uses.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Accommodation & Food/Event Services	
Assembly Buildings (including convention centers, conference centers, banquet halls, wedding venues)	**S**
Bars/Taverns	**P**
Caterers/Food Service Contractors	**P**
Coffee Shops	**P**
Food Trucks	**P**
Hotels & Motels (attached or detached units)	**S**
Inns	**S**
Restaurants without Drive-Through	**P**
Restaurants with Drive-Through (Drive-In or Eat in Car) ***(§7.15)***	**S***
Wineries/Cideries/Microbreweries/Brewpubs/Distilleries (Small-Scale)	**S**
Arts, Entertainment & Recreation	
Art Galleries & Art Studios	**P**
Commercial Recreational Facility, Indoor (billiards, bowling, racquetball, fitness clubs, swimming pool clubs, arcades, etc.) ***(§7.4)***	**S***
Equipment Rental, Non-Motorized Recreational (Outfitter)	**P**
Museums	**P**
Theaters & Performance Facilities, Indoor	**P**
Tours (Commercial Operations)	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Commercial, Services & Retail	
Banks/Financial Institutions	**P**
Business Incubator (Food Incubator listed under Manufacturing)	**P**
Business Services & Computer Repair	**P**
Dog Grooming	**P**
Drive-Through Establishments (other than restaurant)	**S**
Electronic & Precision Equipment Repair & Maintenance (Personal Goods)	**P**
Funeral Homes & Mortuaries	**P**
Furniture Refinishing (Upholsterers)/Furniture Repair	**P**
Greenhouses; Nurseries; Landscaping Establishment	**P**
Health Spa	**P**
Interior Designers/Showrooms	**P**
Kennels/Dog Clubs ***(§7.10)***	**S***
Laundromats/Dry Cleaners	**S**
Offices, Professional (Professional Services)	**P**
Personal Services (beauty shops, tailoring, nail salons, massage studio)	**S**
Photofinishing/Photographers	**P**
Printing/Binding/Publishing of Print Material/Newspaper Offices	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Commercial, Services & Retail	
Retail	
Automotive Accessory Sales	**P**
Antique Stores	**P**
Bait & Tackle Shops	**P**
Bakeries/Confectionaries	**P**
Bicycle Shops	**P**
Building & Garden Equipment & Supplies Dealers	**P**
Clothing, Clothing Accessory & Shoe Stores (including shoe repair)	**P**
Convenience Stores	**P**
Electronics & Appliance Stores	**P**
Farm & Feed Supply Stores	**P**
Farm Market	**P**
Florists	**P**
Food & Beverage Stores (& similar commodities for consumption off the premises)	**P**
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)	**P**
General Merchandise Stores/ Retail	**P**
Gift Shops	**P**
Health & Personal Care Stores	**P**
Office Supply Stores	**P**
Pet Stores	**P**
Resale Shops/Thrift Shops	**P**
Sporting Goods, Hobby, Book & Music Stores	**P**
Small-Scale Craft Making	**P**
Studios for Dance, Music, Karate, etc	**P**
Tattoo/Body Piercing Parlors	**P**
Vehicles sales which are primarily indoors with limited outdoor display.	**S**
Veterinary Hospital/Office with no outdoor animal area	**P**
Communications	
Small Cell Wireless Facilities ***(§7.19)***	**P***
Educational Services, Religion & Social Institutions	
Colleges/Universities/Institutions of Higher Learning (not on ground floor in CBD)	**P**
Commercial Schools; Trade Schools (not on ground floor in CBD)	**P**

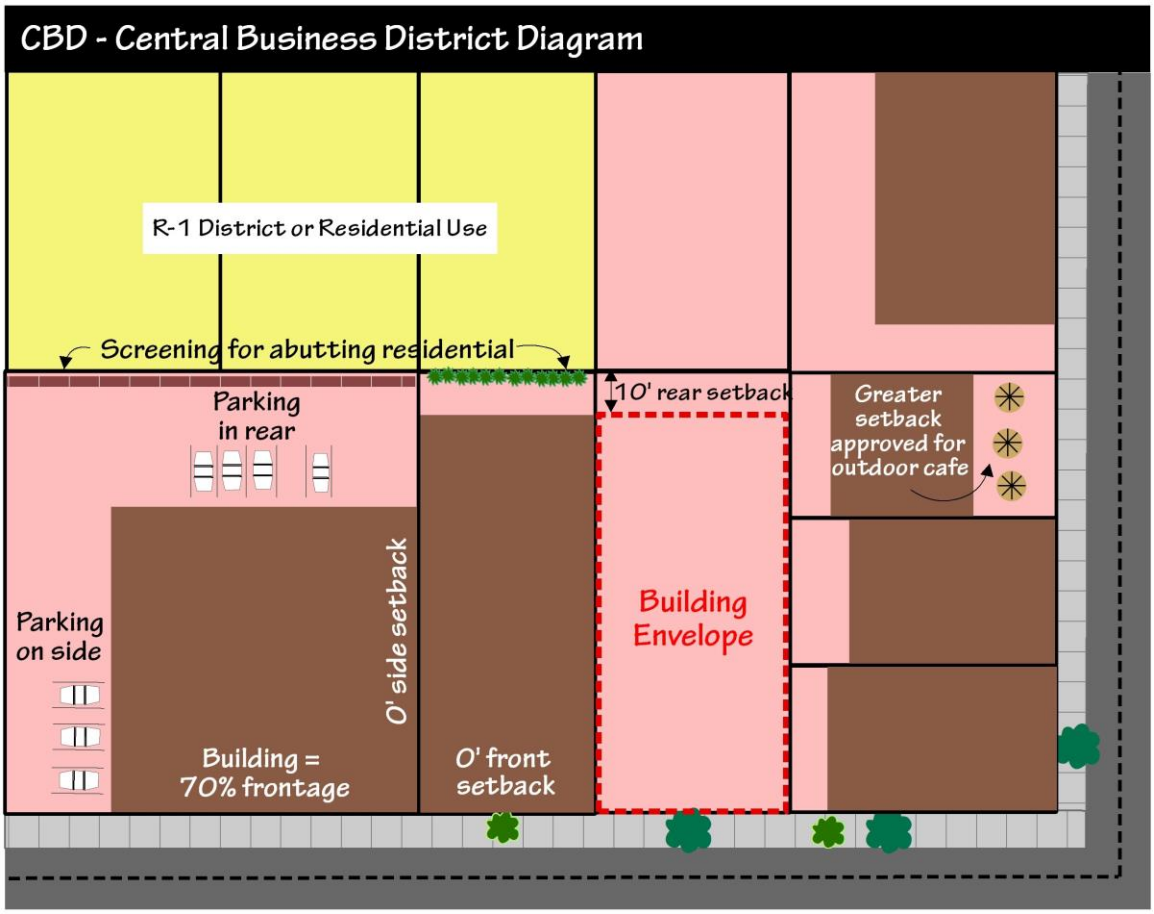
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Human Care & Social Assistance	
Child Care Center/Nursery School (not in home) ***(§7.5)***	**P***
Health Care/Dental/Optical Clinics/Hearing Clinics	**S**
Manufacturing, Mining & Waste Management	
Mining/Soil Resource Extraction (incl Sand, Gravel, Rock & Mineral Extraction)	**S**
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	**P***
Mixed Uses (Commercial/Residential in one building & in separate buildings on one lot)	**P**
Planned Unit Developments, Commercial ***(§7.13)***	**S***
Public Facilities	
Community Centers & Auditoriums (public) ***(§7.14)***	**S***
Governmental Office Buildings ***(§7.14)***	**P***
Libraries ***(§7.14)***	**P***
Police & Fire Stations; Correctional Facilities/Jails ***(§7.14)***	**P***
Post Office ***(§7.14)***	**P***
Residential Uses	
Dwelling Units above a Commercial Establishment	**P**
Single-Family Detached Dwelling, Existing & occupied at time of Ordinance	**P**
Transportation, Storage & Wholesale	
Storage - Outdoor Facility (Commercial) ***(§7.12)***	**S***
Utilities & Energy	
Solar Energy (Accessory Panels) ***(§7.22)***	**P***

C. **Development Standards.**

Table 4.8

1. Lot & Structure Standards		
a.	Lot Area (min.)	**None**
b.	Lot Width (min.)	**None**
c.	Building Height	**Maximum Height: 45 ft** **Minimum Height (on Houghton between 2nd Street and 4th Street): 2 stories** If an existing one-story building, between 2nd and 4th streets, is destroyed by an act of God or the public enemy, it may be rebuilt as a one-story building.
d.	Lot Coverage (max.)	**None**
2. Setbacks		
a.	Front (max.)	**0 ft required setback.** The Planning Commission may allow a greater front yard setback for cases in which the site plan includes an approved form of outdoor use.
b.	Rear (min.)	**10 ft**
c.	Side – interior & street (min.)	**0 ft**
3. Additional Development Standards		
a.	Accessory Buildings	Regulated by §3.10.
b.	Screening/Buffering	When a non-residential use directly abuts a residential use or district, screening is required as per §3.20. Screening is not required when the abutting residential is across an alley or street.
c.	Fences	Regulated by §3.19.
d.	Parking	(1) Lots fronting on Houghton Avenue are exempt from providing off-street parking. (2) If off-street private parking lots are provided, said lots shall not be located in the front yard. (3) Parking structures shall have ground-floor commercial, office, service or institutional uses.
e.	Transparency	(1) Building facades within 20' of the sidewalk shall have at least 15% glazing for all upper floor facades. (2) Building facades within 20' of the sidewalk shall have at least 50% clear glass along the ground floor of the façade.
f.	Blank Walls	Blank walls should not exceed 30' in length. Windows and architectural and design features such as awnings, cornice work, edge detailing, decorative finish materials, recesses, designs using building materials, or murals may be used to eliminate blank walls.
g.	Encroachments	(1) Projecting signs may overhand the sidewalk. There shall be a minimum of 8' of clearance between the sidewalk and the bottom of the sign. (2) Awnings may project into the right-of-way 6'from the building. There shall be a minimum of 8' of clearance between the sidewalk and the bottom of the awning. (3) Façade elements including display windows may project into the sidewalk.
h.	Entryways	Buildings within 20' of the sidewalk shall have at least one functional entrance along a sidewalk.
i.	Residential Units	Residential units shall be allowed in conjunction with non-residential. Said residential units shall not be located on the ground floor.
j.	Historic Buildings	The Planning Commission may allow deviations from these development standards in

	order to accommodate preservation of historic buildings.
k. Storage	Storage of non-retail materials and the making, assembling, remodeling, repairing, altering, finishing, or refinishing of products/merchandise is permitted provided these activities are completely enclosed within the premises occupied by the establishment and these activities are accessory to the principal use of the property.
l. Yard Activities	Commercial activities, including food service and seating, may occupy yards.
m. Lot Line Requirements	Along the front lot line, there shall be a minimum of 70% building.
n. Specified Uses	The following uses are permitted within the CBD but shall not be located fronting on Houghton Ave at street level: (1) Business Services and Computer Repair (2) Electronic and Precision Repair and Maintenance (3) Furniture Refinishing (Upholsterers)/Furniture Repair (4) Photofinishing/Photographers (5) Studios for Dance, Music, Karate, etc (6) Tatoo/Body Piercing Parlors
o. Permitted Height Exceptions	Regulated by **§3.25**.
p. Green Zoning	Regulated by **§3.37**.



Section 4.9 G-B General Business District

G-B

A. **Purpose.**

This district is intended to provide for the regional community commercial and service needs of West Branch and for the orderly development and concentration of such uses. The district should be established along major roads, which can satisfactorily accommodate the large volumes of vehicular traffic typically associated with such commercial concentrations.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**G-B**
Accommodation & Food/Event Services	
Assembly Buildings (including convention centers, conference centers, banquet halls, wedding venues)	S
Bars/Taverns	P
Caterers/Food Service Contractors	P
Coffee Shops	P
Food Trucks	P
Hotels & Motels (attached or detached units)	P
Inns	P
Restaurants without Drive-Through	P
Restaurants with Drive-Through (Drive-In or Eat in Car) ***(§7.15)***	S*
Wineries/Cideries/Microbreweries/Brewpubs/ Distilleries (Small-Scale)	S
Arts, Entertainment & Recreation	
Archery & Firearms Ranges (& as accessory use), Indoor ***(§7.4)***	P*
Art Galleries & Art Studios	P
Commercial Recreational Facility, Indoor (billiards, bowling, racquetball, fitness clubs, swimming pool clubs, arcades, etc.) ***(§7.4)***	S*
Commercial Recreational Facility, Outdoor (ex – go karts; mini golf; disc golf; driving range; rinks, courts; archery/firearms ranges; bandshells) ***(§7.4)***	S*
Equipment Rental, Non-Motorized Recreational (Outfitter)	P
Equipment Rental, Motorized Recreational	S
Museums	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**G-B**
Arts, Entertainment & Recreation (continued)	
Private Clubs; Lodges; Fraternal Organizations	S
Theaters & Performance Facilities, Indoor	P
Tours (Commercial Operations)	P
Commercial, Services & Retail	
Automotive Tire Sales & Installation	P
Automotive Oil Change	P
Automotive Rental/Limousine Services	P
Automotive Towing Businesses ***(§7.2)***	S*
Automotive/Vehicle Repair (including body shops, vehicle painting) ***(§7.2)***	S*
Banks/Financial Institutions	P
Bulk seed, feed, fertilizer & nursery stock outlet & distribution centers (including wholesale)	S
Business Center	P
Business Incubator (Food Incubator listed under Manufacturing)	P
Business Services & Computer Repair	P
Car Washes ***(§7.3)***	S*
Dog Grooming	P
Drive-Through Establishments (other than restaurant)	P
Electronic & Precision Equipment Repair & Maintenance (Personal Goods)	P
Equipment Rental & Sales	P
Film Production Facilities & Recording Studios (including sound stages & related activities)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**G-B**
Commercial, Services & Retail	
Funeral Homes & Mortuaries	**P**
Furniture Refinishing (Upholsterers)/Furniture Repair	**P**
Gas Stations ***(§7.6)***	**S***
General Rental Centers	**P**
Greenhouses; Nurseries; Landscaping Establishment	**P**
Health Spa	**P**
Interior Designers/Showrooms	**P**
Kennels/Dog Clubs ***(§7.10)***	**S***
Laundromats/Dry Cleaners	**P**
Lumber Yards (pre-planed, finished lumber)/Building Material Sales	**P**
Offices, Professional (Professional Services)	**P**
Outdoor display of products/materials for retail sale or rental (accessory to a principle permitted retail use). Site plan review required.	**P**
Outdoor Sales (i.e. automobiles, trucks, motorcycles, ATVs, marine craft, farm implements, contractor's & recreational equipment) ***(§7.12)***	**S***
Vehicles sales - primarily indoors with limited outdoor display.	**P**
Pawn Shops	**P**
Personal Services (beauty shops, tailoring, nail salons, massage studio)	**P**
Photofinishing/Photographers	**P**
Printing/Binding/Publishing of Print Material/Newspaper Offices	**P**
Retail	
Automotive Accessory Sales	**P**
Antique Stores	**P**
Bait & Tackle Shops	**P**
Bakeries/Confectionaries	**P**
Bicycle Shops	**P**
Building & Garden Equipment & Supplies Dealers	**P**
Clothing, Clothing Accessory & Shoe Stores (including shoe repair)	**P**
Convenience Stores	**P**
Electronics & Appliance Stores	**P**
Farm & Feed Supply Stores	**P**

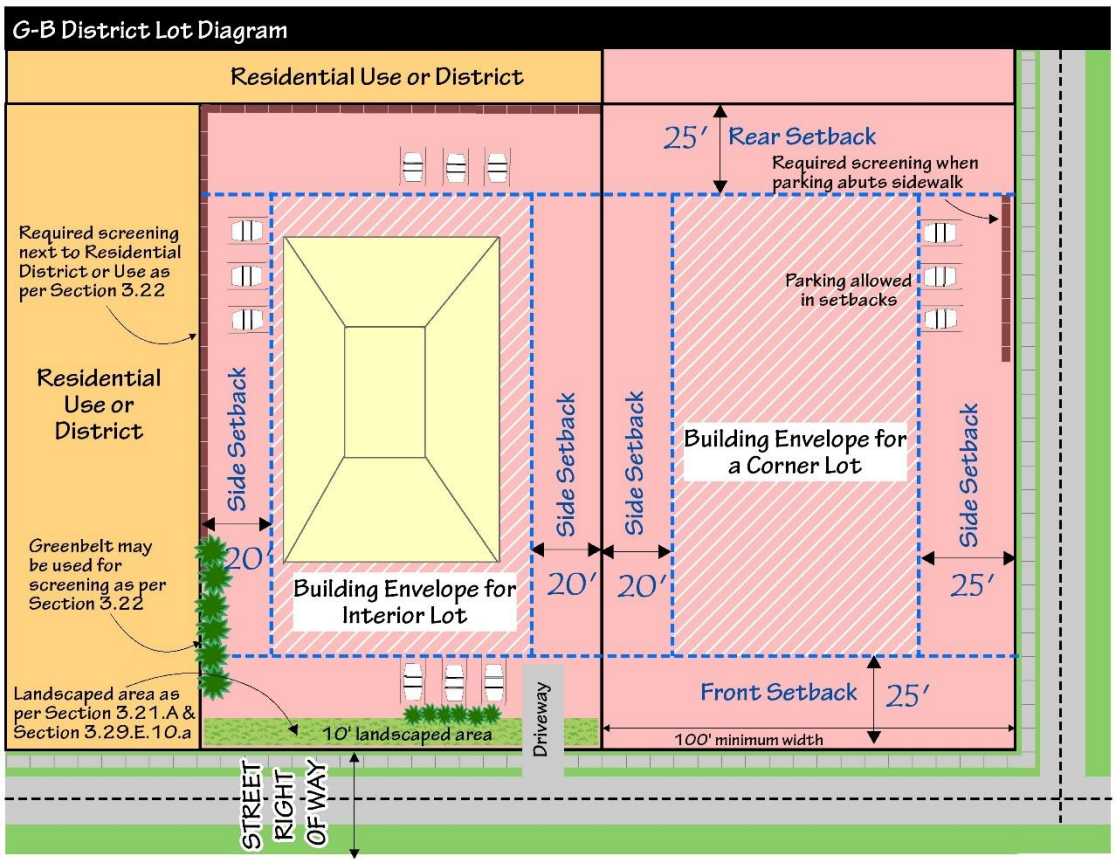
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**G-B**
Commercial, Services & Retail (continued)	
Farm Market	**P**
Florists	**P**
Food & Beverage Stores (& similar commodities for consumption off the premises)	**P**
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)	**P**
General Merchandise Stores/General Retail	**P**
Gift Shops	**P**
Hardware Stores	**P**
Health & Personal Care Stores	**P**
Home Improvement Centers (lumber stored in enclosed structure)	**P**
Office Supply Stores	**P**
Pet Stores	**P**
Resale Shops/Thrift Shops	**P**
Sporting Goods, Hobby, Book & Music Stores	**P**
Small-Scale Craft Making	**P**
Studios for Dance, Music, Karate, etc	**P**
Tattoo/Body Piercing Parlors	**P**
Veterinary Hospital with outdoor area	**P**
Veterinary Hospital/Office with no outdoor animal area	**P**
Communications	
Small Cell Wireless Facilities ***(§7.19)***	**P***
Wireless Communications Support Structures (cell towers) ***(§7.19)***	**S***
Construction & Contractors	
Special Trade Contractors Offices & Showrooms – no outdoor storage (construction, electrical, plumbing, heating, excavation, well-drilling, etc)	**P**
Special Trade Contractors Offices & Showrooms with Contractor's Storage Yard (construction, electrical, plumbing, heating, excavation, well-drilling, etc)	**P**
Educational Services, Religion & Social Institutions	
Commercial Schools; Trade Schools	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**G-B**
Human Care & Social Assistance	
Adult Day Care Facility– not in private home	**P**
Child Care Center/Nursery School (not in home) ***(§7.5)***	**P***
Child Caring Institution	**S**
Health Care/Dental/Optical Clinics/Hearing Clinics	**P**
Hospitals	**S**
Human Care Institution (public or private facility for physical care. i.e. nursing homes, assisted living homes)	**S**
Rehabilitation Institutions	**S**
Residential Human Care & Treatment Facility (i.e. homeless shelter, etc)	**S**
Manufacturing, Mining & Waste Management	
Grain Elevators	**S**
Mining/Soil Resource Extraction (incl Sand, Gravel, Rock & Mineral Extraction)	**S**
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	**P***
Planned Unit Developments, Commercial ***(§7.13)***	**S***
Public Facilities	
Community Centers & Auditoriums (public) ***(§7.14)***	**S***
Governmental Office Buildings ***(§7.14)***	**P***
Police & Fire Stations; Correctional Facilities /Jails ***(§7.14)***	**P***
Residential Uses	
Dwelling Units above a Commercial Establishment	**P**
Manufactured Housing Community (with accessory uses such as laundry facilities, office building, & community building) ***(§7.11)***	**S***
Single-Family Detached Dwelling, Existing & occupied at time of Ordinance	**P**
Transportation, Storage & Wholesale	
Scenic & Sightseeing Transportation/Ground Passenger Transportation	**P**
Pick-Up/Drop-Off Facilities for above	**P**
Self-Storage Facilities/Mini-Storage ***(§7.16)***	**S***
Storage - Outdoor Facility (Commercial) ***(§7.12)***	**S***
Wholesale Sales	**P**
Utilities & Energy	
Propane Distributor/Propane Supply Facilities/Fuel Sales	**P**
Public Service Utility/Installations ***(§7.14)***	**P***
Solar Energy (Accessory Panels) ***(§7.22)***	**P***

C. **Development Standards**.

Table 4.9

1. Lot & Structure Standards		
a.	Lot Area (min.)	**10,800 sq ft**
b.	Lot Width (min.)	**100 ft**
c.	Building Height (max.)	**45 ft**
d.	Lot Coverage of Structures (max.)	**75%**
2. Setbacks		
a.	Front (min.)	**25 ft**
b.	Rear (min.)	**25 ft**
c.	Side (min.)	**20 ft**
d.	Side - street - corner (min.)	**25 ft**
3. Additional Development Standards		
a.	Accessory Buildings	Regulated by **§3.10**.
b.	Screening/Buffering	When a non-residential use abuts a residential use or district, screening is required per **§3.20**. Screening is required when a parking lot abuts sidewalk unless Planning Commission waives this requirement.
c.	Fences	Regulated by **§3.19**.
d.	Parking	Regulated by **§3.29**.
i.	Permitted Yard Encroachments	Regulated by **§3.24**.
j.	Permitted Height Exceptions	Regulated by **§3.25**.
k.	Green Zoning	Regulated by **§3.37**.


G-B District Lot Diagram
Residential Use or District
25′
Rear Setback
Required screening when parking abuts sidewalk
Required screening next to Residential District or Use as per Section 3.22
Parking allowed in setbacks
Residential Use or District
Side Setback
Side Setback
Side Setback
Side Setback
Building Envelope for a Corner Lot
Greenbelt may be used for screening as per Section 3.22
20′
Building Envelope for Interior Lot
20′
20′
25′
Landscaped area as per Section 3.21.A & Section 3.29.E.10.a
10′ landscaped area
Driveway
Front Setback
25′
100′ minimum width
STREET RIGHT OF WAY

Section 4.10 IND Industrial District

IND

A. **Purpose.**

This district is intended primarily for light manufacturing uses which possess few, if any, nuisance characteristics pertaining to the potential for explosion, radioactivity, smoke, dust, noxious or harmful wastes that would pollute streams or soil, vibration, noise, or odor. This District also contemplates uses of land, which are not within the scope of uses permitted in the commercial and residential district, but are not detrimental to the public health, safety, or welfare in connection with the uses for which such districts are established.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.11: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**IND**
Accommodation & Food/Event Services	
Food Trucks	**P**
Arts, Entertainment & Recreation	
Archery & Firearms Ranges (& as accessory use), Indoor ***(§7.4)***	**P***
Commercial Recreational Facility, Indoor (billiards, bowling, racquetball, fitness clubs, swimming pool clubs, arcades, etc.) ***(§7.4)***	**S***
Commercial, Services & Retail	
Automotive Towing Businesses ***(§7.2)***	**P***
Automotive/Vehicle Repair (including body shops, vehicle painting) ***(§7.2)***	**P***
Automotive/Vehicle Repair, Heavy ***(§7.2)***	**P***
Bulk seed, feed, fertilizer & nursery stock outlet & distribution centers (including wholesale)	**P**
Car Washes ***(§7.3)***	**P***
Commercial & Industrial Equipment Repair & Maintenance	**P**
Drive-Through Establishments (other than restaurant)	**P**
Electronic & Precision Equipment Repair & Maintenance (Personal Goods)	**P**
Equipment Rental & Sales	**P**
Film Production Facilities & Recording Studios (including sound stages & related activities)	**P**
Furniture Refinishing (Upholsterers)/Furniture Repair	**P**
Offices, Professional (Professional Services)	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**IND**
Commercial, Services & Retail (continued)	
Printing/Binding/Publishing of Print Material/Newspaper Offices	**P**
Professional Cleaning Services	**P**
Retail	
Farm & Feed Supply Stores	**P**
Office Supply Stores	**P**
Pet Stores	**P**
Resale Shops/Thrift Shops	**P**
Sporting Goods, Hobby, Book & Music Stores	**P**
Sexually Oriented Businesses ***(§7.17)***	**S***
Veterinary Hospital with outdoor area	**P**
Veterinary Hospital/Office with no outdoor animal area	**P**
Communications	
Small Cell Wireless Facilities ***(§7.19)***	**P***
Television/Radio Broadcasting Stations (with tower) ***(§7.19)***	**S***
Wireless Communications Support Structures (cell towers) ***(§7.19)***	**S***
Construction & Contractors	
Lumber/Building Material Storage Yards	**P**
Special Trade Contractors Offices & Showrooms – no outdoor storage (construction, electrical, plumbing, heating, excavation, well-drilling, etc)	**P**
Special Trade Contractors Offices & Showrooms w/ Contractor's Storage Yard	**P**

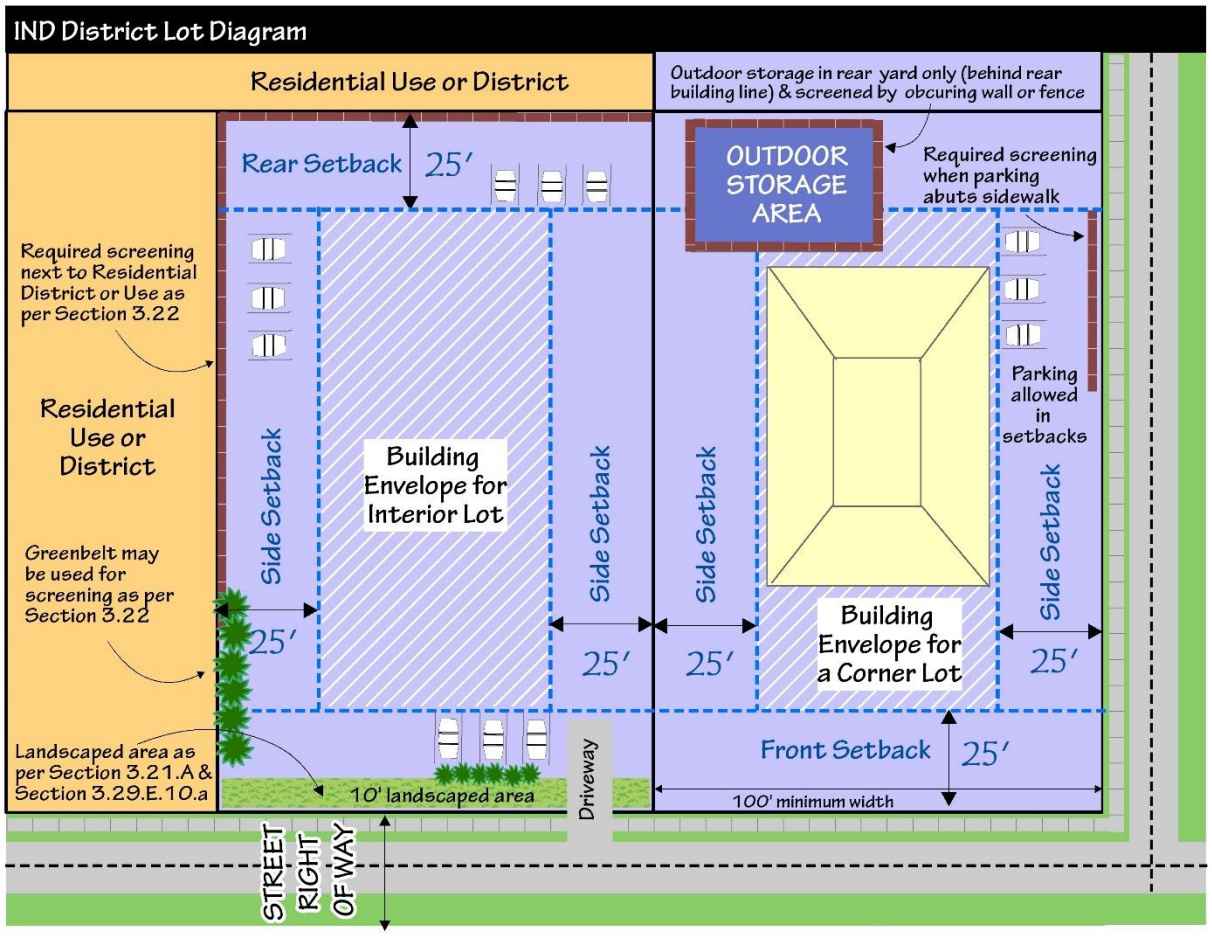
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**IND**
Educational Services, Religion & Social Institutions	
Commercial Schools; Trade Schools	**P**
Human Care & Social Assistance	
Child Care Center /Nursery School (not in home) ***(§7.5)***	**P***
Manufacturing, Mining & Waste Management	
Manufacturing, Light – including the production, processing, cleaning, testing, storage and distribution of materials, goods, foodstuffs, & products. ***(Light Manufacturing are those industries in which the modes of operation of the industry have no external effects & do not directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, & vibration. Marijuana products are not included in this definition.)***	**P**
Manufacturing, Heavy – including the production, processing, cleaning, testing, storage & distribution of materials, goods, foodstuffs, & products. ***(§7.7)*** ***(Heavy Manufacturing are those industries in which the modes of operation of the industry do have external effects & may directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, & vibration. Marijuana products are not included in this definition.)***	**S***
Accessory Uses incidental to Manufacturing (Offices, Foods Services, Caretaker Buildings)	**P**
Food Hub Facility/Food Incubator Facility	**P**
Grain Elevators	**S**
Junkyards/Salvage Yards/Scrap Yards/Motor Vehicle Impoundment & Wrecking Yards ***(§7.7)***	**S***
Incinerator Plant	**S**
Mining/Soil Resource Extraction (incl Sand, Gravel, Rock & Mineral Extraction)	**S**
Research & Development Facility	**P**
Resource Recovery Facility (Recycling Facility, Transfer Station)/Waste Collection Facility ***(§7.7)***	**S***
Slaughter Houses	**P**
Miscellaneous	
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	**P***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**IND**
Transportation, Storage & Wholesale	
Couriers/Parcel Packing/Shipping Delivery Establishments/Mail Order Establishments	**P**
Distribution Center	**P**
Drone (Unmanned Aerial) Centers	**P**
Freight Terminals/Trucking Facilities	**P**
Heavy Vehicle Repair	**P**
Scenic & Sightseeing Transportation/Ground Passenger Transportation	**P**
Pick-Up/Drop-Off Facilities for above	**P**
Self-Storage Facilities/Mini-Storage ***(§7.16)***	**P***
Storage - Outdoor Facility (Commercial) ***(§7.12)***	**S***
Truck Rental Facilities	**P**
Truck Terminals	**P**
Truck Washes	**P**
Warehousing	**P**
Wholesale Sales	**P**
Utilities & Energy	
Heating & Electric Power Generating Plants	**S**
Propane Distributor/Propane Supply Facilities/Fuel Sales	**P**
Public Service Utility/Installations ***(§7.14)***	**P***
Solar Energy Facility (Utility-Scale) ***(§7.22)***	**S***
Solar Energy (Accessory Panels) ***(§7.22)***	**P***
Wind Energy Facilities & Anemometer Towers (Commercial) ***(§7.24)***	**P***
Wind Energy Systems (on-site) ***(§7.24)***	**P***

C. **Development Standards.**

Table 4.10

1. Lot & Structure Standards	
a. Lot Area (min.)	**22,000 sq ft**
b. Lot Width (min.)	**200 ft**
c. Building Height (max.)	**45 ft**
d. Lot Coverage of Structures (max.)	**60%**
2. Setbacks	
a. Front (minimum)	**25 ft**
b. Rear (minimum)	**25 ft**
c. Side (minimum)	**25 ft**
d. Side - street - corner lot (min.)	**25 ft**
3. Additional Development Standards	
a. Accessory Buildings	Regulated by **§3.10**.
b. Screening/Buffering	When a non-residential use abuts a residential use or district, screening is required per **§3.20**. Screening is required when a parking lot abuts sidewalk unless Planning Commission waives this requirement.
c. Fences	Regulated by **§3.19**.
d. Storage	All outdoor storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence at least 6' high in locations to ensure the view from any adjacent residential, office, business or public street.
e. Parking	Regulated by **§3.29**.
l. Permitted Yard Encroachments	Regulated by **§3.24**.
m. Permitted Height Exceptions	Regulated by **§3.25**.
n. Green Zoning	Regulated by **§3.37**.


IND District Lot Diagram
Residential Use or District
Outdoor storage in rear yard only (behind rear building line) & screened by obcuring wall or fence
Rear Setback
25′
OUTDOOR STORAGE AREA
Required screening when parking abuts sidewalk
Required screening next to Residential District or Use as per Section 3.22
Residential Use or District
Parking allowed in setbacks
Side Setback
Building Envelope for Interior Lot
Side Setback
Side Setback
Side Setback
Greenbelt may be used for screening as per Section 3.22
25′
25′
25′
Building Envelope for a Corner Lot
25′
Landscaped area as per Section 3.21.A & Section 3.29.E.10.a
10' landscaped area
Driveway
Front Setback
25′
100' minimum width
STREET RIGHT OF WAY

Section 4.11 Full Table of Permitted & Special Land Uses

R1	Single Family Residential District
RM	Multiple-Family District
MU	Mixed Use District
OS	Office Service District
CBD	Central Business District
GB	General Business District
IND	Industrial District

Land Use Categories	Pg
Accommodation & Food/Event Services	4-31
Arts, Entertainment & Recreation	4-32
Commercial, Services & Retail	4-32
Communications	4-34
Construction & Contractors	4-34
Educational Services, Religion & Social Institutions	4-34
Human Care & Social Assistance	4-34
Manufacturing, Mining & Waste Management	4-35
Miscellaneous	4-36
Public Facilities	4-36
Residential Uses	4-36
Transportation, Storage & Wholesale	4-37
Utilities & Energy	4-37

Permitted and Special Land Uses shall be limited to those listed in the following Table of Permitted and Special Land Uses and listed in the individual use tables within each district section (above). Uses not listed in this table are not permitted. Unlisted uses are subject to **Section 3.7: Unclassified Uses**.

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Accommodation & Food/Event Services							
Assembly Buildings (including convention centers, conference centers, banquet halls, wedding venues)			S		S	S	
Bars/Taverns			P		P	P	
Bed & Breakfasts & Tourist Homes	S	S	S				
Caterers/Food Service Contractors			P		P	P	
Coffee Shops			P	P	P	P	
Food Trucks			P	P	P	P	P
Hotels & Motels (attached or detached units)			S		S	P	
Inns			S		S	P	
Restaurants without Drive-Through			P	S	P	P	
Restaurants with Drive-Through (Drive-In or Eat in Car) ***(§7.15)***					S*	S*	
Rooming Houses/Boarding Houses	P	P	P				
Short Term Rental Homes	P	P	P				
Wineries/Cideries/Microbreweries/Brewpubs/Distilleries (Small-Scale)					S	S	

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Arts, Entertainment & Recreation							
Archery & Firearms Ranges (& as accessory use), Indoor ***(§7.4)***			S*			P*	P*
Art Galleries & Art Studios			P	P	P	P	
Commercial Recreational Facility, Indoor (billiards, bowling, racquetball, fitness clubs, swimming pool clubs, arcades, etc.) ***(§7.4)***					S*	S*	S*
Commercial Recreational Facility, Outdoor (ex – go karts; mini golf; disc golf; driving range; rinks, courts; archery/firearms ranges; bandshells) ***(§7.4)***			S*			S*	
Equipment Rental, Non-Motorized Recreational (Outfitter)			P		P	P	
Equipment Rental, Motorized Recreational			S			S	
Museums			P		P	P	
Private Clubs; Lodges; Fraternal Organizations			S	S		S	
Theaters & Performance Facilities, Indoor			P		P	P	
Tours (Commercial Operations)					P	P	
Commercial, Services & Retail							
Automotive Tire Sales & Installation			S			P	
Automotive Oil Change			S			P	
Automotive Rental/Limousine Services			P			P	
Automotive/Vehicle Repair (incl. body shops, vehicle painting) ***(§7.2)***						S*	P*
Automotive/Vehicle Repair, Heavy ***(§7.2)***							P*
Automotive Towing Businesses ***(§7.2)***						S*	P*
Banks/Financial Institutions			P	P	P	P	
Bulk seed, feed, fertilizer & nursery stock outlet & distribution centers (including wholesale)						S	P
Business Center						P	
Business Incubator (Food Incubator listed under Manufacturing)				P	P	P	
Business Services & Computer Repair				P	P	P	
Car Washes ***(§7.3)***						S*	P*
Commercial & Industrial Equipment Repair & Maintenance							P
Dog Grooming			S		P	P	
Drive-Through Establishments (other than restaurant)			S		S	P	P
Electronic & Precision Equip Repair & Maintenance (Personal Goods)			S		P	P	P
Equipment Rental & Sales			S			P	P
Film Production Facilities & Recording Studios (including sound stages & related activities)				P		P	P
Funeral Homes & Mortuaries			P	P	P	P	
Furniture Refinishing (Upholsterers)/Furniture Repair			S		P	P	P
Gas Stations ***(§7.6)***						S*	
General Rental Centers						P	
Greenhouses; Nurseries; Landscaping Establishment			P		P	P	
Health Spa			S	P	P	P	
Interior Designers/Showrooms					P	P	

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Commercial, Services & Retail (continued)							
Kennels/Dog Clubs ***(§7.10)***	S*	S*	S*		S*	S*	
Laundromats/Dry Cleaners			S		S	P	
Lumber Yards (pre-planed, finished lumber)/Building Material Sales						P	
Medical Laboratories				P			
Offices, Professional (professional services) ***(§7.25)***	S*	S*	P	P	P	P	P
Office Developments				P			
Outdoor display of products/materials for retail sale or rental (accessory to a principle permitted retail use). Site plan review required.						P	
Outdoor Sales (i.e. automobiles, trucks, motorcycles, ATVs, marine craft, farm implements, contractor's & recreational equipment) ***(§7.12)***						S*	
Vehicle sales - primarily indoors with limited outdoor display.					S	P	
Pawn Shops						P	
Personal Services (beauty shops, tailoring, nail salons, massage studio) ***(§7.25)***	S*	S*	P	P	S	P	
Photofinishing/Photographers			P	P	P	P	
Printing/Binding/Publishing of Print Material/Newspaper Offices			P	P	S	P	P
Professional Cleaning Services							P
Retail							
Automotive Accessory Sales			P		P	P	
Antique Stores			P		P	P	
Bait & Tackle Shops			P		P	P	
Bakeries/Confectionaries			P	P	P	P	
Bicycle Shops			P		P	P	
Building & Garden Equipment & Supplies Dealers			P		P	P	
Clothing, Clothing Accessory & Shoe Stores (incl. shoe repair)			P		P	P	
Convenience Stores			P		P	P	
Electronics & Appliance Stores			P		P	P	
Farm & Feed Supply Stores			P		P	P	P
Farm Market			P		P	P	
Florists			P		P	P	
Food & Beverage Stores (& similar commodities for consumption off the premises)			P		P	P	
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)			P		P	P	
General Merchandise Stores/General Retail			P		P	P	
Gift Shops			P		P	P	
Hardware Stores			P			P	
Health & Personal Care Stores			P		P	P	
Home Improvement Centers (lumber stored in enclosed structure)						P	

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Commercial, Services & Retail (continued)							
Office Supply Stores			P		P	P	P
Pet Stores			P		P	P	P
Pharmacies/Medical & Optical Supplies				P			
Resale Shops/Thrift Shops			P		P	P	P
Sporting Goods, Hobby, Book & Music Stores			P		P	P	P
Sexually Oriented Businesses ***(§7.17)***							S*
Small-Scale Craft Making			P		P	P	
Studios for Dance, Music, Karate, etc			P		P	P	
Tattoo/Body Piercing Parlors			P		P	P	
Vehicle Sales (see also "Outdoor Sales") ***(§7.12)***						S*	
Vehicle Sales – primarily indoor with limited outdoor display					S	P	
Veterinary Hospital with outdoor area			P	P		P	P
Veterinary Hospital/Office with no outdoor animal area			P	P	P	P	P
Communications							
Small Cell Wireless Facilities ***(§7.19)***	P*	P*	P*	P*	P*	P*	P*
Television/Radio Broadcasting Stations (with tower) ***(§7.19)***				S*			S*
Wireless Communications Support Structures (cell towers) ***(§7.19)***						S*	S*
Construction & Contractors							
Lumber/Building Material Storage Yards							P
Special Trade Contractors Offices & Showrooms – no outdoor storage (construction, electrical, plumbing, heating, excavation, well-drilling, etc)			P			P	P
Special Trade Contractors Offices & Showrooms with Contractor's Storage Yard (construction, electrical, plumbing, heating, excavation, well-drilling, etc)						P	P
Educational Services, Religion, & Social Institutions							
Colleges/Universities/Institutions of Higher Learning (not on ground floor in CBD)				P	P		
Commercial Schools; Trade Schools (not on ground floor in CBD)				P	P	P	P
Educational Institutions (includes K-12 & colleges/universities)	S	S	S				
Religious Institutions & Customary Accessory Uses	S	S	S	S			
Human Care & Social Assistance							
Adult Day Care Facility (12 or less adults) - in private home	P	P	P				
Adult Day Care Facility – not in private home			S	P		P	
Adult Foster Care Family Homes (6 or less adults)	P	P	P				
Adult Foster Care Small Group Home (7-12 adults)	S	S	S				
Adult Foster Care Large Group Home (13-20 adults)				P			
Adult Foster Care Congregate Facilities (over 20 adults)				P			
Child Care Home, Family (6 or less) ***(§7.5)***	P*	P*	P*				
Child Care Home, Group (7 -12) ***(§7.5)***	P*	P*	P*				
Child Care Center/Nursery School (not in home) ***(§7.5)***		S*	P*	P*	P*	P*	P*

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Human Care & Social Assistance (continued)							
Child Caring Institution				S		S	
Health Care/Dental/Optical Clinics/Hearing Clinics			S	P	S	P	
Hospitals				P		S	
Human Care Institution (public or private facility for physical care. i.e. nursing homes, assisted living homes but not hospitals)		S		P		S	
Rehabilitation Institutions				P		S	
Residential Human Care & Treatment Facility (i.e. homeless shelter, etc)						S	
Residential Facility for Battered Women & Children (in a private residence)	P	P	P				
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	P	P	P				
Manufacturing, Mining & Waste Management							
Manufacturing, Light – including the production, processing, cleaning, testing, storage & distribution of materials, goods, foodstuffs, & products. ***(Light Manufacturing are those industries in which the modes of operation of the industry have no external effects & do not directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, & vibration. Marijuana products are not included in this definition.)***							P
Manufacturing, Heavy – including the production, processing, cleaning, testing, storage & distribution of materials, goods, foodstuffs, & products. ***(§7.7)*** ***(Heavy Manufacturing are those industries in which the modes of operation of the industry do have external effects & may directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, & vibration. Marijuana products are not included in this definition.)***							S*
Accessory Uses incidental to Manufacturing (offices, foods services, caretaker buildings)							P
Food Hub Facility/Food Incubator Facility							P
Grain Elevators						S	S
Junkyards/Salvage Yards/Scrap Yards/Motor Vehicle Impoundment & Wrecking Yards ***(§7.7)***							S*
Incinerator Plant							S
Mining/Soil Resource Extraction (incl sand, gravel, rock & mineral extraction)	S	S	S	S	S	S	S
Research & Development Facility							P
Resource Recovery Facility (recycling facility, transfer station)/Waste Collection Facility ***(§7.7)***							S*
Slaughter Houses							P

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Miscellaneous							
Accessory Buildings ***(§3.10)*** *& Accessory Uses* ***(§3.11)***	P*	P*	P*	P*	P*	P*	P*
Cemeteries including Columbaria & Mausoleums (human or pet)		P					
Mixed Uses (Commercial/Residential in one building & in separate buildings on one lot)			S		P		
Planned Unit Developments, Residential ***(§7.13)***	S*	S*	S*				
Planned Unit Developments, Commercial ***(§7.13)***			S*		S*	S*	
Site Condominium Development ***(§7.13)***	S*	S*	S*				
Public Facilities							
Community Centers & Auditoriums (public) ***(§7.14)***					S*	S*	
Governmental Office Buildings ***(§7.14)***			P*	P*	P*	P*	
Libraries ***(§7.14)***			P*		P*		
Police & Fire Stations; Correctional Facilities/Jails ***(§7.14)***		S*	P*	P*	P*	P*	
Post Office ***(§7.14)***					P*		
Residential Uses							
Accessory Dwelling Units/Guest Houses ***(§7.21)***	S*	S*	S*				
Dwelling Units above a Commercial Establishment			P		P	P	
Home Occupations ***(§7.8)***	P*	P*	P*	P*			
Cottage Industries ***(§7.8)***	S*	S*	P*				
Manufactured Housing Community (with accessory uses such as laundry facilities, office building, & community building) ***(§7.11)***		S*	S*			S*	
Multiple-Family Dwelling Units (Apartments)/Stacked Flats		P					
Senior Housing		P	P				
Single-Family Detached Dwelling	P	P	P				
Single-Family Detached Dwelling, Existing & occupied at time of Ordinance				P	P	P	
Single-Family Attached Dwelling (townhouses)		P	S				
Two-Family Dwelling (duplex)		P	S				

Table 4.11 - Full Table of Permitted Uses & Special Land Uses

P = Permitted by right **S** = Permitted with a Special Use Permit *supplemental development regulations	R-1	R-M	MU	O-S	CBD	G-B	IND
Transportation, Storage & Wholesale							
Couriers/Parcel Packing/Shipping/Delivery Establishments/Mail Order Establishments							P
Distribution Center							P
Drone (Unmanned Aerial) Centers							P
Freight Terminals/Trucking Facilities							P
Heavy Vehicle Repair							P
Scenic & Sightseeing Transportation/Ground Passenger Transportation						P	P
Pick-Up/Drop-Off Facilities for above			P	P		P	P
Self-Storage Facilities/Mini-Storage ***(§7.16)***						S*	P*
Storage - Outdoor Facility (Commercial) ***(§7.12)***			S*	S*	S*	S*	S*
Truck Rental Facilities							P
Truck Terminals							P
Truck Washes							P
Warehousing							P
Wholesale Sales			P			P	P
Utilities & Energy							
Heating & Electric Power Generating Plants							S
Propane Distributor/Propane Supply Facilities/Fuel Sales						P	P
Public Service Utility/Installations ***(§7.14)***	S*	S*	S*			P*	P*
Solar Energy Facility (Utility-Scale) ***(§7.22)***			S*	S*			S*
Solar Energy (Accessory Panels) ***(§7.22)***	P*	P*	P*	P*	P*	P*	P*
Wind Energy Facilities & Anemometer Towers (Commercial) ***(§7.24)***							P*
Wind Energy Systems (on-site) ***(§7.24)***							P*

Section 4.12 Schedule of Regulations

	R-1 Single Family Residential District	R-M Multiple Family Residential District		MU Mixed Use District	O-S Office Service District	CBD Central Business District (B)	G-B General Business District	IND Industrial District
		Multi-Family Uses	All Other Uses					
Lot Area	7,200 sq ft	7,200 sq ft		7,200 sq ft	None	None	10,800 ft^2	22,000 ft^2
Lot Width (min.)	60 ft	60 ft		60 ft	None	None	100 ft	200 ft
Front Setback	15 ft	30 ft	15 ft	15 ft	15 ft	0 ft (C)	25 ft	25 ft
Rear Setback	15 ft	30 ft	15 ft	15 ft	20 ft	10 ft	25 ft	25 ft
Side Setback (interior)	8 ft	15 ft	8 ft	8 ft	15 ft	0 ft	20 ft	25 ft
Side Setback (street) – corner lot	15 ft	25 ft	15 ft	15 ft	15 ft	0 ft	25 ft	25 ft
Minimum Dwelling Size (A)	1,200 ft^2	600 ft^2		1,200 ft^2	n/a	None	n/a	n/a
Building Dimension (min.) (A)	24 ft	24 ft		24 ft	None	None	None	None
Building Height (max.)	45ft	45 ft		45 ft	45 ft	45 ft (D)	45 ft	45 ft
Lot Coverage (max.)	60%	60%		60%	75%	None	75%	60%

Footnotes to Schedule of Regulations:

A. The Planning Commission shall have the authority to approve dwelling units less than the minimum dwelling unit size and/or dimension. No public hearing shall be required.

B. See **Section 4.8** for additional development standards in the CBD.

C. A zero (0') foot front setback shall be required in the CBD. The Planning Commission may allow a greater front yard setback for cases in which the site plan includes an approved form of outdoor use.

D. On Houghton, between 2nd Street and 4th Street, the minimum building height shall be two (2) stories. If an existing one-story building, between 2nd and 4th streets, is destroyed by an act of God or the public enemy, it may be rebuilt as a one-story building.

Article 5 Plot Plan & Site Plan Review

Sec	Name	Pg	Sec	Name	Pg
5.1	Purpose & Approval Table	5-1	5.6	Site Plan Submittal & Approval Procedures	5-6
5.2	Plot Plan Requirements	5-2	5.7	Conformity to Site Plan Required	5-9
5.3	Site Plans	5-3	5.8	Deviations from Approved Site Plan	5-10
5.4	Site Plan Pre-Application Conference	5-3	5.9	Expiration of Site Plan Approval	5-11
5.5	Site Plan Data Required	5-3	5.10	Site Plan Review Standards	5-12

Section 5.1 Purpose & Approval Table

The purpose of this Article is to specify the documents and/or drawings required for plot plans and site plan review so as to ensure that a proposed land use or development activity is in compliance with this Ordinance, other local ordinances, and State and Federal statutes and regulations. Furthermore, its purpose is to ensure that development taking place within the City is orderly, properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts.

Table 5.1 Approval Summary Table

(Plot Plan Review regulated by §5.2 and Site Plan Review Regulated by §5.3 - §5.10)

Type of Use	Plan Required	Approving Body
1. Single-Family Detached Dwellings	Plot Plan	Reviewed and approved by Zoning Administrator
2. Adult Foster Care Family Homes & State Licensed Residential Facilities (new buildings)	Plot Plan	Reviewed and approved by Zoning Administrator
3. Duplexes	Plot Plan	Reviewed and approved by Planning Commission
4. Single-Family Attached Dwelling Units (i.e. Townhouses)	Site Plan	Reviewed and approved by Planning Commission
5. Multiple-Family Dwelling Units	Site Plan	Reviewed and approved by Planning Commission
6. Child Care Home, Family (1-6 children)	Plot Plan	Reviewed and approved by Zoning Administrator
7. Child Care Home, Group (7-12 children)	Plot Plan	Reviewed and approved by Planning Commission
8. Adult Day Care (in private home) (1-12 adults)	Plot Plan	Reviewed and approved by Planning Commission
9. Adult Day Care (not in a private home)	Site Plan	Reviewed and approved by Planning Commission
10. Cottage Industry	Plot Plan	Reviewed by Planning Commission
11. Special Uses*	Site Plan	Reviewed by Planning Commission after public hearing required as per §9.7
12. Parking Lots	Site Plan	Reviewed by Planning Commission
13. Change of Use (provided the use is permitted in the district, there are no alterations to the footprint, and no additional parking is required)	None	Reviewed and approved by Zoning Administrator
14. Accessory Buildings and Decks	Plot Plan	Reviewed and approved by Zoning Administrator
15. Signs	See §3.30	Reviewed and approved by Zoning Administrator

16. New Commercial, Office, Industrial, Energy, & Institutional Uses	Site Plan	Reviewed and approved by Planning Commission
17. Expansion of existing development (that originally requires Planning Commission approval) when the project involves increasing the footprint by twenty (20%) percent or more of the original site plan. for	Site Plan	Reviewed and approved by Planning Commission If expansion is less than twenty (20%) percent, then the project is reviewed and approved by the Zoning Administrator after submission of site plan
18. Expansion of a legal nonconforming use, building or structure as per **§3.27**.	Site Plan	Reviewed and approved by Planning Commission
19. Planned Unit Developments or Site Condominium Developments (Special Uses)*	Site Plan	Reviewed by PC after public hearing required as per **§9.7**
20. Essential Services (construction of buildings)	Site Plan	Reviewed and approved by Planning Commission
21. Wind Energy Systems, On-Site	Plot Plan	Reviewed and approved by Planning Commission
22. Wind Energy Systems and Anemometer Towers, Commercial	Site Plan	Reviewed and approved by Planning Commission
23. Food Trucks	Plot Plan	Reviewed and approved by Zoning Administrator
24. Temporary Uses	See **Section 7.18**	

*** The City Planning Commission must review and approve site plans before granting approval to Special Use Permits**

Section 5.2 Plot Plan Requirements

A. Circumstances Requiring a Plot Plan and Approval Procedure.

Plot plans are reviewed and approved by the Zoning Administrator, for uses indicated in **Section 5.1**, after a plot plan has been submitted and applicable fees have been paid. The Zoning Administrator will issue a zoning permit as per **Section 9.2**.

B. Plot Plan Data Required.

The Plot Plan, drawn to scale shall contain the following items and shall be submitted with an application form provided by the City. The Zoning Administrator may waive any of the plot plan requirements listed below when he/she finds that those requirements are not applicable or necessary.

Table 5.2 Plot Plan Requirements

1. Location	Address or legal description of the property where the proposed use will occur.
2. Contact information	Name, address, and telephone number of the property owner(s), developer(s), and designer(s), and their interest in said properties.
3. Legal Possession	Proof of legal possession of the land for the proposed use.
4. Property Lines	The shape, location and dimensions of the lot and property lines, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this ordinance. When deemed necessary by the Zoning Administrator, a survey may be required. The scale, north arrow, and date.
5. Setbacks	Location of required setbacks of the zoning district.

	The location, shape, dimensions, and height of all structures or impervious surfaces to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale.
6. Structures & Materials	The materials out of which the proposed construction is to be made. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to measure the height of the proposed structures.
7. Accesses	The location and configuration of the lot access and driveway, drawn to scale.
8. Type of Use	The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
9. Rights-of-Way and Easements	The location and width of all abutting rights-of-way, easements, and public open spaces within or bordering the subject project.
10. Natural Features	Natural features such as forests, water bodies, wetlands, high risk erosion areas, slopes over 10%, drainage and other similar features, if determined by the Zoning Administrator to be applicable.
11. Landscaping	All landscaping that will appear on the property.
12. Other	Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed, as deemed necessary by the Zoning Administrator.

Section 5.3 Site Plans

The Planning Commission shall have the authority to review and to approve or reject all site plans, for uses indicated in **Section 5.1**, taking into account the recommendations of the Zoning Administrator. Prior to the issuance of a zoning permit or commencement of construction, a site plan review and approval is required.

Section 5.4 Site Plan Pre-Application Conference

The Zoning Administrator, alone or in conjunction with the Planning Commission Chair, full Planning Commission, and/or City Manager, shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other Ordinance requirements and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

Except for Planned Unit Developments, this conference is not mandatory but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

Section 5.5 Site Plan Data Required

All applicants shall complete the site plan review checklist. The site plan review checklist is available

at the City offices. Site plans shall conform to the provisions approved on the checklist. All site plans must be prepared in a complete and accurate manner so that the plan can be used by the building inspector for all other necessary permits. An engineered site plan, stamped by an engineer, surveyor or architect may be required in instances where the Planning Commission deems that an engineered site plan is required to meet the requirements of this Ordinance.

Each site plan submitted shall contain the information contained in **Table 5.5** unless specifically waived, in whole or in part, by the City Manager, Zoning Administrator or the Planning Commission. The City Manager, Zoning Administrator or Planning Commission can waive any of the site plan requirements listed below, when it is found that those requirements are not applicable to the proposed development. The site plan must accurately depict the subject property and land adjacent to and across any thoroughfare from it, including all existing and proposed easements or rights-of-way.

Note that any proposed construction, landscaping, retention of natural features or other property conditions depicted in the site plan submission will be relied upon by the Planning Commission in its review. Therefore, these conditions become requirements for approval of the site plan. Failure to abide by such conditions constitutes a violation of the terms of the site plan approval.

Table 5.5: Site Plan Requirements

1. **General Information**
   a. Proprietors', applicants', and owners' names, addresses and telephone numbers.
   b. Site plan preparer's address and contact information.
   c. Property's legal description. Where more than one description exists for a parcel of land, the legal description on file with the Ogemaw County Register of Deeds will be the legal description upon which a site plan decision is based.
   d. Date of preparation, including revisions.
   e. Zoning classification of petitioner's parcel and all abutting parcels.
   f. Gross acreage of development.
   g. Type of use.
   h. Hours of operation.
   i. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.
2. **Map Information**
   a. Scale no greater than 1" = 50' for property 3 acres or less and no greater than 1" = 200' for property more than 3 acres.
   b. North arrow.
   c. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal, if required.
3. **Lot Lines & Centerlines**
   a. Existing and proposed lot lines on the parcel and within 100' of the site. When deemed necessary by the Zoning Administrator, a survey may be required.

b. Centerline and existing and proposed right-of-way lines of any street.

4. **Physical Features**

a. Location of all primary and accessory structures with height, setback, and yard dimensions. Drawings or sketches of exterior and elevations. Include structures proposed for removal. The approximate location and use of structures on adjacent or opposing parcels should be shown

b. Existing and proposed public and private roads, access and service drives, street intersections, driveway locations, and internal vehicle circulation areas. Acceleration, deceleration and passing lanes and approaches. Show proposed curbing. Driveways on adjacent or opposing parcels.

c. Easements and public open spaces within or bordering the property.

d. Proposed locations of sidewalks and bicycle paths.

e. Proposed parking areas and existing parking areas within 100' of the site. Dimensioned parking spaces and calculation, drives and method of surfacing. Number and location of handicap parking.

f. Loading/unloading areas.

g. Total useable floor area and number of employees during peak usage (commercial/industrial).

h. Location of existing and proposed service facilities above and below ground, including:

(1) Chemical and fuel storage tanks and containers.
(2) Water supply and wastewater facilities.
(3) Sanitary sewage disposal facilities.
(4) Storm water control facilities and structures.
(5) Location of all easements.

i. Location of outdoor storage areas.

j. Snow storage areas.

k. Exterior lighting locations and illumination patterns.

l. Location and description of all existing and proposed landscaping, berms, fencing and walls.

m. Trash receptacle pad location and method of screening.

n. Entrance details including sign locations and size.

o. Utilities: the location and size of all existing and proposed public utilities. Water line information shall include locations of existing and proposed fire hydrants and valves. Sanitary sewer information shall include location of any pumping stations and approximate location of manholes. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television.

p. Storm drainage information shall include any enclosed drains, flow restrictors and on-site retention.

5. **Natural Features**

a. Existing topography. Topography on the site and beyond the site for a distance of one hundred (100') feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two (2') feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.

b. Location of existing drainage courses showing the type of direction of flow and associated bodies of water.

c. Location of existing wetlands.

d. Location of other environmental or natural resource features, including woodlands and areas with slopes greater than ten (10%) percent.

6. **Residential Project Requirements**

Site plans for residential projects (multiple family developments and manufactured home parks) shall include the following additional information:

a. Floor area of dwelling units.
b. Total number of units proposed per building.
c. Density calculations.
d. Areas to be used for open space and recreation.
e. Carport/garage locations.
f. Schematic plans and elevations of all structures exceeding five thousand (5,000) square feet of total floor area must be included.

7. **Phased Construction**

Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the interrelationship of the proposed project to the future stages, including the following:

a. Relationship and identification of future structures.
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 stated development

8. **Supplemental Material or Performance Guarantee**

a. Information as may be required by the Zoning Administrator or Planning Commission to assist in the consideration of the proposed development. This could include, but not be limited to, an assessment of the proposed project's impact on environmental, historic social or economic conditions; traffic studies; or proposed measures to control or mitigate such impacts as noise, smoke, particulates, vibration, odors, or fire hazards.

b. A performance bond may be required by the City.

Section 5.6 Site Plan Submittal & Approval Procedures

A. **Number of Copies**.

Ten (10) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent. The Zoning Administrator may request a digital copy of the site plan. One copy shall be to scale (item 2.a in **Table 5.5**) and the remaining copies shall be 11”X17” in size.

B. **Timing of Submittal**.

Site plans shall be submitted at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. A Special Planning Commission meeting may be held at the request of the applicant provided that the site plan is submitted at least thirty (30) days prior to the

requested Special Planning Commission meeting and that any applicable special meeting fees are paid in advance by the applicant. If a Site Plan Review is being conducted for a Special Use Permit or subdivision plat, the application timetable specified for that process applies.

C. **Submittal to Zoning Administrator**.

The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application is incomplete the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the site plan, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.

D. **Application Fees**.

Application fees pursuant to currently adopted fee schedule shall be paid when the application and site plan are submitted.

E. **Coordinated Review**.

1. The Zoning Administrator shall distribute the site plan to appropriate City departments including but not limited to the fire department and public works department for comment or recommendation prior to consideration for approval:

   Staff members wishing to comment upon the site plan must transmit their comments in writing to the City Manager and Zoning Administrator at least five (5) days before the Planning Commission meeting at which the site plan is to be reviewed. Reviewers shall address the considerations identified by the Review Standards in this Article. If a Site Plan Review is being conducted for a proposed Special Use Permit, the additional Special Use Permit Review Standards listed for the particular use and Zoning District shall be considered also.

2. The Zoning Administrator may distribute the site plan to the following for comment or recommendation prior to consideration for approval:

   a. The **Ogemaw County Soil Erosion and Sedimentation Control Officer**
   b. The **Ogemaw County Drain Commissioner**
   c. The **Ogemaw County Road Commission** and, if appropriate, the **Michigan Department of Transportation**
   d. The **Ogemaw County Building Department**
   e. **District Health Department**
   f. Local police, fire and ambulance service providers
   g. Planning consultant
   h. Engineering consultant or staff
   i. Other agencies or departments as deemed appropriate

F. **Consultant**.

The Planning Commission may request the assistance of a qualified professional planner, engineer, attorney, or other professional in the site plan review process, if deemed necessary or advisable.

G. **Site Plans Requiring ZBA Action**.

Where the applicant is dependent upon the granting of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted.

H. **Public Meeting**.

1. The Planning Commission shall address the Site Plan Review at a public meeting.

2. Unless required as part of a Special Use Permit, a public hearing will be held only if any party submits a written request to the City Clerk prior to the Planning Commission meeting at which the site plan is to be considered. In such cases, the public shall be heard before the Planning Commission acts upon the site plan. However, a Site Plan Review does not require either a public hearing or special notification of anyone. The findings of a staff review of the site plan and any public comments shall be taken into consideration by the Planning Commission, but are not binding upon it in any way.

3. If the applicant fails to provide representation, the review may be tabled until the next scheduled Planning Commission meeting or may be acted upon without the applicant's input.

I. **Planning Commission Action**.

1. **Approval, Conditional Approval, or Denial**. In the interest of providing a timely response to the applicant, within sixty (60) days of the submitted application being deemed complete, the Planning Commission must take one of the following actions at the meeting during which the Site Plan Review is conducted:

   a. **Approval**. An affirmative vote of the majority of Planning Commission members present at the meeting is necessary to approve a site plan.

   b. **Conditional Approval**. The Planning Commission may elect to attach conditions to its approval of a site plan pursuant to **Section 9.6.** Conditions must be justified by one (1) or more requirements of this Ordinance, or by provisions of other local, State or federal laws. These conditions, together with the regulatory authority and reasoning that justifies them, must be identified in the motion for site plan approval and communicated to the applicant in writing. The conditions shall become a part of the site plan, as inseparably as if they were part of the applicant's original submission. At this point in the site plan process, any approval is considered preliminary until all conditions are met.

   Approval of any proposed site plan that must also receive approvals from other public agencies must obtain approvals from those agencies before seeking site plan review. This shall include any variances that must be issued by the City of West Branch Zoning Board of Appeals. Approval of a variance for conditions that differ from those depicted on the

site plan must be obtained prior to site plan review by the Planning Commission. When these conditions have been met the site plan is considered to have final approval.

c. **Denial with Explanation**. Failure to comply with one or more of the Review Standards is the only justification for denial of a site plan. The vote of a majority of Planning Commission members present at the meeting in which the site plan is reviewed is required to deny it. The motion to deny must state which of the Review Standards was not met by the site plan, and how the plan failed to meet the standard. The motion to deny may also suggest methods by which the shortcoming might be corrected. The applicant shall be notified in writing of the Planning Commission's denial of the site plan, with the full text of the motion to deny reproduced in the communication.

2. **Extension of Approval Timeline.** The applicant may request that the approval timeline be extended to sixty (60) calendar days from the date of the meeting at which the Planning Commission review the site plan.

3. **Findings of Fact.** The decision of the Planning Commission shall be incorporated into a written statement of findings and conclusions relative to the site plan which specifies the basis for the decision and any condition(s) imposed.

4. **Zoning Permit.** Approval of a final site plan authorizes issuance of a zoning permit.

J. **Official Record and Signed Copies of Site Plan**.

The record relating to any approved site plan shall be maintained by the City Manager and Zoning Administrator. This record shall include an official copy of the final site plan as it was approved by the Planning Commission, dated and signed by the permit holder, the Planning Commission Chairperson, the City Manager, and the Zoning Administrator. The record shall also include documentation of any conditions attached to the site plan approval and evidence of the satisfaction of these conditions. It shall also include documentation of any allowed deviations from the approved site plan, dated and signed by the permit holder and the City Manager and Zoning Administrator. One (1) signed and dated approved site plan shall be provided to the applicant.

Section 5.7 Conformity to Site Plan Required

A. Following approval of a site plan by the Planning Commission, the applicant shall construct the site improvements in complete conformity with the approved site plan and conditions imposed. Failure to do so shall be deemed a violation of this Ordinance and the Zoning Permit may be revoked by the City. The Zoning Administrator shall give the permittee notice of violation of the site plan at least ten (10) days prior to the revocation of the permit to provide time for corrective action. The City may revoke such permit if it is determined that a violation in fact exists and has not been remedied since the notification of the intention to revoke a permit.

B. No construction, reconstruction, demolition, or other site work may progress in the interim between submittal and final approval of a site plan.

Section 5.8 Deviations from Approved Site Plan

All improvements shall conform to the approved site plan. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes prior to such change being made. The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved site plan. A site plan may be amended upon application and in accordance with the procedure herein for a site plan. The Zoning Administrator may approve minor changes in an approved site plan, provided that a revised site plan drawing (s) be submitted showing such minor changes, for purposes of record. Even if determined to be a minor change, the Zoning Administrator may refer changes to the Planning Commission for their approval.

A. **Determination of Minor Changes to a Site Plan.**

The Zoning Administrator shall consider the following to be a minor change:

1. Changes in floor plans that do not exceed twenty-five (25%) percent of the total floor area or five hundred (500) square feet, whichever is less, and which do not alter the character of the use or increase the amount of required parking.

2. Alterations to vertical elevations by up to twenty-five (25%) percent.

3. Movement of a building or buildings by no more than ten (10') feet.

4. Reduction of the size of any structure and/or sign.

5. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.

6. Internal re-arrangement of the parking lot which does not affect the number of parking spaces by more than ten (10%) percent or alter access locations or design.

7. Relocation of sidewalks and/or refuse storage stations.

8. Changes of building materials to another of higher quality, as determined by the Zoning Administrator.

9. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.

10. Changes that will preserve the natural features of the site without changing the basic site layout.

11. Change type and design of lighting fixture provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.

12. Changes required or requested by the City or other State of Federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the

basic design and character of the site plan, nor any specified conditions imposed as part of the original approval and provided that such changes conform to the regulations contained in this Ordinance.

B. **Revised Site Plan with Minor Changes**.

1. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.

2. No fees shall be required for minor site plan amendments approved by the Zoning Administrator.

C. **Amendment to Site Plan – Major**.

a. For amendments to site plans that do not qualify as a minor amendment or which require Planning Commission action, the same application process and fee for site plan review shall apply.

b. If the Zoning Administrator finds that a proposed amendment to a site plan does not qualify as a minor change, he or she shall immediately notify the permit holder in writing that site plan approval has been suspended pending approval of the proposed amendment. The permit holder's notice shall be delivered by mail or in person. If construction has begun, a Stop Work Order shall be issued, affecting that portion of the project that is not in compliance with the approved site plan. When the Planning Commission has approved the amendment, the Zoning Administrator shall send a written notice to the permit holder that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project provided that each phase is developed in accordance with an approved site plan.

Section 5.9 Expiration of Site Plan Approval

A. Approval shall expire and be of no effect unless a building permit shall have been taken out within one (1) year of the date of approval of the final site plan.

B. Thirty (30) days prior to expiration of an approved final site plan, an applicant may make application to the Planning Commission for a one (1) year extension of the site plan. The Planning Commission shall grant the requested extension for this additional one (1) year if it finds good cause for the extension.

C. Any subsequent re-submittal of a site plan due to expiration shall be processed as a new request with new fees.

Section 5.10 Site Plan Review Standards

All Site Plan Reviews shall use only the following set of standards to judge whether the site plan should be approved or denied. The Planning Commission may waive a particular standard upon a finding that the standard is not applicable to the proposed development under consideration, and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance.

No off-site improvements can be required as conditions for site plan approval, unless the applicant had volunteered to construct such improvements as documented by his or her original site plan drawing(s). However, if the lack of such off-site improvements will create unacceptable conditions, said lack is sufficient justification for denial of a site plan.

A. **District Regulations**.

The project must comply with the applicable District Regulations regarding use, dimensions, off-street parking and any other aspects. (When the Site Plan Review is being conducted as part of the consideration process for a Special Use Permit or a Planned Unit Development, the use of the site will be addressed after the Site Plan Review.)

B. **Supplementary Regulations**.

The project must comply with any and all of the Supplementary Regulations in **Article 7** that may apply to it.

C. **Special Use Standards**.

If the Site Plan Review is being conducted for a proposed Special Use Permit, any Special Use Standards relating to the proposed use must be satisfied.

D. **Public Welfare and Adjoining Properties**.

1. The proposed use will not adversely affect public health, safety, welfare, and character of the City.

2. The proposed use will not be injurious to the surrounding neighborhood.

3. The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.

4. The site shall be developed so as not to impede the normal, orderly, and reasonable development or improvement of surrounding property for uses permitted in this Ordinance nor to diminish the value thereof and will be harmonious in use, appearance, and layout with existing uses in the immediate area.

E. **Building Arrangements**.

1. The location, size, and height of the structures, walls, and fences shall be such that there is adequate open space so as to provide light, air, and access to the persons occupying the structures and that there will be no interference with adequate light, air, and access to adjacent lands.

2. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

F. **Vehicular and Pedestrian Circulation.**

1. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site.

2. A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system. Pedestrian-friendly streetscape elements shall be provided, if appropriate. Appropriate handicap access shall be provided.

3. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points. Traffic calming measures shall be provided, if needed.

4. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.

5. Streets and drives which are part of an existing or planned street pattern shall be capable of safely and effectively accommodating the traffic volume and pattern proposed by the project.

G. **Access**.

1. There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas.

2. Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use.

3. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides of the buildings.

4. **Shared Access**. The Planning Commission requires shared access between and among uses where feasible. Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access. This requirement applies to driveways and access drives associated with site redevelopment or new construction. In the case of new development, a joint driveway agreement must be signed by all property owners involved prior to a construction permit being issued. Driveways must be designed to allow

joint access in the future, where feasible, and an agreement to allow future use of the drive for joint access must be signed at the time of site plan approval. Shared drives must be shown on site plans at the time of review by the Planning Commission. Refusal to design a site with provisions for joint access or refusal to participate in a joint access agreement is justification for site plan denial by the Planning Commission.

5. **Driveways**. All driveways serving customer or employee parking lots shall provide two-way traffic, unless otherwise part of a one-way entrance and exit system. All driveways shall be a minimum of twenty (20') feet wide. A lesser width may be permitted if it can be proven that the driveway will be increased to twenty (20') feet due to a joint arrangement with an adjacent property owner. Except for large parking lots, driveways shall be limited to one (1) per development.

H. **Utilities**.

Utilities, including water, sewer and storm drainage facilities, must be adequate to serve the proposed use, or sufficient provisions shall be made to provide these services on the site. Applicable private utility services, including electricity, telephone, natural gas, and cable television, must also be sufficient to serve the needs of the project. When the adequacy of any public utility service to the site is in question, the input of the appropriate public utility provider shall be sought.

I. **Lighting**.

Lighting is intended to illuminate parking and vehicular areas for the purpose of increasing the safety of the users but shall be arranged to not interfere with the vision of motorists along adjacent streets. Lighting shall not adversely affect neighboring properties.

J. **Fire Protection**.

The proposed project must comply with applicable fire safety regulations. Also, current local Fire Department personnel and equipment must be sufficient to serve the project. Finally, location, number, and capacity of fire hydrants must be adequate to serve fire suppression needs.

K. **Snow Storage**.

Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision, and parking area capacity.

L. **Environment**.

Natural features of the landscape should be retained wherever practicable to furnish a buffer between the project and adjoining property (ies) or help to control erosion, contain storm water runoff, absorb noise, deflect wind currents, reduce glare, or otherwise benefit the general health, safety or appearance of the neighborhood. Any buildings, fences, lighting, vegetation, or other features that are introduced into the landscape should be designed to complement the site's surrounding environment and enhance the positive features of the project. The site plan should be

developed with the goal of controlling any negative impacts the project may have, such as noise, smoke, vibration, odor, glare, heat or dust so that they will not be discernible beyond the property boundaries. Further, projects shall fully adhere to applicable environmental regulations promulgated by the Michigan Department of Environment, Great Lakes and Energy or other agencies.

M. **Storm Drainage**.

Surface drainage, otherwise referred to as sheet drainage, to the right-of-way, or adjacent properties is unacceptable. Storm water management systems and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site. The use of rain gardens and green roofs are encouraged to reduce run-off.

N. **Groundwater Protection**.

See **Section 3.32**.

Article 6
Special Use Review

Sec	Name	Pg	Sec	Name	Pg
6.1	Purpose	6-1	6.5	Special Use Approval Standards	6-4
6.2	Special Land Use Application Submittal	6-1	6.6	Inspection of a Special Land Use	6-5
6.3	Consideration of Rezoning & Special Use Permit	6-2	6.7	Amendment to a Special Land Use	6-5
6.4	Planning Commission Review & Hearing	6-2	6.8	Expiration, Suspension or Revocation of a Special Land Use	6-5

Section 6.1 Purpose

A. **Intent**.

The intent of this Article is to provide regulations for uses which are essentially compatible with uses permitted by right in a given district, but which, by reason of the special nature of such uses or their particular location in relation to neighboring properties, require a stricter level of review by the City. Accordingly, Special Land Uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

B. **Purpose**.

This Article provides procedures and general standards for regulating activities identified as uses by Special Use Permit for each Zoning District. Special Uses represent a middle range between uses that are clearly permitted and uses that are clearly denied in any Zoning District. The purpose of designating special uses is to allow practical latitude for a property owner or developer to use a parcel of land while maintaining protection of the health, safety, comfort, convenience and general welfare of neighbors and the community at large. The Planning Commission shall have the opportunity to impose conditions upon each use, which are deemed necessary for the protection of the public welfare. Such conditions shall be based on standards in this Ordinance.

Section 6.2 Special Land Use Application Submittal

A. **Submission of Application**.

1. The application package is to be submitted to the Zoning Administrator.

2. **Contents**. The application package consists of a Special Use Permit Application form completed in full by the applicant, site plan or plot plan as pursuant to **Section 5.1** (if required), accompanied by a fee as established by the City Council.

3. **Application Deadline**. The complete application package must be submitted to the City Manager and Zoning Administrator at least forty-five (45) days before the Planning Commission meeting at which it will be considered.

B. **Review for Completeness and Meeting Schedule**.

The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application is incomplete, the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the application, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the Planning Commission meeting as a public hearing after notice has been provided in accordance with **Section 9.7**.

Section 6.3 Consideration of Rezoning & Special Use Permit

In the event that allowance of a desired use requires both a rezoning (change in Zoning District designation for the parcel) and a Special Use Permit, both requests may be submitted jointly and considered at a single meeting of the Planning Commission, subject to the following requirements.

A. **Separate**.

The rezoning shall be considered separately and prior to the Special Use Permit.

B. **Procedures**.

The Ordinance procedures for each decision shall be followed as specified. Any Special Use Permit approval must be conditioned upon adoption of the rezoning by the City Council.

C. **Standards**.

All standards required by this Ordinance shall be observed for each action.

D. **Public Hearings**.

The public shall be given the opportunity for input on both the rezoning and Special Use decisions. Thus, two (2) separate public hearings shall be held at the same meeting.

Section 6.4 Planning Commission Review & Hearing

The Special Use Permit application package shall be the subject of both a Site Plan Review and a public hearing conducted by the Planning Commission. The Site Plan Review and Special Use Review will be considered at the same meeting unless the applicant requests separate meetings. Note that the Open Meetings Act requires this vote to take place in an open public meeting.

A. **Site Plan Review**.

1. **Site Plan Review Prior to Special Use Consideration**. The Planning Commission shall conduct a Site Plan Review for the proposed use, using the procedure and standards presented in **Article 5** and any specific standards identified for the Special Use in **Article 7**. The Planning Commission may approve the site plan as presented, approve it with conditions, deny it, or table approval of it to a specific meeting date. The Site Plan Review may be completed before public input is heard on the question of granting the Special Use Permit. This is because the Site Plan Review process is intended to be an objective review of factual information to determine whether precise standards have been met.

2. **If the Site Plan is Denied**. In the event the site plan is denied, consideration of the Special Use Permit shall still occur, including the public hearing. The Special Use Permit may still be approved with the condition that site plan approval must be obtained before the Special Use Permit is valid.

B. **Decision on Special Use**.

1. **Public Hearing on Special Use.** The Planning Commission shall hold a public hearing on the application as part of the meeting in which the Special Use Permit is considered.

2. **Consideration of Special Use Permit**. Following the close of the public hearing, consideration of the Special Use permit shall take place.

3. **Delay at Applicant's Request**. If a site plan for a Special Use has been denied, the applicant may ask that the Special Use Permit, including the public hearing, be postponed. However, postponing the hearing prior to the hearing taking place requires an additional notification of neighboring property owners and newspaper publication of another notice. Therefore, the applicant will be required to pay an additional application fee to offset the Commission's added cost.

4. **Decision**. After review of the application and public hearing or written comments, if any, the Planning Commission shall approve, approve with conditions, or deny the Special Use permit based upon the standards of the Special Use as set forth in the Special Use requirements. The decision on a Special Use permit application shall be incorporated in a statement of conclusion relative to the Special Use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

C. **Prompt Decision**.

In the interest of fairness and a timely response for all concerned parties, the Planning Commission shall render their decision within sixty (60) days of the submitted application being deemed complete unless further information must be obtained before a decision can be made. In such cases, action upon the Special Use Permit may be tabled to a public meeting of the Planning Commission to be held on a specific date, which is identified in the motion to table.

D. **Additional Conditions**.

The Planning Commission may stipulate any additional conditions or safeguards deemed necessary to achieve the objectives of this Ordinance. These conditions may include but are not limited to changing the parking, lighting or building configuration to promote compatibility on the site. These may be defined during the Site Plan Review process or during consideration of whether to grant the Special Use Permit. All conditions attached to the approval of the site plan are also conditions of the Special Use Permit. These conditions, and the reasoning behind them, must be documented in the Planning Commission's minutes, written on the site plan itself, communicated to the applicant in writing, and based directly on the intent of this Ordinance and **Section 9.6**. The permit will not take effect until the conditions of approval are accepted by the applicant, signified by the signatures on the site plan itself, of both the applicant and the Planning Commission chairman.

E. **Reapplication**.

An application for a Special Use Permit that has been denied may not be resubmitted until one (1) year after the date of denial has passed.

F. **Appeal**.

The decision of the Planning Commission may NOT be appealed to the Zoning Board of Appeals.

Section 6.5 Special Use Approval Standards

Before rending a decision on a Special Use, the Planning Commission shall review the proposed Special Use in terms of the applicable Supplemental Regulations in **Article 7** for specified Special Uses and the following:

A. **General.**

1. The property subject to the application is located in a zoning district in which the proposed Special Land Use is allowed.

2. The proposed use will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan.

3. The proposed use will be consistent with the intent and purposes of this Ordinance.

B. **Compatibility with Adjacent Uses.**

1. The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

2. The proposed use will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future and shall not disrupt the orderly and proper development of the neighborhood as a whole.

3. The proposed use will be an improvement in relation to property in the immediate vicinity and to the City as a whole.

C. **Public Services.**

1. The proposed use will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.

2. The proposed use will not create excessive additional public costs and will not be detrimental to the economic welfare of the City.

D. **Impact of Traffic on Street System.**

1. The location and design of the proposed use shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation (i.e. volume), types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points.

2. The proposed use shall not cause traffic congestion, conflict or movement in greater proportion to that normally prevailing for the use in the particular zoning district.

Section 6.6 Inspection of a Special Land Use

The Zoning Administrator shall have the right to inspect any Special Land Use to ensure continued compliance with the conditions of the Special Land Use.

Section 6.7 Amendment to a Special Land Use

Minor amendments to a previously-approved Special Land Use may be approved by the Zoning Administrator with no public hearing or public hearing notice required according to the procedures stated in **Section 5.8: Deviations from Approved Site Plan**.

Section 6.8 Expiration, Suspension or Revocation of a Special Land Use

A. **Time Limit for Expiration**.

The Special Land Use permit shall expire unless the use has begun within one (1) year of approval. The Zoning Administrator shall notify the permittee by certified mail of the pending expiration at least forty-five (45) days prior to the expiration. Said notice shall be mailed to the permit holder at the address indicated on said permit. Thirty (30) days prior to expiration of an approved Special Land Use permit, an applicant may make application to the Planning Commission for a one (1) year

extension of the Special Land Use permit at no fee. The Planning Commission shall grant the requested extension for this additional one (1) year if it finds good cause for the extension.

B. **Special Land Use that has been Replaced or Superseded**.

The Special Land Use permit shall expire if replaced or superseded by a subsequent permitted use or Special Land Use permit or if the applicant requests the rescinding of the Special Land Use Permit.

C. **Abandonment of Special Land Use**.

The Special Land Use permit shall expire if the Special Land Use has been abandoned for a period of one (1) year or more. When determining the intent of the property owner to abandon a Special Land Use, the Zoning Administrator shall consider the following factors:

1. Whether utilities such as water, gas, and electricity to the property have been disconnected.

2. Whether the property, buildings, and grounds have fallen into disrepair.

3. Whether signs or other indications of the existence of the Special Land Use have been removed.

4. Whether equipment or fixtures necessary for the operation of the Special Land Use have been removed.

5. Other information or actions that evidence an intention on the part of the property owner to abandon the Special Land Use.

D. **Special Land Use and Transfer or Sale of Property**.

A Special land use does not expire on transfer or sale of the property unless the use has been determined by the Zoning Administrator to have been abandoned pursuant to **subsection C** above.

E. **Special Land Use Suspension or Revocation**.

The Planning Commission may suspend or revoke a Special Land Use permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other ordinances or regulations of the City. The breach of any condition shall be cause for the Planning Commission to revoke a Special Use Permit.

1. **First Notice**. The City Manager and Zoning Administrator shall send written notice of a violation to the holder of the permit by certified mail. The notice shall state that correction must be made within thirty (30) days or the Planning Commission will revoke the Special Use Permit and order the use to cease.

2. **Considered Nonconforming**. From the time the City Manager and Zoning Administrator's notice of violation is issued, until compliance with all Special Use Permit conditions is restored, the use in question shall be treated as an unacceptable Nonconforming Use.

3. **Planning Commission Action**. The City Manager and Zoning Administrator shall notify the Planning Commission of the violation of conditions of the Special Use Permit at the next regular Planning Commission meeting, and revocation of the Special Use Permit shall be considered then. The Planning Commission's meeting will usually take place before the thirty (30) day period for the first notice has expired. In that case, the resolution to revoke the Special Use Permit should be worded so that it takes effect only if compliance with all requirements is not restored. It shall also include authorization for the City Manager and Zoning Administrator to order the permit holder to cease the permitted use if the violations are not corrected by the end of the first notice period.

4. **Second Notice and Order**. After expiration of the thirty (30) day period, the City Manager and Zoning Administrator shall notify the permit holder by certified mail that the Special Use Permit has been revoked, and the use for which the permit was granted must cease within sixty (60) days from the date of this second notice.

5. **Enforcement of Order**. Failure to comply with the order to cease an activity for which a Special Use Permit has been revoked is a violation of this Ordinance, subject to all penalties thereof.

Article 7 Supplemental Regulations

Sec	Name	Pg	Sec	Name	Pg
7.1	Purpose	7-1	7.14	Public Buildings, Utilities & Service Installations	7-16
7.2	Auto Repair, Body Shops & Towing Operations	7-1	7.15	Restaurants, Drive-Through	7-16
7.3	Car Washes, Automatic or Self-Service	7-2	7.16	Self-Storage Facilities / Mini Storage	7-16
7.4	Commercial Recreation, Indoor & Outdoor	7-3	7.17	Sexually Oriented Business & Adult Media Stores	7-17
7.5	Day/Child Care Centers & Nursery Schools	7-4	7.18	Temporary Indoor & Outdoor Uses, Buildings & Structures	7-19
7.6	Gas Station/Service Station, Convenience Stores with Gasoline Service	7-5	7.19	Wireless Communications Facilities	7-21
7.7	High Intensity Uses, Waste Treatment & Disposal	7-5	7.20	Sidewalk Cafes	7-28
7.8	Home Occupations & Cottage Industries	7-7	7.21	Accessory Dwelling Units	7-30
7.9	Industrial Park	7-9	7.22	Solar Energy	7-31
7.10	Kennels & Dog Clubs	7-10	7.23	Medical Marijuana Primary Caregiver Facilities	7-32
7.11	Manufactured Housing Communities	7-11	7.24	Wind Energy	7-35
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7.13	Planned Unit Development (PUD) & Site Condominiums	7-13			

Section 7.1 Purpose

In addition to the regulations set forth in this Ordinance, the following are specific regulations and design standards for uses marked with an asterisk in **Section 4.11: Full Table of Permitted and Special Land Uses** and the individual use tables in district sections, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community.

Section 7.2 Auto Repair, Body Shops & Towing Operations

A. Buildings shall be located not less than fifty (50') feet from any right-of-way line.

B. All repair work must be carried out within an enclosed building.

C. No automobile repair garage or body shop shall be erected within a two hundred (200') foot radius of any residential district.

D. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier or curb.

E. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building.

F. Outdoor storage of rubbish, junked equipment or parts is prohibited unless such rubbish, junked equipment or parts are stored adjacent to the principal building in an obscure location that is enclosed with a masonry screening wall. When such screening is provided, such rubbish, junked equipment or parts shall not be stacked or heaped higher than the height of the screening wall nor exceed ten (10%) percent of the total yard area, excluding area taken up by structures. The screening wall shall not be higher than six (6') feet. Outside storage or parking of each disabled, wrecked, or partially dismantled vehicle shall not be permitted for a period exceeding three (3) days.

G. An automobile repair garage use or body shop shall not include the parking or storage of dismantled, unlicensed or nonrepairable vehicles of any kind, unless ordered by a law-enforcement agency. The storage, sale or rental of mechanical equipment, new or used cars, motorcycles, mini bikes or similar vehicles, wrecked or otherwise, shall not be considered a use or accessory use.

H. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.

I. On a corner lot, both street frontage sides shall be subject to all applicable front yard provisions of this Ordinance.

Section 7.3 Car Washes, Automatic or Self-Service

A. Only one ingress/egress driveway shall be permitted on any single street.

B. Where adjoining residentially zoned or used property a solid fence or wall six (6') feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

C. Sufficient stacking capacity shall be provided to ensure that traffic does not extend into the street. Self-service car washes shall provide a minimum of four (4) stacking spaces (including one (1) in the wash stall) per each washing stall. Automatic washes shall provide a minimum of fifteen (15) stacking spaces (including two (2) in the washing facility).

D. Spaces in addition to the minimum required shall be provided if determined by the Planning Commission to be necessary to ensure that traffic does not extend into the street. Stacking shall be planned so as to minimize conflicts between entering and exiting traffic, pedestrians and parking areas.

Section 7.4 Commercial Recreation, Indoor & Outdoor

A. **Indoor Commercial Recreation**.

Indoor Commercial Recreation uses include~~d~~ but are not limited to: putt putt courses, batting cages, bowling alleys, ice or roller rinks, firearm ranges, indoor fields and racquet courts, and athletic clubs.

1. No building shall be located within fifty (50') feet of a lot line of adjoining residentially planned, zoned, or currently being used for residential purposes.

2. Whenever parking areas are adjacent to land in a residential district, a minimum of a five (5') foot high wall shall be provided along the side of the parking area adjacent to the residentially planned, zoned, or used land.

3. Based on the nature of the use and nuisance potential to adjoining property owners, the Planning Commission and the City Council may stipulate noise standards beyond those stipulated otherwise in the **City Noise Ordinance (Chapter 95)**.

4. Operating hours for all uses shall be determined by the Planning Commission and the City Council based on the nature of the use and the nuisance potential to adjoining property owners.

B. **Outdoor Commercial Recreation**.

Outdoor Commercial Recreation uses include but are not limited to: recreational fields, rinks or courts, (including football, softball, soccer, tennis, basketball, ice skating, and similar activities) archery and shooting ranges, go-cart tracks, music concert pavilions and band shells, amusement parks, and driving ranges open to the general public or operated by a private or non-profit organization.

1. Minimum site area shall be based on the underlying district. However, the Planning Commission may increase the minimum required site area depending upon the described use and anticipated extraneous impacts on adjoining properties. Such an increase will be for the purpose of buffering, screening, and otherwise negating or limiting the potential nuisance to adjacent properties caused by noise, dust, odor and the like. To this end, the Planning Commission may require additional information concerning the proposed use and the potential for nuisance.

2. No building or spectator seating area shall be located within one hundred (100') feet of a lot line of an adjoining residentially planned, zoned, or used property.

3. A landscaped buffer strip of no less than one hundred (100') feet shall be provided along the property lines of all residentially planned, zoned, or used land. However, the Planning Commission may reduce such requirement by fifty (50%) percent if it is determined that the potential for off-site nuisance is limited.

4. Whenever parking areas are adjacent to a residential district or dwelling, a minimum of a five (5') foot wall shall be provided along the side of the parking area adjacent to such land.

5. Race tracks of any sort shall be enclosed around the entire periphery with and obscuring wall of at least eight (8') feet in height.

6. Golf driving ranges shall provide safety screening as deemed reasonable and necessary by the Planning Commission.

7. Central loudspeakers/paging systems are prohibited within two hundred (200') feet of residentially planned, zoned, or used property. Such systems shall not be directed toward a residential area even if outside the two hundred (200') foot setback.

8. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners. The maximum range of hours for all establishments is Monday through Sunday, 7:00 am to Midnight.

9. Provisions shall be taken, at the discretion of the Planning Commission, to insure that excessive dust, noise, traffic, lighting glare, and trespassing are not inflicted on adjacent properties.

10. Children's amusement parks must be fenced on all sides with a four (4') foot wall or fence.

Section 7.5 Day/Child Care Centers & Nursery Schools

A. For each child cared for there shall be provided, equipped and maintained, on the premises, a minimum of one hundred (100) square feet of usable outdoor play area (minimum total area of one thousand (1,000) square feet per facility).

B. The outdoor play area shall be suitably fenced and screened from any abutting residential uses.

C. The facility shall have frontage and direct access to a public street and be located adjacent to a business district.

D. The facility shall be in compliance with all City and State regulations.

Section 7.6 Gas Station/Service Station, Convenience Stores with Gasoline Service

A. There shall be a minimum lot area of ten thousand (10,000) square feet and minimum lot width of one hundred (100') feet.

B. Pump islands shall be a minimum of fifteen (15') feet from any public right-of-way or lot line. All gasoline pumps shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right-of-way.

C. The curb cuts for ingress and egress to a service station shall not be permitted at such location that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25') feet from a street intersection (measured from the road right-of-way)

D. Where adjoining a residentially zoned district or use a solid fence or wall six (6') feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

E. Any repair work shall be conducted completely within an enclosed building.

F. There shall be no storage of vehicle components and parts, trash, supplies, or equipment outside of a building.

Section 7.7 High Intensity Uses, Waste Treatment & Disposal

High Intensity Uses are permitted in the Industrial district. Standards in this Section shall apply to all of the following uses:

- Sewage Treatment and Disposal
- Salvage Yard, Scrap Yard, Junk Yard
- High Intensity Food Processing
- Petroleum or flammable liquid production, refining and storage
- Reduction, conversion & disposal of waste goods and materials

A. **General.**

All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this Section are less than those in applicable State statutes, the State requirements shall prevail. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.

B. **Contractual Agreements.**

The provisions of this Section are not intended to diminish or alter the enforceability or application of any separate contractual agreements between the City and any individual or company which owns a landfill or is involved with landfill operations.

C. **Tree Buffers for Junkyards.**

Buffers of tree cover shall be provided on the periphery of the property. The buffer shall be no less than fifty (50') feet in width and may be natural vegetation or planted evergreens if the existing cover is destroyed.

D. **No Hazardous or Toxic Waste.**

No hazardous or toxic wastes, as defined by the **Department of Environment, Great Lakes and Energy**, may be deposited or stored by any use in this group.

E. **Truck Access.**

Routes for truck movement to and from the site shall be identified by the City of West Branch, the **Ogemaw County Road Commission** and the **Michigan Department of Transportation**, where applicable. Wear on public roads, traffic hazards, and encroachment of noise, dust, and other nuisances upon adjacent uses must be considered in the decision process to grant site plan approval.

F. **Activity Restrictions**.

No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted within a completely enclosed building.

G. **Fence Requirements**.

1. **Around Junk Yard or Resource Recovery**. Storage of junk should be screened by a solid fence or wall at least eight (8') feet in height. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously. All activities shall be confined within the fenced-in area. There shall be no stacking of material above the height of the fence or wall, except that moveable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area. Aesthetic and structural qualities of fencing shall be regulated by the Planning Commission at the time of site plan review.

2. **Around Sewage Treatment or Disposal Facility**. All operations shall be completely enclosed by a wire link fence not less than eight (8') feet high.

H. All roads, driveways, and parking lots used by the general public shall be paved, and loading and unloading areas within any junk yard shall be paved, watered or chemically treated so as to limit, for adjoining lots and public roads, the nuisance caused by wind-borne dust.

Section 7.8 Home Occupations & Cottage Industries

A Home Occupation does not require a zoning permit or zoning approval but shall comply with the standards listed herein. A Cottage Industry requires Planning Commission approval. A Home Occupation or Cottage Industry use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such Home Occupation or Cottage Industry.

A. **Employees**.

Off-street parking for employees shall be provided on the lot containing the Home Occupation or Cottage Industry.

1. **Home Occupation**. A Home Occupation may employ no more than one (1) person that works on the premises of the home occupation that does not physically reside within the premises containing the home occupation.

2. **Cottage Industry**. A Cottage Industry may employ no more than five (5) people that work on the premises of the Cottage Industry that do not physically reside within the premises containing the Cottage Industry.

B. **Use of Dwelling.**

The use of the dwelling unit for the Home Occupation or Cottage Industry shall be clearly incidental and subordinate to its use for residential purpose by the occupants. Provided further that not more than twenty-five (25%) percent of the total actual floor area of any story of the residence may be used for Home Occupation or Cottage Industry purposes. One hundred (100%) percent of the floor area of an accessory building may be used for the Home Occupation or Cottage Industry.

C. **Outside Appearance.**

There shall be no change in the outside appearance of the structure or premises or any visible evidence of the conduct of such Home Occupation or Cottage Industry, other than one (1) sign pursuant to **Section 3.30**. There shall be no off-site indication of a business operation.

D. **Traffic**.

No traffic shall be generated by such Home Occupation or Cottage Industry in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such Home Occupation or Cottage Industry shall be provided by an off-street area, located other than in a front setback.

E. **Equipment**.

No equipment or process shall be used in such Home Occupation or Cottage Industry, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no non-FCC (Federal Communications Commission) licensed equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

F. **Outdoor Storage and Display.**

1. **Home Occupations.** All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a Home Occupation.

2. **Cottage Industries**.

   a. **Unfinished Goods**. The outdoor storage of unfinished goods and/or materials is prohibited unless screened (by a tight-board wood fence or decorative masonry wall, landscaped buffer, landscaped berm, or similar method) from view from neighboring property and bordering road rights-of-way. If screening is required, the type and location of the same shall be approved by the Zoning Administrator.

   b. **Finished Goods**. The Planning Commission may permit the display of finished goods as part of the approval process.

G. **Hours of Operation**.

Hours of operation for Cottage Industries will be set during the approval process.

H. **Compliance, Inspections, and Violations.**

1. Upon written application by the owner, the Planning Commission may, for just cause, grant a time extension for compliance with the conditions of this Section.

2. Any Home Occupation or Cottage Industry shall be subject to periodic review by the Zoning Administrator, if needed, at the discretion of the Zoning Administrator.

3. If the Zoning Administrator has reason to believe the property owner is in violation of his or her permit or that grounds for revocation exist, written notice of alleged violation(s) shall be sent to the operator of the Home Occupation or Cottage Industry and to the owner of the real property premises, if different from the operator of the Home Occupation or Cottage Industry. The operator shall be afforded the opportunity to appear at a public hearing before the Planning Commission to present his or her case. The hearing notice procedures shall be the same as those for a Special Land Use.

4. Following the public hearing, the decision of the Planning Commission shall be made in writing and shall be based on specific findings of fact. Reasonable conditions may be imposed to prevent conflicts with other property uses or to assure compatibility with the standards of this Ordinance. The Planning Commission shall have the authority to limit the hours of operation, impose conditions of operation or, if deemed necessary, order the complete termination of the activity.

5. Proposed revisions or additions to a Home Occupation or Cottage Industry shall constitute a change of use and shall be subject to a new review and approval.

Section 7.9 Industrial Park

A. **Permitted Uses in Industrial Park**.

1. Uses primarily engaged in research and light manufacturing activities.

2. Uses are allowed that do not have or create external noise, light, or effluents. Uses that meet these requirements are at the determination of the Planning Commission.

3. Distribution and warehousing plants.

4. Administrative, professional and business offices associated with and accessory to a permitted use.

5. Cafeteria, cafe, restaurant or auditorium accessory with and incidental to any of the foregoing uses.

B. **Development Standards**.

Development standards pursuant to **Section 4.10.C** shall apply to industrial parks.

C. **Building Construction and Materials.**

Buildings, including buildings associated with the principle structure, shall be constructed of a material other than unfinished galvanized steel or sheet aluminum for exterior walls. The owner shall take appropriate measures to minimize dust, storm water runoff, and construction debris during construction and shall be prohibited from allowing construction activities from injuring other properties.

D. **Telephone and Electrical Service**.

All on-site electrical lines and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view of streets and adjacent properties.

E. **Nuisances**.

No portion of the Park shall be used in such a manner as to create a nuisance to adjacent sites, such as but not limited to vibration, sound, electro-mechanical disturbance, radiation, air or water pollution, dust emission of odorous, toxic or noxious matter. The result of every action or omission whereby any restriction or covenant in this document is violated in whole or in part is hereby declared to be a nuisance.

Section 7.10 Kennels & Dog Clubs

Kennels are subject to the following conditions:

A. Compliance with all City and State Regulations

B. All activities shall be conducted within a completely enclosed structure or completely fenced pens.

C. Structures or pens shall not be located less than one hundred (100') feet from a public right-of-way or less than fifty (50') feet from a side or rear lot line.

D. The kennel shall be established and maintained to eliminate objectionable odors, noise and other conditions.

E. Kennel facilities shall be designed as follows:

1. Constructed of masonry or comparable soundproofing material.

2. Mechanical ventilation shall be provided in all areas.

3. Floor drains are to be directly connected to a sanitary sewer system approved by the Health Department.

F. **Operating standards**.

1. Animal odors and habitual barking noises shall not be detectable beyond the lot lines of the property in which the kennel is located.

2. Dust and drainage from the kennel operation shall not create a nuisance or hazard to adjoining property uses.

3. The premises shall be kept clean and sanitary manner, including the proper disposal of refuse, to prevent the spread of disease or offensive odor.

4. Refuse shall not include animal waste.

5. Animal waste shall be disposed of through a sewage disposal system.

6. Such facilities shall be subject to any other reasonable conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, sound-proofing, sanitary requirements, buffering).

Section 7.11 Manufactured Housing Communities

A. **Permitted Uses**.

1. Manufactured housing communities, subject to the requirements established and regulated by the Manufactured Housing Commission rules and the provisions of this Section.

2. Clubhouse, swimming pool, playgrounds, common areas and recreation facilities for the use of manufactured housing community residents.

3. Accessory uses or structures such as manufactured housing community business office, laundry facilities, and home occupations and cottage industries otherwise permitted in residential districts under this Article.

4. Public Service Installations.

B. **Compliance with State of Michigan Administrative Rules**.

All manufactured housing communities shall comply with the administrative rules currently in effect for the State of Michigan including **R 125.1101 et seq**.

C. **Solid Refuse, Garbage and Recyclables**.

The disposal of solid refuse shall comply with all City and other government requirements for refuse disposal.

D. **Manufactured Home Installation**.

Installation of manufactured homes upon each manufactured home site shall be accomplished in accordance with Part 6 of the **Manufactured Housing Commission** rules. All manufactured homes shall be connected to utilities and shall be skirted and anchored in accordance with Part 6 of the Manufactured Housing Commission rules.

Section 7.12 Outdoor Sales & Storage Facility

A. This Section shall apply to outdoor storage whenever such stored goods are not owned and/or produced by the owner of the property on which they are stored.

B. No outdoor storage shall be permitted in the front yard or in any required side setbacks for the district in which the Commercial Outdoor Storage use is located.

C. Where an outdoor storage area is adjacent to a residential zoned district or use, a solid fence or wall six (6') in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.

D. Lot area, lot width, and other dimensional requirements of the zoning district shall be complied with, provided that no item or items displayed outdoors shall be greater than thirty- five (35') feet in height.

E. The Planning Commission may establish, as a condition of approval, hours of operation for the Outdoor Sales Facility.

F. The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen landscaping, berms, and fencing; and such conditions may be in addition to the Buffering standards of **Section 3.20**.

G. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or fencing.

H. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of sixty (60) decibels at any property line. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.

I. The outdoor sales area shall be paved, or mechanisms to prevent the creation of dust shall be implemented. The site plan shall include measures satisfactory to the Planning Commission to contain blowing dust, trash, and debris on the site.

Section 7.13 Planned Unit Development (PUD) & Site Condominiums

A. **Intent**.

This section is intended to encourage innovation in land use patterns and variety in design for development of large parcels as well as encouraging economy and efficiency in provision of public services, the use of land, natural resources and energy. These regulations provide flexibility for developers while protecting public values.

B. **Permitted Uses and Standards**.

Any land use authorized in this Ordinance may be included in a planned unit development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development. Mixed use PUD's are encouraged in all districts. However, PUD's that are primarily residential should locate in residential or mixed use districts. PUD's that are primarily commercial should locate in commercial or mixed use districts. Site condominiums developments are approved as Planned Unit Developments.

C. **Modification of District Standards.**

Minimum development standards set forth by the original district in which the proposed PUD is located shall act as general guideline. To encourage flexibility and creativity consistent with the intent of PUD regulations, the City may permit specific departures from the requirements of the Zoning Ordinance. Any regulatory modification shall be approved through a finding by the City Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning methods.

D. **Open Space**.

1. Every PUD shall contain open space. Forest, wetland or other unique environmental areas may be left in a natural state. Cropland may not be counted as landscaped open space nor may yard areas of individual residential lots be included. However, landscaped yard areas for multiple dwellings or nonresidential uses may be included. Areas covered with buildings, streets, parking lots, driveways and other paved surfaces are not considered open space.

2. Development in dedicated open space areas may include a recreational trail, picnic area, children's play area, greenway, farm or linear park.

3. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the City, such as: recorded deed restrictions, restrictive covenants conservation easements, plat dedication, or other legal means that runs with the land. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed

to another use. Such conveyance shall indicate the proposed allowable use(s) of the dedicated open space. The City may require the inclusion of open space restrictions that prohibit the following:

a. Dumping or storing of any material or refuse;

b. Activity that may cause risk of soil erosion or threaten any living plant material;

c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;

d. Use of motorized off-road vehicles;

e. Cutting, filling or removal of vegetation from wetland areas;

f. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.

E. **Failure To Maintain Open Space**.

If the developer fails to maintain the common open space in reasonable order and condition in accordance with the plan, the Planning Commission may serve written notice upon such organization or upon the residents of the planned unit development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be remedied within thirty (30) days, and shall state the date and place of a hearing thereon, which shall be held within fourteen (14) days of the notice.

At the hearing the Planning Commission may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be remedied. If the deficiencies set forth in the original notice or in the modifications are not remedied within the thirty (30) days or any extension, the City, in order to preserve the taxable values of the properties within the planned unit development and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain it for a period of one (1) year. The entry and maintenance shall not vest in the public any right to use the common open space, except when the open space is voluntarily dedicated to the public by the owners. Before the expiration of the organization responsible for the maintenance of the common open space, a public hearing shall be scheduled upon notice to such organization or to the residents of the planned unit development, to be held by the Planning Commission at which hearing the organization or the residents of the planned unit development shall show cause why the maintenance by the City shall not, at the election of the Planning Commission, continue for a succeeding year. If the Planning Commission determines that the organization is not ready or willing or able to maintain the common open space in a good, clean, and safe condition, the City Council, in its discretion may continue to maintain the open space, subject to a similar hearing and determination in the next succeeding year.

The cost of such maintenance by the City shall be proportionally assessed against the properties within the planned unit development that have a right of enjoyment of the common open space and

shall become a tax lien on the properties. The City, at the time of entering upon the common open space for the purposes of maintenance, shall file a notice of the lien in the Register of Deeds office of the county, recorded upon the properties affected by the lien within the planned unit development.

F. **Environmental Standards**.

Environmental design criteria in a PUD shall include the following: the preservation of trees, groves, waterways, scenic points, historic spots, and other community assets and landmarks. If animal or plant habitats of significant value exist on the site, the City, as a condition of approval, may require that the PUD plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

G. **Approval Process**.

1. **Special Use Process.** Approval of a PUD shall be handled as a Special Use Permit pursuant to **Article 6**. A pre-application conference as described in **Section 5.4** is mandatory.

2. **Preliminary and Final Site Plan Approval.** The applicant has the option of requesting a two-phase approval process consisting of a Preliminary Site Plan Approval and a Final Site Plan Approval. The application submittal requirements, public hearing, approval procedure, and standards in **Article 6** shall be followed for each phase. If this two-phase approval process is chosen, a final zoning permit for the Planned Unit Development shall not be issued until the Final Site Plan has been approved by the Planning Commission. If the applicant does not choose this two-phase approval approach, the approval process shall consist of only the review of the final site plan using the Special Use Permit approval process.

3. **Phasing**. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Planning Commission.

4. **Amendments**. Amendments to an approved PUD are administered pursuant to **Section 5.8**.

Section 7.14 Public Buildings, Utilities & Service Installations

A. All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other buildings on the same site development.

B. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material. On residential lots, electrical, gas and cable boxes shall be located behind the front line of the principal structure in the side or rear yard and in some cases may be required to be fenced for safety.

C. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

Section 7.15 Restaurants, Drive-Through

A. The main and accessory buildings shall be set back a minimum of thirty (30') feet from any adjacent right-of-way line or residential property line.

B. Applicable off-street waiting areas shall be provided in accordance with parking and loading regulations.

C. The subject property shall have access to an arterial or collector street.

D. Exterior trash receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. All applications shall include a description of a working plan for the cleanup of litter.

E. All drive-thru window lanes shall be separated by curb from the parking lot's interior driveways.

F. Any exterior speaker/microphone system shall be arranged and/or screened to prevent objectionable noise impact on adjoining properties.

G. All exterior seating/play areas shall be completely enclosed by a three (3) foot high fence.

H. The Planning Commission shall approve the hours of operation to prevent negative impact on adjoining properties.

Section 7.16 Self Storage Facilities / Mini Storage

A. Building separation between self-storage buildings on the same site shall be fifteen (15'), as measured from side-to-side, or equal to the building height, whichever is greater.

B. A sight-proof barrier shall be provided around the perimeter of the development. Said barrier may consist of either the solid facades of the storage structures or a fence. If a fence is provided, it shall be a minimum of six (6) feet in height and shall be constructed of brick, stone, masonry units,

or wood products, which are determined by the Planning Commission to be durable and weather resistant.

C. Internal driveway aisles shall be a minimum of twenty-four (24') feet in width.

D. All off-street parking areas and driveways shall be hard surfaced and properly drained.

E. All ingress and egress from this site shall be directly onto a public street.

F. The height of a single storage unit shall not exceed one (1) story or fifteen (15') feet, except that a caretaker or resident manager's unit may be allowed a building height of two (2) stories or twenty-five (25') feet. Storage facilities may be multi-storied.

G. All storage on the property shall be kept within an enclosed building except as approved by the Planning Commission.

H. The use of the premises shall be limited to storage only, and shall not be used for any auction, sales, storage, or the servicing, repair, or fabrication of any vehicle, boat, trailer, or similar item.

Section 7.17 Sexually Oriented Business & Adult Media Stores

A. **Intent**.

There are some uses that, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are grouped. Such uses may have deleterious effects upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to blighting or downgrade the surrounding neighborhood. These special regulations are itemized in this Section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area or next to residential zones or certain institutional uses.

B. **Distance Restrictions**.

1. Sexually Oriented Businesses or Adult Media Stores shall not be permitted to be established within one thousand (1,000') feet of each other. This distance shall be measured from the property lot line of one Sexually Oriented Business or Adult Media Store to the property lot line of the other Sexually Oriented Business or Adult Media Store.

2. It shall be unlawful to hereafter establish any Sexually Oriented Business or Adult Media Store, as defined, within one thousand five hundred (1,500') feet of any residentially zoned property or within one thousand five hundred (1,500') feet of any religious or educational institution, library, day care centers, public park or recreational land use. This distance shall be measured from the property lot line of the Sexually Oriented Business or Adult Media Store to the property lot line of the residentially zoned property or the property lot line of any religious or educational institution, library, day care center, public park or recreational land use.

C. **Signs and Public or Exterior Display**.

Window displays, signs, decorative or structural elements of buildings shall not include or convey specific examples of actual adult uses, and are limited to the sign provisions of this Ordinance.

No Sexually Oriented Business or Adult Media Store shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specific sexual activities," "specified anatomical areas," or “sexually oriented toys or novelties,” (as defined in this Ordinance) from any public way or from any property not licensed as a Sexually Oriented Business or Adult Media Store. This provision shall apply to any display, decoration, sign, show window, structural elements or other opening.

D. **Parking and Lighting**.

All parking shall be situated in the front yard, adjacent to and visible from a public road and shall be lighted. All entrances and exits to the structure shall be lighted during the hours of operation.

E. **Precautionary Note to the Zoning Board of Appeals**.

When considering any appeal from a Sexually Oriented Business or Adult Media Store for reduction of spacing or separation standards established herein, the Zoning Board of Appeals shall address each of the following issues and include the findings regarding each point in their minutes.

1. **Ordinance Intent**. The proposed use shall not be contrary to the intent and purpose of this Ordinance or injurious to nearby properties.

2. **Blighting Influence**. The proposed use shall not enlarge or encourage the development of a concentration of such uses or blighting influences.

3. **Neighborhood Conservation**. The proposed use shall not be contrary to any program of neighborhood conservation, revitalization or urban renewal.

4. **Other Standards**. The proposed use, and its principal building, shall comply with all other regulations and standards of this Ordinance.

Section 7.18 Temporary Indoor & Outdoor Uses, Buildings & Structures

A. **Exempt Activities**.

School fund raising activities are exempt from the requirements of this Section. Private garage and yard sales, as defined in this Ordinance, in the Residential districts are exempt from requirements of this Section.

B. **Evidence of Ownership or Permission.**

Evidence of ownership, lease, or permission for use of any site for which a Temporary Permit or approval is sought, must accompany all permit requests.

C. **Length of Permit**.

A temporary permit may be granted by the Planning Commission for a maximum of three (3) consecutive months. Additional temporary permits for the same proponent on the same site may be granted no sooner than one (1) month following the expiration of the previous permit. The total time period for all temporary permits granted to one proponent shall not exceed six (6) months in one calendar year.

D. **Structures-Outdoor Uses**.

Structures for the display of outdoor sales items are allowed provided they are not used for human shelter. Structures may not be used for an indoor sales area. One (1) structure for storage of sales items is allowed under the following conditions:

1. It is no larger than one hundred and fifty (150') square feet;
2. There is no foundation;
3. No portion of the structure may become unattached or move as a result of wind; and
4. It is anchored to withstand thirty (30 lbs.) pounds per square foot wind stress factor.

Structures of any kind must be removed PRIOR to expiration of the permit.

E. **Structures-Indoor Uses**.

Structures for the display of indoor sales items are allowed provided they are not used for human shelter. One structure for sales items is allowed under the following conditions:

1. There is no foundation;

2. No portion of the structure may become unattached or move as a result of wind; and

3. It is anchored to withstand thirty (30) pounds per square foot wind stress factor.

Structures of any kind must be removed PRIOR to expiration of the permit.

F. **Uses Requiring an Official Site Plan and Planning Commission Review**.

If the use is for greater than five (5) days, within a one hundred and eighty (180) day period, a site plan must be submitted to the Planning Commission, and all other provisions of this Section must be followed, but no fee is required. The owner of the property on which the Temporary Use is located is responsible for providing the site plan showing the temporary indoor or outdoor use and its conformance with Ordinance requirements. This site plan may be an addition to the original plan for the property. Any violations of the Temporary Use are the responsibility of the owner of the property on which it is located.

1. **Overnight Residing on Temporary Site Prohibited**. The temporary site may not be occupied for more than twelve (12) hours per day. In no event shall overnight occupation be permitted.

2. **Temporary Signs**. Temporary signs shall be allowed, by permit, for the same period in which the temporary use has been approved. A total of two (2) temporary sign permits may be granted for one (1) parcel in a year.

3. **Sanitary Facilities**. Sites selling items for human consumption must have access to hand washing and toilet facilities. Sites selling items not for human consumption must have access to toilet facilities only.

4. **Display of Goods**. Display and sale of goods may not be within the setbacks for the zoning district.

G. **Uses Not Requiring an Official Site Plan or Planning Commission Approval.**

Private temporary outdoor uses and those associated with nonprofit organizations meeting the definition of **Nonprofit Organizations**, in Article 2, may be granted temporary use permits by the City Manager and Zoning Administrator, at no cost to the organization if:

1. The use is for five (5) days or less within a one hundred and eighty (180) day period;

2. A drawing of the site and description of activity is provided;

3. No structures for display, sale or storage remain on the site other than during the hours of operation;

4. The organization agrees, by signature, to consent to the conditions outlined by the City Manager and Zoning Administrator for this temporary outdoor use;

5. As a result of the addition of a temporary use, the number of parking spaces shall not be reduced below the required number of parking spaces for the temporary use and permanent use combined; and

6. The temporary use location must meet all yard requirements of the zone in which it is located.

7. **Temporary Signs**. Temporary signs shall be allowed, by permit, for the same period in which the temporary use has been approved.

Section 7.19 Wireless Communications Facilities

A. **Intent and Purpose**.

The intent and purpose of these regulations is to accommodate the communications needs of people while protecting the public health, safety and general welfare of the community. These regulations will:

1. Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;

2. Minimize adverse visual effects of towers through design and siting standards;

3. Avoid potential damage to adjacent property from tower failure through structural standards and setback requirements; and

4. Maximize the use of existing approved towers and buildings to accommodate new wireless telecommunication facilities in order to reduce the number of towers necessary to serve the community.

B. **Permitted and Special Uses.**

A wireless communication facility shall require a zoning permit in all instances and may be permitted as follows:

1. **Co-Location (all districts).** A Wireless Service Facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower as a permitted use in all districts provided the proposed co-location will not do any of the following:

   a. Increase the overall height of the wireless communications support structure by more than twenty (20') feet or ten (10%) percent of its original height, whichever is greater.

   b. Increase the width of the wireless communications support structure by more than the minimum necessary to permit co-location.

c. Increase the area of the existing equipment compound to greater than two thousand five hundred (2,500) square feet.

Wireless telecommunication antennas co-location on roofs, walls and existing towers that meets the above criteria may be approved by the City staff provided the antennas meet the requirements of this ordinance after submittal of a final site plan and a report prepared by a licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated. Co-location that does not meet the any of the above **a-c** shall only be approved through the Special Use Permit procedure specified in **subsection B.5** below.

2. **Towers Permitted by Right in Residentially-Zoned Areas.** Towers in Residentially zoned areas are only permitted by right if they are:

   a. Towers supporting amateur radio antennas and conforming to all applicable provisions of this Ordinance shall be allowed in the rear yard of parcels.

   b. Towers supporting commercial antennas and conforming to all applicable provisions of this Ordinance. Such towers shall be allowed only in the following locations by right and shall be permitted through the site plan review procedures outlined in this Ordinance:

      (1) Church sites, when camouflaged as steeples or bell towers;

      (2) Park sites, when compatible with the nature of the park; and,

      (3) Government, school, utility and institutional sites, according to the Statement of Priority of users and minimum requirements for use of City owned properties.

3. **Towers Permitted by Right in Commercial/Industrial Areas.** Towers in commercially or industrially zoned areas are permitted by right if they qualify as towers permitted by right in residentially zoned areas.

4. **New Towers by Special Use Permit.** Newly constructed towers in G-B and IND Districts are allowed by Special Use Permit under the following situations:

   a. The Planning Commission finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one and one half (1.5) mile radius of the proposed tower location due to one or more of the following reasons:

      (1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(3) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonable as documented by a qualified and licensed professional engineer.

(4) Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

5. **Special Use Permit Approval Procedure for New Towers**. An application for Special Land Use approval of wireless communications equipment and support structures described above shall include all information required by **Section 5.5**.

a. After an application for a Special Land Use approval is filed, the Zoning Administrator shall determine whether the application is administratively complete. The application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.

b. If, before the expiration of the 14-day period under **subsection B.5.a**, the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under **subsection B.5.a** is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

c. The Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

d. The Planning Commission may require a performance guarantee as a condition of approval.

6. **Small Cell Wireless Facilities**.

a. **Exempt Small Cell Wireless Facilities**. The co-location of a small cell wireless facility and associated support structure within a public right of way (ROW) is not subject to zoning reviews or approvals under this Ordinance to the extent it is exempt from such reviews under the **Small Wireless Communications Deployment, 2018 PA 365, as amended**. In such case, a utility pole in the ROW may not exceed forty (40') feet above ground level without Special Land Use approval and a small cell wireless facility in the ROW shall not

extend more than five (5') feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

b. **Administrative Approval for Non-Exempt Small Cell Wireless Facilities**. The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with **2018 PA 365, as amended** shall be subject to review and approval by the Zoning Administrator in accordance with the following procedures and standards:

(1) The processing of an application is subject to all of the following requirements:

(a) Within thirty (30) days after receiving an application under this subsection, the Zoning Administrator shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.

(b) The running of the time period tolled under subsection (a) above resumes when the applicant makes a supplemental submission in response to the Zoning Administrator's notice of incompleteness.

(c) The Zoning Administrator shall approve or deny the application and notify the applicant in writing within ninety (90) days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or one hundred fifty (150) days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and Zoning Administrator.

(2) The Zoning Administrator shall base their review of the request on the standards contained in **Sections 5.10**; provided, however that a denial shall comply with all of the following:

(a) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.

(b) There is a reasonable basis for the denial.

(c) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

(3) In addition to the provisions set forth in **subsection (2)** above, in the Zoning Administrator's review:

(a) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.

(b) An applicant shall not be required to submit information about its business decisions with respect to any of the following:

i. The need for a wireless support structure or small cell wireless facilities.

ii. The applicant's service, customer demand for the service, or the quality of service.

(c) The Zoning Administrator may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.

(d) The Zoning Administrator may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.

(4) Within one (1) year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the Zoning Administrator and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required, the zoning approval is void.

C. **Good Faith Effort to Co-locate.**

Licensed carriers shall share wireless service facilities and sites where feasible and appropriate, thereby reducing the number of wireless service facilities that are stand-alone facilities. All applicants for a Special Use Permit for a wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

1. A survey of all existing structures that may be feasible sites for co-locating wireless service facilities;

2. Contact with all the other licensed carriers for commercial mobile radio services operating in the City and;

3. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

In the event that co-location is found to be infeasible, a written statement of the reasons for the lack of feasibility shall be submitted to the City. The City may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the

expense of the applicant. The City may deny a Special Use Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

D. **Tower Setbacks**.

Towers shall conform with each of the following minimum setbacks requirements:

1. Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback areas, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

2. Towers shall not be located between a principal structure and a public street, with the following exceptions:

   a. In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.

   b. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

3. A tower's location in relation to a public street may vary, at the discretion of the City Planning Commission, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standards, power line support device, or similar structure.

4. Towers and associated structures, including fencing, may not be constructed within five hundred (500') feet of a dwelling unit, except where they are being co-located on existing towers or structures.

E. **Tower Height**.

In all zoning districts, the maximum height of any tower, including antennas and other attachments, shall not exceed two hundred (200') feet except as granted by the Zoning Board of Appeals.

F. **Tower Lighting**.

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the **Federal Aviation Administration** or other Federal or State authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

G. **Signs and Advertising**.

The use of any portion of a tower for signs or other forms of advertising other than warning or equipment information signs are prohibited.

H. **Color**.

Wireless support structures shall be colored so as to be as unobtrusive as possible. The coloring of wireless support structures in alternate bands of color shall be permitted only if specifically required by **Federal Communications Commission (FCC)**, **Federal Aviation Administration (FAA)** or **Michigan Aeronautics Commission (MAC)** regulations. If alternate band coloring is required by FCC, FAA, or MAC regulations, the applicant shall provide documentation of such requirements and regulations.

I. **Abandoned or Unused Towers or Portions of Towers**.

Abandoned or unused towers or portions of towers shall be removed as follows:

1. All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the City Manager and Zoning Administrator. A copy of the relevant portions of a signed lease, which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site, shall be submitted at the time of application. In the event that a tower and associated facilities is not removed within twelve (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

2. Unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new Special Use permit.

J. **Interference with Public Safety Telecommunications**.

No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study, which provides a technical evaluation of existing and proposed transmission and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

K. **Modifications**.

A modification of a wireless service facility may be considered equivalent to an application for a new wireless service facility and will require a Special Use Permit when the following events apply:

1. The applicant and/or co-applicant wants to alter the terms of the Special Use Permit by changing the wireless service facility in one or more of the following ways:

    a. Change in the number of facilities permitted on the site;

b. Change in the technology used for the wireless service facility.

2. The applicant and/or co applicant wants to add any equipment or additional height not specified in the original design filing.

Section 7.20 Sidewalk Cafes

A. **Intent**.

In the interest of promoting business by increasing activity and improving the general business climate, the City Manager or Zoning Administrator may issue revocable permits to a business to operate a sidewalk or outdoor café as an extension of or compatible with the existing business on a portion of City sidewalk or alley adjacent to the business. The permit may be issued under the following terms and conditions:

The sidewalk café will not:

1. Interfere with the use of the street, sidewalk, or alley for vehicular or pedestrian traffic.

2. Unreasonably interfere with the view of, access to, or use of property adjacent to the street or alley.

3. Reduce any sidewalk width to a total of less than six (6') feet.

4. Interfere with street, sidewalk, or alley cleaning or snow removal activities.

5. Cause damage to the street, sidewalk, alley, trees, benches, landscaping or other objects lawfully located thereon.

6. Cause a violation of any State or local law.

7. Be principally used for off-premise advertising.

8. Be attached to or reduce the effectiveness of or access to any utility pole, sign or other traffic control device.

9. Cause increased risk of theft or vandalism.

10. Be adjacent to property zoned exclusively for residential purposes.

B. **Certificate of Liability**.

Prior to the issuance of a sidewalk café permit, the applicant shall provide the City with a certificate of liability insurance in an amount to be determined by the City. The certificate of insurance must be in effect for at least the period of the permit to be issued. The City shall be named as an additional

insured on the business owner's liability insurance policy.

C. **Hold Harmless**.

The business shall, by written agreement with the City, indemnify and hold harmless the City from all claims or damages incident to the establishment and operation of a sidewalk café.

Section 7.21 Accessory Dwelling Units

The purpose of this Section is to allow a minor amount of space on a lot and/or within an accessory building to be used, rented or leased as separate living quarters for extended family or non-family members in residential neighborhoods within the City. These provisions are further intended to provide reasonable control in recognition of the high percentage of owner-occupied single-family homes in the City. The purpose of these standards is also to prevent the undesirable proliferation of permanent two-family units which could, over time, disrupt the character of single-family neighborhoods. The following regulations shall apply:

A. One (1) accessory dwelling unit is allowed per lot.

B. If the accessory dwelling unit is rented or leased, the tenants of the accessory dwelling unit shall be permanent residents rather than transients.

C. When accessory dwelling units are attached to the primary or accessory structure, the accessory unit shall not exceed six hundred (600) square feet or twenty-five (25%) percent of the total floor area of the principal dwelling, whichever is less, so that it remains an accessory use to the primary dwelling and does not result in the creation of a duplex or apartment building.

D. The accessory dwelling unit shall be provided electricity, plumbing, and heat.

E. The accessory unit shall be a self-contained unit and shall be:

   1. located above an attached or detached garage, or

   2. a freestanding, detached unit except that freestanding accessory dwelling units shall not be allowed in R-1.

F. The residents of the principal dwelling shall maintain the accessory unit and shall ensure that no excessive noise, traffic, or blight occurs on the property.

G. The accessory dwelling unit shall conform to current building code standards.

H. One (1) additional parking space shall be provided on-site for the accessory dwelling unit.

Section 7.22 Solar Energy

A. **Solar Energy Facilities (Utility-Scale)**.

1. **Reflection/Glare.** Solar collection devices, or combination of devices, shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard. This may be accomplished by both the placement and angle of the collection devices as well as human-made or environmental barriers. Glare intensity is considered an issue if it measures more than twenty (20%) percent of the incident sun intensity. Plans to reduce glare may be required in the initial materials submitted.

2. **Impervious Surface/Stormwater.** If more than eight thousand (8,000) square feet of impervious surface will be located on the site, the application shall include a drainage plan prepared by a registered civil engineer showing how stormwater runoff will be managed. If detergents will be used to clean solar panels, details on the type of detergent, frequency and quantity of use, and stormwater quality protection measures shall be provided. Any necessary permits from outside agencies for off-site discharge shall be provided.

3. **Screening.** Solar devices shall be screened from view from any residential district by use of a masonry screen wall, evergreen vegetation or other screening of a similar effectiveness and quality, if determined as necessary by the Planning Commission.

4. **Setbacks.** The setbacks of all solar collection devices and ancillary equipment shall be at least fifty (50) feet from all property lines. Solar panels will be kept at least one hundred (100') feet from a residence that is not part of the Permitted Use.

5. **Abandonment.** Any freestanding solar collection site or device which is not used for six (6) months shall be deemed to be abandoned. The applicant/permit holder will be so notified in writing by the City and requested to dismantle the site and return it to its original state. If there are mitigating circumstances as to why the site has not been used, the applicant/permit holder may contact the City and request a three (3) month extension. If a site has been deemed abandoned and no request for an extension is received, the applicant/permit holder will again be notified to dismantle the site and return it to its original state. If the applicant/permit holder does not do this, the City will have the removal and restoration done at the owner/applicant's expense. Removal shall include removing posts, equipment, panels, foundations and other items so that the ground is restored to its preconstruction state and is ready for development as another land use.

B. **Solar Energy Panels (Accessory)**.

Solar energy panels shall be allowed as an accessory use in all zoning districts subject to the requirements below. A zoning permit is required.

1. **Height**.

a. Ground-Mounted or Pole-Mounted Accessory Solar Energy Panels shall not exceed twenty (20) feet in height when oriented at maximum tilt.

b. Building-Mounted or Roof-Mounted Accessory Solar Energy Systems shall not exceed the maximum allowed building height in any zoning district.

2. **Setbacks**.

a. Ground-Mounted or Pole-Mounted Accessory Solar Energy Panels shall conform to accessory building setbacks in **Section 3.10**.

b. Building-Mounted or Roof-Mounted Accessory Solar Energy Panels shall adhere to district setbacks for a principal building but may encroach into designated principal building setbacks by twelve (12") inches.

3. **Glare.** Panels shall not result in glare onto adjoining properties or public rights of way.

Section 7.23 Medical Marijuana Primary Caregiver Facilities

A. **Intent and Purpose**.

The purpose of this Section is to implement land use regulations to address the medical use of marijuana as authorized by the enactment of the **Michigan Medical Marijuana Act** (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, MCL 333.26423, et seq, and its administrative rules, **R 333.101, et seq**.

B. **Regulations for Qualifying Patients**.

The medical use of marijuana by a qualifying patient in that qualifying patient's dwelling or an accessory building to that dwelling is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

1 The qualifying patient must be issued and at all times must maintain a valid registry identification card by the **Michigan Department of Licensing and Regulatory Affairs** or any successor agency under the provisions of the **MMMA**.

2 All marijuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that permits access only by the qualifying patient.

3 If a room with windows within the dwelling or accessory building is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

C. **Regulations for Primary Caregivers**.

The medical use of marijuana by a primary caregiver in a primary caregiver facility is hereby authorized as a use by right in any zoning district, provided that all of the following regulations are met:

1. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the **Michigan Department of Licensing and Regulatory Affairs** or any successor agency under the provisions of the **MMMA**.

2. Except when being transported as provided in **subsection C.8** below, all marijuana plants or products must be contained within the primary caregiver facility in an enclosed, locked facility that segregates the marijuana plants and products for medical use for each qualifying patient and that permits access only by the primary caregiver.

3. If a room with windows within the primary caregiver facility is utilized to grow marijuana for medical use, any artificial lighting shall be shielded, to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

4. Except as provided herein, no more than one (1) primary caregiver shall be permitted to provide primary caregiver services within a single primary caregiver facility. Provided, however, a husband and wife or not more than two (2) unrelated individuals whose relationship is of a permanent and distinct domestic character and who live as a single, nonprofit housekeeping unit with single culinary facilities may both be primary caregivers within the same primary caregiver facility.

5. Except for any qualifying patients who reside with the primary caregiver at the primary caregiver facility, no more than five (5) qualifying patients may be present at the same time at a primary caregiver facility for any purpose directly related to primary caregiver services. This subsection, however, shall not be construed to prohibit the presence of qualifying patients at a primary caregiver facility for purposes unrelated to primary caregiver services.

6. Qualifying patient visits to a primary caregiver facility shall be restricted to between the hours of 8:00 a.m. and 8:00 p.m., except when

   (a) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or

   (b) the qualifying patient visits are for purposes unrelated to primary caregiver services.

7. No qualifying patients under the age of eighteen (18) shall be permitted at any time at a primary caregiver facility, except when

   (a) in the presence of his/her parent or guardian, or

   (b) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or

(c) the qualifying patient visits are for purposes unrelated to primary caregiver services.

8. No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the primary caregiver facility, except to a qualifying patient who resides with the primary caregiver at the primary caregiver facility. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition, all marijuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marijuana.

9. No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a primary caregiver facility, except by a qualifying patient who resides with the primary caregiver at the primary caregiver facility.

10. A primary caregiver shall display at the primary caregiver facility indoors and in a manner legible and visible to his/her qualifying patients:

    a. A notice that qualifying patients under the age of eighteen (18) are not allowed at the primary caregiver facility, except when

        (1) in the presence of his/her parent or guardian, or

        (2) the qualifying patient resides with the primary caregiver at the primary caregiver facility, or

        (3) the qualifying patient visits are for purposes unrelated to primary caregiver services, and

    b. A notice that no dispensing or consumption of marijuana for medical use shall occur at the primary caregiver facility, except to or by a qualifying patient who resides with the primary caregiver at the primary caregiver facility.

11. A primary caregiver facility shall not have any signage visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the primary caregiver facility.

12. A primary caregiver facility shall not be located within one thousand five hundred (1,500') feet of the lot on which another primary caregiver facility is located and shall not be located within one thousand five hundred (1,500') feet of a lot on which any of the following uses are located:

    (a) Any church or place of worship and its accessory structures.

    (b) Any public or private school, having a curriculum including kindergarten through 12th grade and its accessory structures.

(c) Any preschool, child care or day care facility and its accessory structures.

(d) Any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers, and other public places where children may congregate.

13. The portion of the primary caregiver facility, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring, certified by an electrician licensed in the State of Michigan, meeting the applicable requirements of the electrical code in effect in the City.

D. **Relationship to Federal Law**.

Nothing within this Section is intended to grant, nor shall it be construed as granting, immunity from Federal law.

E. **Commercial Marijuana Facilities**.

All commercial medical and recreational marijuana facilities or marijuana establishments as defined in the **Medical Marijuana Facilities Licensing Act, 2016 PA 281**, as amended, and **Initiated Law 1 of 2018**, as amended, are prohibited.

Section 7.24 Wind Energy

A. **Purpose and Goals.**

The purpose of this Section is to establish guidelines for siting wind energy systems and wind energy facilities. This Section's goals are as follows:

1. To promote the safe, effective, and efficient use of wind turbines and wind energy systems installed to reduce on-site consumption of electricity supplied by utility companies and/or to produce power that will be directly supplied to the electric power grid system.

2. To lessen potential adverse impacts that wind turbines and wind energy facilities may have on residential areas and land uses through careful design, siting, noise limitations, and innovative camouflaging techniques.

3. To avoid potential damage to adjacent properties from turbine failure through proper siting of turbine structures.

B. **Technological Advances and Design Standards Flexibility.**

The City recognizes the accelerated pace at which the technology of wind energy generation is constantly evolving, and the impact these technological changes may have on the use and placement of wind energy systems within the City. Consequently, in order to effectively incorporate new

technology that may outpace the regulations established herein, the Planning Commission may approve wind energy systems that do not fully comply with the strict development standards of these regulations, if in the opinion of the Commission they comply with the intent of the regulations and do not create significant adverse impacts on the petitioned property, abutting properties or the immediate neighborhood.

C. **On-Site Wind Energy Systems.**

A wind energy conversion system which is intended to primarily serve the needs of the property upon which it is located shall be permitted in the Industrial District. The following site development standards shall apply:

1. **Design & Installation**. All wind turbines (ground and roof-mounted) shall comply with building code. Wind turbines shall be installed by a licensed contractor and applications shall be accompanied by engineering drawings of the wind turbine structure including the tower, base, and footings. The installation of the wind turbine shall meet manufacturer's specifications.

2. **Plot Plan Submittal.** An application for the installation of a On-Site Wind Energy System shall include a plot plan including the following information:

   a. Location of the proposed wind turbine.

   b. Location of all structures on the property and adjacent properties and the distance from the wind turbine.

   c. Distance from other wind turbines on adjacent lots, if applicable.

3. **Height.** The maximum height shall be determined on a case-by-case basis dependent upon the site and manufacturer's specifications and recommendations. Wind energy system must be able to be contained on the property owner's lot in the event that it should fall.

4. **Number of Turbines (Horizontal or Vertical).** The number of turbines shall be determined by the spacing requirement of the manufacturer.

5. **Rotor Clearance.** A minimum fifteen (15') foot clearance from the ground shall be maintained for the vertical blade tip of a Horizontal Axis Wind Turbine and for the bottom of the rotating spire or helix of a Vertical Axis Wind Turbine.

6. **Guy Wires**. The use of guy wires shall be prohibited.

7. **Noise.** Small wind energy systems shall not cause a sound pressure level in excess of fifty-five (55) dB(A) or in excess of five (5) dB(A) above the background noise, whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.

8. **Vibration.** Small wind energy systems shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.

9. **Spacing**. Minimum spacing between wind energy systems (on- and off-site) shall be per the manufacturers specifications.

10. **Reception Interference.** Wind energy systems shall not cause interference with television, microwave, navigational or radio reception to neighboring areas.

11. **Shadow Flicker.** The property owner of a wind turbine shall make reasonable efforts to minimize shadow flicker to any occupied building on nearby properties.

12. **Potential Ice Throw**. Any potential ice throw or ice shedding from the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.

13. **Visual Impact.** All visible components of a small on-site wind energy system shall be colored a non-reflective, non-obtrusive neutral color and maintained in good repair in accordance with industry standards.

14. **Safety.** An on-site wind energy system shall have an automatic braking system to prevent uncontrolled rotation.

15. **Other Regulations.** On-site use of wind energy systems shall comply with all applicable State construction and electrical codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, **1959 PA 259**, as amended, (**Michigan Tall Structures Act**, being MCL 259.481 et. seq.) and the **Michigan Public Service Commission** and **Federal Energy Regulatory Commission** standards.

16. **Roof-Mounted Wind Energy Systems.**

    a. Roof-mounted Vertical Axis Wind Turbines must be located on the rear half (1/2) of the structure unless incorporated as an architectural design feature of the building.

    b. Horizontal Axis Wind Turbines shall not be roof-mounted, except for those specifically designed for such installation.

D. Commercial Wind Energy Facilities and Anemometer Towers.

Anemometer towers and wind energy facilities consisting of one (1) or more wind turbines whose main purpose is to supply electricity to off-site customers shall be allowed as a Permitted Use in the Industrial District and shall adhere to the following requirements in addition to the requirements contained in **Article 5.**

1. **Principal or Accessory Use.** A wind energy facility or anemometer tower may be considered either a principal or an accessory use. A different existing use or an existing structure on the

same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. **Sufficient Wind Resources.** The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one (1) year. Said study shall indicate the long term commercial economic viability of the project. The City may retain the services of an independent, recognized expert to review the results of the wind resource study prior to acting on the application for special approval. The Planning Commission may choose to waive the requirement for a wind study.

3. **Design & Installation.** All wind turbine generators shall comply with building code. Wind turbines shall be installed by a licensed contractor and applications shall be accompanied by engineering drawings of the wind turbine structure including the tower, base, and footings. An engineering analysis of the tower showing compliance with the currently adopted building code and certified by a licensed professional engineer shall also be submitted.

   Guy wires may be utilized to support a temporary (eighteen (18) months or less) anemometer tower, if demonstrated by the applicant to be necessary to maintain the safety of the structure.

4. **Minimum Site Area.** The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required wind energy setbacks and any other standards of this Section.

5. **Setbacks.** Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:

   a. **Setback from Property Line.** Each wind turbine generator shall be set back from any adjoining lot line a distance equal to the total height of the wind turbine generator including the top of the blade in its vertical position. The Planning Commission may reduce this setback provided the adjoining property is owned or leased by the applicant or an easement is obtained. If the adjoining property owned or leased by the applicant includes more than one (1) parcel, the properties may be considered in combination in determining setback relief. The amount of setback relief approved by the Planning Commission will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Planning Commission that any potential blade and ice throw will not cross the property line and that sound levels will not exceed sixty-five (65) decibels on the dB (A) scale at the property line from the proposed setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation, and other relevant factors.

b. **Setback from Road**. In addition to the above, a wind turbine generator shall, in all cases, be set back from a public or private road right-of-way a minimum distance equal to the height of the wind turbine generator total height as defined in the Ordinance.

c. **Setback from Structures**. Each wind turbine generator shall be setback from the nearest inhabited structure located on property not owned or leased by the applicant a distance not less than one and a half (1 ½) times the total height of the wind turbine generator.

d. **Setback from Communication and Power Lines**. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance of no less than four hundred (400) feet or one and a half (1 ½) times the total wind turbine height, whichever is greater, determined from the existing power or communications lines.

e. **Building Setbacks**. Setbacks for buildings accessory to a wind turbine generator shall conform to the setbacks of the district.

6. **Maximum Height**.

a. The maximum wind turbine generator or anemometer tower height shall be determined on a case-by-case basis dependent upon the site and manufacturer's specifications and recommendations.

b. The applicant shall demonstrate compliance with the **Michigan Tall Structures Act (1959 PA 259**, as amended), **FAA guidelines**, and **Michigan Aeronautics Commission** guidelines as part of the approval process.

7. **Turbine Separation.** Wind turbine separation distance shall be based on:

a. industry standards;

b. manufacturer recommendation; and

c. the characteristics (prevailing wind, topography, etc.) of the particular site location. Documents shall be submitted by the developer/manufacturer confirming specifications for tower separation.

8. **Minimum Ground Clearance.** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than fifty (50') feet.

9. **Maximum Noise Levels.** The sound pressure level generated by the wind energy system shall not exceed sixty-five (65) dB(A) measured at neighboring property lines. If the ambient sound pressure level exceeds sixty-five (65) dB(A), the standard shall be ambient plus five (5) dB(A).

10. **Maximum Vibrations.** Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the parcel on which it is located.

11. **Potential Ice Throw.** Any potential ice throw or ice shedding from a wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.

12. **Signal Interference.** No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.

13. **Visual Impact, Lighting, Power Lines**.

    a. Wind turbines shall be mounted on tubular towers, colored a non-reflective, non-obtrusive neutral color. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e. condition of exterior paint, signs, landscaping). A certified registered engineer and authorized factory representative shall certify that the construction and installation of the wind energy facility meets or exceeds the manufacturer's construction and installation standards.

    b. The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend facility components with the natural setting and the environment existing at the time of installation.

    c. Wind turbine generators shall not be artificially lighted, except to the extent required by the FAA or the MAC or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:

        (1) Shall be the intensity required under State or Federal regulations.

        (2) Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or Federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or Federal regulations.

        (3) All tower lighting required by State or Federal regulations shall be shielded to the extent possible to reduce glare and visibility from the ground.

    d. Wind turbines shall not be used to display any message except the reasonable identification of the manufacturer or operator of the wind energy facility.

e. The electrical collection system shall be placed underground within the interior of each parcel at a depth designed to accommodate the existing or permitted land use to the maximum extent practicable. The collection system may be placed overhead adjacent to State and County streets upon approval of the Planning Commission, near substations or points of interconnection to the electric grid or in other areas as necessary.

14. **Safety**.

a. Wind energy facilities shall be enclosed by a fence or wall.

b. All access doors to wind turbine towers and electrical equipment shall be locked.

c. Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.

d. All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.

e. Wind turbine generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

15. **Additional State, Federal, or Local Requirements.** Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the **Federal Aviation Administration (FAA)**, **Michigan Aeronautics Commission (MAC)**, the **Michigan Public Service Commission**, **National Electric Safety Code**, **Federal Energy Regulatory Commission**, and any other agency of the State, Federal, or local government with the authority to regulate wind turbine generators or other tall structures in effect at the time the application is approved.

16. **Hazard Planning.** An application for a wind turbine generator shall be accompanied by a hazard prevention plan. Such plan shall contain the following, if applicable:

a. Certification that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire hazard.

b. Location of landscaping to be designed to avoid spread of fire from any source on the turbine; such preventative measures may address the types and locations of vegetation below the turbine and on the site.

c. A listing of any hazardous fluids that may be used on site shall be provided in an electronic format, including Material Data Safety Sheets (MDSS).

d. Certification that the turbine has been designed to contain any hazardous fluids shall be provided.

e. A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.

17. **Approvals.** All required approvals from other local, regional, State or Federal agencies must be obtained prior to approval of a site plan. In the case where site plan approval is a requirement for other local, regional, State, or Federal agency approval, evidence of such shall be submitted with the site plan, and such approval of the site plan by the Planning Commission shall be conditional upon the approval of all other required permits.

18. **Removal of Wind Turbine Generators**.

a. The applicant shall submit a decommissioning plan. The plan shall include:

(1) The anticipated life of the project.

(2) The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.

(3) The method of ensuring that funds will be available for decommissioning and restoration.

(4) The anticipated manner in which the project will be decommissioned and the site restored.

b. Any wind turbine generator or anemometer tower that is non-operational for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer tower shall remove the same within one hundred eighty (180) days of receipt of notice of abandonment from the City. Failure to remove an abandoned wind turbine generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the City to remove the wind turbine generator or anemometer tower at the owner's expense.

c. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored.

d. The Planning Commission shall require the owner of the wind turbine generator to deposit a performance guarantee in an amount equal to the estimated costs associated with the removal of the wind turbine generator or anemometer tower and all associated equipment and accessory structures and restoration of the site to a reusable condition

which shall include the removal of all underground structures to a depth of five (5) feet below the natural ground level at that location. The amount of the performance guarantee shall be reviewed every five (5) years. The amount of the performance guarantee shall be increased based on an inflation rate equal to the average of the previous ten (10) years Consumer Price Index.

19. **Equipment Replacement.** The wind turbine generator in its entirety or major components of the wind turbine generator may be replaced without site plan review provided all regulations contained herein are adhered to.

Section 7.25 Personal Services/Professional Offices in Residential Districts

In R-1 and R-M, personal services, including beauty shops, tailoring, nail salons, massage studio, and similar establishments, and professional offices shall be aesthetically compatible with the residential characteristics of the surrounding neighborhood.

Article 8 Zoning Board of Appeals

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Section 8.1 Authority

The City Council, exercising the authority of **2006 PA 110, the Michigan Zoning Enabling Act**, as amended, hereby provides that a City Zoning Board of Appeals be established. Upon adoption of this Ordinance, the Zoning Board of Appeals established under the terms of the previous Zoning Ordinance shall remain in office, including all members.

Section 8.2 Membership

A. **Regular Members**.

1. The City of West Branch Zoning Board of Appeals shall consist of five (5) members. The first member of the Board of Appeals shall be a member of the City of West Branch Planning Commission, one (1) member shall be a member of the City Council, and the remaining members shall be selected and appointed by the Mayor and approved by the City Council from among the residents in the incorporated area of the City.

2. An elected officer of the City may not serve as chairperson of the Zoning Board of Appeals.

3. An employee or contractor of the City Council may not serve as a member of the Zoning Board of Appeals.

4. A member of the Zoning Board of Appeals who is also a voting member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.

B. **Alternates**.

The City Council shall appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to serve as a regular

member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

C. **Removal of Members**.

Members of the Board of Appeals shall be removable by the City Council for misfeasance, nonfeasance or malfeasance of duty or misconduct in office upon written charges and after public hearing.

D. **Officers**.

The Zoning Board of Appeals shall annually elect its own Chair, Vice-Chair, and Secretary at its January meeting or as soon thereafter as practicable.

E. **Per Diem**.

A per diem or reimbursement for expenses actually occurred shall be allowed to the Board of Appeals and shall be a reasonable sum, which shall be appropriated annually in advance by the City Council.

F. **Terms of Office**.

Terms shall be for three (3) years, except for members serving because of their membership on the Planning Commission or City Council whose terms shall be limited to the time they are members of the Planning Commission or City Council, respectively, and the period stated in the resolution appointing them. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired shall be filled for the remainder of the term.

Section 8.3 ZBA Procedures

A. **Meetings**.

1. Meetings shall be held at the call of the chairperson and at such times as the Board of Appeals may determine. A simple majority of the full membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.

2. All decisions of the Board shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its members shall take place at a meeting

open to the public except as provided in compliance with the **Open Meetings Act, 1976 PA 267**, as amended.

B. **Records**.

Minutes shall be recorded of all proceedings, which shall contain evidence and dates relevant to every case considered together with the votes of the member and the final disposition of each case. Such minutes shall be filed in the office of the City Clerk and shall be public records.

C. **Rules of Procedure**.

The Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function.

D. **Majority Vote**.

The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to decide upon any issue brought before the Board. For example, if three (3) members are present, out of a total of five (5) members, all three (3) must concur to pass a motion.

E. **Conflict of Interest**.

A member of the Zoning Board of Appeals shall disqualify himself or herself from discussion and voting in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

F. **Oaths and Witnesses**.

The Chair, or in his or her absence, Vice-Chair may administer oaths and compel the attendance of witnesses.

G. **Appeal Procedures**.

1. **Timing.** Any appeal from a ruling of the City Manager and Zoning Administrator or body concerning the enforcement of the provisions of this Ordinance shall be made to the Board of Appeals within ten (10) days after the outcome of the City Manager and Zoning Administrator's decision which is the basis of the appeal.

2. **Forms.** Any appeal shall be in writing on standard forms. The City Manager and Zoning Administrator shall transmit to the Board all documents, or direct copies thereof, constituting the record upon which the action appealed from was taken.

3. **Fee**. Any appeal to the Board of Appeals shall be accompanied with a payment of a fee established by resolution of the City Council to cover costs of processing such appeal.

4. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, or board of the City. Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

5. **Stay**. An appeal stays all proceedings, and thereupon all changes in the status quo of the property concerned shall constitute a violation of this Ordinance; except that the City Manager and Zoning Administrator may certify to the Board of Appeals after the notice of the appeal shall have been filed with him or her that for 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 restraining order, which may be granted by the Board of Appeals, or, on application to the Circuit Court when due cause can be shown.

6. **Date, Time & Notice.** Upon receipt of an application for appeal, the Chair of the Zoning Board of Appeals shall fix a reasonable time and date for a Public Hearing, not to exceed thirty (30) days from the date of filing of the appeal. Upon determination of the date and time of the Public Hearing, the City Clerk shall give public notice pursuant to **Section 9.7**.

H. **Decisions**.

1. **Timing**. The Zoning Board of Appeals shall return a decision upon each case within thirty (30) days of the filing of a request or appeal unless a further time is agreed upon by the parties concerned. Any decision of the Zoning Board of Appeals shall not take effect until the expiration of five (5) days after the date of said decision, unless the Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights. No Zoning Permit authorized by such a decision shall be issued until the decision has taken effect.

2. **Vote**. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body or to decide in favor of the applicant a matter upon which the Board is required to pass under an ordinance, or to effect a variation in this Ordinance.

3. The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

4. **Conditions.** The Board may impose conditions with any decision pursuant to **Section 9.6**.

Section 8.4 Powers & Duties

The City of West Branch Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in this Section. The Board of Appeals shall NOT have the power to alter or change the zoning district classification of any property, or to make any change in the terms or intent of this Ordinance. Sign variances shall be reviewed by the Planning Commission according to **Section 3.30**.

A. **Review**.

The Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the City Manager, Zoning Administrator, the Planning Commission, or by any other official in administering or enforcing any provisions of this Ordinance.

B. **Interpretation**.

The Board of Appeals, upon proper appeal, shall have the power to hear and decide upon appeals for the interpretation of the provisions of this Ordinance as follows:

1. So as to carry out the intent and purposes of this Ordinance.

2. To determine the precise location of the boundary lines between zoning districts.

C. Variances.

The Board of Appeals may have the power to authorize, upon proper application, specific variances from such dimensional requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations as specified in this Ordinance PROVIDED all of the five criteria of practical difficulty are satisfied. These are:

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render Ordinance conformity unnecessarily burdensome.

2. The variance will do substantial justice to the applicant as well as to other property owners.

3. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.

4. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

5. The problem and resulting need for the variance has been created by strict compliance with the Zoning Ordinance, not by the applicant or the applicant's predecessors.

D. **Rules for Granting of Variances**.

The following rules shall be applied in the granting of variances:

1. In granting a variance, the Board may specify, in writing, to the applicant such conditions in connection with the granting, that will, in its judgment, secure substantially the objectives of

the regulations or provisions to which such variances applies. The breach of any such conditions shall automatically invalidate the permit granted.

2. Each variance granted shall become null and void unless the provisions of the variance have been utilized by an applicant within six (6) months after the granting of the variance.

3. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year, from the date of the last denial, except on grounds and newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

4. In authorizing any variance, the Board of Appeals may require that a bond be furnished to insure compliance with the requirements, specifications and conditions imposed with the grant of variance.

5. The Board of Appeals may not create a nonconforming use or a use that is more nonconforming than the current nonconforming use. In the same way the Board may not create a nonconforming lot or a lot that is more nonconforming than the current nonconforming lot.

E. **Limitations**.

The Board of Appeals, notwithstanding any provisions to the contrary, shall **not** have the power to:

1. Alter or change the zoning district classification of any property.

2. Make any change in the terms or intent of this Ordinance.

3. Prohibit a use which is permitted in this Ordinance, change permitted uses in a district.

4. Determine the validity of this Ordinance.

5. Hear appeals from Planning Commission decisions concerning Specials Uses or Planning Unit Developments.

Section 8.5 Appeal to Circuit Court

The decision of the Zoning Board of Appeals shall be final. Any person or persons aggrieved by a decision of the Zoning Board of Appeals shall have the right to appeal to the Circuit Court. An appeal from a decision of a zoning board of appeals shall be filed within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision, whichever comes first.

Article 9 Administration & Enforcement

Sec	Name	Pg	Sec	Name	Pg
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Section 9.1 People Involved in the Zoning Process

The provisions of this Ordinance shall be carried out by the City of West Branch Planning Commission, the Zoning Board of Appeals, the City Council and the City Manager and Zoning Administrator in conformance with applicable State of Michigan enabling legislation.

A. **City Manager and Zoning Administrator**.

The City Council, with the recommendation of the Planning Commission, may employ a City Manager and Zoning Administrator to carry out day-to-day administration and enforcement of this Ordinance. Conditions of the City Manager and Zoning Administrator's employment, including compensation, shall be established by the City Council. Additional staff may be employed, under the supervision of the City Manager and Zoning Administrator, to assist with administration and enforcement of this Ordinance. The City Manager and Zoning Administrator's duties shall include the following items and any other tasks that may be assigned by the City Council or provisions of this Ordinance:

1. **Accept and Record Applications, Issue and Record Permits**. All applications for plot plans, site plans, special uses, and Zoning Board of Appeals requests shall be submitted to the City Manager and Zoning Administrator who shall keep a record of all applications that have been submitted and their disposition. When all applicable provisions of this Ordinance have been met regarding any application and the proper review procedures have been completed and the project approved by the appropriate approving body/person, the City Manager and Zoning Administrator shall allow a zoning permit to be issued for the proposed use. When conditions are not met, the City Manager and Zoning Administrator shall consult with the applicant to determine the proper course of action (see REVIEW PROCESS Table in **Section 9.2**). The City Manager and Zoning Administrator shall maintain a record of all applications, including documentation for each.

2. **Issue Written Denial**. When any application is denied, the City Manager and Zoning Administrator shall provide the applicant with a written denial, stating the reasons for the denial.

3. **Notice of Hearings**. Whenever a zoning matter is the subject of a public hearing before the Planning Commission or the Zoning Board of Appeals, the City Manager and Zoning Administrator shall prepare notices of the hearing and disseminate said notices as required by this Ordinance.

4. **Inspections**. The City Manager and Zoning Administrator, or their designee, shall be empowered to make inspections of buildings or premises to carry out enforcement of this Ordinance. The construction or usage affected by any Zoning Permit shall be subject to the following:

   a. **Inspection Prior to Construction.** At time of staking out of building foundation or location of structure. The property owner is responsible for determining and marking the correct location of property lines from which setbacks are measured.

   b. **Inspection After Construction**. Upon completion of the construction authorized by the permit.

   c. **Procedures**.

      (1) It shall be the duty of the holder of every permit to notify the Zoning Administrator when construction is ready for inspection. Upon receipt of such notification for the first inspection, the Zoning Administrator shall determine whether the location of the proposed building, as indicated by corner stakes, is in accordance with yard setbacks and other requirements of the Ordinance. The Zoning Administrator shall issue his/her written approval at the time of inspection if the building or proposed construction meets the requirements of this Ordinance.

      (2) Should the Zoning Administrator determine that the building or structure is not located according to the site and construction plan filed, or is in violation of any provision of this Ordinance, or any other applicable law, he/she shall so notify, in writing, the holder of the permit or their agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved upon notice and request for re-inspection by the applicant and those inspections completed and compliance certified by the Zoning Administrator.

      (3) Should a Zoning Permit holder fail to comply with the requirements of the Zoning Administrator at any inspection stage, the Zoning Administrator shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements, and such posting shall be considered as service upon the notice to the permit holder of cancellation thereof, and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

5. **Record Special Uses**. The City Manager and Zoning Administrator shall keep a record of all Special Use Permits issued under the terms of this Ordinance.

6. **Record Interpretations of Ordinance**. The City Manager and Zoning Administrator shall maintain a concise record of all interpretations of this Ordinance rendered by the Zoning Board of Appeals. Interpretations of the Ordinance do not include dimensional or administrative issues. This record shall be consulted whenever questions arise concerning interpretation of any provision of this Ordinance to determine whether any applicable precedents have been set.

7. **Public Information**. The City Manager and Zoning Administrator shall respond to inquiries and dispense information or copies of this Ordinance to make the public aware of and familiar with the provisions of this Ordinance. Public awareness and acceptance of the Zoning Ordinance will help to maintain compliance with it.

8. **Respond To Complaints**. The City Manager and Zoning Administrator shall respond within five (5) business days, whenever possible, to any complaint regarding an alleged violation of the terms or conditions of this Ordinance or any permit issued pursuant to it. The City Manager and Zoning Administrator shall provide a report at each regular Planning Commission meeting summarizing the nature and disposition of complaints that have been received. A written record of all complaints, responses and dispositions of the complaint will be maintained.

9. **May Not Change Ordinance**. Under no circumstances is the City Manager and Zoning Administrator permitted to make changes in this Ordinance or to vary the terms of this Ordinance.

B. **Planning Commission**.

The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance:

1. **Site Plan Approval**. The Planning Commission shall review Site Plans and issue its approval, conditional approval or denial.

2. **Special Use Permits**. The Planning Commission shall conduct a public hearing on any application for a Special Use Permit. Following a public hearing, the Planning Commission shall review and approve or deny said application. The Planning Commission shall also take any necessary action to revoke a Special Use Permit.

3. **Rezoning or Text Amendment**. The Planning Commission shall conduct public hearings for proposals to rezone property or amend the text of this Ordinance. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the City Council. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and City Council approval.

C. **City Council**.

On recommendation of the Planning Commission, the City Council has adopted the Zoning Ordinance, making it the enforceable policy of City government. Likewise, the City Council may amend the text of this Ordinance or the boundaries of Zoning Districts (rezoning). The City Council may review all zoning decisions of the Planning Commission. The City Council shall, by resolution, set fees to be charged for any administrative action under this Ordinance. The Council may also act to waive any fee.

Section 9.2 Administrative Process

A. **Application**.

Before proceeding with the erection, alteration, moving or use of any building or structure, or the use of any premises subject to the provisions of this Ordinance, the owner thereof shall first obtain a zoning permit from the Zoning Administrator. Applications shall be made in writing upon forms provided by the City. It shall be the duty of all architects, contractors, and other persons having charge of erection or movement to determine that proper certification has been issued before undertaking any such work, and all persons performing such work in violation shall be deemed guilty of violation in the same manner as the owner of the premises.

B. **Application Review Process**.

On submission of an application, the City Manager and Zoning Administrator will review the application material to determine review process according to the REVIEW PROCESS Table in **subsection E**. Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation.

The City Manager and Zoning Administrator will forward the application on to the Planning Commission or Zoning Board of Appeals for approval in cases which require approval by those bodies. In cases of applications which require administrative approval of the City Manager and Zoning Administrator, an administrative review will occur prior to the issuance of a zoning permit.

C. **Zoning Permits**.

1. A Zoning Permit is required prior to the issuance of a building permit.

2. **Zoning Permit Required**. No building or structure shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any use subject to the provisions of this Ordinance be commenced until a Zoning Permit application has been filed with the City of West Branch and a Zoning Permit has been issued by the Zoning Administrator or City Manager, except as otherwise provided for in this Ordinance. No Zoning Permit shall be required for any lawful use of any building or structure in existence as of the adoption date of this Ordinance. Exempted from the permit requirements are exterior alterations and

ordinary maintenance repairs that do not require a building, mechanical, electrical or plumbing permit.

3. **Final Plot Plan or Site Plan Approval Required**.

   a. The City shall not issue a zoning permit until a final plot plan or site plan has been approved and is in effect.

   b. No grading, removal of trees or other vegetation, land filling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect.

4. **Other Required Permits.** A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with the exception of those permits which are contingent upon the issuance of a zoning permit.

5. **Notification of Availability of Property for Inspection.** When alterations begin or when the footings of a building have been constructed and before the completion of the foundation walls and also at the time of the completion of the frame and skeleton construction, the owner, contractor or his agent shall notify the Zoning Administrator or City Manager in writing in order that the inspection may be made at each of these times (see **Section 9.1.A.4**).

6. **Final Inspection.** The Zoning Administrator shall be given the opportunity to make a final inspection of all buildings and structures after completion, before occupancy begins, upon receiving notice from the owner, contractor or his agent that said building is ready for final inspection. If such building or alterations comply with the statements in the application, plans, working drawings, and specifications, a certificate of zoning compliance shall be issued.

7. **Zoning Permit Expiration.** The Zoning Permit will expire after one (1) year from date of issuance if no building permit has been taken out. Site plan approval may be extended pursuance to **Section 5.9**.

8. **Zoning Permit Revocation.** The Zoning Administrator or City Manager shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing. The Planning Commission shall have the power to revoke a Special Use permit.

9. **Payment of Fees.** No Zoning Permit shall be valid until the required fees have been paid. No separate fee shall be required for accessory buildings or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the City Council.

10. **Conformance with Approved Plans:** Permits issued on the basis of plans and applications approved by the Zoning Administrator, City Manager or Planning Commission authorize only the use, arrangement and construction set forth in such approved plans and applications. Any

other use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance.

11. Any person, partnership, limited liability company, corporation, association or other entity who fails to obtain any necessary zoning permit shall be subject to **Section 9.8**.

D. **Record Maintained**.

The City Manager and Zoning Administrator shall keep a record of each application for a site plan that has been submitted including the disposition of each one. This record shall be a public record, open for inspection upon request.

E. **Review Process Table**.

This Table follows on the next page.

Type of action	Parties who may initiate action	Body making decision	Public hearing required?	Published notice(s)- Number of days before hearing	Mailed notice to owners and occupants within 300' - Days before hearing	Body to which applicant may appeal a denial
Approval of single family detached dwellings, family child care homes, change of use, accessory building, deck, fence, or sign. Expansion of existing development less than 20%.	Applicant	Zoning Administrator	No	Not required	Not required	Zoning Board of Appeals
Duplexes and attached single-family dwellings	Applicant	Planning Commission	No	Not required	Not required	Zoning Board of Appeals
Site plan approval Expansion of existing development 20% or more of original site plan	Applicant	Planning Commission	No	Not required	Not required	Zoning Board of Appeals
Special use permit	Applicant	Planning Commission	Yes	Not less than 15 days	Not less than 15 days	Circuit court
Planned unit development	Applicant	Planning Commission	Yes	Not less than 15 days	Not less than 15 days	Circuit court
Variance	Applicant	Zoning Board of Appeals	Yes	Not less than 15 days	Not less than 15 days	Circuit court
Interpretation	Applicant or Zoning Administrator	Zoning Board of Appeals	Yes	Not less than 15 days	Not less than 15 days	Circuit court
Appeal from decision	Any aggrieved party	Zoning Board of Appeals	Yes	Not less than 15 days	Not less than 15 days	Circuit court
Rezoning (Map Amendment) or Text Amendment	Applicant, Planning Commission	Step 1: Planning Commission recommends to City Council	Yes	Not less than 15 days	Not less than 15 days	No action until after City Council decision
		Step 2: City Council	No	------	------	Subject to protest petition
		Step 3: City Council publishes Notice of Adoption in newspaper (within 15 days after adoption). Rezoning (map amendment) goes into effect on the 8th day after publication.				
Zoning Ordinance Enforcement	Zoning Administrator	------	------	------	------	Zoning Board of Appeals

Section 9.3 Fees

A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the City, the City Council may adopt, by resolution, a Fee Schedule establishing basic zoning fees.

B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.

C. If the Zoning Administrator, Planning Commission, or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator, Planning Commission, or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit, with the Zoning Administrator, such additional zoning fees in an amount determined by the Zoning Administrator equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit, and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpected funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the City in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or prior to the final decision on an appeal.

Section 9.4 Use of Consultants

From time to time, the Planning Commission or ZBA may employ planning, engineering, legal, traffic or other special consultants to assist in the review of Special Land Use permits, site plans, re-zonings or other matters related to the planning and development of the City.

Section 9.5 Performance Guarantee

A. In connection with the construction of improvements through site plan approval, Special Land Use approval, or a PUD project, the Planning Commission may require the applicant to furnish the City with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, returning the site to a safe and healthy condition, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this Section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the City Clerk at or before the time the City issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the City Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the completed development or each phase of a multi-phase development in the following manner:

1. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public and site improvements;

2. Another one-third (1/3) of the cash deposit after completion of two-thirds (2/3) of the public and site improvements; and

3. The balance at the completion of the public and site improvements.

B. Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public and site improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this Section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the City as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

Section 9.6 Conditions

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on zoning decisions under its respective jurisdiction. These conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

A. Be designed to protect natural resources, the health, safety, and welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 9.7 Public Notification

All applications for development approval requiring a public hearing shall comply with the **Michigan Zoning Enabling Act, 2006 PA 110** as amended, MCL 125.3101 et. seq. and the other provisions of this Section with regard to public notification.

A. **Published Notice**.

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator or City Manager shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City of West Branch and mailed or delivered as provided in this Section.

B. **Content**.

All mail, personal and newspaper notices for public hearings shall:

1. **Describe the nature of the request**. Identify whether the request is for a rezoning, text amendment, Special Land Use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.

2. **Location**. Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no

street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.

3. **Date, Time, and Location**. When and where the request will be considered: indicate the date, time and place of the public hearing(s).

4. **Written comments**. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

5. **Disabled access**. Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

C. **Notice.**

1. Except as noted in **subsection C.2** and **subsection C.3** below, notices for all public hearings shall be given as follows:

   a. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.

   b. Notice of the hearing shall be published in a newspaper of general circulation.

   c. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered and the applicant, if different than the owner(s) of the property.

   d. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300') feet of the property and to the occupants of all structures within three hundred (300') feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

      (1) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

      (2) Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

2. Newspaper publication as required in **subsection C.1** above shall be the only notice required for an amendment to the Zoning Ordinance or the zoning map that affects eleven (11) or more properties.

3. For ordinance interpretations and appeals of administrative decisions by the Zoning Board of Appeals notice that does not affect a specific property shall be only to the applicant and by newspaper publication, as required in **subsection C.1** above

4. **Notice Deemed Given**. Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, properly addressed, postage paid. Zoning staff shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

5. **Registration to Receive Notice by Mail**.

   a. **General**. Any neighborhood organization, public utility company, railroad or any other person may register with the City Clerk to receive written notice of all applications for development approval or written notice of all applications for development approval within the zoning district in which they are located. The City Clerk shall be responsible for providing this notification, as established by the City Council.

   b. **Requirements**. The requesting party must provide the City Clerk information to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this Section.

Section 9.8 Enforcement & Violations

This Ordinance shall be enforced by the City Manager and Zoning Administrator for the City of West Branch.

A. **Responsibility**.

The City Manager and Zoning Administrator shall enforce the provisions of this Ordinance.

B. **Violations and Penalties**.

Any building or structure that is erected, altered, maintained, or used or any use of land that is begun, maintained or changed in violation of this Ordinance is hereby declared to be a nuisance per se. Violations of any provisions of this Ordinance are declared to be enforceable under the City Ordinance covering Municipal Civil Infractions and the rules adopted (**Section 10.99-10.111**). Every day that such violation continues constitutes a separate and distinct offense under the provisions of this Ordinance.

Section 9.9 Rehearing Process

A. **Rehearing Performed by Planning Commission or ZBA**.

The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. A rehearing shall mean that the body which originally reviewed the request shall be the body which reviews the same request again. Exceptional circumstances shall mean any of the following:

1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.

2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.

3. The City attorney, by written opinion, states that, in the attorney's professional opinion, the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

B. **Rehearing Procedure**.

A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

1. **Time Limit**. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date on which the applicant receives notification regarding the decision for which the rehearing is being requested.

2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.

3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.

4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Article 10 Adoption & Amendments

Sec	Name	Pg	Sec	Name	Pg
10.1	Amendment Process	10-1	10.5	Vested Right	10-7
10.2	Rezoning Standards	10-3	10.6	Repeal & Savings Clause	10-7
10.3	Conditional Rezoning	10-3	10.7	Enactment & Effective Date	10-8
10.4	Severance Clause	10-7			

Section 10.1 Amendment Process

Amendments or supplements to this Ordinance may be made from time to time, in the same manner as provided by the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended, for the enactment of the original Ordinance. It shall be necessary to publish only a summary of the section or sections to be amended to the Ordinance. The City Council is authorized and empowered to cause this Ordinance to be amended.

A. **Initiation of Amendments**.

Proposals for amendments, supplements, or changes may be initiated by the City Council of its own action, by the Planning Commission, or by application of one (1) or more persons having an interest, by ownership or option to purchase, in property to be affected by the proposed amendment.

B. **Amendment Procedure**.

1. **Application to City Clerk and Payment of Fee**. Each application by one (1) or more owners or their agents for an amendment shall be submitted upon an application of standard form to the City Clerk. A fee as established by the City Council shall be paid at the time of application to cover costs of necessary advertising for public hearings and processing of the amendment request. The City Clerk shall transmit the application to the Planning Commission for recommended action.

2. **Recommendation**. The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the original amendment petition.

3. **Public Hearing**. Before voting on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing in accordance with **Section 9.7**.

4. **Recommendation to City Council**. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the application and shall report its findings and recommendation to the City Council. In the case of an amendment to the official zoning map (rezoning), the Planning Commission shall consider the criteria contained in **Section 10.2**, below, in making its finding and recommendation.

5. **City Council Action**. Following receipt of the findings and recommendation of the Planning Commission, the City Council shall consider the Planning Commission findings of the proposed amendment and, in the case of a rezoning, the criteria listed in **Section 10.2** below and shall vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the full membership of the City Council. The City Council may refer any proposed amendments to the Planning Commission for consideration and comment. The Planning Commission shall have sixty (60) days from such referral to make further recommendations to the City Council. In the event that an application is referred back to the Planning Commission, the City Council shall make specific mention of their objections to the Planning Commission's findings and recommendations. In order to lessen the possibility of adverse litigation concerning the zoning district decisions of the City Council, the City Council shall make a written record of the rationale for the action taken on each application for amendment to this Ordinance.

6. **Publication**. Once adopted by the City Council, amendments to this Ordinance shall be filed with the City Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) business days after publication or at a later date as may be specified by the City Council at the time of adoption.

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

8. Amendments or supplements to the Zoning Ordinance shall be made in the same manner as provided for the enactment of the original Ordinance.

9. **Protest Petition**. Upon presentation of a protest petition against such proposed amendment to this Zoning Ordinance to the City Council, signed by the owners of at least twenty (20%) percent of the area of land in the proposed change or twenty (20%) percent of owners of land within an area extending outward one hundred (100') feet from the boundary of the land included in the proposed change, such amendment shall not be passed except by a two-thirds (2/3) vote of all members of the City Council. All publicly owned lands shall be excluded in calculating the twenty (20%) percent land area required.

Section 10.2 Rezoning Standards

In considering any application for an amendment to the official zoning map (rezoning), the Planning Commission shall and the City Council may consider the following criteria in making its findings, recommendations, and decision:

A. Is the proposed use consistent with the goals, objectives and future land use of the currently adopted Master Plan, including any subarea or corridor studies? If conditions have changed since the Master Plan was adopted, is the proposed use consistent with recent development trends in the area?

B. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?

C. Will there be an adverse physical impact on surrounding properties?

D. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?

E. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

F. What is the impact on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?

Section 10.3 Conditional Rezoning

A. **Intent**.

It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with Section 405 of the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. **Application and Offer of Conditions**.

1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions,

except as modified by the requirements of this Section.

3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.

4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

5. Any use or development proposed as part of an offer of conditions that would require a special use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the special use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

6. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. **Planning Commission Review**.

The Planning Commission, after a public hearing as set forth pursuant to **Section 9.7** of this Ordinance and consideration of the factors set forth in **Section 10.2** (except **10.2.E**) of this Ordinance, may recommend approval, approval with recommended changes, or denial of rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. **City Council Review**.

After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested conditional rezoning and may approve or deny the request. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with Section 401 of **2006 PA 110**, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council, and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. **Approval**.

1. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the

Ordinance adopted by the City Council to accomplish the requested rezoning.

2. The Statement of Conditions shall:

   a. Be in a form recordable with the County Register of Deeds, or as an alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.

   b. Contain the legal description and tax identification number of the land to which it pertains.

   c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

   d. Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

   e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the County Register of Deeds.

   f. Contain the notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. **Compliance with Conditions**.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in

compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly.

2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. **Time Period for Establishing Development or Use**.

Unless another time period is specified in the Ordinance, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within twelve (12) months after the rezoning took effect and thereafter proceeded diligently to completion. This time limitation may upon written request be extended by the City Council if:

1. it is demonstrated to City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and

2. the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. **Reversion of Zoning**.

If the approved development and/or use of the rezoned land does not occur within the timeframe specified under **subsection G** above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

I. **Subsequent Rezoning of Land**.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to **subsection H** above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The City Clerk shall record with the County Register of Deeds that the Statement of Conditions is no longer in effect.

J. **Amendment of Conditions**.

1. During the time period for commencement of an approved development and/or use specified pursuant to **subsection G** above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Statement of Conditions.

2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. **City Right to Rezone**.

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the **Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006, as amended).**

L. **Failure to Offer Conditions**.

The City shall not require any owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 10.4 Severance Clause

Sections and subsections of this Ordinance shall be deemed to be severable, and should any section, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

Section 10.5 Vested Right

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

Section 10.6 Repeal & Savings Clause

A. This Ordinance repeals and replaces any previous City of West Branch Zoning Ordinance in its entirety.

B. The repeal of any previous City of West Branch Zoning Ordinance, as provided, shall not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted. Said Ordinance or Ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

Section 10.7 Enactment & Effective Date

A. This Ordinance was adopted on December 16, 2019, by the City Council of West Branch and will be effective on December 26, 2019. The foregoing Zoning Ordinance and Map of Zoning Districts were presented at a public hearing before the Planning Commission on December 10, 2019.

B. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective on the expiration of seven (7) days or at a later date specified by the City Council after publication of a notice of adoption of said amendments or revisions within fifteen (15) days of adoption in accordance with Section 401 of **Michigan Zoning Enabling Act, 2006 PA 110**, as amended, (being the, M.C.L. 125.3101 et seq.).

I hereby certify that the above Ordinance was adopted by the West Branch City Council at a regular meeting held on December 16, 2019.

_____
City Clerk
Published: December 19, 2019 Effective Date: December 26, 2019

Affidavit of Publication Required.