

City of West Branch

Zoning Ordinance



City of West Branch
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Effective October 6, 2009

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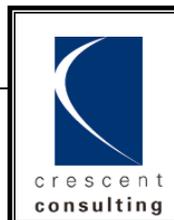
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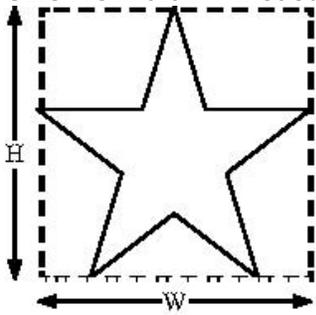
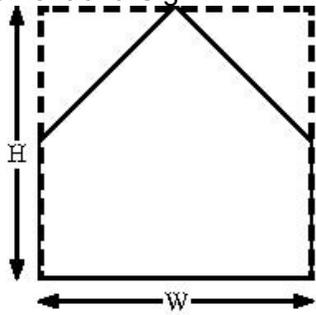
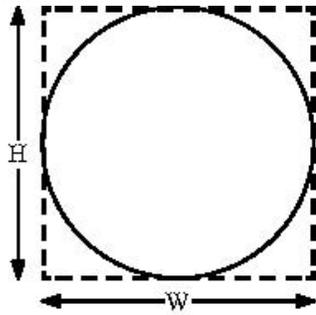
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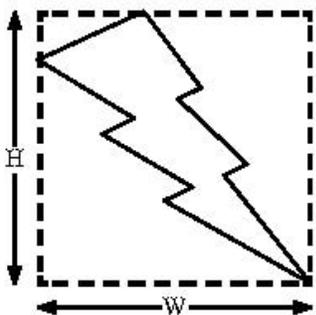
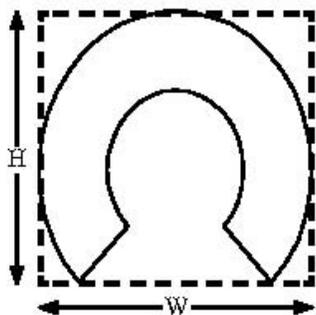
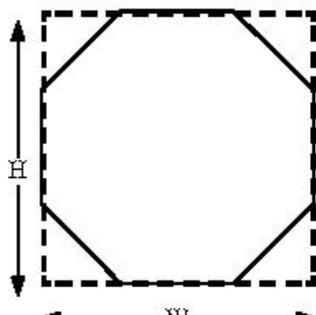
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Chapter 1 ■ General Provisions

SECTION 1.1 TITLE

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

SECTION 1.2 AUTHORITY AND PLANNING COMMISSION

The City Council provides for this Zoning Ordinance pursuant to Public Act 110 of 2006 as amended. 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:

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

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. 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.

SECTION 1.5 PRIOR REGULATIONS AND REQUIREMENTS OF LAND AND BUILDINGS

The 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 P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act)

SECTION 1.7 EFFECTIVE DATE

The City of West Branch Zoning Ordinance is effective on October 6, 2009.

Chapter 2 ■ Definitions

For the purpose of this Ordinance, certain terms are herewith defined.

SECTION 2.1 GENERAL

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, 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.

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.

ABANDONMENT: 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.

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, such as a private garage, which is incidental to that of the main building, located on the same lot with the main building, or any portion of the main building if that portion is occupied or devoted exclusively to an accessory use.

ACCESSORY USE: Any use customarily incidental and subordinate to the main use of the premises but does not include residential occupation. These may include but are not limited to private garages, permanent storage sheds, playhouses, decks, porches and carports.

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

ACTIVITY: see PERMITTED USE

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

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

ADJOINING LOT OR LAND: A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

ADULT USES:

- a. **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.
- b. **ADULT MEDIA STORE:** An establishment that rents and/or sells media, and that meets any of the following three tests:
 - 1) 40 percent or more of the gross public floor area is devoted to adult media.
 - 2) 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.
- c. **ADULT MOTION PICTURE THEATER:** An establishment emphasizing or predominately showing sexually oriented movies.
- d. **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 600 square feet.
- e. **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

- 10 percent of the stock-in-trade of the business or occupies more than 10 percent of its floor area.
- 2) More than 5 percent of the stock-in-trade of the business consists of sexually oriented toys or novelties.
 - 3) More than 5 percent of the gross public floor areas of the business is devoted to the display of sexually oriented adult toys or novelties.
- f. **SEXUALLY ORIENTED BUSINESS:** An inclusive term used to describe collectively: adult cabaret, adult motion picture theater; adult media store; bathhouse; massage shop; modeling studio and/or sex shop. This collective term does not describe a specific land use and should not be considered a single-use category.
- g. **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.
- h. **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.
- i. **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.

AGRICULTURAL BUILDING: A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products and that is clearly incidental to agricultural activity.

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 (SMALL): Any animal, including rabbits, weighing 20 pounds or less, except pet animals, unusual animals, or fowl.

ANIMAL (LARGE): Cattle, horses, mules, sheep, goats, beasts of burden, or any other domesticated or wild animal weighing more than 20 pounds except pet animals, wild or exotic animals, or fowl.

ANIMAL, SERVICE: An animal that has been trained to assist people with various types of disabilities.

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.

ANIMAL HOSPITAL: see VETERINARY HOSPITAL.

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

APARTMENT: see DWELLING, MULTIFAMILY

APPEAL: The process, as prescribed in this Ordinance, for contesting a zoning interpretation 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.

AREA: see LOT AREA

ASSEMBLY BUILDING: A building for the primary purpose of group gatherings.

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: A single family dwelling unit attached to one or more other single family dwelling units by means of a common party wall or by a connecting wall or similar architectural feature such as a garage or carport, and with such dwelling having its own doors open to the outdoors.

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 or more wheels, primarily for conveyance on a street or roadway.

AUTO REPAIR: see VEHICLE REPAIR

AUTO SERVICE STATION: see GAS STATION/SERVICE STATION

BANK: A financial institution.

BAR: 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 Michigan State 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.

BODY PIERCING PARLOR: see TATTOO/BODY PIERCING PARLOR.

BODY SHOP: see VEHICLE REPAIR

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.

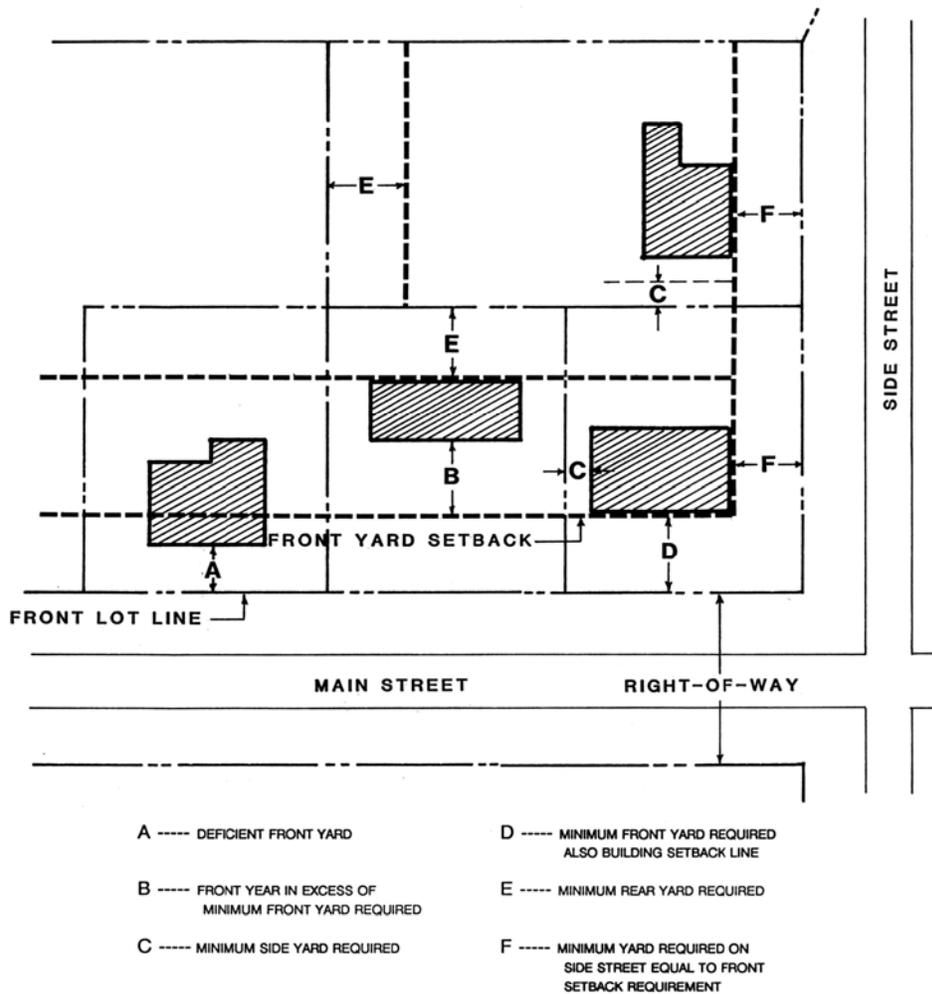
BUILDING: A structure erected on-site, a manufactured home, a mobile home or mobile structure, or a premanufactured or pre-cut structure that is above or below ground and is designed primarily for the use or intended use of shelter, support, or enclosure of persons, animals, or property of any kind.

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

BUILDING DEPARTMENT: Building department shall mean the City of West Branch Building Codes Department or their contractors who perform enforcement of building codes unless the specific use or the context indicates a different reference.

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: City Staff appointed by the City Manager and licensed pursuant to the State of Michigan’s regulation to enforce and administer the City’s adopted building code.

BUILDING PERMIT: A permit signifying compliance with the provisions of this Ordinance as to use, activity, bulk, density and with the requirements of all other development codes and Ordinances currently in effect in the City of West Branch.

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.

CALIPER: The diameter of a tree trunk measured two feet above grade.

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 DRIVE-IN RESTAURANT/FAST FOOD

CELLULAR TOWER: see WIRELESS COMMUNICATION FACILITY

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

CERTIFICATE OF OCCUPANCY: A document issued by the Building Official and Zoning Administrator 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 18 years of age, as licensed and regulated by the State under Act No. 116 of Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

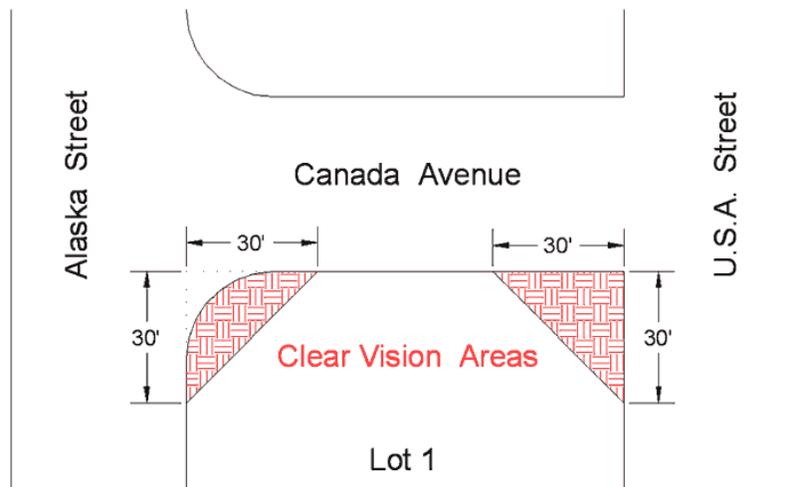
- a. **CHILD CARE CENTER** or **DAY CARE CENTER** means a facility, other than a private residence, receiving more than six preschool or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play 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. **FOSTER FAMILY HOME** is a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- c. **FOSTER FAMILY GROUP HOME** means a private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- d. **FAMILY DAY CARE HOME** means a private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult

member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

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

CHURCHES/SYNAGOGUES/MOSQUES: see INSTITUTION, RELIGIOUS

CLEAR VISION: An area thirty (30') feet along each street at its intersection with another street, drive or alley where no visual obstruction of sight may exist above thirty-six (36") inches from established street grades.



CLUBHOUSE: A building to house a club or social organization not conducted for private profit, as documented by State or federal records, and that is not an adjunct to or operated by or in connection with a public tavern, café, or other public place.

CLUB/LODGE: see INSTITUTION, SOCIAL

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.

COLOCATION: The use of a single mount on the ground by more than one telecommunications carrier (vertical colocation) and/or several mounts on an existing building or structure by more than one carrier.

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 RECREATION: Establishments with the primary purpose of providing amusement or entertainment for a fee or admission charge, and including such activities as dance halls, studios, bowling alleys and billiard and pool establishments, commercial sports such as arenas, rings, racetracks, golf courses, amusement parks, carnival operations, exposition, game parlors and swimming pools.

COMMERCIAL SCHOOL: A school or facility offering training to perform any of the uses by right in the district in which a Commercial School is permitted either by right or by special use permit. A Commercial School is a distinct use, not to be confused with an Institution, Educational. Examples of commercial 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, 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. Within these lands only facilities and structures for recreational purposes may be constructed, with the total impervious area of roofs and paving constituting not more than ten percent (10%) of the total open space.

CONDOMINIUM: see PLANNED UNIT DEVELOPMENT

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.

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: An unenclosed portion of the lot or parcel upon which a construction 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 construction equipment and other materials customarily used in the trade carried on by a construction 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

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



COVERAGE: see LOT COVERAGE

CROSS-POLARIZED: A low mount dual polarized antenna that has three panels flush mounted or attached very close to the shaft.

CUL DE SAC: see STREET, CUL DE SAC.

DAY NURSERIES: In home day care for up to 12 children. All nurseries and day care must be state licensed.

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

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

- a. HIGH RESIDENTIAL: Fifteen (15) or more dwelling units per acre.
- b. LOW RESIDENTIAL: Fewer than five (5) dwelling units per acre.
- c. MEDIUM RESIDENTIAL: Five to fifteen (5-15) 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.

DISH SATELLITE SIGNAL-RECEIVING ANTENNAE: Also referred to as "Earth stations" or "ground stations" shall mean one, or a combination of two or more of the following:

- a. A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in Earth orbit and other extra-terrestrial sources.
- b. A low-noise amplifier (LNA) that is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.
- c. A coaxial cable, the purpose of which is to carry or transmit said signals to a receiver.

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: 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 dwelling unit designed for residential use.
- b. **TWO-FAMILY DWELLING (Duplex/Townhouse):** A building containing no more than two separate dwelling units designed for residential use
- c. **MULTIPLE-FAMILY DWELLING:** A building containing three or more dwelling units designed for residential use
- d. **GROUP DWELLINGS (Congregate Living):** A building or group of buildings, designed and used for residential habitation where joint and/or separate sleeping rooms share common living, kitchen, eating and bathroom facilities, housing persons unrelated by blood or marriage.

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.

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, TOPOGRAPHIC: The measurement of height above sea level.

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

ENVIRONMENTAL ASSESSMENT (EA): An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in a certain designated area.



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. Used equipment and a limited proportion (up to 10%) of new items in the inventory of the business may be advertised for sale.

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 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.

EXPLICIT SEXUAL MATERIAL: Any hard-core material.

FAMILY: A person living alone, or two or more persons related by blood, marriage, or adoption, customarily living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, religious or institutional building, boarding or lodging house, or fraternity or sorority house.

FAMILY DAY CARE HOME: see CHILD CARE ORGANIZATION

FAST FOOD RESTAURANT: see DRIVE-IN RESTAURANT/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.

FIREWORKS: Fireworks means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. Fireworks include Class B fireworks and Class C fireworks. Please see applicable federal and state laws: Michigan Penal Code, 1931 PA 328, as amended [http://www.legislature.mi.gov/\(S\(m3zs0ny5xivxvirhjjvwnrz\)\)/mileg.aspx?page=getobject&objectname=mcl-Act-328-of-1931&query=on](http://www.legislature.mi.gov/(S(m3zs0ny5xivxvirhjjvwnrz))/mileg.aspx?page=getobject&objectname=mcl-Act-328-of-1931&query=on) and Federal laws <http://www.atf.gov/explarsen/eipb.htm>

FLAG LOT: A lot not fronting entirely on or abutting a public road and where access to the road is a narrow, private right-of-way.

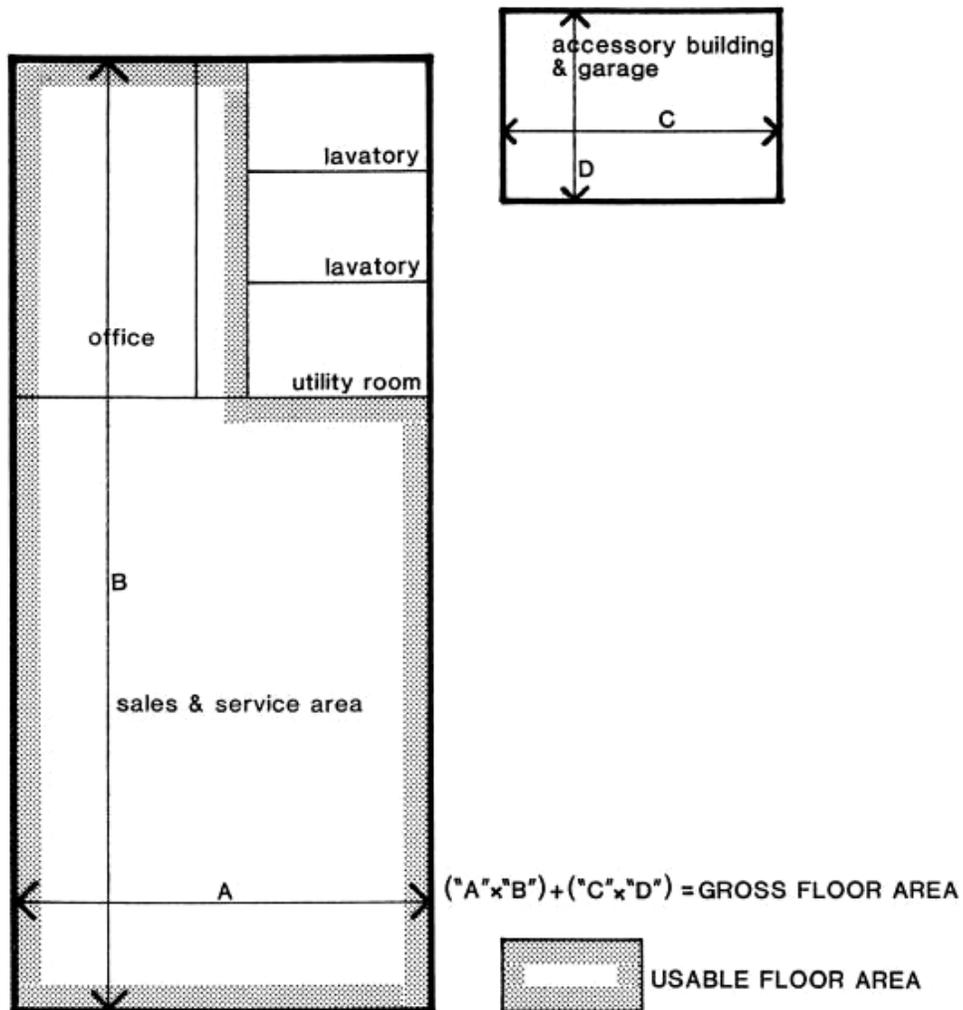
FLEA MARKET: see OUTDOOR USE, TEMPORARY

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 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 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 useable floor area.

FOSTER FAMILY GROUP HOME: see CHILD CARE ORGANIZATION

FOSTER FAMILY HOME: see CHILD CARE ORGANIZATION

FRATERNAL ORGANIZATION: see INSTITUTION, SOCIAL

FUNCTIONAL EQUIVALENT SERVICES: Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

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.

GARAGES: Includes the following:

- a. **ATTACHED.** An attached outbuilding customarily used for the storage of vehicles, and is attached to a residential dwelling as either an integral part thereof, or, at a minimum, connected to the dwelling by a completely enclosed breezeway.
- b. **PRIVATE GARAGE.** A detached accessory building or portion of a main building used for the storage of vehicles without provision for repair or servicing such vehicles for profit.
- c. **SERVICE GARAGE.** Any building or structure designed or used for the hire, sale, storage, service, repair, or refinishing of motor vehicles or trailers, but not for the storage of dismantled vehicles or parts thereof for purposes of reuse or resale.

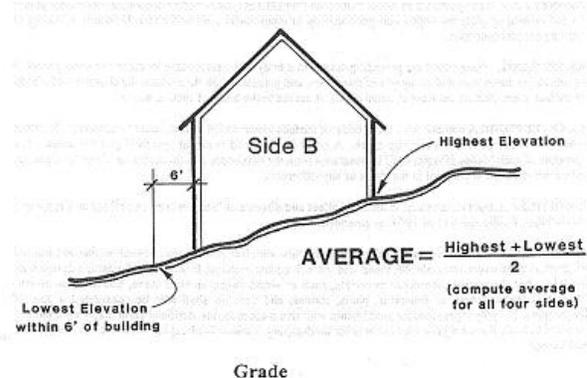
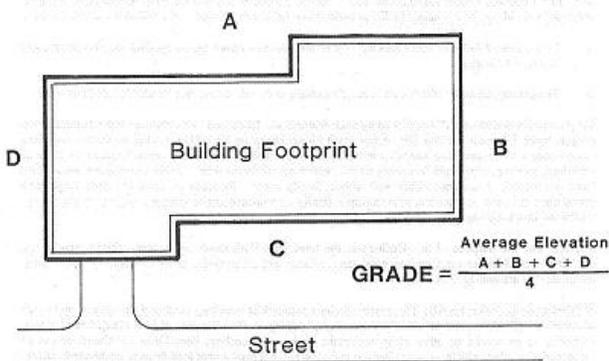
GARAGE SALE: see YARD SALE.

GARBAGE: Animal, vegetable and mineral waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

GAS STATION/SERVICE 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.

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.



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

GRADING PERMIT: The written authority issued by the City of West Branch permitting the grading, excavating or filling of land including drainage and soil erosion control in conformity with the Erosion Control Section of this Ordinance and Public Act 347 of 1972.

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

GROUP DAY CARE HOME: see CHILD CARE ORGANIZATION

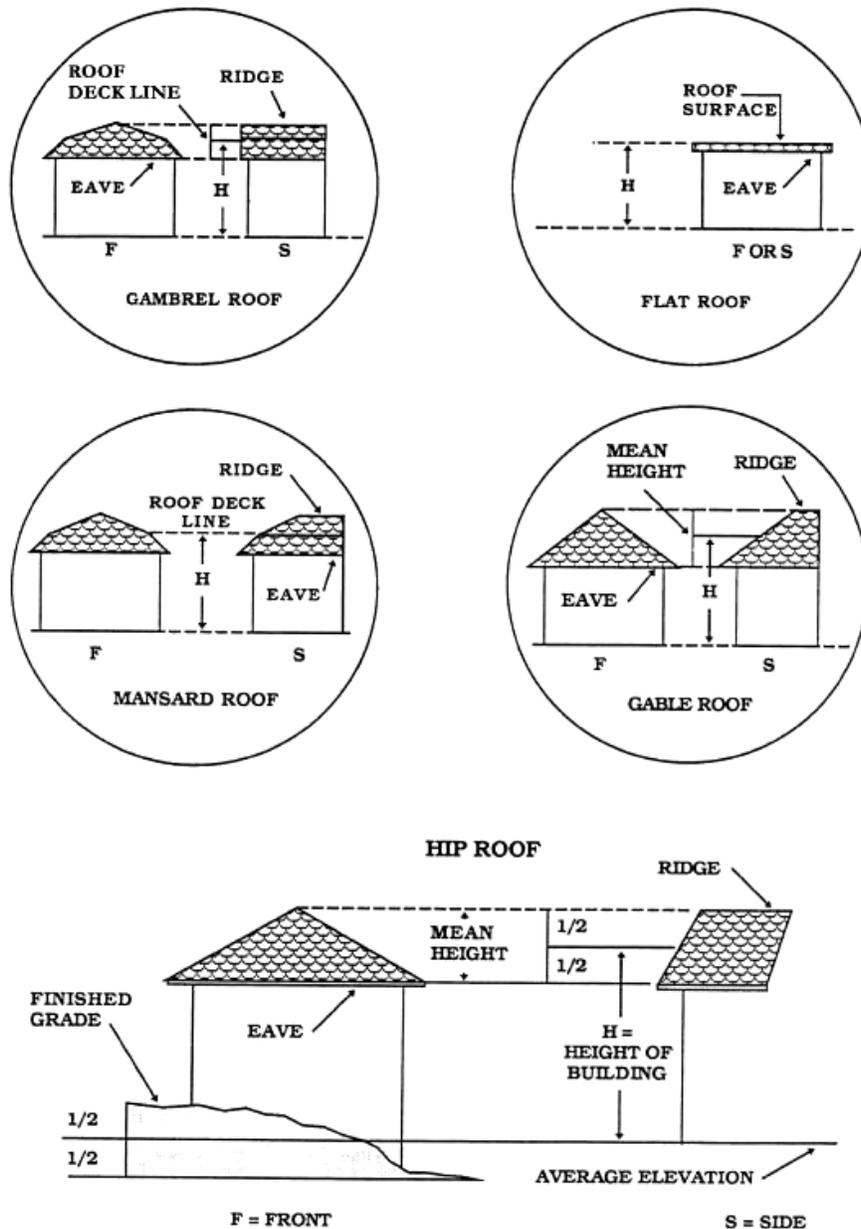
HARD CORE MATERIAL: Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex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

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.

HEALTH CARE (SERVICES) FACILITIES: see INSTITUTION, HUMAN CARE

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.

BUILDING HEIGHT



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 OCCUPATIONS or COTTAGE INDUSTRY: 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, provided it:

- a. All activities are carried on indoors.
- b. Does not have a separate entrance from outside the building;

- c. Does not display or create outside the structure any external evidence of the operation of the home occupation, including additional traffic.
- d. Does not employ any persons other than family members residing on the premises.
- e. The hours of operation shall be limited to 8:00am – 8:00pm.

HORTICULTURE: The cultivation of a garden or orchard. Horticulture specifically excludes operation of a landscaping business.

HOSPITAL: see INSTITUTION, HUMAN CARE

HOTEL: see MOTEL

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 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.

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 hospitals, convalescent, assisted care facilities and nursing homes. It does not include state licensed residential facilities for 6 or fewer people in one 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.

INSTITUTION, SOCIAL: Any profit or nonprofit use or facility in which activities for pleasure or philanthropy are carried out. Such institutions may include service clubs, scout organizations, hobby clubs and veteran's organizations, churches, schools, hospitals, convalescent or nursing homes, public or quasi-public non-profit uses, community facilities, retreats, parks and playgrounds.

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

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.

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 as a business.

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.

LAND USE PLAN: A plan showing the existing and proposed location, extent and intensity of development of land to be used for varying types of residential, commercial, industrial, agricultural, recreational, educational, and other public and private purposes or combination of purposes.

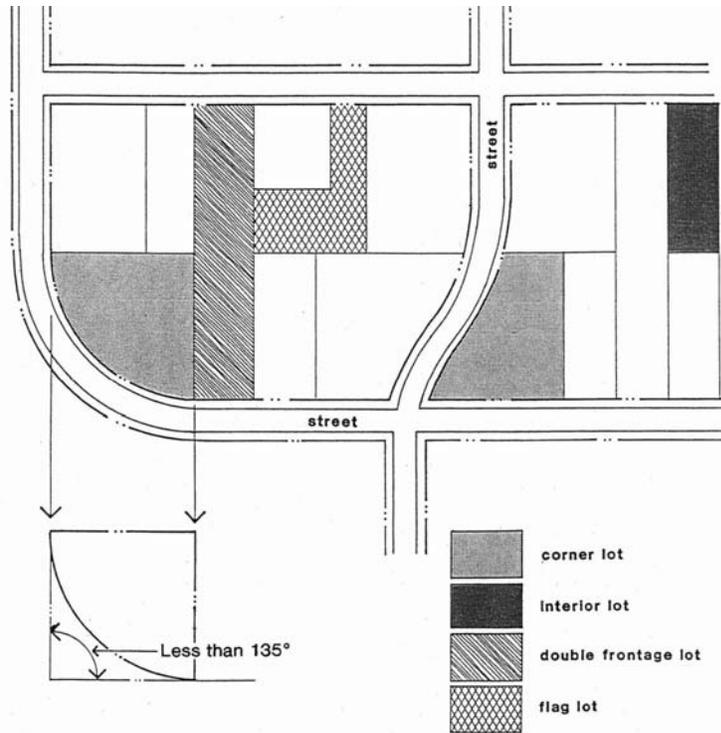
LEGISLATIVE BODY: The City Council of West Branch.

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.

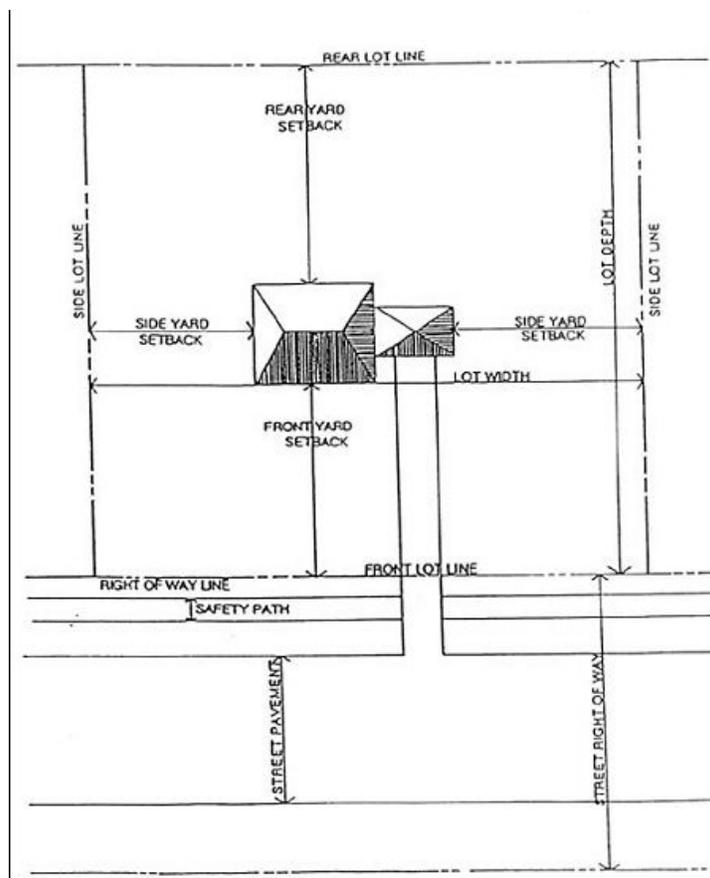
LOT AREA: The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.



Interior & Corner Lots

LOT, CORNER: Any lot having at least two 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 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. See graphic for Corner Lot.

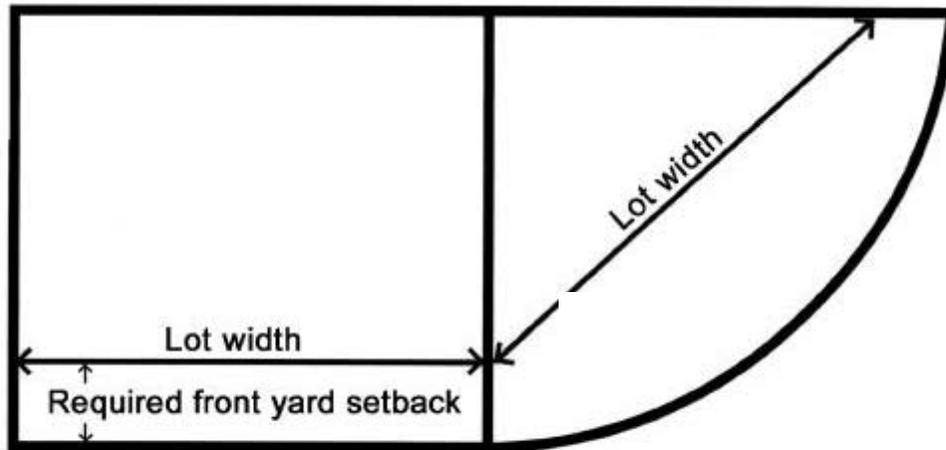
LOT LINES: Any line bounding a lot, including the following:

- 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.
- 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 feet long, parallel to and most distant from the front lot line.
- SIDE LOT LINE.** Any line other than front or rear lot lines.

LOT, THROUGH: Is any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. See graphic for Corner Lot.

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

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.

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

MANUFACTURED/MOBILE HOME: A dwelling unit, designed and built in a factory and meeting the state building code.

MANUFACTURED HOME DEVELOPMENT: A parcel of land under the control of a person upon which three (3) or more mobile 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 mobile home.

MANUFACTURING: The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing. The manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.



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 body work 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.

MEDIA SHOP: A general term, identifying a category of business that may include sexually oriented material but that is not subject to the special provisions applicable to adult media shops. In that context, media shop means a retail outlet offering media for sale or rent, for consumption off the premises provided that any outlet meeting the definition of adult media shop shall be treated as an adult media outlet.

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

MOBILE/MANUFACTURED HOME: A structure, transportable in one 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 mobile home does not include a recreational vehicle.

[http://www.legislature.mi.gov/\(S\(hh4jzezavjq1mkudippxagbi\)\)/mileg.aspx?page=getmcl-document&objectname=mcl-act-96-of-1987](http://www.legislature.mi.gov/(S(hh4jzezavjq1mkudippxagbi))/mileg.aspx?page=getmcl-document&objectname=mcl-act-96-of-1987)

MOBILE/MANUFACTURED HOME PARK: An area of land upon which three (3) or more occupied trailer coaches or mobile homes are harbored either free of charge or for revenue purposes, and shall include any building structure, vehicle, or enclosure used or intended for use as part of the equipment of such mobile coach park, subject to A.N.S.I. code and Michigan Manufactured Housing Commission rules, Public Act 96 of 1987, as amended.

MOBILE HOME SITE/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 mobile home and the exclusive use of the occupants of such mobile home.

MOBILE HOME SUBDIVISION: A Manufactured Home Development except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.

MONOPOLE: The type of mount that is self-supporting with a single shaft of wood, steel, or concrete, without guy wires, and a platform (or racks) for panel antennae arrayed at the top.



MORTUARY: see FUNERAL HOME

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.

MOUNT: The structure of surface upon which antennae are mounted, including the following four types of mounts:

- a. Roof-mounted: Mounted on the roof of a building.
- b. Side-mounted: Mounted on the side of a building.
- c. Ground-mounted: Mounted on the ground.
- d. Structure-mounted: Mounted on a structure other than a building.

MUNICIPAL BUILDING: A structure housing an operation of the City of West Branch.

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.

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

NONCONFORMING BUILDING, LEGAL: Any building or portion thereof lawfully existing at the time this Ordinance became effective and that does not comply with this 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 the zoning code; 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 an Ordinance, or amendment thereto, that renders the sign nonconforming because it 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 its regulations. A legal nonconforming use is a use that is in compliance with the requirements of this Ordinance.

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.

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.

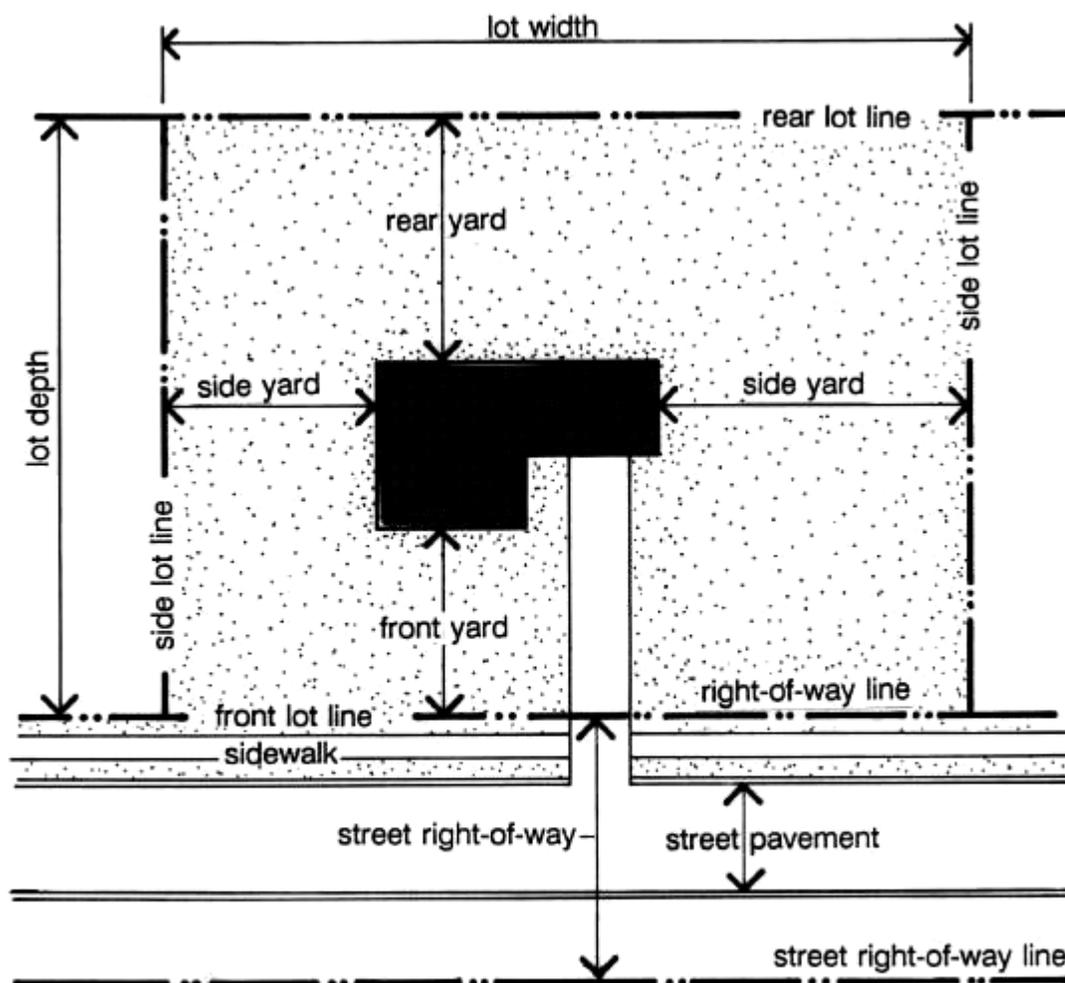
OCCUPANCY PERMIT, TEMPORARY: A certificate of occupancy that is issued for a fixed time period to allow occupancy, because seasonal or specified unique conditions make it impossible to complete all needed external improvements.

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): Is 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.



Open Space Terms

ORCHARD: The establishment, care, and harvesting of more than 25 fruit-bearing trees or vines, such as apples, cherries, or grapes for the purpose of selling the fruit to others.

OUTDOOR AMUSEMENT FACILITY: A commercial business that provides amusement facilities, such as miniature golf, carnival rides, petting zoo, and other similar attractions and open to the general public.

OUTDOOR ASSEMBLY. These uses include outdoor amphitheaters, race tracks, drive in theaters and similar uses. These uses may also include special purpose assembly such as music festivals, fairs and similar activity where there are 250 or more people in attendance at any one time.

OUTDOOR SALES: Uses not conducted from a wholly enclosed building, operated for a profit, and including the following uses:

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

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.

PARK, NEIGHBORHOOD: City or county owned land intended to serve the recreation needs of people living or working within one-half mile radius of the park. A neighborhood park is less than 2.5 acres in size.

PARK, RECREATIONAL: 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 of not longer than one hundred (100') feet.

PARKING AISLE: The area behind a parking space used for backing and turning into and out of the parking space. See Chapter 5 for parking space and aisle required sizes.

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 BAY: A parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave spaces.

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 in a joint use lot.

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



PATIO, PORCH: Roofed open 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 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 in a Zoning District and subject to the restrictions applicable to that Zoning District.

PERSON: Any individual, partnership, organization, association, trust or corporation. 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 hair dressers, dry cleaners, dog grooming, nail salons and similar establishments.

PERSONAL WIRELESS SERVICE: The three types of services regulated by this Ordinance as specified in the Special Use Permit regulations. These services are cellular, radio and satellite.

PETROLEUM BULK PLANT: An establishment for the purpose of storage of petroleum products, in bulk or in packages, distributed by tank car, tank vehicle, or motor truck.

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.

PLAN, TENTATIVE PRELIMINARY: A conceptual site plan or sketch showing ideas for development and site use.

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, not generally including a shopping center or other commercial developments intended for rental, but "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 PA 282 of 1945 and operated under PA 110 of 2006 as amended, unless the specific use or the context indicates a different reference.



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 .15 acre in size used for ornamental or decorative purposes only.

POOL, COMMERCIAL SWIMMING: An artificially constructed basin for holding water for use by paying customers or patrons of a commercial facility.

POOL, PRIVATE SWIMMING: Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

POTABLE WATER: Water suitable for drinking or cooking purposes.

PRIMARY LIVE ENTERTAINMENT: On-site entertainment by live entertainers that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

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 or otherwise regulated by the State of Michigan either by statute or by rules and regulations of one of its administrative bodies.

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.

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

RECREATION, COMMERCIAL INDOOR: A commercial recreational land use conducted entirely within a building, including arcade, arena, art gallery and studio, art center,



assembly hall, athletics and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, exhibit hall, gymnasium, library, movie theater, museum, performance theater, pool or billiard hall, skating rink, swimming pool, and tennis court.

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

RECREATION, PRIVATE: Recreational, playgrounds and parks activities that are not open to the general public and for which a fee may or may not be charged.

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: 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.

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 Chapter. 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.

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.

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.

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 deserts, 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.

RETREATS: Lodging facility operated by religious or secular organizations for their members and not open to the general public. See INSTITUTIONS, SOCIAL.

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. See graphic for Lot Lines.

RINGLEMANN CHART: A device to measure the opacity of smoke emitted from stacks and other sources.

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.

ROADSIDE STANDS: Retail outlets with all related structures used primarily for the sale of farm produce grown on the farm upon which such stand is located.

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

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.

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. 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.

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.

SEPARATION: The distance between one carrier's array of antennae and another carrier's array.

SETBACK: The minimum required horizontal distance measured from the front, side or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot. See graphic for Lot Lines.

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

SIGNS:

- a. A name identification, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or

business. However, a "sign" shall not include a sign located completely within an enclosed building.

- 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 or more faces, the area of all faces shall be included in determining the area of the sign, except that where two 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 face if the two faces are of equal area, or as the area of the larger face if the two 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:** If a sign advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer being offered or conducted at that site for a period of (14) fourteen days, that sign shall be considered abandoned.
 - 3) **BANNER:** Either a Temporary Sign or Portable Sign, depending on how it is used.
 - 4) **CONSTRUCTION SIGNS:** Temporary signs in place on a construction site indicating a building and/or leasing activity.
 - 5) **DIRECTIONAL SIGNS:** Signs posted to show direction of traffic flow through the property.
 - 6) **ELECTRIC SIGN:** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.
 - 7) **ELECTRONIC MESSAGE BOARD:** Changeable copy/image signs in which the copy/image consists of an array of lights activated and deactivated.
 - 8) **FREESTANDING SIGNS:** Signs that are supported from the ground by a structure and are not attached to a building. Types:
 - a) **Elevated Sign:** A sign elevated high above ground level, typically on a pole or other structure.
 - b) **Ground Sign:** A sign low to the ground and typically used to identify large buildings, institutions and real estate developments.
 - 9) **ILLUMINATED SIGN:** A sign that provides artificial light directly or through any transparent or translucent material.

- 10) **INTEGRAL SIGN:** Names of buildings or farm, date of erection, monumental citations, commemorative tablets and the like when made an integral part of the walls of the structure (or roof for farm buildings).
- 11) **JOINT SIGN:** A sign that gives direction and identification to a group of adjacent businesses whether or not under single management.
- 12) **LOCATION:** A lot, premise, building, wall or any place whatsoever upon which a sign is located.
- 13) **MARQUEE:** An identification sign attached to or made a part of a marquee, canopy, or awning projecting from and supported by the building.
- 14) **MERCHANDISING SIGNS:** Signs identifying products or services available at the establishment and their prices. This is a descriptive term. Regulation depends on whether the sign is permanent, portable, temporary, a sign cover or a safety concern.
- 15) **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.
- 16) **MULTI-TENANT SIGNS:** Wall, ground or freestanding signs for unified developments, such as shopping centers and office parks, shall identify only the development, individual tenants or establishments.
- 17) **NONDWELLING USE SIGN:** A sign located on a parcel that does not have a dwelling as its principal structure and is located in a residential district. Examples of the uses that may be associated with nondwellings in these districts include but are not limited to subdivisions, schools, religious institutions, historic structures, public buildings, cemeteries, agricultural operations and agricultural retail facilities.
- 18) **POLITICAL SIGNS/POSTERS:** Signs intended for use in promoting either a candidate for public office or proposal or similar issue that will be placed before the public to vote.
- 19) **REAL ESTATE SIGNS:** Signs intended for temporary use in promoting the sale of real estate, with or without structures.
- 20) **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.
- 21) **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.
- 22) **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.

- 23) **SIGN:** A name identification, 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.
- 24) **SIGN COVER:** Signs are defined as "Sign Cover" ONLY when they are located on permitted signs and cover up the content of the permitted sign. This includes a display sign, banner or other advertising device, with or without a structural frame, constructed of nondurable materials and intended for a limited period of use.
- 25) **STREET BANNERS.** Fabric signs, suspended across public streets advertising a public entertainment or event. The location and contents of each street banner must be specially approved by the County of Ogemaw.
- 26) **SUBDIVISION SIGN:** A sign intended as identification for a Residential subdivision.
- 27) **TEMPORARY/PORTABLE SIGN:** A display sign, banner or other advertising device, with or without a structural frame, intended for a limited period of use. Signs are defined as temporary when they are attached to a permanent structure, including but not limited to a building, light pole, trees, bushes, or fences. Portable Signs are those signs that are 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 on a trailer or trailer frame and designed to be transported by means of wheels; 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.
- 28) **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.
- 29) **WINDOW SIGNS:** Signs hung outside of a window and within the framework of any window of a business or residence.

SINGLE OWNERSHIP: Ownership by one person or by two 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 or more lots, on which is shown the existing and proposed conditions of the lot.

SITE PLAN REVIEW AND APPROVAL: The submission of plans for review and approval, 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, of such a nature that the public has reserved the right to approve its exact location, 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.

SQUARE FOOTAGE: The length times 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.

STALL, PARKING: The parking space in which vehicles park.

STATE LICENSED RESIDENTIAL FACILITY: A private home licensed by the State Department of Social Services for care of sick, elderly or handicapped adults. A family home is defined as having 1 to 6 adults; a group home has 7 to 20.

STORAGE, BULK: The holding or stockpiling on land of material and/or products where such storage constitutes 40 percent of the developed site area and the storage area is at least one acre, and where at least three 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.

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, CUL-DE-SAC : A street with a single, common ingress and egress, and with a turnaround at the end.

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

STREET, LOCAL: A street designed to provide vehicular access to abutting property and to discourage through traffic.

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.

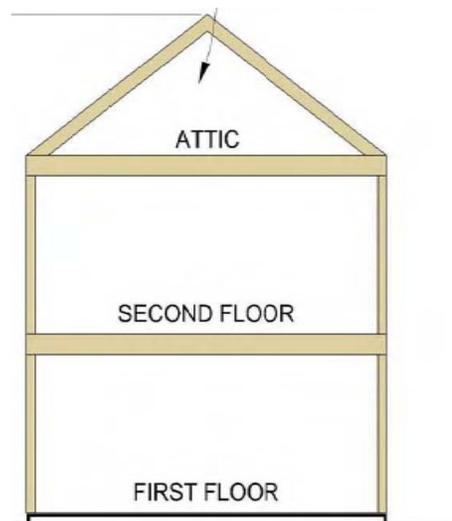
STREET, PRIVATE: A street that is not public as defined by this Ordinance.

STREET, PUBLIC: Any public right-of-way, conforming to City of West Branch standards, that provides vehicular access to adjacent properties.

STRUCTURE: see BUILDING

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 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 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.

SUBDIVISION CONTROL ACT: Public Act 288 of 1967, as amended.

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.

SYSTEM BUILT HOME: see MANUFACTURED HOME

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

TEMPORARY DWELLING: Includes, but is not limited to travel trailer, pop-up campers, modified trailers and tents, but does not include mobile homes as defined in the Michigan Mobile Home Commission Act (Manufactured Housing Commission).

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.

UNIFIED CONTROL: The combination of two 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, BY RIGHT: Any use that is listed as a use by right in any given Zoning District in this Ordinance. Uses by right are not required to show need for their location.

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 code or any amendment that exists at the time of the enactment of this code 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. An outdoor temporary use has fewer than 250 people in attendance at one time and may require a special use permit if determined by the Zoning Administrator.

USED CAR LOT: see VEHICLE SALES

UTILITY OR PUBLIC SERVICE BUILDINGS (See PUBLIC UTILITY): Any person, firm, corporation, municipal department or board, duly authorized under state or municipal regulation to furnish, and furnishing: transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal and other services to the public.

VARIANCE: A modification of the required provisions of the physical development or land use standards of the zoning code granted when strict enforcement of the zoning code 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: 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; vehicle steam cleaning and oil change.

VEHICLE SALES: A lot or portion thereof to be used only for the display and sale of automobiles that are in condition to be driven off the lot. A USED CAR LOT shall not be used for the storage of wrecked automobiles, the dismantling of automobiles, or the storage of automobile parts.

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.

VIDEO-VIEWING BOOTH OR ARCADE BOOTH: Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including but not limited to, film, video or magnetic tape, laser disc, CD, books, magazines, or periodicals) for observation by patrons therein. A video-viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet.

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

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 Environmental Quality 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.

WINDMILL: A structure utilizing wind power for the pumping of water for agricultural use on the parcel of property on which the windmill is located, or for electrical power generation for a residence and other permitted structures and uses located on the subject parcel of property.

WIND POWER GENERATING FACILITIES: Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of wind power generating facilities shall not include individual wind power generating facilities erected and used primarily for private use.

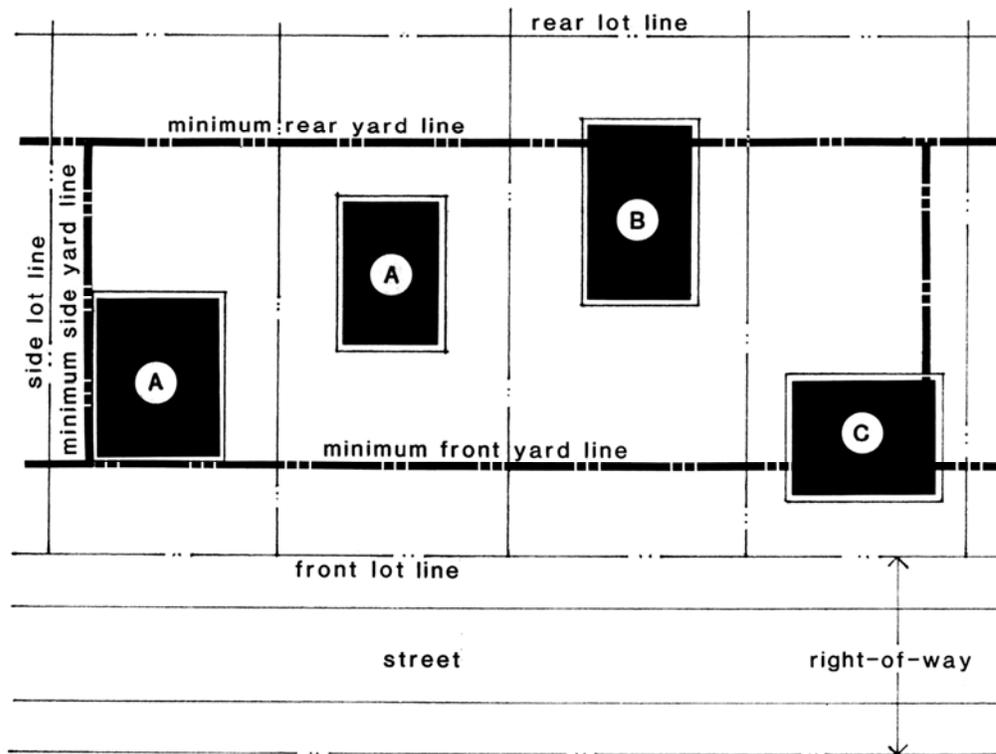
WIRELESS COMMUNICATION FACILITY: Any device, including cellular towers, used for transmitting and receiving radio waves, microwaves, and other similar frequencies.

- a. **EQUIPMENT SHELTER:** An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.
- b. **FALL ZONE:** The area on the ground within a prescribed radius from the base of a personal wireless facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- c. **GUYED TOWER:** A monopole or lattice tower that is tied to the ground or other surface by cables.
- d. **LATTICE TOWER:** A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.
- e. **LICENSED CARRIER:** A company authorized by the Federal Communication Commission (FCC) to construct and operate a commercial mobile radio services system.

- f. **OMNIDIRECTIONAL (WHIP) ANTENNA:** A thin rod that beams and receives signals in all directions.
- g. **PANEL ANTENNA:** A flat surface antenna usually developed in multiples.
- h. **PERSONAL SERVICES FACILITIES:** Establishments primarily engaged in providing services involving the care of a person or his or her apparel.
- i. **PERSONAL WIRELESS SERVICE FACILITY:** A facility for the provision of personal wireless services, as defined by the Telecommunications Act.
- j. **RADIO ANTENNA:** A signal-receiving device, the purpose of which is to receive radio signals from radio transmitters in the area.
- k. **RADIO FREQUENCY (RF) ENGINEER:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.
- l. **RADIO FREQUENCY RADIATION (RFR):** The emissions from personal wireless service facilities.
- m. **RADIO TOWER:** A signal-sending device, the purpose of which is to distribute radio signals from a radio transmitter or transmitters in the area.

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

- a. Front yard is defined as the yard extending across the full width of a premises between the nearest line of the main building or accessory structure and the front line or highway right-of-way, as the case may be.
- b. Side yard is defined as 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 premises between the nearest line of the main building or accessory structure and adjacent lot line.
- c. Back yard is defined as all open, unoccupied spaces on the same premises with the building, between the building and rear lot line.
- d. Required yard is a yard, as defined, that occupies the area of a required setback.



Legend

- A Structures satisfying minimum yard requirements
- B Structure with deficient rear yard setback
- C Structure with deficient front and side yard setbacks

Yard Requirements

YARD SALE: A sales activity that takes place on an agriculturally or residentially zoned parcel for no more than 5 consecutive days, twice in a calendar year. Sales that exceed this duration are TEMPORARY OUTDOOR USES AND COMMERCIAL USES.

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.

Chapter 3 ■ District Regulations

For the purpose of this Ordinance, certain terms are herewith defined.

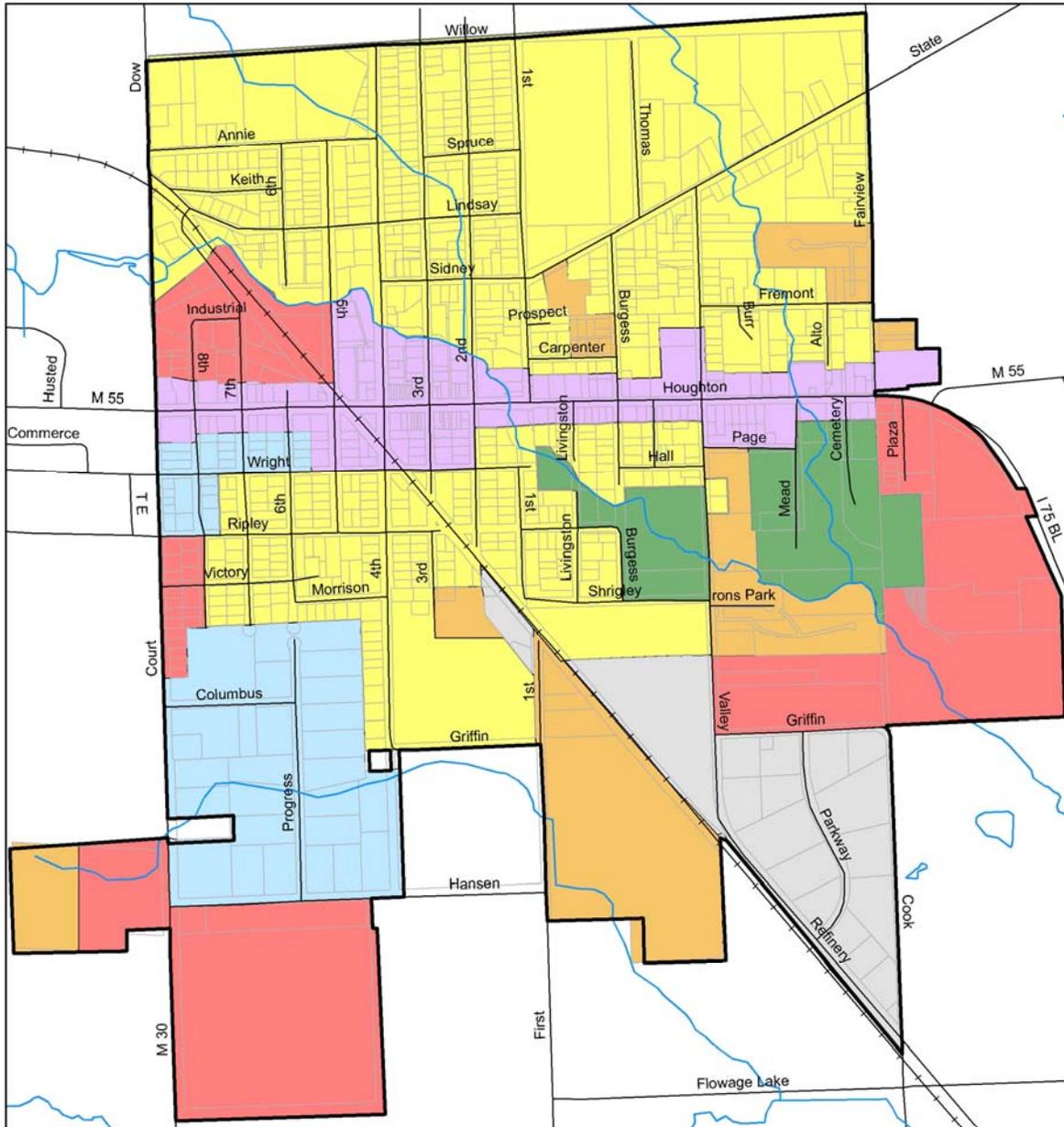
SECTION 3.1 DIVISION OF THE CITY

For the purposes of this Ordinance, all land within the City of West Branch, except streets, are divided into the following Zoning Districts:

R1	Single Family Residential District
RM	Multiple-Family District
OS	Office Service District
CBD	Central Business District
GB	General Business District
IND	Industrial District

SECTION 3.2 OFFICIAL ZONING 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.



Map Prepared by:

 Last updated: 10/14/08
 Data source:
 Michigan Geographic Data Library
 and City of West Branch

West Branch Zoning Map

Legend

Rivers	Downtown	Industrial	Park
Roads	General Commercial	Multi-Family	Single Family
Parcels*	Office		



*Accuracy of parcel lines is not guaranteed and should be used for planning purposes only

1 inch = 1,000 feet

SECTION 3.3 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:

- a. Boundaries indicated as approximately following streets or highways shall be presumed to follow the center line of said roadways.
- b. Boundaries indicated as approximately following City boundary lines or property lines shall be presumed to follow said lines.
- c. 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.

SECTION 3.4 SCOPE OF REGULATIONS

- a. No building or structure or part thereof shall be erected, moved, constructed, or altered, and no new use or change in use of a parcel shall be made unless it conforms to the provisions of this Ordinance, including the regulations for the Zoning District in which it is located.
- b. The regulations applying to Zoning Districts include specific limitations on the use of land and structures, height and bulk of structures, parcel area and dimensions, setback of structures from public thoroughfares and neighboring properties, and area of a parcel that can be covered by structures.
- c. The Zoning Board of Appeals shall have the power to classify a use that is not specifically mentioned by this Ordinance. Said use shall be treated in a like manner with a comparable permitted or prohibited use for the purpose of clarifying the District Regulations of any Zoning District.

SECTION 3.5 STREETS AND ALLEYS 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 center line 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 center line.

SECTION 3.6 DISTRICT REGULATION TABLES

Regulations for all Zoning Districts are contained together in the following tables. Each table specifies a related set of information for all Zoning Districts. These tables do not include general requirements of this Ordinance. The reader is urged to become familiar with all Ordinance provisions before making any decision regarding use of a parcel or structure in the City of West Branch.

- a. **INTENT AND PURPOSE—TABLE 1.** This table lists the intent and purpose of each Zoning District.
- b. **USES—TABLES 2 -7.** These tables describe permitted activities for each Zoning District. Each Zoning District may be host to several types of activity, but only the activities specified for a given Zoning District will be permitted there. Uses permitted by right may be allowed upon meeting all other requirements of this Ordinance. Uses permitted by Special Permit are subject to the process described in Chapter 7, Special Use Permit Regulations.

- c. DIMENSIONS—TABLE 8. This table specifies parcel dimensions and setback requirements for parcels in each Zoning District.



TABLE 1. INTENT AND PURPOSE

Zoning District	Stated Intent and Purpose
R1 District: Single Family Residential	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.
RM District: Multiple Family Residential	<i>This district is designed to provide sites for multiple-family dwelling structures, 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.</i>
OS District: Office Service	<i>This district is designed to accommodate office buildings and uses that provide basic personal services and are intended to serve the function of land use transition between Commercial Districts and the adjacent residential neighborhoods.</i>
CBD District: Central Business	<i>This district is designed to provide for the great variety of retail stores and related 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 and by prohibiting automotive related services and nonretail uses which tend to break up such continuity.</i>
GB District: General Business	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.
IND District: Industrial	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.

TABLE 2. USES: SINGLE FAMILY RESIDENTIAL (R1) DISTRICT

<u>Uses By Right</u>	<u>Uses By Special Permit</u>	
	USE:	REGULATED IN:
<ul style="list-style-type: none"> • Single-family dwellings • Public parks • State licensed residential facilities for 6 or fewer residents • Accessory uses 	Home occupations	Section 7.9
	Planned unit developments	Section 7.15 Planned Unit Development
	Public service installations	Section 7.22 Public Service Installations
	Religious and educational Institutions	Section 7.11 Institutions: Educational, Religious, and Social
	State licensed residential facilities for 7 or more residents	Section 7.11 Institutions, Religious, Educational, and Social

TABLE 3. USES: MULTIPLE FAMILY RESIDENTIAL (RM) DISTRICT

<u>Uses By Right</u>	<u>Uses By Special Permit</u>	
	USE:	REGULATED IN:
<ul style="list-style-type: none"> • All uses permitted by right in the R1 district • Cemetery • Two family dwellings • Multiple family dwellings • Private recreation • Senior housing 	Manufactured home park	Section 7.13 Manufactured Housing Park
	Planned unit developments	Section 7.15 Planned Unit Development
	Public service installations	Section 7.22 Wireless Comm. Facilities
	Religious, educational and human care institutions	Section 7.11 Institutions: Educational, Religious, and Social
	State licensed residential facilities	Section 7.11 Institutions, Religious, Educational, and Social
	Wireless communication facility	Section 7.22 Wireless Communication Facility
	Day care centers, family day care home	Section 7.6 Day Care

TABLE 4. USES: OFFICE SERVICES (OS) DISTRICT

<u>Uses By Right</u>	<u>Uses By Special Permit</u>	
<ul style="list-style-type: none"> • Banks, post offices and other governmental office buildings • Beauty parlors and barbershops • Home occupations • Medical and dental offices, including clinics, except veterinary • Mortuary establishments or funeral homes • Newspaper offices and printing facilities • Office buildings for executive, administrative service, and professional occupations • Office Supply stores • Prescription pharmacies and laboratories • Real estate and home sales facilities • Single Family homes existing and occupied at the time of this ordinance. • Accessory buildings, structures, and uses 	USE:	REGULATED IN:
	Fast food, carryout, drive-in, and drive-through restaurants	Section 7.17 Restaurants, Drive-through
	Religious Institutions	Section 7.11 Institutions, Religious, Educational, and Social
	Colleges, universities and other institutions of higher learning	Section 7.11 Institutions, Religious, Educational, and Social
	Day care centers	Section 7.6 Day Care Centers
	Municipal facilities and public, semi-public, and private institutional buildings	Section 7.11 Institutions, Religious, Educational, and Social
	Private clubs or lodge halls	Section 7.11 Institutions, Religious, Educational, and Social
	Utility and public service buildings and uses	Section 7.16 Public Service Installations

TABLE 5. USES: CENTRAL BUSINESS (CBD) DISTRICT

<u>Uses By Right</u>	<u>Uses By Special Permit</u>	
<ul style="list-style-type: none"> • Bars/taverns • Bed and breakfasts • Day care facilities • Dwellings above the first floor • Funeral homes/mortuaries • Libraries • Museums • Other retail goods, service, repair • Personal services • Professional and business offices • Public buildings • Restaurants, not including drive-through facilities • Retail food establishments which supply groceries, fruits, vegetables, meats, dairy products, baked goods, confections, or similar commodities for consumption off the premises. • Single Family homes existing and occupied at the time of this ordinance. • Accessory Uses 	USE:	REGULATED IN:
	Assembly buildings	Section 7.11 Institutions: Educational, Religious, and Social
	Commercial recreation, Indoor	Section 7.5 Indoor and Outdoor Commercial Recreation
	Planned unit developments	Section 7.15 Planned Unit Development
	Religious, social, educational, institutions	Section 7.11 Institutions: Educational, Religious, and Social
	Temporary indoor and outdoor uses	Section 7.15 Temporary Indoor and Outdoor Uses
	Wireless communication facilities	Section 7.22 Wireless Communication Facilities

TABLE 6. USES: GENERAL BUSINESS (GB) DISTRICT

<u>Uses By Right</u>	<u>Uses By Special Permit</u>	
<ul style="list-style-type: none"> • Any use permitted by right in the CBD District. • Any retail business whose principal activity is the sale of merchandise within an enclosed building. • Car rental/limousine services • Commercial recreation • Commercial schools • Contractors • Drive-through businesses • Equipment rental/sales • Greenhouses, nurseries • Hotel, Motel • Institutions, social • Lumber yard • Outdoor sales • Senior Housing • Service establishments, including printing, publishing, photo reproduction, blueprints, and related trades or arts. • Single Family homes existing and occupied at the time of this ordinance. • Tattoo/Body Piercing • Theaters, including drive-ins • Utility service buildings • Vehicle sales • Vehicle Wash Establishments • Veterinary hospitals • Wholesale sales • Wireless communication facilities • Accessory uses 	USE:	REGULATED IN:
	Any use permitted by special use permit in the CBD district	
	Body shops, towing and auto repair	Section 7.3 Body Shops, Towing, Automobile repair
	Car Wash	Section 7.4 Car Wash
	Commercial Recreation	Section 7.5 Commercial Recreation
	Gas/service stations	Section 7.7 Gas/Service Stations
	Kennels, Dog Clubs	Section 7.12 Kennels, Dog Clubs
	Religious, social, educational, rehabilitation and human care institutions	Section 7.11 Institutions: Educational, Religious, and Social
	Manufactured Home Parks	Section 7.13 Manufactured Home Parks
	Ministorage	Section 7.18 Ministorage
	Outdoor Sales and Storage, Commercial	Section 7.14 Outdoor Sales

TABLE 7. USES: INDUSTRIAL (IND) DISTRICT

<u>Uses By Right</u>	<u>Uses By Special Permit</u>	
	USE:	REGULATED IN:
<ul style="list-style-type: none"> • All uses allowed by right in GB district • Agricultural bulk storage and processing • Body Shops • Commercial schools • Distribution • Fuel sales • Greenhouses • Heavy vehicle repair • Kennels • Laboratories • Manufacturing • Mobile home and agricultural equipment sales • Mini storage • Production, processing, assembling, treatment or packaging of goods • Public utility installations • Research and development • Towing • Truck terminals • Vehicle repair • Warehousing and storage • Wind power • Wireless Communication Facilities • Accessory uses 	High intensity food processing	Section 7.8 High Intensity Uses and Waste Treatment or Disposal
	Industrial parks	Section 7.9 Industrial Park
	Junkyards, scrap yards, salvage yards	Section 7.8 High Intensity Uses and Waste Treatment or Disposal
	Petroleum or flammable liquid production, refining and storage	Section 7.8 High Intensity Uses and Waste Treatment or Disposal
	Reduction, conversion and disposal of waste goods and materials.	Section 7.8 High Intensity Uses and Waste Treatment or Disposal
	Sewage treatment and disposal	Section 7.8 High Intensity Uses and Waste Treatment or Disposal
	Sexually oriented business	Section 7.19 Sexually Oriented Business/Media stores

TABLE 8. DIMENSIONAL STANDARDS

ZONING DISTRICT	Single Family		Multiple Family	Office	Central Business District	General Commercial	Industrial
	< = 7200	>7200					
Lot Area	< = 7200	>7200	10,800	none	none	10,800	22,000
Lot Width	60	80	100	none	none	100	200
Front Yard	25 (a)	25 (a)	30	15	10	25	25
Rear Yard	15	20	30	20	10	25	25
Side Yard, Min. 1 side	8	8	15	15	None (c)	20 (c)	25 (c)
Corner Lot, Street, min.	15 (b)	15 (b)	25	25	15	25	25
Housing Unit., Min. s.f.	1200	1200	600	NA	NA	NA	NA
Housing Unit, Min. dim.	24	24	24	NA	NA	NA	NA
Height, Max. Feet	36	45	45	45	45	45	45
Height, Stories	2	3	3	3	3	3	3
Coverage, Max. Percent	60%	50%	50%	75%	none	75%	50% (d)
Accessory Structures max sq. ft.	864	864	NA	NA	NA	NA	NA

Notes to Table 8.

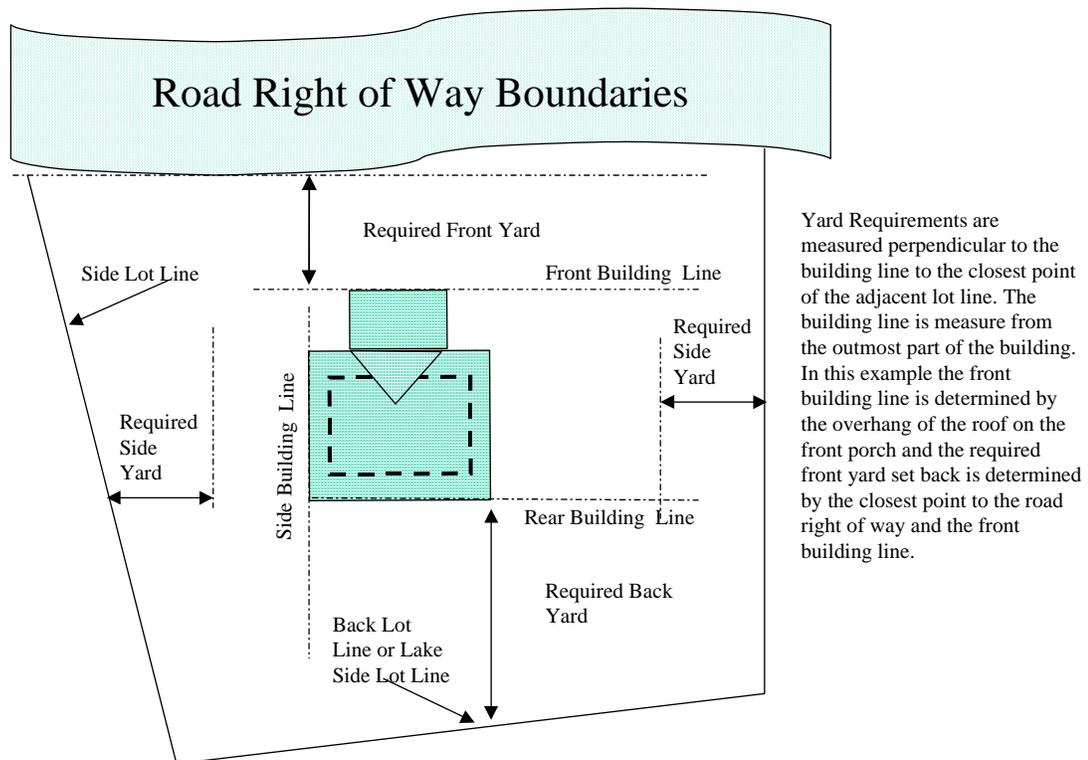
- a. For all permitted uses other than single family residential, the setback shall equal the greater of the height of the principal structure or the required setback for the district.
- b. Where a rear yard abuts a side yard on an adjacent lot on a corner, the side yard abutting the street shall not be less than the required minimum front yard in the district.
- c. Where a commercial or industrial use abuts a residentially zoned property, a 4'6" obscuring wall or fence shall be provided on those side of the property that abut the residentially zoned land.
- d. 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.

Chapter 4 ■ General Regulations

SECTION 4.1 USE REGULATIONS

- a. **BUILDING PERMITS REQUIRED.** All construction projects over 200 ft² require a building permit or as specified in the current Michigan Building Code.
- b. **PRIOR BUILDING PERMITS.** Any building permit issued prior to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within ninety (90) days after the date the permit was issued and that the building is completed according to the plans filed with the permit application within two (2) years of the date of issuance.
- c. **REQUIRED WATER SUPPLY AND 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 Ogemaw County Health Department and applicable State agencies.
- d. **INOPERATIVE OR DISMANTLED VEHICLES.** The storage of dismantled, wrecked and/or unlicensed vehicles within any district is expressly prohibited for more than one week or unless contained within a licensed junk yard or a completely enclosed structure.
- e. **DUMPSTERS.** Dumpsters must be screened on three sides in all districts.
- f. **CORNER CLEARANCE.** No fence, wall, shrubbery, sign or other obstruction to vision above the height of three (3') feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of thirty (30') 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.
- g. **FENCES, WALLS AND NONBOTANICAL SCREENS.**
 - 1) 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) In the residential zoning districts, no fence, wall or hedge plantings shall exceed a height of three (3') feet within street side yard or front yard setbacks of any street right-of-way line, except on a corner lot. Fences, walls or structural screens shall not exceed three (3') feet in any front yard or six (6') feet in any side or rear yard. Fences that enclose public or institutional uses, playgrounds or public landscaped areas, shall not exceed eight (8') feet in height and shall not obstruct vision.

Fencing is not permitted in the commercial or office districts.

Building Line and Yard Requirement measure point demonstration

- 3) On a corner lot, fence, wall or hedge planting cannot exceed a height of three (3') feet in the street side yard setback unless all of the following conditions can be satisfied:
 - a) Must begin at the back of the house or primary structure.
 - b) Does not create a safety hazard.
 - c) Houses or buildings on property adjacent to the rear of the subject parcel shall not face the same street as the street side yard in which the fence will be located.
 - d) Shall not exceed a maximum of six (6') feet from grade.
- 4) On a through lot where the back yard faces an adjacent front yard the maximum height of a fence shall be four (4') feet.
- 5) Plant materials located within thirty (30') feet of the pavement of a public right of way shall not obstruct visibility between a height of three (3') feet and eight (8') feet.
- 6) Fences shall be located outside of the road right of way and inside all property lines.

- 7) 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.
 - 8) Barbed wire, electrified components or similar fencing that is likely to cause injury shall not be used in any residential district.
 - 9) All fences shall be installed so that if there is a more decorative side, it 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.
- h. WILD OR EXOTIC ANIMALS. 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.
- i. VOTING PLACE. The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

SECTION 4.2 DWELLING REGULATIONS

- a. TEMPORARY MOBILE HOMES. One (1) Mobile Home, as defined by the Mobile Home Commission Act, [http://www.legislature.mi.gov/\(S\(hh4jzezavjq1mkudippxagbi\)\)/mileg.aspx?page=getmcl-document&objectname=mcl-act-96-of-1987](http://www.legislature.mi.gov/(S(hh4jzezavjq1mkudippxagbi))/mileg.aspx?page=getmcl-document&objectname=mcl-act-96-of-1987) may be placed temporarily on a Parcel. The Mobile Home may house only the owner(s) of the Parcel and immediate family members during the repair of a Single Family Home due to fire or natural disaster. The Temporary Permit shall be valid for up to six (6) months and may be issued by the Zoning Administrator under emergency conditions. The permit may be renewed not more than once for the same period by the Building Inspector.
- b. STRUCTURES TO BE OF UNIFORM QUALITY. Any additions, rooms or other areas of a dwelling must be constructed using workmanship and materials similar or higher in quality than the original structure. Such additions, rooms or other areas must be permanently attached to the principal structure and must be supported by a foundation as required herein.
- c. MAINTENANCE. A dwelling must be properly maintained and protected against deterioration and damage from the elements or the passage of time by prompt and appropriate repairs, surfacing, coating and any other necessary protective measures.
- d. ONE SINGLE FAMILY DWELLING PER PARCEL. Unless the structure is part of an approved Planned Unit Development, only one (1) single family detached dwelling will be allowed to be erected on a parcel.
- e. ACCESSORY STRUCTURES
- 1) Accessory structures not for dwelling use. No portion of an accessory building in any zoning district is to be used as a dwelling.
 - 2) Buildings accessory to the residential use of buildings shall only be erected in a rear yard.
 - 3) Buildings accessory to residential buildings not exceeding the height of the principle structure and may occupy not more than 25% of a required rear yard, plus 40% of any

nonrequired rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.

- 4) No detached building accessory to a residential building shall be located closer than 10' to any main building nor shall it be located closer than three feet to any side or rear lot line.
- f. **ATTACHED GARAGE YARD REQUIREMENTS.** Attached garages shall be considered part of the principal building for the purpose of computing required yards.
- g. **OVERHANGS.** Such dwellings shall have an overhang or eave as required by the building code for residential dwellings or be similar to the surrounding residential neighborhood.
- h. **DOORS.** Dwellings shall have no fewer than two (2) exterior doors, one (1) of which shall enter upon a main living area of the dwelling, with the other located in either the rear or side.
- i. **STEPS.** Steps designed to provide safe, convenient access to each exterior door shall be provided to the door area, or to porches accessible to the door area, when required by a difference in elevation between the doorsill and the surrounding grade.
- j. **EXTERIOR MATERIALS.** Dwellings shall be provided with exterior finished materials similar to that found in the surrounding residential neighborhood.
- k. **EXTERIOR WALLS.** Dwellings shall have an exterior wall configuration, which represents an average width-to-depth or depth-to-width ratio, which does not exceed three-to-one, or is in reasonable conformity with the configuration of dwelling units in the surrounding residential neighborhood.
- l. **STORAGE.** The dwelling shall contain a storage area in a basement located underneath the dwelling, in an attic area, in closet areas or in a separate structure of standard construction similar to, or of better quality than, the principal dwelling, which storage area shall be equal to 10% percent of the square footage of the dwelling or 100 square feet, whichever is less.

SECTION 4.3 PARCEL REGULATIONS

- a. **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 dwellings are accessed by one driveway, a private road must be constructed according to the private road regulations of the City.
- b. **HARD 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 structure.
- c. **PARKING AND STORAGE OF TRAVEL TRAILERS AND BOATS**
 - 1) 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:



- 2) No more than three 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.
 - 3) 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 wherein 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.
 - 4) Recreational equipment parked or stored shall not be connected to electricity, water, gas or sanitary facilities, and at no time shall same be used for living, lodging or housekeeping purposes in any zoning district.
- d. CORNER CLEARANCE. No fence, wall, shrubbery, sign or other obstruction to vision above a height of 30" from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25' from their point of intersection.
- e. OUTDOOR SALES. No outdoor sales are permitted on any property unless it is in association with a 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. 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 4.4 STRUCTURE REGULATIONS

- a. PERMITTED YARD ENCROACHMENTS. The following items shall be considered to be accessory structures, even though they may be attached to a principal building, and may project into required side or rear yards for the principal building. Setbacks for accessory structures, as defined in the DIMENSIONS list of the DISTRICT REGULATIONS chapters, must be adhered to, as well as any requirements listed herein.
- 1) Open porches, paved terraces and patios. NOTE: Enclosed porches are considered to be part of the principal building, subject to all yard, setback and area requirements.
 - 2) Structural elements such as cornices, sills, chimneys, gutters, and similar features projecting a maximum of two and one half (2.5') feet.
 - 3) Fire escapes, outside stairways, and balconies, if of open construction, projecting a maximum of five (5') feet.
 - 4) Signs, subject to provisions of Chapter 6.
- b. PERMITTED HEIGHT EXCEPTIONS. The following exceptions shall be permitted to height limitations in the DIMENSIONS lists of the DISTRICT REGULATIONS chapters, subject to an approved site plan. These permitted exceptions shall not be for human occupancy or dwelling.
- 1) 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.

- 2) 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.
 - 3) 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.
 - 4) 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 10' 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 set back. Flags shall be no greater than four (4') feet by six (6') feet in size. The total number of flags shall not exceed two (2). All parcels are limited to one pole per parcel. Flag pole footings and anchoring devices shall be subject to review and approval of the City and/or Ogemaw County Building Authorities.
- c. **ABANDONED BUILDINGS AND STRUCTURES.** Any building or structure not in continuous use as defined by Permitted, Special Land Use, or nonconforming uses in any district for a period greater than six (6) months shall be considered abandoned and come under the provisions of this Ordinance and other City codes for buildings and structures. In order to obtain a certificate of occupancy as a use in the future, once six (6) months have passed, the building or structure shall have to meet all the current standards of all applicable City codes.

SECTION 4.5 BUFFERING REGULATIONS

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.

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



- c. 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.
- d. The Planning Commission shall determine the character of the buffer based on the following criteria:
 - 1) Traffic impact
 - 2) Increased building and parking lot coverage.
 - 3) Increased outdoor sales, display and manufacturing area.
 - 4) Physical characteristics of the site and surrounding area such as topography, vegetation, etc.
 - 5) Visual, noise and air pollution levels.
 - 6) Health, safety and welfare of the City.
- e. A buffer may consist of any or all of the following:

- 1) 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 R-1 zones
I	45'
GC	30'
CBD	20'
OS	20'

- 2) The equivalent of one canopy tree and one evergreen tree must be planted per thirty (30') lineal feet or fraction of buffer area length.
- 3) Continuous rolling screen six (6') feet in height comprised of plant material, screen walls or fences or any combination of these elements is required.

f. Construction Standards:

- 1) If a 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.
 - c) Two (2) evergreen trees must be planted for every thirty (30) linear feet or fraction of buffer area length must be planted.
 - 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.
- 2) If a wall is used for all or part of the buffer then: For those use districts and uses listed below there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall as required below. Use:

- a) Off-street parking area requirements, 4'6" high wall.
 - b) O-S, CBD, GB Districts: requirements, 4'6" high wall.
 - c) I-1 Districts (open storage areas, loading and unloading areas and service areas): requirements 5' to 8' high wall.
- 3) Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformance with front yard setback lines in abutting Residential Districts. Required walls may, upon approval of the Board of Appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Board of Appeals in reviewing such request.
 - 4) Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be approved by the Building Inspector. All walls herein required shall be constructed of materials approved by the Building Inspector to be durable, weather resistant, rust proof and easily maintained; and wood or wood products shall be specifically excluded.
 - 5) (1) Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of 42" below a grade approved by the Building Inspector and shall not be less than 4" wider than the walls to be erected.
 - 6) Masonry walls may be constructed with openings above 32" above grade provided such openings are not larger than 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.
 - 7) All areas outside of planting beds shall be covered with grass or other living ground cover.
 - 8) 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.
 - 9) All plantings including grass must be maintained in good healthy condition and must be replaced if they should die at any time.
 - 10) 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.
 - 11) 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 4.6 LANDSCAPING

- a. In the Office, General Commercial and Industrial Districts the front yard setback 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 a point 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 setback 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. Trees not permitted:
 - 1) Box Elder.
 - 2) Soft Maples (Red silver).
 - 3) Elms.
 - 4) Poplars.
 - 5) Willows.
 - 6) Horse Chestnut (nut bearing).
 - 7) Tree of Heaven.
 - 8) Catalpa.

SECTION 4.7 PONDS

- a. Excavations or Holes: 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. 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. Only decorative ponds are permitted within the City.

SECTION 4.8 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. Any nonconforming building, structure or use shall not be enlarged or expanded and may be changed, repaired, or reconstructed only as prescribed by this Section.

- b. **HISTORIC PROPERTIES.** Any nonconforming property in the City of West Branch which 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. 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 30 days before any regulatory action may take effect.

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 Chapter 8 - Site Plan Review. 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. **LEGALITY OF NONCONFORMITIES.** Nonconformities will be classified as "legal" or "illegal" based on the following guidelines. Regulation of nonconformities will vary based on their legality.
- 1) **ILLEGAL** nonconformities are those that have been developed in conflict with zoning regulations.
 - 2) **LEGAL** nonconformities are those that meet each applicable criterion, listed below. Note that temporary signs are not considered legal nonconforming structures.
 - a) The nonconformity existed legally before the effective date of this Ordinance.
 - b) The nonconformity complied with the District Regulations of the previous zoning ordinance, or existed legally through a special use permit or variance.
 - c) Nonconforming Setback or Lot Size only: The nonconformity resulted from land acquisition by a government agency, such as for a road right-of-way.
 - d) Nonconforming Buildings or Structures only: The building or structure does not extend into a public right-of-way, or over a neighboring property line.
- d. **LOSS OF LEGAL NONCONFORMING STATUS.** If a nonconforming use of land or structure ceases for any reason for a period of six (6) months or more, any reuse of the land or structure must conform to all requirements of this Ordinance.
- e. **EXPANSION OF NONCONFORMITY PROHIBITED.** 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. Nor may one nonconforming use be replaced by another unless the degree of nonconformance is reduced in some way. This regulation excludes single family homes in the commercial and industrial districts.
- f. **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 provided that the reconstruction or restoration work does not increase the footprint of the existing structure.

All such restoration must be started at the completion of the police or insurance investigation, if applicable, and diligently pursued to completion. The Board of Appeals 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. No fee shall be charged for an appeal to the Board of Appeals under the provisions of this section. 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. Residential structures in the commercial district are exempt from these requirements.

- g. REPAIR. Nothing in this Ordinance shall prohibit the repair, improvement, or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation, or wear, provided that such repair does not exceed 30% of the original footprint of the structure as determined by the assessing officer unless the subject building is changed by such repair to a conforming use. No repair may enlarge or structurally alter the structure in such a way as to increase the nonconformity. Residential structures undergoing repair for purposes of providing handicapped facilities are exempt from these requirements.
- h. CHANGING USES. If no structural alterations are made, the 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.
- i. NONCONFORMING LOTS. In any district in which single family dwellings are permitted, a single family dwelling and the accessory buildings may be erected on any single legal lot of record at the effective date of adoption or amendment of this Ordinance. Yard dimensions shall conform to the regulations for the district in which the lot is located. All lots of record that are being developed must have access to a public street or highway.

SECTION 4.9 SIDEWALK CAFES

- a. INTENT. In the interest of promoting business by increasing activity and improving the general business climate, the City Manager or Zoning Enforcement Officer 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:
 - 1) The sidewalk café will not interfere with the use of the street, sidewalk, or alley for vehicular or pedestrian traffic.
 - 2) Will not unreasonable 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.
 - 11) Conflict with the Victorian theme prevalent in the City.
- 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.

Chapter 5 ■ Parking

SECTION 5.1 INTENT

This section is intended to provide efficient and safe access management and adequate parking area for specific uses as well as promote the efficient use of land. It also seeks to prevent adverse environmental impacts of large paved areas.

SECTION 5.2 CONSTRUCTION AND DESIGN

Regulations in this section apply to all nonresidential uses in all districts.

- a. 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.
- b. STANDARDS. The design and construction of parking areas shall conform to the following requirements:
 - 1) Parking spaces shall be at a minimum ten (10') feet by twenty (20') feet in size. This does not include access drives and aisles. Designated handicapped spaces must be twelve (12') feet wide by twenty (20') feet long.
 - 2) HANDICAPPED SPACES – All parking areas shall meet the requirements of all current Barrier Free Design specifications for Michigan.
 - 3) Off-street parking facilities required for buildings shall be provided in accordance with the following table and identified by signs as being reserved for handicapped persons. Signs shall be located approximately six (6') feet above grade. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient not more than one (1') foot in twelve (12') feet and a width of not less that four (4') feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and entrances. Signs shall be provided when necessary, indicating the direction of travel to an accessible entrance.
 - 4) Parking areas for retail uses that include the use of carts shall have cart corals to contain carts.

TABLE 1. REQUIRED BARRIER FREE SPACES

Total Number of Parking Spaces Provided in Lot	Total Minimum Required Number of Barrier-Free Spaces	Van Accessible Parking Spaces (minimum 8' wide access aisle)	Accessible Parking Spaces (minimum 5' wide access aisle)
Up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3

101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	2% of total parking provided in each lot	1 out of 8 accessible spaces	7 out of every 8 accessible spaces
1,001 and over	20 plus 1 for each 100 spaces over 1,000	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces

Source: International Building Code, 2004

- 5) AISLES. Parking space access aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum width of such aisles shall be:
 - a) For ninety (90) degree or perpendicular parking the aisle shall not be less than twenty-six (26) feet in width for two-way traffic.
 - b) For sixty (60) degree parking the aisle shall not be less than thirteen (13) feet in width for one-way traffic.
 - c) For forty-five (45) degree parking the aisle shall not be less than thirteen (13) feet in width for one-way traffic.

- 6) 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. Lighting fixtures shall comply with height and setback standards for accessory structures for the applicable Zoning District. No direct rays from said fixtures shall be directed at adjacent properties or public streets.

- 7) 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 5,000 square feet in size shall have on site drainage with discharge to a storm sewer.

- 8) 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.

- 9) 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 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.

- 10) 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.
- 11) STRIPING. Except for parallel parking, all parking spaces on paved surfaces shall be clearly marked with STRIPING that shall be maintained.
- 12) LANDSCAPING. 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.
- 13) LAYOUT. Plans for the layout of parking facilities shall be in accordance with the following minimum requirements:

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	8	23	20	28
	24	8	23	32 – one-way	40 – two-way
30° to 50°	12	9	20	32	52
54° to 74°	15	9	20	36 ½	58
75° to 90°	20	9	20	40	60

14) SCREENED. Off-street parking areas shall be effectively SCREENED on any side that abuts a residential use or institutional use, by a screening of evergreen hedge or other natural landscaping. If the owners of adjacent residential properties request, in writing, this screening shall be done by a solid uniformly painted fence or wall not less than four feet six inches (4'6") or more than six (6') feet in height and maintained in good condition.

15) SURFACE. In cases where the Planning Commission determines that the level of traffic using a parking are or the nature of traffic in the parking area requires a hard surface for safe and efficient operation, the parking area shall be 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 residential. 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 year of occupancy.

c. SHARED ACCESS. The Planning Commission must require shared access between and among uses where feasible, excluding agricultural single 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 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.

- d. **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.
- e. The **OCCUPANCY** of a building or any part of a building shall not change it from one use to a use in another classification unless the minimum parking requirements are provided for the new use. No building shall be enlarged if the enlargement requires additional parking space, unless the minimum requirements for off-street parking are provided.
- f. 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.

SECTION 5.3 RESIDENTIAL DISTRICTS

- a. **APARTMENTS.** Apartments require two (2) spaces per dwelling unit. Parking areas must be on an approved surface of asphalt or concrete.
- b. **OTHER USES.** 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 and shall be paved.
- c. **REPAIR WORK.** No commercial repair work, commercial servicing, or selling of any kind except for periodic garage or yard sales shall be conducted on parking areas in residential districts, and no sign of any kind other than those indicating entrances, exits, and conditions of use shall be erected thereon.
- d. New construction requires paving in accordance with the standards listed in Section 5.2.

SECTION 5.4 COMMERCIAL DISTRICTS

- a. **EMPLOYEE PARKING.** Employee parking shall consist of one (1) parking space for every one (1) employee on the largest shift. Handicapped parking shall be required.
- b. **PARKING SURFACE.** All parking shall be on an approved paved surface with the exception of parking for campgrounds, RV parks, cemeteries parks and other outdoor recreational uses.
- c. **LOADING AND UNLOADING SPACE.** 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.

- d. **BONUS FOR COMBINED PARKING.** In case of a situation where there is more than one use in a single structure the following off-street parking regulations may apply:
- 1) For two (2) uses per structure, eighty (80%) percent of the otherwise combined required parking.
 - 2) For three (3) uses, seventy-five (75%) percent.
 - 3) For four (4) uses, seventy (70%) percent.
 - 4) For five (5) or more, (65%) percent.
 - 5) In no case shall less than sixty-five (65%) percent be allowed.
- e. **OFF-STREET WAITING AREA FOR DRIVE-THROUGH FACILITIES.**
- 1) An off-street waiting 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 waiting 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-five (25') feet.
 - 5) Drive-through lanes shall be striped, marked, or otherwise distinctively delineated.
 - 6) No 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.

Source: American Planning Association Parking publications

USE OF PARKING AREAS. No commercial repair work, servicing or selling of any kind shall be conducted on any required parking area except that which is specifically permitted by this ordinance.

SECTION 5.5 INDUSTRIAL DISTRICTS

- a. **LOADING AND UNLOADING SPACE.** 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.
- b. **EMPLOYEE PARKING.** Employee parking shall consist of one (1) parking space for every one (1) employee on the largest shift.
- c. **UNCLASSIFIED USES.** In the case of a building, structure, or premises, the use of which is not specifically mentioned, the provisions for a use which is mentioned and to which the use in question is similar, shall apply.
- d. **BONUS FOR COMBINED PARKING.** In case of a situation where there is more than one use in a single structure the following off-street parking regulations may apply:

- 1) For two (2) uses per structure, eighty (80%) percent of the otherwise combined required parking.
 - 2) For three (3) uses, seventy-five (75%) percent.
 - 3) For four (4) uses, seventy (70%) percent.
 - 4) For five (5) or more, (65%) percent.
 - 5) In no case shall less than sixty-five (65%) percent be allowed.
- e. PARKING SURFACE: All parking shall be on an approved paved surface with the exception of parking for campgrounds, RV parks, cemeteries, parks and other outdoor recreational uses.

SECTION 5.6 NUMBER OF PARKING 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. If a use is not specifically listed, the parking requirements of a similar or related use shall apply as determined by the Zoning Administrator. Handicapped parking shall be provided.

- a. 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.
- b. MULTIPLE USES. In case of a situation where there is more than one use in a single structure the following off-street parking regulations may apply. The Planning Commission shall have the power to reduce parking further 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.
 - 1) For two (2) uses per structure, eighty (80%) percent of the otherwise combined required parking.
 - 2) For three (3) uses, seventy-five (75%) percent.
 - 3) For four (4) uses, seventy (70%) percent.
 - 4) For five (5) or more, (65%) percent.
 - 5) In no case shall less than sixty-five (65%) percent be allowed.
- c. SINGLE USES. In cases where there is a single specified use, the following regulations shall apply:
 - 1) Vehicle sales. One parking space per each five hundred (500') square feet of sales floor area.
 - 2) Vehicle service garages. One parking space for each five hundred (500') square feet of building floor area.
 - 3) Barber and beauty shops. Two (2) parking spaces for each chair or booth.

- 4) Bowling alleys. Four (4) parking spaces for each bowling 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.
- 5) Places of public assembly. One (1) parking space for each three (3) seats or 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.
- 6) Commercial recreation (outdoor). Twenty-five (25%) percent of lot area, but in no case less than ten (10) parking spaces.
- 7) Commercial recreational (indoor). One (1) parking space for each one hundred (100) square feet of building floor space.
- 8) Dance hall, roller rink, assembly hall. Without fixed seats, five hundred (500%) percent of the building floor area used for dancing or assembly. One (1) for each three (3) seats or one (1) for each one hundred (100) square feet of gross floor area.
- 9) Funeral homes. Four (4) spaces for each slumber room or one (1) space for each fifty (50) square feet of gross floor area, whichever is greater, plus one (1) space for each fleet vehicle.
- 10) Furniture sales, retail. One (1) parking space for each five hundred (500) square feet of building floor area.
- 11) Gasoline service stations. One (1) parking space for each employee on the largest shift, plus one for each service bay.
- 12) Hospitals and convalescent homes. One (1) parking space for each hospital bed and one (1) parking space for each three (3) rest home beds.
- 13) Laundromats. One (1) parking space for every two (2) washing machines or two hundred (200) square feet of gross building floor area, whichever is greater.
- 14) Libraries and Museums. One (1) parking space for each eight hundred (800) square feet of floor area, plus one (1) parking space for each employee working during maximum employment hours.
- 15) Motels, hotels, motor courts, tourists or lodging homes, trailer courts, and clubs. One parking space 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. Parking reductions may apply.
- 16) Office buildings, including banks, business and professional offices. One (1) parking space for each two hundred (400) square feet of building floor area, but in no case less than five (5) spaces.
- 17) Private clubs and lodges. One (1) for each three (3) active members and one (1) for each employee normally engaged in and about the premises, with a minimum of one (1) for each one hundred (100) square feet of floor space.

- 18) Restaurants, taverns, bars, cocktail lounges, and similar eating establishments. One (1) parking space for each four (4) seats provided for patron use.
- 19) Retail sales and personal services self-serve food market or supermarket. Parking area equivalent to one (1) space per one hundred fifty (150) square feet of the public floor area. In addition, for uses over 100,000 square feet of retail use, a maximum of 1 space per 150 square feet shall be permitted.
- 20) Schools: Private or Public Elementary and Junior High Schools. One (1) space for each employee working during the maximum employment hours in the building and on the grounds, plus one (1) space for each thirty (30) students of maximum enrollment capacity and one (1) for each eight (8) auditorium seats.
- 21) Senior High School and Institutions of Higher Learning, Private or Public. One (1) parking space for each employee plus one (1) for each five (5) students, plus the parking requirements for an auditorium, a gymnasium and an athletic field if they are included.
- 22) Theaters, auditoriums, stadiums. One (1) parking space for each four (4) seats.
- 23) Warehouses, storage buildings, lumber and supply yards, wholesale sales. Two (2) parking 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.

Chapter 6 ■ Signs

SECTION 6.1 SCOPE

The intent and purpose of these standards are to:

- a. Maintain and enhance the aesthetics of the community.
- b. Avoid excessive signage.
- c. Protect and enhance economic viability by assuring aesthetic appeal for visitors and residents.
- d. Preserve the Victorian Theme in designated areas.
- e. Promote the use of aesthetically pleasing sign materials and colors.
- f. Avoid obstacles, distractions, or traffic hazards that impair a traveler's ability to see pedestrians, traffic signs, or vehicles.
- g. Enhance the effectiveness of necessary directional and warning signs.
- h. Preserve property values.
- i. Provide for the effectiveness of permitted signs.
- j. Require structurally safe signs.

SECTION 6.2 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 Manager. 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 6 months after the date of the permit:

a. ACTIONS EXEMPT FROM PERMITTING.

- 1) Historical or Memorial Signs or tablets, not to exceed eight (8) square feet in area, containing the name of the building and date of erection, when cut into any masonry surface or constructed of bronze or other incombustible material and affixed to the exterior wall of the building.
- 2) Signs painted on or permanently attached to legally licensed vehicles that are used upon the highways for transporting persons, goods or equipment.
- 3) 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 Township Board 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 state herein at the discretion of the Zoning Enforcement Officer.

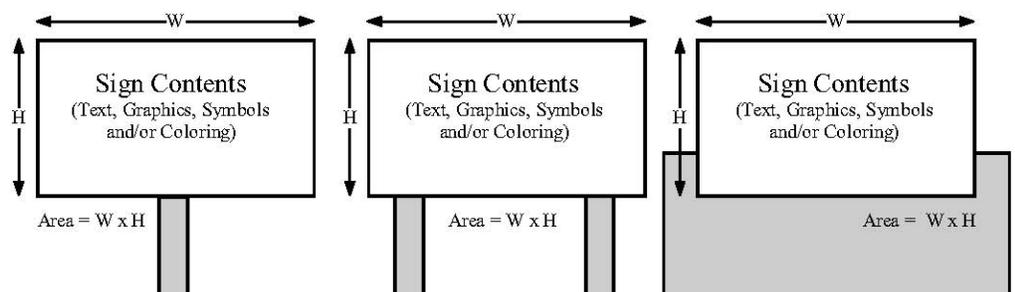
- 4) Community special event Signs approved by the City Council or City Manager.
 - 5) One Sign advertising parcels of land or building for rent, lease or sale, when located on land or building intended to be rented leased or sold, not exceeding six (6) square feet in area, four (4) feet in height in residential districts and twenty-four (24) square feet in area, six (6) feet in height in office, commercial and industrial districts.
 - 6) Signs of a decorative nature, not used for any commercial purpose and commonly associated with any national, local or religious holiday; provided that such Signs shall be displayed for a period of not more than sixty (60) consecutive days, nor more than sixty (60) days in any one year.
 - 7) Political campaign Signs, not to exceed one sign per candidate or issue, and not to exceed six (6) square feet of area per Sign, shall be permitted on all occupied lots, regardless of zoning. Political campaign Signs may not be displayed more than ten (10) days after an election for which they are related.
<http://www.ag.state.mi.us/opinion/datafiles/1980s/op06258.htm>
 - 8) Garage sale Signs not exceeding five (5) square feet in area and not displayed in excess of three (3) days.
 - 9) One Sign identifying on site construction activity, during the time of construction, not exceeding twenty four (24) square feet in area. Such Signs shall not exceed eight (8') feet in height.
 - 10) Help wanted Signs not exceeding six (6) square feet in area and four (4') feet in height may be displayed on private property for a period of up to four (4) weeks at a time and not more than four (4) times within each calendar year.
 - 11) 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.
 - 12) Private traffic control on private property such as directional Signs. Such Signs may not exceed one and one half (1½) square feet or three (3') feet in height.
- b. APPLICATIONS. Application for a permit to construct or locate a permanent sign shall be obtained from the City Manager. 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:
- 1) Name, address, telephone number of the landowner, developer, or petitioner.
 - 2) 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.
 - 3) 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,

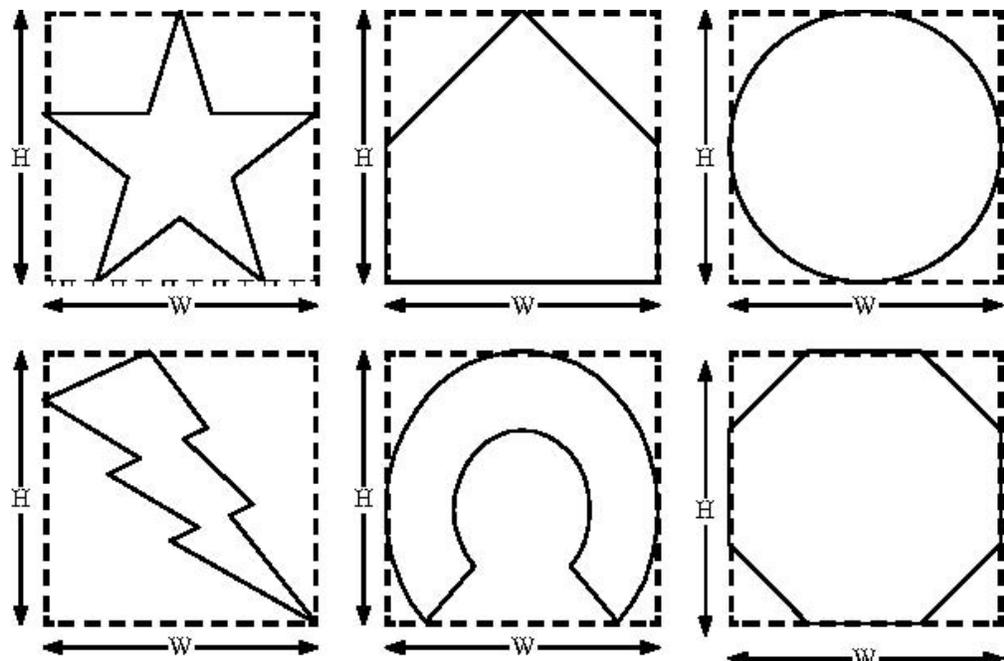
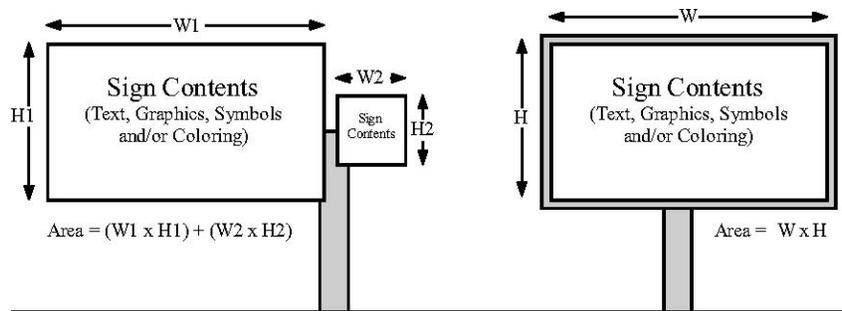
and width of the sign(s) and height between ground elevation and the bottom of the sign, shall be noted.

- 4) 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.
 - 5) The proposed dates of construction and completion of the sign.
 - 6) Structural information necessary to comply with all current building codes.
 - 7) In the case of a portable sign, the length of time the proposed sign will be on the site.
 - 8) A fee shall be paid to the City for each sign permit. A schedule of fees shall be established and amended from time to time by the City Council.
- c. PORTABLE/TEMPORARY SIGNS - DURATION OF PERMIT FOR. Each sign shall require a permit if it is to be posted more than 3 days. Such signs must be located on the premises to be served. Portable/temporary signs may be posted up to 60 days not to exceed two permits per calendar year.
- d. VARIANCES. Variances to sign dimensions or placement shall be reviewed by the Planning Commission according to the procedures in Chapter 10, Zoning Board of Appeals.

SECTION 6.3 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. This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back-to-back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two 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.





SECTION 6.4 ADDITIONAL SIGN REQUIREMENTS WITHIN THE DOWNTOWN DEVELOPMENT DISTRICT

- a. LOCATION OF DDA DISTRICT FOR SIGN REGULATIONS. Signs located on Houghton Ave. (M-55/BLI-75) between M-30/Court Street and Valley Street are regulated by this section and all other applicable regulations within this Chapter.
- b. TYPE. Wall mounted, canopy, marquee, window and temporary sandwich signs are permitted. All signs must be created in Victorian Style according to the design requirements in Section 6.7.
- c. 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 the applicant can demonstrate with historical reference, that the material is appropriate to the age and style of the building. This demonstration shall be upon application for a sign permit.
- d. LETTERING.
 - 1) FONTS. Fonts used on signs must utilize one of the following styles or something similar in nature:

Anglo	Anglo Font
Campanile	Bodoni Campanile Font
Chorus Girl	CHORUS GIRL FONT
Ferdinand	Ferdinand Font
Glorietta	Glorietta Font
Grant Antique	AaBbCcDdEeFfGgHhIi
Gutenberg	Gutenberg Font
Hogarth	Hogarth Script Fo
Jagged	Jagged Font
Katherine Bold	Katherine Font
Lafayette	Lafayette Font
Olympian	Olympian font
Rubens	Rubens Font
Stereopticon	STEREOPTICON FONT
Templar	Knights Templar

- 2) LOGOS. All corporate logos must conform to the design guidelines without exception.
- 3) CHANGEABLE COPY. Changeable copy using individually placed letters is prohibited on all signs including sandwich board signs. Chalk boards are permitted.
- e. EMBELLISHMENTS. Embellishments or decorative aspects of the sign structure must be appropriate to the Victorian era and/or consistent with the embellishments of the other signs within the DDA.
- f. LIGHTING. All lighting must be achieved through floodlights mounted on ground, structure or sign and must be properly shielded. LED signs are prohibited.
- g. SIGNS IN WINDOWS. Window signs must conform to all the requirements of this section and shall not exceed 25% of the entire glass area of the building frontage.

SECTION 6.5 TABLE OF SIGNS PERMITTED – SEE FOOTNOTES

District	Type	# per Parcel	Maximum sq. ft.	Height	Placement
R-1 Single Family Residential	Small signs	1	6	3'	Within the required yard
	Nondwelling use	1(h)	32	5'	
	Home Occupation	1	2	Wall (d)	
	Temporary	1	16	5'	
RM Multiple Family Residential	Small signs	1	6	3'	Within the required yard
	Nondwelling use	1(h)	32	5'	
	Temporary	1	16	5'	
OS Office Service (e,g)	Canopy	1 per street or alley (a,b,f)	Length of front face	Roof line	Within the required yard
	Wall	1per street or alley (a,b,f)	32	Wall (d)	Wall
	Monument	1per street or alley (a,b,c,f)	12	5'	Within the required yard
CBD Central Business (e,g,i) (see additional DDA regulations, Sec. 6.4)	Freestanding or Monument (shall not include LED)	1 (a,b,c,f)	24	5'	Within the required yard
	Canopy or Marquee (shall not include LED)	1 per street or alley (a,b,f)	Length of front face	Bottom of 2 nd story window	8' from ground, 30" from bldg.
	Wall (shall not include LED)	1 (a,b,f)	24	Wall (d)	Wall
	Temporary (shall not include LED)	1	16	5'	Within the required yard
GB General Business (e,g)	Freestanding or Monument (may include LED)	1 per street or alley (a,b,c,f)	32	5'	Within the required yard
	Canopy/Marquee	1 (a,b,f)	Length of front face	Bottom of 2 nd story	8' from ground, 30" from bldg.
	Wall	1 (a,b,f)	32	Wall (d)	Wall
	Temporary	1	16	5	Within the required yard
IND Industrial	Freestanding or Monument	1 (a,b,c,f)	32	5'	Within the required yard
	Canopy or Marquee	1 per street or alley (a,b,f)	Length of front face	Bottom of 2 nd story window	8' from ground, 30" from bldg.
	Wall	1	32	Wall (d)	

Notes to the Table of Permitted Signs

- a. In the case of through lots, excluding through lots on a corner, (a lot or lots held under one ownership fronting on two streets), on a street, one sign may be allowed per access.
- b. In the case of a corner lot, situated on two or more streets, signs may be permitted on each street.
- c. Only one (1) monument sign shall be permitted on each lot, except that a business center shall be permitted one (1) monument sign for each major street frontage. A business center shall be allowed one (1) sign not exceeding one (1) foot by four (4) feet for each business within the business center. The entire sign shall not exceed twenty-five (25) feet in height. If more than five (5) businesses are located in one center, additional monument signs will be allowed using the same one (1) foot by four (4') foot signs. "One (1) wall is allowed per individual business of sixty-four (64) square feet in a strip mall or mini mall."
- d. The height of wall signs may be up to the height of the wall.
- e. Each business occupancy other than the ground floor shall be entitled to one (1) additional sign of the wall or flat type on the structure or incorporated within a permitted projecting sign. These wall signs shall not be larger than two-thirds (66%) of the permitted wall sign for the first floor business.
- f. One (1) sign not exceeding four (4) square feet may be permitted per additional building entrance, exit or service window.
- g. Parcels with greater than four hundred (400) lineal feet of frontage may be granted additional signage at the site plan review phase.
- h. In the Residential districts, only nondwelling use signs may be illuminated provided that the light is not visible from any street or adjoining property.
- i. In the CDB district signs shall not flash, oscillate or move in any manner. LED signs are expressly prohibited.

SECTION 6.6 WINDOW SIGNS

- a. **SIGNS IN WINDOWS.** Window signs must conform to all the requirements of this section and shall not exceed 25% of the entire glass area of the building frontage.
- b. **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.

SECTION 6.7 SANDWICH SIGNS

A permit shall be granted and remain in effect for sidewalk sandwich signs that meet the following conditions:

- a. Two-sided.
- b. Securely hinged at top and property stabilized with 36" of chain or the equivalent and properly screened weighting mechanism.



- c. Does not exceed a total height, 64" or a total width of 28".
- d. Does not exceed a display area 48" by 28".
- e. Placed so that no part of the traveled sidewalk is blocked.
- f. The sign must be removed when business is not open.



- g. 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.
- h. Changeable copy using individually placed letters is prohibited on all signs including sandwich board signs. Chalk boards are permitted.

SECTION 6.8 PROHIBITED SIGNS

Signs are prohibited that:

- a. 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.
- b. Obstruct a motorist's view of any traffic signs, street sign, or traffic signal.
- c. Are not properly anchored or secured to a building or the ground.
- d. Are determined to be obscene by the City Manager and Zoning Enforcement Officer.

SECTION 6.9 ILLUMINATION

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. LED signs are permitted provided they do not interfere with traffic control. All illuminated signs shall be designed and located to prevent the light from being cast upon adjoining residences and shall be located at least one hundred fifty (150') feet from any residential use. The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard. In the Residential districts, only nondwelling use signs may be illuminated.

SECTION 6.10 NONCONFORMING SIGNS

Nonconforming signs:

- a. Shall not be changed in such a way to remain nonconforming.
- b. Shall not be altered structurally or so as to change the shape, size, type, or design of the sign unless such change renders the sign conforming.

SECTION 6.11 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.

SECTION 6.12 VIOLATIONS AND REMOVAL

- a. Any sign erected, altered, or converted subsequent to the passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a nuisance per se.
- b. Upon discovery of a violation of this Chapter the City Manager and Zoning Enforcement Officer shall provide written notice to the person in possession of the premises upon which the sign is erected as is reasonably available and to the owner of the premises upon which the sign is erected as shown by the records of the City Assessor. Such notice shall state the defects found upon inspection of the sign and order the sign to be brought into compliance with this Chapter or removed.
- c. The City Manager and Zoning Enforcement Officer or his representative shall also post a copy of such notice upon the violating sign or upon the premises upon which the sign is erected. Such notice shall be sufficiently weatherproof to withstand normal exposure to the elements and shall be readily visible from the nearest public thoroughfare.
- d. If the violating sign has not been removed or brought into compliance with this Article within thirty (30) days from the issuance of the order specified in B. above, the City Manager and Zoning Enforcement Officer or his deputies shall provide notice to the person in possession of the premises upon which the violating sign is erected and to the owner of premises upon which the sign is erected. The owner may request an interpretation of the Ordinance or an administrative decision at the Zoning Board of Appeals. Notice shall be provided in the same manner as in B. and C. above.
- e. If the Zoning Board of Appeals determines that the sign involved is in violation of this Ordinance they shall order the action necessary to bring the sign into compliance. Based upon competent evidence and testimony, the Board of Appeals shall also establish a reasonable time by which the requirements of the order shall commence and shall be completed.
- f. If the decision and order provided for in E. above are not complied with in the specified time, the City Manager and Zoning Enforcement Officer may cause the violating sign to be removed and destroyed. The cost of removal, destruction, and disposal of the sign may be charged against the premises.
- g. Nothing in this Section shall prevent the City Manager and Zoning Enforcement Officer or Ogemaw County Building Inspector from ordering the complete removal of any sign presenting an immediate threat to the safety of the public.

SECTION 6.13 ABANDONED SIGNS

A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business is no longer conducted on the premises. If the owner or lessee fails to remove it within 30 days of the termination of business, the City Manager and Zoning Enforcement Officer, or a duly authorized representative, may remove the sign at cost to the property owner. When a successor to a defunct business agrees to maintain the signs as provided in this code, this removal requirement shall not apply.

Chapter 7 ■ Special Use Permits

SECTION 7.1 INTENT, PURPOSE AND PROCESS

- a. **INTENT.** The purpose of this Section 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.
- 1) It is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow practical latitude for land use and at the same time, promote the intent and purpose of this Zoning Ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses.
 - 2) 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.
- b. **PURPOSE.** This Chapter provides procedures and 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.
- c. **PROCESS.** Regulation of Special Uses may include up to three separate steps.
- 1) First is the possibility of a rezoning being required to accommodate the special use.
 - 2) Second is the review of the Site Plan for the proposed use.
 - 3) Third is the decision of whether a Special Use Permit will be granted.
- d. **STANDARDS.** During the Special Use Permit process, various considerations will be explored before approval of the Site Plan or the Special Use Permit. Some of these are defined in this Chapter as additional site plan review standards for various Special Uses. These standards are intended to reduce the impact of a Special Use on surrounding properties. They are minimum requirements that must always be met.
- e. **CONDITIONS.** The Planning Commission may attach additional conditions to the approval of the Site Plan or the Special Use Permit. These conditions must be based on requirements or concerns defined by this Ordinance.
- f. **PERMANENCE.** Note that once a Special Use Permit has been granted, it may only be revoked if the conditions mentioned above, or other requirements of this Ordinance, have been violated. Otherwise, the Special Use Permit "runs with the land" and is one of the rights that transfers when the parcel is rented or sold. Therefore, this Ordinance does not

provide for placement of any time limit on a Special Use Permit, except that the Special Use Permit may expire or be revoked.

SECTION 7.2 HOW A SPECIAL USE PERMIT IS REVIEWED

- a. **SUBMISSION OF APPLICATION.** The application package is to be submitted to the City City Manager and Zoning Enforcement Officer.
 - 1) **CONTENTS.** The application package consists of a Special Use Permit Application form completed in full by the applicant, accompanied by a fee as established by the City Council.
 - 2) **APPLICATION DEADLINE.** The complete application package must be submitted to the City Manager and Zoning Enforcement Officer at least thirty (30) days before the Planning Commission meeting at which it will be considered.
- b. **CONSIDERATION OF REZONING AND 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.
 - 1) **SEPARATE.** The rezoning shall be considered separately & prior to the Special Use Permit.
 - 2) **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.
 - 3) **STANDARDS.** All standards required by this Ordinance shall be observed for each action.
 - 4) **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.
- c. **PLANNING COMMISSION REVIEW AND 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. If the applicant wishes to have the Site Plan Review and Special Use Permit considered at a single Planning Commission meeting, the following process occurs:
 - 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.
 - a) **NOTICE.** A notice of public hearing shall be mailed to all parties specified in the Administration chapter and published in a newspaper of general circulation in the City not less than fifteen (15) days before the date of such hearing.
 - b) **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.
- 2) **SITE PLAN REVIEW.** The Planning Commission shall conduct a Site Plan Review for the proposed use, using the procedure and standards presented in the Site Plan chapter and any specific standards identified for the Special Use by this Chapter. 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.
 - a) **PUBLIC INPUT.** 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. However, the Planning Commission may choose to accept public comments or questions relating only to design considerations of the site plan.
 - b) **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.
 - 3) **CONSIDERATION OF SPECIAL USE PERMIT.** Following the close of the public hearing, consideration of the Special Use permit shall take place.
 - a) **OPEN MEETING.** Note that the Open Meetings Act requires this vote to take place in an open public meeting.
 - b) **PROMPT DECISION.** In the interest of fairness and a timely response for all concerned parties, the Planning Commission shall render their decision on the Special Use Permit during the same meeting in which the public hearing is held, 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. **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.
 - e. **TERMS OF PERMIT.** A Special Use Permit consists of a permit that specifies the Special Use which is to be allowed and any conditions which were attached by the Planning Commission. If a use established under a Special Use Permit is discontinued for a period of one (1) year, the Special Use Permit shall expire. To reestablish the use after such expiration will require granting a new Special Use Permit, starting with a new application.
 - f. **REVOCAION.** The privilege of a Special Use Permit is subject to all the conditions that have been attached to it during the process described above. Except as noted in item e – Terms of Permit, the permit remains valid as long as all of those conditions are met and is transferable from owner to owner or “runs with the land.” However, the Planning Commission shall revoke any Special Use Permit after it has been proven that the permit conditions have been violated.
 - 1) **FIRST NOTICE.** The City Manager and Zoning Enforcement Officer 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 Enforcement Officer'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 Enforcement Officer 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 Enforcement Officer 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 Enforcement Officer 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.
- g. **STANDARDS TO CONSIDER WHEN REVIEWING A SPECIAL USE PERMIT.**
- 1) **STANDARDS ATTACHED TO SITE PLAN REVIEW.** Before approving or denying a Special Use Permit Application, the Planning Commission reviews the site plan for said use, to establish that all applicable standards are satisfied. The Site Plan review shall determine compliance with the applicable District Regulations, the Site Plan Review Standards and any applicable standards from this Chapter.
 - 2) **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. 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.
 - 3) **ENFORCEMENT OF CONDITIONS.** The breach of any condition shall be cause for the Planning Commission to revoke a Special Use Permit.

SECTION 7.3 BODY SHOPS AND TOWING OPERATIONS

- a. An automobile service station building shall be located not less than fifty (50) feet from any right-of-way line.
 - 1) All repair work must be carried out within an enclosed building.
 - 2) No automobile repair garage shall be erected within a 200' radius of any residential district.
- b. 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.
- c. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than thirty (30) feet from any lot line, and 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.
- d. (d) 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 10% of the total yard area, excluding area taken up by structures. The screening wall shall not be higher than 6'. Outside storage or parking of each disabled, wrecked, or partially dismantled vehicle shall not be permitted for a period exceeding three (3) days.
- e. An automobile repair garage use 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 to an automobile repair garage.
- f. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.
- g. On a corner lot, both street frontage sides shall be subject to all applicable front yard provisions of this ordinance.

SECTION 7.4 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 6' 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 stacking spaces (including one in the wash stall) per each washing stall. Automatic washes shall provide a minimum of 15 stacking spaces (including two 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 7.5 COMMERCIAL RECREATION, INDOOR AND OUTDOOR

- a. **INDOOR COMMERCIAL RECREATION.** Indoor Commercial Recreation uses included, 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 this Ordinance.
 - 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 shall include, but may not be 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 and the City Council 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 and the City Council 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 and the City Council may reduce such requirement by 50% 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 an 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 and City Council.
- 7) Not more than sixty-five (65) percent of the land area shall be covered by recreation uses.
- 8) 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 200 foot setback.
- 9) 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. The maximum range of hours for all establishments is Monday through Sunday, 7:00am to Midnight.
- 10) 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.
- 11) Children's amusement parks must be fenced on all sides with a 4' wall or fence.
- 12) Adequate parking shall be provided off the road right-of-way and shall be fenced with a 4'6" wall or fence where adjacent to the use.

SECTION 7.6 DAY CARE CENTERS, NURSERY SCHOOLS, DAY NURSERIES:

- a. For each child cared for there shall be provided, equipped and maintained, on the premises, a minimum of 100 square feet of usable outdoor play area (minimum total area of 1,000 square feet per facility).
- b. The outdoor play area shall be suitably fenced and screened by a planted greenbelt 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.
http://www.michigan.gov/dhs/0,1607,7-124-5455_49572_50051---,00.html

SECTION 7.7 GAS STATION/SERVICE STATION, CONVENIENCE STORES WITH GASOLINE SERVICE:

- a. There shall be a minimum lot area of 10,000 square feet and minimum lot width of 100'.
- b. Pump islands shall be a minimum of 15' from any public right-of-way or lot line.
- 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 25' 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 6' 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 7.8 HIGH INTENSITY USES, WASTE TREATMENT AND DISPOSAL

High Intensity Uses are permitted in the Industrial district.

Standards in this section shall apply to all of the following uses in Zoning Districts where they are identified as Special Uses in the District Regulations for each zone. These uses are:

- Sewage Treatment and Disposal
 - High Intensity Food Processing
 - Reduction, conversion & disposal of waste goods and materials
 - Salvage Yard, Scrap Yard, Junk Yard
 - Petroleum or flammable liquid production, refining and storage
- 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 subsection are less than those in applicable state statutes, the state requirements shall prevail. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.
 - 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 Environmental Quality, 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 a special use permit.
 - 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.

(e) 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 7.9 HOME OCCUPATION

- a. EMPLOYEES. No person other than members of the family residing on the premises shall be engaged in such occupation.
- b. USE OF DWELLING. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by the occupants. Provided further that not more than 25% percent of the total actual floor area of any story is used for home occupation purposes.
- c. ACCESSORY STRUCTURE. No home occupation shall be conducted in any accessory structure.
- d. 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, other than one sign. The sign shall not exceed two square feet in area, shall be nonilluminated, and mounted flat against the wall of the dwelling unit. There shall be no off-site indication of a business operation.
- e. TRAFFIC. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
- f. EQUIPMENT. No equipment or process shall be used in such home occupation 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.

SECTION 7.10 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.

- 1) SETBACKS. No building shall be located on any one or more lots nearer to the front lot line or nearer to the side lot line than the minimum setback set forth below:
 - a) Front Yard Setback. Twenty (20) feet, except that unsupported roofs or sun screens may project six (6') feet into the setback area.
 - b) Side Yard Setback. Ten (10) feet, provided that a single building is constructed on two or more lots. No fences shall be constructed within the required side yard.
 - c) Rear Yard Setback. The rear yard shall be thirty (30) feet.

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. SIGNS. No sign shall be erected or maintained in the Park except in conformity with the following:

- 1) Signs visible from the exterior of any building may be lighted, but no signs or any other contrivance shall be devised or constructed as to rotate, gyrate, blink or move in any animated fashion.
- 2) Only one (1) single faced or double faced sign shall be permitted per street frontage. No sign or combination of signs shall exceed one (1) square foot in area for each six hundred (600) square feet of total site area. However, no sign shall exceed two hundred (200) square feet in area per face. An additional twenty (20) square feet shall be allowed for each additional business conducted on the site.
- 3) A sign advertising the sale, lease, or hire of the site shall be permitted in addition to the other signs listed in this section. Said sign shall not exceed maximum area of thirty-two (32) square feet.
- 4) No ground signs shall exceed four (4) feet above grade in vertical height. Also, ground signs in excess of one hundred (100) square feet in area (single face) shall not be erected in the first twenty (20) feet, as measured from the property line, of any street

side set back area. However, the above standards shall not apply to the Community Directional Sign, Special Purpose Sign, or Construction Sign.

- 5) Wall Signs shall be fixture signs. Signs painted directly on the surface of the wall shall not be permitted.
- e. 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 streets and adjacent properties.
- f. 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 7.11 INSTITUTIONS: RELIGIOUS, EDUCATIONAL, SOCIAL, HUMAN CARE, INCARCERATION, RETREATS

Institutions include but are not limited to hospitals, State Licensed Residential Facility, churches, temples, mosques, schools, both public and private, social, recreational and philanthropic clubs, are subject to the following conditions:

- a. The buildings on the site shall be set back from abutting properties zoned and used for residential use not less than fifty (50) feet.
- b. Buildings of greater than the maximum height allowed in the zoning district that a religious institution is located in may be allowed, provided that front, side and rear yards are increased above the minimum requirements by one (1) foot of building that exceeds the maximum height allowed.
- c. Adult Foster Care Large Group Home For Thirteen (13) to Twenty (20) Residents:
 - 1) A State licensed adult foster care large group home shall not be located within 750' of another similar State licensed facility.
 - 2) One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory uses.
 - 3) A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
 - 4) A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
 - 5) A landscaped buffer shall be provided along all property lines that abut a less intense land use and around the visible perimeters of all parking and loading/unloading areas.
 - 6) All exterior lighting of entryways, parking spaces, or loading/unloading areas shall not reflect onto adjacent properties and, preferably, should be motion activated.
- d. Adult Foster Care Small Group Home for 7 to 12 Residents:

- 1) A State licensed adult foster care large group home shall not be located within 750' of another similar State licensed facility.
- 2) One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory uses.
- 3) The property (architecture and landscaping) shall be maintained in a manner that is consistent with the character of the neighborhood.

SECTION 7.12 KENNELS AND 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 sound-proofing 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 7.13 MANUFACTURED HOUSING PARK

- a. PERMITTED USES:



- 1) Manufactured home parks, subject to the requirements established and regulated by the Mobile Home Commission rules, and the provisions of this section.
- 2) Clubhouse, swimming pool, playgrounds, common areas and recreation facilities for the use of mobile home park residents.
- 3) Accessory uses or structures such as manufactured home park business office, laundry facilities, and home occupations otherwise permitted in residential districts under this article.
- 4) Public Service Installations

b. INTERNAL ROADS.

- 1) Internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement. The easement shall be recorded before an internal road is approved by the department. Sole access by an alley is prohibited.
- 2) Dead end internal roads shall terminate with a turning radius of fifty (50) feet. Parking shall not be permitted within the turning area, which shall be posted within the turning area.
- 3) A safe-sight distance of two hundred fifty (250) feet shall be provided at intersections.
- 4) Offsets at intersections, or intersections of more than two (2) internal roads are prohibited.
- 5) Internal roads shall have driving surfaces with widths not less than the following:
 - a) No parking, twenty-one (21) feet.
 - b) Parallel parking, one (1) side, thirty-one (31) feet.
 - c) Parallel parking, two (2) sides, forty-one (41) feet.
- 6) All entrances to new communities or new entrances to expanded communities shall be a minimum of thirty-three (33) feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community's internal road and shall be constructed as follows:
 - a) All turning lanes shall be a minimum of eleven (11) feet in width and sixty (60) feet in depth measured from the edge of the pavement of the public road into the community.
 - b) The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of sixty (60) feet.
 - c) The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road and shall have a radius determined by the local public road authority. The intersection of the public road and ingress and egress road shall not have squared corners.
 - d) Alternative designs that provide for adequate ingress and egress shall be approved by the department.

- 7) An internal road shall be constructed of concrete, bituminous asphalt, or, where permitted by local regulations, compacted road gravel in compliance with the standards of the American Association of State Highway and Transportation Officials (AASHTO), which is adopted by reference in these rules and is available for inspection at the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48864, or from the American Association of State Highway & Transportation Officials, 444 North Capitol Street N.W., Suite 249, Washington, DC 20001, at a cost as of the time of adoption of these amendatory rules of \$480.00.
- 8) The community developer may use other suitable material of equal quality if approved by the department.
- 9) A developer may install curbing on all internal roads. If curbing is used, it shall be constructed of concrete or asphalt.
- 10) Speed limits on community internal roads shall be posted at a minimum at all community entrances intersecting public roads within one hundred (100) feet of the entrance or before the first intersection, and shall be enforced in compliance with the requirements of 1949 PA 300, MCL 257.1 et seq.
- 11) All internal roads may be clearly marked with appropriate traffic signs, except that all community egress roads shall be clearly marked with a regulation stop sign at the point of intersection with a public road.
- 12) Internal roads shall be named and so identified by signs located at all internal road intersections.
- 13) Signs bearing the words "Children Playing" shall be appropriately located on all internal roads adjacent to recreational and playground areas.
- 14) Vehicle Parking.
 - a) All home sites shall be provided with two (2) parking spaces at the home site. Vehicle parking shall be in compliance with both of the following provisions:
 - (1) The parking spaces may be either in tandem or side by side. If spaces are in tandem, then the width shall not be less than ten (10) feet and the combined length shall not be less than forty (40) feet. If spaces are side by side, then the combined width of the two (2) parking spaces shall not be less than twenty (20) feet and the length shall not be less than twenty (20) feet. In either method, the length shall be measured from the closest edge of the back of the curb, the paving surface, or the common sidewalk, if provided.
 - (2) A parking space shall be hard-surfaced.
 - b) Additional parking facilities.
 - (1) A minimum of one (1) parking space for every three (3) home sites shall be provided for visitor parking. Visitor parking shall be located within five hundred (500) feet of the home sites the parking is intended to serve. The five hundred (500) feet shall be measured along a road or sidewalk.

- (2) If parking bays are provided, then they shall contain individual spaces that have a clear parking width of ten (10) feet and a clear length of twenty (20) feet.
- c. ILLUMINATION. All streets and sidewalk and areas open to travel by mobile home park residents shall be illuminated as follows:
- a) Access points to public thoroughfares shall be lighted. If the public thoroughfare is lighted, the illumination level shall not exceed the average illumination level of an adjacent illuminated public thoroughfare.
 - b) At all street intersections and designated pedestrian crosswalks the minimum illumination shall be not less than 0.15 foot candles.
 - c) All streets, parking bays and sidewalks shall be illuminated at no less than 0.05 foot candles.
 - d) If a central park, mail box, or park directory, or both are provided they shall be illuminated by not less than 3.15 horizontal foot candles.
 - e) All lighting shall be located and shielded so as to direct the light away from premises abutting the mobile home park.
- d. SANITARY SYSTEM. Each mobile home park shall be connected to a common water supply and sanitary sewage disposal system. Adequate water supply shall be provided for firefighting purposes. Water supply shall be designed and installed and sewer service provided in accordance with the Michigan Department of Public Health Engineering Standards and the Safe Drinking Water Act, Section 325.1105 administrative rules and shall be properly maintained and readily accessible for immediate use at all times. Fire hydrants shall be situated within the mobile home park in such locations and at such intervals such that no lot shall be more than three hundred (300) feet measured parallel to the street from a fire hydrant. Each fire hydrant shall be located within ten (10) feet of the edge of the street paving surface. If the central water system cannot support fire hydrants, 'dry' fire hydrants shall be installed. When the property is more than one hundred fifty (150) feet along a public right-of-way from either municipal water or sewer supply lines or sewers, a private system may be installed as approved by the County Health Department. Otherwise, each mobile home park shall be connected to the City water and/or sanitary sewage disposal systems and each mobile home site shall be connected.
- Public sewer systems shall be required in a manufactured home development if available within two hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the development shall connect to a state approved sewage system.
- e. SOLID REFUSE, GARBAGE AND RECYCLABLES. The disposal of solid refuse shall comply with all City and other government requirements for refuse disposal.
- f. UTILITIES. All local distribution lines for telephone and electric services, exclusive of main supply and perimeter feed lines shall be placed entirely underground throughout the mobile home park.
- g. OPEN SPACE. An open space dedicated to use by Mobile Home Park residents as a recreation area, playground or gathering area, including, at the option of the owner/developer, clubhouses, swimming pools and the like, shall be provided. The areas



shall consist of not less than two (2%) percent of the park's gross acreage but not less than twenty-five thousand (25,000) square feet.

- h. MOBILE HOME INSTALLATION. Installation of mobile homes upon each mobile home site shall be accomplished in accordance with Part 6 of the Manufactured Housing Commission rules. All mobile homes shall be connected to utilities and shall be skirted and anchored in accordance with Part 6 of the Manufactured Housing Commission rules.

SECTION 7.14 OUTDOOR SALES AND STORAGE FACILITY

- a. A Special Land Use Permit for Commercial Outdoor Storage shall be required whenever such stored goods are not owned and/or produced by the owner of the property on which they are stored.
- b. All outdoor storage areas shall include a storm water drainage system approved by the City Engineer.
- c. No outdoor storage shall be permitted in the front yard or in any required side yards for the district in which the Commercial Outdoor Storage use is located.
- d. Where an outdoor storage area is adjacent to a residential zoned district or use, a solid fence or wall 6' in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition.
- e. An Outdoor Sales Facility shall front on and be accessed from a key street segment, as defined herein.
- f. 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.
- g. The Planning Commission may establish, as a condition of approval, hours of operation for the Outdoor Sales Facility.
- h. 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 Landscaping and Buffering standards of Chapter 4.
- i. 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.
- j. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 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.
- k. 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 7.15 PLANNED UNIT DEVELOPMENT (PUD)

- 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**
 - 1) Dwelling units in detached, semi-detached, attached, or multiple family dwellings or any combination thereof, along with customary accessory detached uses and structures are permitted in a PUD. Site condominium projects (Act 59 of 1978) established after the effective date of this Ordinance shall be designated as a PUD.
 - 2) Commercial uses, limited to those set forth in the LC District of the City Zoning Ordinance and specifically approved by the Planning Commission are permitted in the PUD, provided that such uses are designed to be compatible and harmoniously incorporated into the overall design of the PUD.
 - 3) Non-residential uses of a religious, cultural, or recreational character are permitted in a PUD provided they are compatibly and harmoniously incorporated into the overall design of the PUD.
- c. **DENSITY AND PARCEL COVERAGE.** Minimum requirements set forth by the original district in which the proposed PUD is located shall act as general guideline for the lot and yard regulations. 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 for yards and lots as a part of the approval process. 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) Required open space shall comprise no less than forty (40) percent of the total lot or parcel area. 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, but any structures constructed incidental to such uses shall not exceed, in the aggregate, ten percent (10%) of the required open space area.
 - 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 PUD District 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.

SECTION 7.16 PUBLIC BUILDINGS, UTILITIES AND 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 7.17 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 road.
- 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-foot-high fence.
- h. No part of the subject use shall be located within two hundred (200) feet of any residentially-zoned land.
- i. The Planning Commission shall approve the hours of operation to prevent negative impact on adjoining properties.

SECTION 7.18 SELF STORAGE FACILITIES / MINI STORAGE

- a. The minimum size of the site devoted to such use shall not be less than three acres.
- b. Building separation between self-storage buildings on the same site shall be 15', as measured from side-to-side, or equal to the building height, whichever is greater.
- c. The total lot coverage of all structures shall be limited to 50% of the total lot area.



- d. 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 6' 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.
- e. Internal driveway aisles shall be a minimum of 24' in width.
- f. All off-street parking areas and driveways shall be hard surfaced and properly drained.
- g. All ingress and egress from this site shall be directly onto a public street.
- h. Building height shall not exceed one story or 15', except that a caretaker or resident manager's unit may be allowed a building height of two stories or 25'.
- i. No single storage building shall exceed 5,000 square feet.
- j. All storage on the property shall be kept within an enclosed building except as approved by the Planning Commission.
- k. 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 7.19 SEXUALLY ORIENTED BUSINESS AND 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 affects 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 to the property lot line of the agriculturally or residentially zoned property or the property lot line of any religious or educational institution, 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 7.20 TEMPORARY INDOOR AND OUTDOOR USES, BUILDINGS AND STRUCTURES

- a. **EXEMPT ACTIVITIES.** School fund raising activities are exempt from the special use permit requirements of this section. Private garage and yard sales, as defined in this ordinance, in the Residential districts are exempt from the special use permits 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 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,
- 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,
- 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 a total of thirty (30) days in any six (6) month period. A total of two (2) temporary sign permits may be granted for (1) one 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 required yards 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 Chapter 2, may be granted temporary use permits by the City Manager and Zoning Enforcement Officer, 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 and,
- 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 Enforcement Officer 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.
- 6) The temporary use location must meet all yard requirements of the zone in which it is located.

SECTION 7.21 WIRELESS COMMUNICATION 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. **DISTRICT REGULATIONS.** A wireless communication facility shall require a building permit in all instances and may be permitted as follows:
 - 1) 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, provided that the installation of the new facility does not increase the height of the existing structure except as provided in the Height Regulations in this Ordinance. Such installations shall be permitted by right in all zoning districts and be permitted through City staff review.
 - 2) Towers in Residentially and Agriculturally zoned areas are only allowed 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 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.
- c) Wireless telecommunication antennas on roofs, walls and existing towers 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.
- 3) Towers in agriculturally, commercially or industrially zoned areas are allowed by right if they qualify as towers allowed by right in residentially zoned areas.
 - 4) Newly constructed towers in agriculturally, commercially or industrially zoned areas are allowed by Special Use Permit under the following situations:
 - a) The City Council 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.
- c. COLOCATION. 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 collocate with other carriers. Such good faith effort includes:
- 1) A survey of all existing structures that may be feasible sites for collocating 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 collocation is feasible under the design configuration most accommodating to collocation.

In the event that collocation 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 collocation at the site is not feasible or is feasible given the design configuration most accommodating to collocation. 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 collocation.

- 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 varied, 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 collocated 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) 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. 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 Enforcement Officer. 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.
- i. 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.
- j. 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 coapplicant 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 coapplicant wants to add any equipment or additional height not specified in the original design filing.

Chapter 8 ■ Site Plan Review

SECTION 8.1 SITE PLAN REVIEW

- a. Various provisions of this Ordinance require review of site plans before certain types of administrative approval may be granted. This Section defines the procedures and standards to be used for such a review.
- 1) SITUATIONS REQUIRING A FORMAL SITE PLAN REVIEW. The City Planning Commission must review and approve site plans before granting approval to Special Use Permits.
 - a) In addition, and in the case of new development, all duplex or multifamily projects, projects, and all projects in the Commercial and Industrial districts site plan review before the City Planning Commission.
 - b) In the case of existing development, a Site Plan Review is required when:
 - (1) The project involves increasing the footprint by twenty (20%) percent or more of the original site plan for any residential structure with more than two (2) units, or any Commercial or Industrial structure or use.
 - (2) The project involves expansion of a legal nonconforming use, building or structure under the terms of this Ordinance. Illegal or unacceptable nonconforming uses may not expand.
 - (3) The project is a Special Use.

At no time shall a Site Plan review be required as a part of the decision process for rezoning. This is because the decision to rezone property should be based on consideration of its effects on long-range plans for the City, and on the merits of the proposed Zoning District, and the uses it would allow, as they relate to the subject property and surrounding area.

b. SITE PLAN REVIEW PROCESS.

- 1) APPLICATION DEADLINES. If a zoning application requires a Site Plan Review by the Planning Commission, a complete application package must be received at least thirty (30) days before the date of a Planning Commission meeting in order to be reviewed at said meeting. If a Site Plan Review is being conducted for a Special Use Permit or subdivision plat, the application timetable specified for that process applies. A preapplication meeting is encouraged.
- 2) APPLICATION MATERIAL. Applications requiring Site Plan Review must be accompanied by a fee as established by the City Council and by at least ten (10) 11" x 17" copies of a site plan that meets the following requirements stipulated below. The application will not be reviewed until the complete application package has been submitted, including the fee.
- 3) SITE PLAN REQUIREMENTS. 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 and 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.

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.

- a) **SCALE.** The site plan must be drawn to a consistent scale of not less than one-inch-equals-fifty (1" = 50') feet for sites of three acres or less, or one-inch-equals-two hundred (1" = 200') feet for larger sites.
- b) **IDENTIFICATION.** The applicant's name, address and telephone number and the name and address of the firm(s) responsible for preparation of the site plan must be included. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.
- c) **PROPERTY INFORMATION.** 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. Zoning of the site, and of adjacent properties, must be identified. A legal description and computation of the area of the property must accompany the site plan. 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) **SITE FEATURES.** The site plan should depict existing environmental conditions, topography, drainage features showing the type and direction of flow, wetlands, any existing structures, including those proposed for removal, and other significant conditions. The approximate location and use of structures and the location of the nearest driveways on adjacent or opposing parcels should be shown.
- e) **TRANSPORTATION FEATURES.** The site plan must show the location and surface type of all existing and proposed public and private roads, access drives, internal vehicle circulation areas, parking lots (including number and location of handicapped parking spaces), sidewalks (required for all development), loading areas or docks, truck bays, and refuse pickup stations.
- f) **SHARED ACCESS.** The Planning Commission must require shared access between and among uses where feasible, excluding single 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 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.
- g) UTILITIES. The site plan must show 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. Storm drainage information shall include any enclosed drains, flow restrictors and on-site retention. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television.
 - h) STRUCTURES. The site plan must show the location and dimensions, including height, of all proposed buildings, accessory structures and related features. For multifamily housing developments, the number of units in each building must be identified. Schematic plans and elevations of all structures exceeding five thousand (5,000) square feet of total floor area must be included. The site plan should also show the location, arrangement, dimensions and type of proposed signs, lighting, landscaping, dumpsters, screening, fences, and decorative walls.
 - i) SUPPLEMENTARY MATERIAL. The site plan shall be complemented by any additional information that, in the City Manager and Zoning Enforcement Officer's discretion, is important for the Site Plan Review process. 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.
 - j) PERFORMANCE BOND. Further, the Planning Commission is empowered to require and at its option may require a performance bond or certified check in an amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the City Clerk at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan; if not, the performance bond shall be forfeited. The City shall rebate a proportional share of the deposit, when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the City Manager. The City Manager may, at his/her discretion, call upon professional assistance from the City Engineer, or building inspectors. In cases where the provisions above have not been met, the amount of the aforementioned performance guarantee shall be used by the City to return the property to a safe and healthy condition and the balance, if any, shall be returned to the applicant.
- 4) STAFF REVIEW OF SITE PLAN.
- a) PERSONS INVOLVED. Before the site plan is reviewed by the Planning Commission, the City Building Inspector, Engineer, or contracted engineering services, Public Works Director and Fire Chief, or their designees, shall be given an opportunity to review and comment upon it. In addition, the City Manager and Zoning Enforcement Officer may submit the site plan to any other Department of City government that he or she believes would have an interest in some aspect of the proposed project. Staff members wishing to comment upon the site plan must transmit their comments in writing to the City Manager and Zoning Enforcement

- Officer at least five (5) days before the Planning Commission meeting at which the site plan is to be reviewed. A preapplication meeting with the applicant and City Manager and Zoning Enforcement Officer is encouraged.
- b) **STANDARDS TO BE USED.** Reviewers shall address the considerations identified by the Review Standards in this Chapter. 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.
- 5) **PLANNING COMMISSION REVIEW OF SITE PLAN.** The Planning Commission shall address the Site Plan Review at a public meeting. 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. In the interest of providing a timely response to the applicant, 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. 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.

- 6) **DEVIATIONS FROM APPROVED SITE PLAN.** It is recognized that unforeseen circumstances can necessitate changes in a project during its development. Therefore, minor deviations from an approved site plan are permitted if the City Manager and Zoning Enforcement Officer determines that all Site Plan Review Standards have been complied with.

However, if the City Manager and Zoning Enforcement Officer finds that a deviation from the approved site plan does not comply with the Review Standards, he or she shall notify the permit holder within one week, the City Building Inspector, and the Planning Commission, in writing that the site plan approval has been suspended. The permit holder's notice shall be delivered by certified mail. If construction has begun, a Stop Work Order shall be issued by the Building Inspector, affecting that portion of the project that is not in compliance with the Site Plan Review Standards.

Once a site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform to the Review Standards, or of restarting the Site Plan Review process. When the issue has been resolved, the City Manager and Zoning Enforcement Officer shall send a written notice to the permit holder, the Building Inspector and the Planning Commission that the project's site plan has again been approved.

This provision should not be construed to prohibit phased development of a project, provided that each phase complies with the requirements of the Review Standards and with the approved site plan.

If any deviations from an approved site plan are made, an "as built" version of the site plan shall be provided to the City Manager and Zoning Enforcement Officer before the Building Inspector issues final approval for the project and before any performance guarantee may be fully refunded.

- 7) **RECORD TO BE MAINTAINED.** The record relating to any approved site plan shall be maintained by the City Manager and Zoning Enforcement Officer. 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 and the City Manager and Zoning Enforcement Officer. 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 Enforcement Officer.
- c. **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.

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.

- 1) **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. Therefore, it must be presumed for this purpose that the use of the site will conform to the District Regulations.)

- 2) **SUPPLEMENTARY REGULATIONS.** The project must comply with any and all of the Supplementary Regulations that may apply to it.
- 3) **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.
- 4) **BUILDING ARRANGEMENTS.** Site plans will be evaluated on the basis of scale, circulation of air, provisions of adequate access to and around buildings for police and fire protection services, establishment of pleasant vistas, arrangements conducive to enhancing the environmental quality of the site when developed, minimizing the extent of impervious ground cover and minimizing the destruction of natural features that contribute to environmental quality.
- 5) **TRANSPORTATION.** Transportation facilities serving the parcel must be sufficient to provide safe and efficient access to the parcel and circulation within it. Consideration shall be given to road rights-of-way, surface type, number of lanes, driveway design and location, vehicular circulation within the parcel, parking, snow removal from transportation facilities, public transit, pedestrian circulation, emergency vehicle access, and accessibility for handicapped persons.
- 6) **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.
- 7) **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. 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.
- 8) **SIGNS AND LIGHTING.** Lighting is intended to illuminate parking and vehicular areas for the purpose of increasing the safety of the users. Appropriate lighting standards should be located on separate ground-mounted standards adjacent to or the parking lot or vehicular use areas.
- 9) **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.
- 10) **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 Natural Resources or other agencies.

- 11) **STORM DRAINAGE.** Surface drainage, otherwise referred to as sheet drainage, to the right-of-way, or adjacent properties is unacceptable.
- 12) **CONSISTENCY WITH ORDINANCE INTENT.** The site plan should be generally consistent with the purpose and objectives of this Ordinance, as stated in Chapter 1, and with the purpose of the District in which the subject parcel is located, as expressed in the Intent and Purpose Table in Chapter 3.

SECTION 8.2 R-1 DISTRICT APPEARANCE STANDARDS

- a. **INTENT.** These standards are established to emphasize the importance of the design of the building site, including structures, plantings, signs, street hardware and other objects observed by the public. These standards are to be applied to new construction as well as additions or modifications to existing buildings which exceed fifty (50%) percent of the floor area or fifty (50%) percent of the exterior wall surface area of the existing building, whichever is less. Site plans shall indicate factors necessary to evaluate appearance. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- b. **FACTORS FOR EVALUATION.** The following factors and characteristics which affect the appearance of a development will govern the evaluation of a design submission:
 - 1) Conformance to ordinances and the appearance standards.
 - 2) Logic of design.
 - 3) Exterior space utilization.
 - 4) Architectural character.
 - 5) Attractiveness.
 - 6) Material selection.
 - 7) Compatibility in design with the balance of development in this district.
 - 8) Circulation - vehicular and pedestrian.
 - 9) Maintenance aspects.
- c. **RELATIONSHIP OF BUILDING TO SITE**
 - 1) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, and safe pedestrian movement.

- 2) Without restricting the permissible limits of the R-1 Zoning District, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
- 3) Newly installed utility services, and service revisions necessary due to exterior alterations shall be underground.

d. RELATIONSHIP OF BUILDINGS AND SITE TO ADJOINING AREA

- 1) The proposed building shall be generally compatible with the architectural style of adjoining buildings. Adjacent buildings of widely differing architectural styles shall be made compatible by such means as screens, sight breaks and materials.
- 2) Attractive landscape design transition to adjoining properties shall be provided.
- 3) Harmony in texture, lines, and masses is required. Monotony shall be avoided.

e. BUILDING DESIGN

- 1) Buildings shall be similar in scale and overall compatibility with the design of permanent neighborhood development.
- 2) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally compatible in design used for all building walls and other exterior building components wholly or partly visible from public ways. Materials shall be of durable quality.
- 3) Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
- 4) Colors shall be harmonious and shall use only compatible accents.
- 5) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
- 6) Exterior lighting may be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- 7) Refuse and waste removal areas, service yards, storage yards, and exterior work shall be screened from view from public ways using materials compatible with the principle building design.
- 8) Miscellaneous structures and street hardware shall be designed to be a part of the architectural concept of design and landscape.

SECTION 8.3 SINGLE FAMILY DWELLING REQUIREMENTS

- a. Before a building permit may be issued for the construction of a single-family dwelling, the applicant must first petition the City Manager for a permit and shall submit two (2) copies of a site plan according to the provisions of Chapter 8, Site Plan Review.

- b. The City Manager shall review the plan and communicate his or her approval or recommend plan modification to the applicant according to the provisions of review contained in Chapter 8, Site Plan Review.
- c. The City Manager shall approve the plan only upon a finding that the proposed construction will not, upon the facts shown, cause undue hardships, create unsafe or hazardous health or safety conditions and that the proposed home should not depress real property values or be inconsistent with aesthetics of the immediate surrounding neighboring homes.
- d. The final plan, as submitted by the applicant, may be disapproved for any inadequacy found to be detrimental to the character or real property values of the neighborhood or detrimental to the public health, safety, and general welfare.
- e. Any such disapproval may be appealed to the Zoning Board of Appeals, unless such appeal is properly directed to the Board of Construction Appeals. All single-family dwellings shall be subject to the requirements of the City Zoning and Building Code, as amended. All such dwellings shall also be subject to all other laws and ordinances that pertain to such dwellings. The following general requirements are necessary to facilitate the orderly placement of new dwellings in single-family districts in conjunction with existing dwellings; to assure adequate construction and health standards; to provide for the development of safe, economical housing in the community; and to maintain property values.
- f. Single-family dwellings, including attached additions, and detached accessory structures shall comply with the minimum lot size, floor area, and setback requirements, and height limitations for the district in which the dwelling is proposed.
- g. A single-family dwelling shall be constructed to meet or exceed the requirements of the City Building Code 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 modular or mobile home dwelling must bear an approved HUD certification label.
- h. All dwellings shall be firmly anchored to a permanent foundation to restrain potential displacement resulting from wind velocity. The foundation shall be designed to completely enclose the perimeter of the dwelling and all attached additions, and shall be constructed in conformance with the City Building Code. If the dwelling is a mobile home, it shall, in addition, also comply with the manufacturer's pillar placement and load bearing capacity specifications, as may be applicable.
- i. All dwellings shall be connected to either municipal sanitary sewer and water service, or private on-site facilities, or to individual well and septic systems as may be approved by the appropriate agencies.
- j. Prior to installation of a modular or mobile 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.



Chapter 9 ■ Administration & Enforcement

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 Enforcement Officer in conformance with applicable State of Michigan enabling legislation.

a. CITY MANAGER AND ZONING ENFORCEMENT OFFICER:

The City Council, with the recommendation of the Planning Commission, may employ a City Manager and Zoning Enforcement Officer to carry out day-to-day administration and enforcement of this Ordinance. The City Council may designate the City Manager and Zoning Enforcement Officer as the Building Inspector. Conditions of the City Manager and Zoning Enforcement Officer'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 Enforcement Officer, to assist with administration and enforcement of this Ordinance.

The City Manager and Zoning Enforcement Officer'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 site plans shall be submitted to the City Manager and Zoning Enforcement Officer 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, the City Manager and Zoning Enforcement Officer shall allow a zoning permit to be issued for the proposed use. When conditions are not met, the City Manager and Zoning Enforcement Officer shall consult with the applicant to determine the proper course of action (see REVIEW PROCESS Table in this Chapter). The City Manager and Zoning Enforcement Officer shall maintain a record of all applications, including documentation for each.
- 2) ISSUE WRITTEN DENIAL. When any application for a site plan is denied, the City Manager and Zoning Enforcement Officer 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 Enforcement Officer shall prepare notices of the hearing and disseminate said notices as required by this Ordinance.
- 4) INSPECTIONS. The City Manager and Zoning Enforcement Officer shall be empowered to make inspections of buildings or premises to carry out enforcement of this Ordinance.
- 5) RECORD NONCONFORMING USES. The City Manager and Zoning Enforcement Officer shall record all nonconforming uses existing at the effective date of this Ordinance.

- 6) RECORD SPECIAL USES. The City Manager and Zoning Enforcement Officer shall keep a record of all Special Use Permits issued under the terms of this Ordinance.
 - 7) RECORD INTERPRETATIONS OF ORDINANCE. The City Manager and Zoning Enforcement Officer 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.
 - 8) PUBLIC INFORMATION. The City Manager and Zoning Enforcement Officer 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.
 - 9) RESPOND TO COMPLAINTS. The City Manager and Zoning Enforcement Officer 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 Enforcement Officer 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.
 - 10) MAY NOT CHANGE ORDINANCE. Under no circumstances is the City Manager and Zoning Enforcement Officer permitted to make changes in this Ordinance or to vary the terms of this Ordinance.
- b. PLANNING COMMISSION:
- 1) MEMBERSHIP. The Planning Commission shall be composed of nine (9) members, comprised of
 - a) One member of the City Council appointed by the Mayor, subject to City Council approval and in accordance with the City's Charter.
 - b) Seven (7) residents of the City, representing, insofar as possible, different professions or occupations, who shall be appointed by the Mayor, subject to the approval of the Council.
 - 2) TERMS OF OFFICE. The term of service for each member shall be three (3) years. Rotation of membership is encouraged.
 - 3) RULES OF PROCEDURE. The Planning Commission shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Commission shall choose its Chairperson, Vice chairperson and Secretary.
 - 4) FUNCTION: The duties of the Planning Commission shall be as outlined in Public Act 110 of 2006, commonly known as the Michigan Zoning Enabling Act.
 - 5) MEETINGS. The Planning Commission shall meet monthly or as determined by the City Council and Planning Commission, and by resolution shall determine the time and place of meetings. All meetings shall be properly noticed and open to the public.

- 6) PER DIEM OR EXPENSES. Members of the Planning Commission may be compensated for their services as provided by the City Council. The Planning Commission may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the Planning Commission.
- 7) MASTER PLAN. The Planning Commission shall make and adopt a master plan as a guide for the development of the City. Plan contents, adoption, amendment, approval by the City planning commission, hearing and publication shall be according to the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.
- 8) ZONING ORDINANCE. The Zoning Ordinance shall be based on a plan designed to promote the public health, safety, and general welfare.
- 9) ADMINISTRATION AND ENFORCEMENT. The Planning Commission shall be responsible for the following administrative and enforcement activities under this Ordinance:
 - a) SITE PLAN APPROVAL. The Planning Commission shall review Site Plans and issue its approval, conditional approval or denial.
 - b) 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.
 - c) 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 PROCESSES

- 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 certificate of zoning approval from the City Manager and Zoning Enforcement Officer. No permit shall be required for the erection or installation of a fence unless specifically provided. 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. **BUILDING PERMIT REQUIRED:** The issuance of a Building Permit, showing compliance with the Zoning Ordinance, signifies compliance with the requirements of this Ordinance. A building permit must be obtained from the Ogemaw County building official and approved by the West Branch Zoning Administrator before any of the following activities may legally take place:
- 1) Occupancy and use of vacant land (including parking lot construction).
 - 2) Any change in the use of a parcel of land or a building, including any construction or structural alteration of a building that requires issuance of a Building Permit by the Ogemaw County Building Inspector.
 - 3) Any use of land or a building that would be identified as a Use by Special Use Permit by the Uses Table in Chapter 3, District Regulations, for the Zoning District in which the parcel is located.
 - 4) Any change of a nonconforming use or building.
- c. **APPLICATION REVIEW PROCESS.** On submission of an application for a site plan, the City Manager and Zoning Enforcement Officer will review the application material as described by the REVIEW PROCESS Table that accompanies this Chapter. Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation.
- d. **RECORD MAINTAINED.** The City Manager and Zoning Enforcement Officer 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 two pages.

SECTION 9.3 ENFORCEMENT

This Ordinance shall be enforced by the City Manager and Zoning Enforcement Officer for the City of West Branch.

- a. **RESPONSIBILITY.** The City Manager and Zoning Enforcement Officer shall enforce the provisions of this Ordinance.
- b. **VIOLATIONS AND PENALTIES.** Any building or structure which is erected, altered, maintained, or used or any use of land which 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.
- c. **CONFLICTING REGULATIONS.** In the interpretation, application, and enforcement of the provisions of this Ordinance, whenever any of the provisions or limitations imposed or required by this Ordinance are more stringent than any other law or Ordinance, then the provisions of this Ordinance shall govern, PROVIDED also that whenever the provisions of any other law or Ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such other law or Ordinance shall govern.

SECTION 9.4 AMENDMENTS

Amendments or supplements to this Ordinance may be made from time to time, in the same manner as provided by Public Act 110 of 2006, 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.

- 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 petition 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) PETITION TO CITY CLERK AND PAYMENT OF FEE. Each petition 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.
 - 4) RESUBMITTAL. No application for a rezoning 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.
 - 5) Amendments or supplements to the zoning ordinance shall be made in the same manner as provided under this act for the enactment of the original ordinance.

SECTION 9.5 NOTICE REQUIREMENTS FOR PUBLIC HEARINGS

- a. Except as otherwise provided under this act, if a local unit of government is required to provide notice and hearing under this act, the local unit of government shall publish notice of the request in a newspaper of general circulation in the local unit of government.
- b. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
- c. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:

- 1) Describe the nature of the request.
 - 2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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.
 - 3) State when and where the request will be considered.
 - 4) Indicate when and where written comments will be received concerning the request.
- d. If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner.
 - e. If 11 or more adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required in this section, except no individual addresses of properties are required to be listed.

Chapter 10 ■ Zoning Board of Appeals

SECTION 10.1 ESTABLISHMENT

The City Council, exercising the authority of Act 110 of the Public Acts of 2006, 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 10.2 MEMBERSHIP

- a. 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 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. An elected officer of the City may not serve as chairperson of the Zoning Board of Appeals. An employee or contractor of the City Council may not serve as a member or employee of the Zoning Board of Appeals. 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. 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.
- b. 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. A per diem or reimbursement for expenses actually occurred shall be allowed to the Board of Appeals and shall exceed a reasonable sum, which shall be appropriated annually in advance by the City Council.

SECTION 10.3 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 Zoning Board, 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. A Board of Appeals shall not conduct business unless a majority of the regular members of the Board is present.

SECTION 10.4 BOARD OF APPEALS PROCEDURES

- a. **MEETINGS.** 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 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 with out comment or interruption from the public in attendance.
- 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 members are present, out of a total of five members, all three 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.

SECTION 10.5 APPEALS, METHOD FOR TAKING

- a. Any appeal from a ruling of the City Manager and Zoning Enforcement Officer or body concerning the enforcement of the provisions of this Ordinance shall be made to the Board of Appeals within 10 days after the outcome of the City Manager and Zoning Enforcement Officer's decision which is the basis of the appeal. Any appeal shall be in writing on standard forms. The City Manager and Zoning Enforcement Officer shall transmit to the Board all documents, or direct copies thereof, constituting the record upon which the action appealed from was taken. 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.
- b. 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.
- c. 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 Enforcement Officer may certify to the Board of Appeals after the notice of the appeal shall have been filed with him 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.

SECTION 10.6 DECISIONS

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.

SECTION 10.7 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 the procedures outlined in this Chapter.

- 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 and Zoning Enforcement Officer, 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; or,
 - 3) To classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district
- 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 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 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 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 parcel or a lot or parcel that is more nonconforming than the current nonconforming use or create a nonconforming parcel from a conforming parcel.

SECTION 10.8 LIMITATIONS

The Board of Appeals, notwithstanding any provisions to the contrary, shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this ordinance, or to prohibit a use which is permitted in this Ordinance, change permitted uses in a district, nor may it determine the validity of this Ordinance.

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