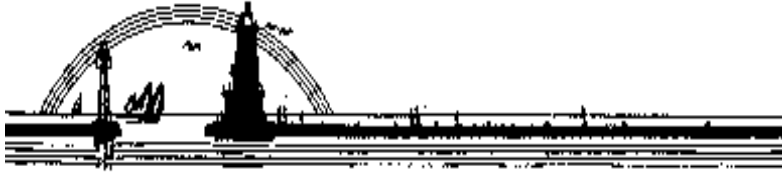


# CITY OF LUDINGTON



*On the shores of Lake Michigan*

400 S HARRISON ST

LUDINGTON, MICHIGAN 49431

## ***ZONING ORDINANCE***

### **NO. 23-00**

**ADOPTED MARCH 27, 2000**

**EFFECTIVE APRIL 17, 2000**

**UPDATED APRIL 8, 2016**

**ZONING ORDINANCE**

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# **CITY OF LUDINGTON, MICHIGAN**

## **ORDINANCE NO. 23-00**

### **CHAPTER I - TITLE, PREAMBLE, ENACTING CLAUSE, SHORT TITLE**

#### **ARTICLE 100.1 TITLE**

An Ordinance enacted under Act 207, Public Acts of 1921, as amended, governing the incorporated portions of the City of Ludington, Mason County, Michigan, to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and for public and semipublic and other specified uses; and to regulate and to determine the size of yards, courts, and open spaces, to regulate and limit the density of population; and for said purposes to divide the municipality into districts and to establish the boundaries thereof, to provide for changes in the regulations, restrictions and boundaries of such districts; to define certain terms used herein; to provide for enforcement; to establish a Zoning Board of Appeals; and to impose penalties for the violation of this Ordinance.

#### **ARTICLE 100.2 PREAMBLE**

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

#### **ARTICLE 100.3 ENACTING CLAUSE**

The City of Ludington Ordains:

#### **ARTICLE 100.4 SHORT TITLE**

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

### **CHAPTER II CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

## **ARTICLE 200.1 CONSTRUCTION OF LANGUAGE**

### **SECTION 200.1:1** The following rules of construction apply to this Ordinance:

- (1) Words used in the present tense include the future tense.
- (2) Singular number includes plural, and plural includes singular.
- (3) The word "person" includes association, firm, partnership, corporation, or an individual.
- (4) The term "shall" is always mandatory.
- (5) The word "occupied" and the word "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."
- (6) Terms not herein defined shall have the meanings customarily assigned to them.
- (7) Any reference in any city ordinance to Ordinance 788 shall now be deemed to refer to this ordinance.

### **SECTION 200.1:2** Governmental units and bodies are identified as follows:

- (1) "City" shall mean City of Ludington.
- (2) "City Council" shall mean Ludington City Council. Any reference to "City Commission" shall mean "City Council".
- (3) "County" shall mean Mason County.
- (4) "Planning Commission" shall mean Ludington City Planning Commission.
- (5) "Zoning Board of Appeals" shall mean Ludington City Zoning Board of Appeals.

## **ARTICLE 200.2 DEFINITIONS**

### **SECTION 200.2:1**

(1) **ACCESSORY USE:** Any use customarily incidental to the principal use of the premises, located on the same zoning lot as the principal use to which it is related.

(2) **ALLEY:** A public way which affords only secondary access to abutting property, not a street as herein defined.

(3) **AUTOMOBILE/VEHICLE REPAIR (General):** The general mechanical repair, including overhaul and reconditioning of vehicle engines, transmissions and other mechanical repairs, but not including collision services such as body, frame, etc.

(4) **AUTOMOBILE/VEHICLE BODY REPAIR:** Collision services such as body, frame, painting or repair of damaged vehicles.

(5) **AUTOMOBILE/TRAILER SALES AREA:** Any space used for display, sale, or rental of motor vehicles or trailers, in new or used and operable condition.

(6) **AUTOMOBILE STORAGE, DAMAGED:** Any storage of inoperable vehicles not incidental to a service garage.

(7) **AWNINGS:** An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

### **SECTION 200.2:2**

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

(2) **BOARDING/ROOMING HOUSE:** A dwelling used for the purpose of providing lodging or lodging and meals for pay or compensation of any kind, to persons who are not members of the immediate family who concurrently remain in actual occupancy of such dwelling as their principal residence.

(2a) **BED & BREAKFAST ESTABLISHMENT:** A “bed and breakfast” establishment is defined as a use, which is subordinate to the use of a dwelling as a single-family dwelling. Sleeping room(s) and breakfast(s) are provided to transient guests in return for payment. The dwelling shall be the principal residence of the owner, and the owner shall live on the premises when the bed and breakfast operation is active.

(3) **BUILDING:** Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind.

(4) **BUILDING, ACCESSORY:** Any subordinate building, such as a private garage, located on the same lot with the principal building, or any portion of the principal building if said portion is occupied or devoted exclusively to an accessory use. When an accessory building is attached to a principal building by a wall or roof, such building shall be considered part of the principal building for the purpose of determining the required dimensions of yards.

(5) **BUILDING, ALTERATION OF:** A change in the supporting framework of a building, an addition, diminution, or conversion of a building or part thereof.

(6) **BUILDING HEIGHT:** Except where otherwise specifically provided, the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs.

(7) **BUILDING INSPECTOR:** That employee of the City of Ludington authorized to administer and enforce the provisions of this Ordinance.

(8) **BUILDING PERMIT:** The written authority as issued by the Building Inspector or behalf of the City permitting construction, moving, alteration, or use of a building, or structure in conformity with the provisions of this Ordinance and other city ordinances, and state or federal laws.

(9) **BUILDING, PRINCIPAL:** A building in which the principal use of a lot is conducted.

SECTION 200.2:3

(1) **CANOPY:** An architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached and at the outer end by not less than on stanchion. A canopy is comprised of a rigid structure over which a covering is attached.



(2) **CLINIC:** An office or group of offices for the medical or dental treatment of persons, dealing with outpatients.

(3) **CLUB OR LODGE:** The room, building, or other facility used for the meetings of a group of people organized for a common purpose such as a fraternal, veterans, or other social organization.

(4) **COMMUNICATION TOWERS:** Radio, television, cellular, microwave, personal communication and other similar communication towers. Exempt from this definition are amateur radio towers up to 70 ft. in ht. for federally licensed amateur radio operators and other towers specifically exempt from local zoning ordinances under federal or state law.

(5) **CONVERSION:** For purposes of this Ordinance, the remodeling of single or two-family dwellings into two- or three-family dwellings.

(6) **CONVALESCENT/NURSING HOME:** An establishment or institution, other than a hospital, having as its principal function the rendering of care for periods of more than 24 hours to individuals afflicted with illness or infirmity.

(7) **DAY CARE FACILITIES:** The following definitions shall apply in the construction and application of this Ordinance:

a. "Family Day Care Home" means a private home in which 1 but fewer than 7 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. Family day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

b. "Group Day Care Home" means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

c. "Child Care Center" or "Day Care Center" means a facility, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 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.

d. "Adult Day Care-Group" means a facility located in certain commercial districts in which 1 to 12 adults are received for care and supervision for periods of less than 24 hours a day, unattended by a responsible relative or legal guardian, except adults related to an adult member of the family by blood, marriage or adoption.

e. "Adult Day Care-Residential" means a facility located in residential districts in which 1 to 4 adults are received for care and supervision for periods of less than 24 hours a day, unattended by a responsible relative or legal guardian, except adults related to an adult member of the family by blood, marriage or adoption. The dwelling in which the facility is located must be the principal residence of the owner.

(8) **DISTRICT OF GREATER RESTRICTION:** The following districts are listed in order of restriction from least to greatest -- M-2, M-1, C-2, CBD, MC, WS, W, WBC, C-1, G-1, P, M-R, LC, R4A, R3A, R2A, R1B, R1A.

(9) **DRIVE-IN:** Any place or premises which offers the sale of goods or services to customers in vehicles, including those establishments where customers may serve themselves and use the goods or services on the premises.

(10) **DWELLING:** A room or rooms connected together, constituting a separate independent housekeeping establishment for one family only, physically separated from any other rooms or dwelling units and containing independent cooking and sleeping facilities. An individual apartment unit, as distinguished from an apartment building, is one type of dwelling unit.

(11) **DWELLING: SINGLE-FAMILY:** A building containing not more than one dwelling unit-for residential use, complying with the standards in ARTICLE 500.2.

(12) **DWELLING, TWO-FAMILY:** A building containing not more than two separate dwelling units for residential use and conforming in all other respects to the standards set forth in ARTICLE 500.2.

(13) **DWELLING, MULTI-FAMILY:** A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in ARTICLE 500.2.

(14) **DWELLING UNIT:** A building or portion thereof providing complete housekeeping facilities for one family.

SECTION 200.2:4

(1) **EFFICIENCY UNIT:** A dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove. Each such unit shall have complete kitchen and bathroom.

(2) **ESSENTIAL SERVICES:** The phrase "essential services" means 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 or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection herewith, but not including buildings which are necessary for the furnishing or adequate service by such utilities or municipal departments for the general health, safety, or welfare. Essential services shall not include television, radio, or cellular, communication or other similar towers.

(3) **ESTABLISHMENT:** A place of business that is located in a separate physical space.

(4) **EXCAVATION:** Any breaking of ground except common household gardening and ground care.

(5) **FAMILY:** Any number of individuals living and cooking together on the premises as a single housekeeping unit.

(6) **FENCE:** A structure of definite height and location to serve as a barrier or screen.  
200.2:5(5) Revised 2/27/95  
200.2:5(7) Amended 6/22/98

(7) **FLOOR AREA:** The area of all floors computed by measuring the dimensions of the outside walls of residential, commercial, and industrial buildings. Exceptions as applicable include 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 the ceiling.

(8) **FOSTER CARE HOME:** A building containing rooming units providing residential care for persons, together with one dwelling unit for management, licensed for such use by the appropriate State agency under applicable statutory authority.

(9) **FRONTAGE:** The total width of a lot or parcel measured along the front lot line.

SECTION 200.2:5

(1) **GARAGE, PRIVATE:** A detached accessory building or portion of a principal building used principally for the storage of passenger vehicles and not more than one commercially licensed vehicle.

(2) **GASOLINE SERVICE STATION:** Any building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicle and for the washing or polishing of such vehicles, but not including the use of space or facilities for the refinishing of motor vehicles or for the dismantling, for purposes of reuse or resale of motor vehicles or parts thereof, or for the outdoor storage or repair of motor vehicles or parts thereof.

(3) **GRADE:** Except where otherwise specifically provided in this Ordinance, the ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the grade is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. Grade shall be determined by the original ground levels and shall not be based upon the addition of fill.

(4) **GREENBELT:** A strip of land which is planted with or designated for trees, shrubs, grass or a combination thereof.

(5) **HOME OCCUPATION:** For the purpose of this Ordinance, a home occupation shall be defined as an occupation or profession that is carried on by an inhabitant of a dwelling unit which is incidental to the use of the dwelling unit for residential purposes, and therefore not involving the conduct of a retail business or manufacturing business of any kind on the premises.

(6) **HOTEL:** A building or part of a building with a common entrance or entrances containing dwelling units or rooming units or both, in which one or more of the following special services are required: maid service, furnishing of units, linen service, telephone, desk, or bellboy service. A hotel may include a restaurant, cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

(7) **INSTITUTIONAL AND PUBLIC USES:** Churches, schools, hospitals, convalescent/nursing homes, public or quasi-public non-profit uses, utility transmission towers, above-ground regulator or substation structures, utility buildings, but not including radio, television, cellular or other communication towers.

(8) **KENNEL, ANIMAL HOSPITAL, ANIMAL CLINIC:** Any building or land used for the sale, boarding, treatment, or breeding of dogs, cats, or other household pets.

(9) **LOADING SPACE, OFF-STREET:** 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. Loading space shall not be included in off-street parking space in the computation of off-street parking.

SECTION 200.2:6

(1) **LOT:** A parcel or portion of land, exclusive of any adjoining street, separated from other parcels or portions by description of record.

(2) **LOT AREA:** The total horizontal area within the lot lines of the lot.

(3) **LOT, CORNER:** Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A

lot abutting upon a curved street or streets shall be considered a corner lot if the tangents of the curve, at the points of beginning within the lot or at the points of inter-section of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.

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

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

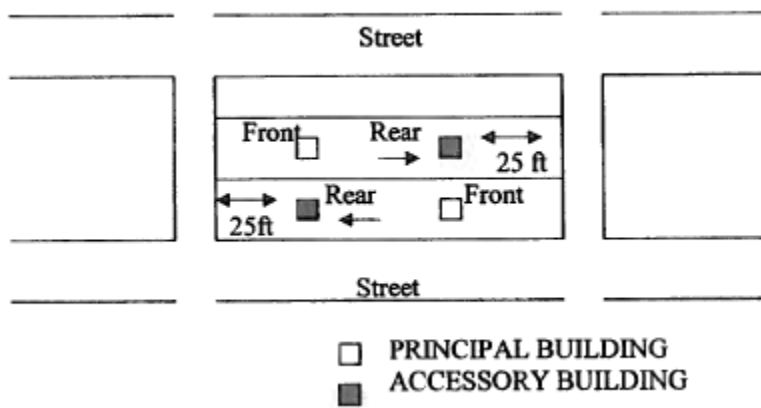
(6) **LOT, DOUBLE FRONTAGE:** Any lot including a corner lot, as defined herein, having two or more sides abutting on one or more streets or roads.

(7) **LOT, INTERIOR:** Any lot other than a corner lot.

(8) **LOT LINES:** The lines bounding a lot are defined as follows:

(a) **FRONT LOT LINE:** The line separating the lot from the street, except along the shoreline in R1A where the front lot line is the high water mark.

(b) **REAR LOT LINE:** The line opposite to and most distant from the front lot 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. The rear lot line of through lots shall be defined as the line opposite to the street on which the principle building is addressed for legal purposes. However, the setback for any accessory building from the rear lot line shall be the same as required for the front yard. (see chart below)



(c) SIDE LOT LINE: Any line other than front or rear lot lines.

(d) STREET OR ALLEY LOT LINE: Any line separating a lot from a street or alley.

(9) **LOT OF RECORD**: A parcel of land, the deed to which is on record with the County Register of Deeds, and which exists as described.

(10) **LOT, THROUGH**: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. All yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

(11) **LOT WIDTH**: The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

(12) **LOT, ZONING**: A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, does not have to coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

SECTION 200.2:7

(1) **MEDICAL PROFESSIONAL OFFICE**: Office space intended to operate during normal business hours for doctors, dentists, therapists and similar medical professionals.

(2) **MOBILE HOME**: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

(3) **MOBILE HOME PARK**: A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or a facility used or intended for use incidental to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

(4) **MOTEL:** A series of attached, semi-detached, or detached rental units as regulated in this Ordinance, containing a bedroom, bathroom, and closet space, and may include kitchenettes, with not more than two dwelling units for occupancy by management/staff only, with all required parking provided on the premises, and with no building or part thereof exceeding two stories in building height.

(5) **NONCONFORMING BUILDING:** Any building or portion thereof lawfully existing at the time this Ordinance became effective which does not conform to the requirements of the zoning district in which it is located.

(6) **NONCONFORMING LOT OF RECORD:** Any lot of record lawfully existing at the time this Ordinance became effective which does not conform to the requirements of the zoning district in which it is located.

(7) **NONCONFORMING USE:** Any property use which was lawful at the time this Ordinance became effective which does not conform to the use regulations of the zoning district in which it is located.

(8) **OCCUPANCY PERMIT:** The written authority as issued by the Building Inspector on behalf of the City, certifying that all requirements of this Ordinance have been met.

SECTION 200.2:8

(1) **PARKING, OFF-STREET ACCESSORY:** Any parking area located on the same property it is intended to serve, or across an alley therefrom, and within a district which is not of greater restriction than the property it is intended to serve.

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

(3) **PERSONAL SERVICE ESTABLISHMENTS:** An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel, but not including a tattoo parlor, piercing parlor or Adult Personal Service Establishments as defined in Section 500.18:3.

(4) **PLANNED UNIT DEVELOPMENT:** A project consisting of a variety of uses planned to be compatible with each other and with the surrounding area.

(5) **PORCH (uncovered, covered, enclosed):** An extended or recessed space at the entrance of a building either covered or uncovered.

a. **Open Porch-uncovered:** A porch without a roof and having no walls, windows or screens, except for that of the principal building. Any railings shall have at least 50% open spaces uniformly distributed.

b. **Open Porch-covered:** A porch having a projecting roof supported by posts or a cantilever or other feature and having no walls, windows, or screens except for the wall of the principal building to which the porch attaches. Any railing shall have at least 50% open spaces uniformly distributed.

c. **Enclosed Porch:** A porch having a roof and having walls, windows or screens.

(6) **PRINCIPAL USE:** The primary and chief purpose for which a lot is used.

(7) **PUBLIC UTILITY:** Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under federal, state, or municipal regulation to the

public, electricity, gas, steam, communication, telegraph, transportation, or water. Public Utility shall not include television, radio, cellular, communication or other similar towers.

**(8) RECREATIONAL EQUIPMENT:** Such equipment shall include travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats, and boat trailers and similar equipment, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

**(9) RECREATIONAL VEHICLE:** Any 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.

**(10) RETAIL SALES ESTABLISHMENT:** Establishments offering goods for sale such as food stores, drug stores, clothing sales, gift shops, hardware and appliance sales, restaurants and drinking places, variety stores, and similar uses.

**(11) RUBBISH:** Waste or rejected matter, trash, or debris.

#### SECTION 200.2:9

**(1) SALVAGE YARD:** A place where waste, discarded or salvaged materials are brought, sold, exchanged, stored, baled, packed, disassembled, cleaned, or handled, used lumber yards, and places or yards for salvaged house wrecking and structural steel materials and equipment, but excluding such uses conducted entirely within a completely enclosed building and excluding 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.

**(2) SATELLITE TELEVISION ANTENNA:** An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**(3) SETBACK, REQUIRED:** The distance required to obtain the minimum required front, side, or rear yard provisions of this Ordinance.

**(4) SIGN:** See CHAPTER VIII.

**(5) 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.

**(6) SITE PLAN REVIEW:** The official procedure for review and approval of any proposed development as established in CHAPTER XI.

**(7) SPECIAL LAND USE:** A use permitted in a given zone when such use is specified in Chapter IV and only after review of an application for such use by the Planning Commission in accordance with Chapter IX to assure that all conditions of this Ordinance are met.

**(8) STORAGE, OUTDOOR:** The outdoor standing or placement of usable and/or potentially usable goods or equipment other than for display and not including waste or scrap materials, other than in salvage yards.

**(9) 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.

SECTION 200.2:10

(1) **STREET, PUBLIC:** A public right-of-way which 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.

(2) **STREET, PRIVATE:** For purposes of this Ordinance, any private right-of-way or easement which conforms to the requirements for a public street.

(3) **STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to buildings.

(4) **SWIMMING POOL, PRIVATE:** Any artificially constructed basin or other structure for the holding of water for use by the possessor, his family or guests, for swimming, diving, and other aquatic sports and recreation. The term "swimming pool" does not include any plastic, canvas, or rubber pool temporarily erected upon the ground holding less than 500 gallons of water, or less than two feet deep.

(5) **TEMPORARY BUILDING/USE:** A structure or use permitted by the Building Inspector to exist during periods of construction of the principal use or for special events.

(6) **USABLE FLOOR AREA (For the purpose of computing parking):** That interior area used for or intended to be used for the sale of merchandise or services or serving patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, sanitary services, reception areas not including seating and similar areas, shall be excluded from the computation of "usable floor area". Measurement of the "usable floor area" shall be the sum of the horizontal areas of each floor of a building measured from the interior faces of the exterior walls.

(7) **VARIANCE:** A modification of the literal provisions of this Ordinance granted only after review of an application by the Zoning Board of Appeals in accordance with ARTICLE 1200.3.

(8) **VEHICLE SALES AREA:** An outdoor area, where no repair work is done, used for the display, sale, or rental of new or used motor vehicles, boats, mobile housing facilities, or trailers in operable condition.

SECTION 200.2:11

(1) **WATERFRONT DISTRICT:** Any reference to "any Waterfront District". "A Waterfront District" or similar reference shall mean any District the title to which contains the word "Waterfront" whether or not any property within such District borders a lake or stream.

(2) **YARD, LEAST DEPTH OR WIDTH:** The shortest horizontal distance from each of the lot lines to the building thereon.

(3) **YARD, FRONT:** The open space extending the full width of the lot between the main building and front lot line except as provided in SECTIONS 500.10:1 and 500.10:2. In the case of a shoreline lot in zoning district R1A, Shore Front Residence, the front yard is that which abuts the lake shore.

(4) **YARD, REAR:** The open space extending the full width of the lot between the main building and rear lot line, except as provided in SECTIONS 500.10:1 and 500.10:4.



(5) **YARD, SIDE:** The open space extending from the front yard to the rear yard between the main building and the side lot line, except as provided in SECTIONS 500.10:1 and 500.10:3.

(6) **ZONING DISTRICTS:** The areas into which the City has been divided and for which the regulations and requirements governing use and size of lots and structures are specified in the Ordinance.

## **CHAPTER III DESIGNATION AND PURPOSE OF ZONING DISTRICTS AND ZONING MAP**

### **ARTICLE 300.1 ZONING DISTRICTS**

**SECTION 300.1:1** The following zoning districts are hereby established and the intended use of each district is stated. Permitted uses and special land uses in each district are listed in CHAPTER IV of this Ordinance.

- (1) R1A: Shorefront Residential
- (2) R1B: Single-family Residential
- (3) R1C: Planned Residential
- (4) R2A: General Single-family Residential
- (5) R3A: Multi-family Residential
- (6) R4A: Mobile Home Park
- (7) LC: Limited Commercial
- (8) CBD: Central Business District
- (9) C1: Old Town Business District
- (10) C2: General Retail
- (11) M1: Wholesale/Light Industry
- (12) M2: Heavy Industry
- (13) P: Parking
- (14) M-R: Motel/Resort
- (15) G1: Government Service
- (16) W: Waterfront District
- (17) WS: Waterfront Shipping
- (18) WCB: Waterfront Central Business
- (19) MC: Maritime Commercial

### **ARTICLE 300.2 ZONING MAP**

**SECTION 300.2:1 Zoning Map Incorporated.** The zoning map delineating the zoning districts, which is in effect upon the date of the adoption of this ordinance, shall remain in effect and is hereby declared to be a part of this Ordinance. Except where reference is shown on said map to a street line or other line designated by dimensions, the district boundary lines follow lot lines or the centerlines of streets or alleys, as they existed at the time of the adoption of this Ordinance.

**SECTION 300.2:2 Lot Divided by Zone Line.** Where a district boundary line, as established in this Ordinance, or as shown on the zoning map, divides a lot shown or recorded as being in single ownership at the time of enactment of this Ordinance, the district regulations and uses shall be observed on the respective side of the district line to which they apply.

**SECTION 300.2:3 Annexed Areas.** Where property not now in the City shall become annexed to the City, the existing zoning regulations shall remain in full force and effect until such time as the City Commission adopts zoning regulations affecting such property. The City shall commence the formal zoning amendment process for such property within one year after annexation of the property to the City.

**SECTION 300.2:4 Vacated Areas.** Whenever any street, alley, or other public way within the City shall have been vacated by official government action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley, or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and shall be used for those uses as is permitted under this Ordinance for such adjoining lands.

## **ARTICLE 300.3 DISTRICT REGULATIONS AND SPECIAL LAND USES**

**SECTION 300.3:1 Required Conformity.** Except as otherwise provided in this Ordinance, no structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which the structure or land is located.

**SECTIONS 300.3:2 Permitted and Special Land Uses.** Any use not expressly permitted shall be prohibited. Special land uses shall be permitted only for those uses expressly delineated after special approval in accordance with Chapter IX.

## **CHAPTER IV DESCRIPTION OF DISTRICTS**

### **ARTICLE 400.1 R1A SHOREFRONT RESIDENTIAL AND R1B SINGLE-FAMILY RESIDENTIAL DISTRICTS**

**SECTION 400.1:1 Intent.** The regulations are intended to encourage a suitable environment for families with children. To this end, uses are primarily limited to single-family dwellings, together with certain other uses such as schools, parks, and playgrounds, which provide a neighborhood environment. In keeping with the intent, development is regulated to a moderately low density. Commercial and other uses, tending to be incompatible with the intent, are prohibited.

#### **SECTION 400.1:2 Permitted Principal Uses**

- (1) Single-family dwellings.
- (2) Neighborhood public parks, playgrounds, and elementary schools primarily for use of neighborhood residents.
- (3) Churches parish houses, and convents.
- (4) Other public/quasi-public uses such as public library, museum, utility building, and fire station.
- (5) Family Day Care.

#### **SECTION 400.1:3 Permitted Accessory Uses**

- (1) Private garages.
- (2) Garden houses, tool houses, private swimming pools, playhouses, or greenhouses.
- (3) Not more than a total of three (3) garage sales, yard sales or similar sales per lot in any calendar year and not more than a total of three (3) of such sales in combination in any calendar year. No single sale shall continue for more than two days. All materials from such sales shall be removed from the exterior of the premises within twenty-four (24) hours after the completion of such sale.
- (4) Any use customarily incidental to the permitted principal use.

#### **SECTION 400.1:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Two-family dwellings.
- (2) Planned Unit Development (Refer to CHAPTER X)
- (3) Home Occupation.
- (4) Group Day Care Home
- (5) Off-street parking (nonresidential).
- (6) Communication Towers
- (7) Adult Day Care-Residential

#### **SECTION 400.1:5 Required Conditions**

- (1) Area, height, bulk, and placement regulations (Refer to 400.14:1).
- (2) Parking (Refer to CHAPTER VII)
- (3) Signs (Refer to CHAPTER VIII).
- (4) A Site Plan Review is required for all permitted principal uses, excluding single-family dwellings (Refer to CHAPTER XI).

#### **SECTION 400.1:6 Open Space Preservation.**

- (1) For permitted residential uses (single family or, if permitted by special land use, two-family dwellings) in R-1A only the owner shall have the option to develop the same number of dwelling units on eighty (80%) percent or less of the property if the following conditions are met:

a) At least twenty (20%) percent of the property will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, which easement, dedication, restrictive covenant, or other restriction is on a form acceptable to the City and is evidenced by a document recorded at the Register of Deeds for Mason County.

The undeveloped property may not be subsequently developed or counted as open space for any other development, but shall be permanently preserved as the open space for the development on the remaining property.

b) The term “undeveloped state” shall have the meaning described in MCL 125.600. The undeveloped area shall be contiguous, except that a road may be placed in or across the undeveloped portion perpetually preserved to provide access to the residential uses. To the extent that the road comprises more than five (5%) percent of the undeveloped property, any excess over five (5%) percent shall not be counted for purposes of determining the amount of open space preserved. Lawns, landscaped areas, gardens, or similar features shall be considered undeveloped, and areas occupied by such uses may be counted for the required undeveloped portion of the property.

c) Ownership of the undeveloped portion of the property must be conveyed to the owners of the residential uses in common. In no event will ownership be allowed to be separate from the ownership of the residential units and in no event shall ownership of the undeveloped areas result in a separate tax parcel number, but must be owned in such a manner that the interest in the undeveloped area will be included with the ownership of the residential unit for purposes of real estate taxes.

d) All developments made pursuant to this article shall comply with the provisions of site plan review of Chapter XI.

e) All other provisions of the zoning ordinance, including the restriction on uses shall be met.

f) All requirements of the land division act shall be met, including land division approval where applicable, except where the development is accomplished by a condominium, in which event all requirements of all statutes applicable to condominiums must be met.

g) All state or federal laws, including but not limited to regulations of dunes or wetlands shall be complied with.

(2) **NUISANCES.** Nothing in this Section shall prevent property owners from controlling noxious weeds, non-native vegetation, or similar nuisances. In addition, the owner shall not allow the undeveloped property to become a nuisance and any easement, restrictive covenant, or other document recorded shall affirmatively require the owner and successors to maintain the property in such a condition as to not create a nuisance or pose a danger to health, safety and welfare of the residents of the City.

## **ARTICLE 400.1A R1C Planned Residential District**

**SECTION 400.1A:1 Intent.** The R1C District is an area of approximately 40 acres, bordering on Pere Marquette Township on two sides. The property is also unique because a former landfill is located on a portion of the property. The property is bounded on the South by Bryant Road and on the East by Washington Avenue, both major traffic arteries, and is bounded on the North and West by relatively low-density residential areas. Because of all of these unique characteristics, and to provide the necessary transition from uses that may be compatible with high traffic areas to low-density residential neighborhoods, and because of any potential impacts of the former landfill, it is necessary to require that all development be done under a Planned Unit Development.

**SECTION 400.1A:2 Permitted Principal Uses.** All permitted uses under Section 400.1:2 but only if approved as a Planned Unit Development under Chapter X.

**SECTION 400.1A:3 Permitted Accessory Uses.** Any permitted accessory use provided in Section 400.1:3, if approved as part of a Planned Unit Development.

### **SECTION 400.1A:4 Special Land Uses.**

- (1) Planned Unit Development (refer to Chapter X)
- (2) Two-family and multifamily, when approved as part of a Planned Unit Development, however, the density of residential units shall not exceed the number of units that would be allowed as single-family residences in such development Two-family and multifamily, when approved as part of a Planned Unit Development, however, the density of residential units shall not exceed the number of units that would be allowed as single-family residences in such development, subject to the ability to increase density in sections 1000.4:2 and 1000.4:3.
- (3) Communication Towers
- (4) Home Occupations
- (5) Adult Day Care-Residential

**SECTION 400.1A:5 Required Conditions.** Required conditions of this District shall be the same as Section 400.1:5, as applied to the R1B District, except as otherwise specifically required for the R1C District, and subject to modifications that may be made under Chapter X.

**SECTION 400.1A:6 Open Space Preservation.** The provisions of Section 400.1:6 may be used, but only as part of a Planned Unit Development.

**SECTION 400.1A:7 Applicability of Provisions Applicable to R1B.** Except where specific provisions provide to the contrary for the R1C District, provisions of this ordinance applicable to R1B shall apply to the R1C District, except where the Planning Commission and City Council determine that such provisions would not be within the intent of the R1C District as part of the Planned Unit Development approval process.

**ARTICLE 400.2 R2A GENERAL SINGLE-FAMILY  
RESIDENTIALDISTRICT**

**SECTION 400.2:1 Intent.** The intent of the regulations of this district is the same as R1A. Minimum lot area, however, is 6,000 square feet to reflect prevailing lot sizes previously platted in the district.

**SECTION 400.2:2 Permitted Principal Uses**

- (1) Same as R1A
- (2) Junior or senior high school.

**SECTION 400.2:3 Permitted Accessory Uses**

- (1) Same as R1A

**SECTION 400.2:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Same as R1A
- (2) Off-street parking (nonresidential).
- (3) Communication Towers
- (4) Group Day Care Home
- (5) Bed and breakfast establishment along Ludington Ave. from Lakeshore Dr. to Staffon St. and along Washington Ave. from Ludington Ave. to Foster St.
- (6) Adult Day Care-Residential

**SECTION 400.2:5 Required Conditions**

- (1) Area, height, bulk, and placement regulations (Refer to SECTION 400.14:1).
- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (Refer to CHAPTER VIII).
- (4) Site Plan Review is required for all permitted principal uses, excluding single-family dwellings (Refer to CHAPTER XI).

## **ARTICLE 400.3 R3A MULTI-FAMILY RESIDENTIAL DISTRICT**

**SECTION 400.3:1 Intent.** The regulations of this district are intended to provide a suitable residential environment for families living in two-family or multi-family dwellings. These families are typically small in size. Such a suitable environment must provide adequate open space in proportion to the dwelling area.

### **SECTION 400.3:2 Permitted Principal Uses**

- (1) Two-family dwellings.
- (2) Multi-family dwellings, including conversions.
- (3) Same as R1A, excluding single-family dwellings.

### **SECTION 400.3:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.
- (2) Community garage serving the principal buildings, containing space for no greater number of motor vehicles than two times the number of dwelling units in the principal buildings.
- (3) Private swimming pool designed and operated only for occupants of principal buildings and their personal guests.
- (4) Maintenance and management building associated with multi-family dwellings.

### **SECTION 400.3:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Planned Unit Development (Refer to CHAPTER X).
- (2) Single-family dwellings.
- (3) Bed and breakfast establishments
- (4) Boarding house or rooming house
- (5) Off-street parking (nonresidential).
- (6) Home Occupations in single and two-family dwellings only.
- (7) Group Day Care Home
- (8) Communication Towers
- (9) Adult Day Care-Residential

### **SECTION 400.3:5 Required Conditions**

- (1) Area, height, bulk, and placement regulations (Refer to SECTION 400.14:1).
- (2) Parking (Refer to CHAPTER VII).
- (3) SIGNS (Refer to CHAPTER VIII).
- (4) Park area or recreation space must be provided at the rate of ten percent of the gross area of the development (for multi-family uses).
- (5) All common boundaries with single-family uses must be screened with appropriate planting or landscaped development at a height of 4 1/2 to 6 feet (for multi-family uses).
- (6) Off-street parking shall be screened with an ornamental fence or compact hedge not less than 4 1/2 feet high (for multi-family uses).
- (7) Site Plan Review is required for all permitted principal uses, excluding two-family dwellings (Refer to CHAPTER XI).



## **ARTICLE 400.4 R4A MOBILE HOME PARK DISTRICT**

**SECTION 400.4:1 Intent.** It is the intent of this district to provide appropriate location for the development of mobile home parks.

### **SECTION 400.4:2 Required Conditions**

(1) Any mobile home park in the City shall be developed in accordance with the regulations of the Michigan Mobile Home Park Commission under Act 419, Public Acts of 1976.

### **SECTION 400.4:3 Special Land Uses**

(1) Communication Towers

## **ARTICLE 400.5 LC LIMITED COMMERCIAL DISTRICT**

**SECTION 400.5:1 Intent.** The regulations of this district are primarily intended to apply to thoroughfare frontage locations presently characterized by existing office usage or residential development in an area that may become commercial or is currently in a transitional state. The nonresidential activities permitted in this zoning district are intended to be non-detrimental to existing residential uses. The regulations are designed to prevent undue congestion from traffic generation, overcrowding, noise, and other hazards to residential dwellings.

### **SECTION 400.5:2 Permitted Principal Uses**

- (1) Offices for generally recognized professions such as doctors, dentists, optometrists, attorneys, architects, engineers, surveyors.
- (2) Offices of stockbrokers, insurance agents, real estate agents, interior decorators, advertising agents, purchasing agents, bookkeepers, and similar office uses.
- (3) Personal service establishment.
- (4) Funeral homes, banks, art galleries, and similar uses.
- (5) Single- and two-family dwellings.
- (6) Public/quasi-public uses allowed in R1A district.
- (7) Adult Day Care-Group

### **SECTION 400.5:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.

### **SECTION 400.5:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Multi-family dwellings, including conversions.
- (2) Boarding house or rooming house
- (3) Bed and breakfast establishments
- (4) Clubs and lodges
- (5) Communication Towers
- (6) Home Occupations
- (7) Child Care Center
- (8) Group Day Care Home

### **SECTION 400.5:5 Required Conditions**

- (1) Area, height, bulk, and placement regulations (Refer to 400.14:1).
- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (Refer to CHAPTER VIII).
- (4) Screening: A solid fence, berm, or deciduous planting of not less than 4-1/2 feet and not more than 6 feet will be required on the property line adjoining any residential use.
- (5) Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).

## **ARTICLE 400.6 C-1 OLD TOWN BUSINESS DISTRICT**

**SECTION 400.6:1 Intent.** The intent of this district, at a limited number of locations, is to provide for the use, possible expansion, and improvement of the older small neighborhood business areas, which are remnants of earlier times. While not currently used strictly for neighborhood use, buildings in these districts may be used for limited retail or commercial that tend to generate low volume vehicular traffic.

### **SECTION 400.6:2 Permitted Principal Uses**

1. Grocery, candy store, or meat store.
2. Drugstore, barber shop, or beauty shop.
3. Shoe repair shop.
4. Small animal veterinary clinic or office.
5. Commercial indoor recreational uses such as dance studios, gymnastics, racquetball and similar uses.
6. Upholstery shops.
7. Television, radio or appliance repairs.
8. Tinsmith, heating contractors, plumbing contractors.
9. Shops – Antique, hobby, flower, print or bakery.
10. Retail Uses
11. Residential Uses above first floor
12. Adult Day Care-Group

### **SECTION 400.6:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.
- (2) Open air displays of retail merchandise regularly sold or displayed by the retailer, owning, operating or leasing the property; such as displays of dry goods, sporting goods(except equipment utilizing projectiles), tools, small equipment, flowers or similar merchandise and temporary seating and tables provided that all areas shall be well maintained and cleaned regularly. Such activities shall not be conducted upon required off-street parking or adjacent vacant lots and provided that the location of such uses shall not pose a risk of injury to or obstruction of persons using streets, alleys, sidewalks or fire exits adjacent to such uses.
- (3) Outdoor service of food or beverages conducted in connection with a principal use involving service of food and beverages, but not including service of alcoholic beverages and not involving an area larger than 200 square feet.
- (4) Music, whether live or recorded shall not be played or produced in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants at any time with louder volume than is necessary for convenient hearing for the person who is within the area designated for the outdoor service of food or beverages in which such music or sound is played or produced.
- (5) Accessory uses provided in subsections (2) and (3) are subject to the conditions of Section 400.6:4 except as to setback.

### **SECTION 400.6:4 Required Conditions**

(1) Area, height, bulk, and placement regulations (Refer to 400.14:1). References in Section 400.14:1 to “pre-existing” shall mean those uses, buildings and structures lawfully existing upon the date of this amendment, being February 15, 2000. References to “new” uses, buildings or

structures, shall refer to any uses commenced after such date, including the expansion of any use after such date, and to buildings and structures built after such effective date, including any additions to buildings or structures built after such date.

(2) For all uses in the C-1 District the following parking requirements shall apply in place of the specific numbers of parking spaces provided in CHAPTER VII. All other provisions of CHAPTER VII shall be applicable to the C-1 District, except as specified in this Section:

- a. For pre-existing buildings – one (1) parking space per 400 square feet of usable floor area.
- b. New buildings – one (1) parking space for each 200 square feet of usable floor area.
- c. Where the occupancy of any existing building or portion of an existing building shall change from one permitted principal use to another principal permitted use, no additional off street parking shall be required. Where the occupancy of an existing building or any portion of an existing building shall change from one permitted principal use to a special land use, or from an existing special land use to a different special land use, no additional off street parking shall be required, unless the Planning Commission shall require such additional parking in connection with the granting of such special land use.

(3) Signs (Refer to CHAPTER VIII).

(4) Maximum floor area shall not exceed pre-existing floor area or 2000 square feet of usable space for new buildings.

(5) Screening: A solid fence, berm, or deciduous planting of not less than 4-½ feet and not more than 6 feet will be required on the property line adjoining any residential use.

Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).

#### **SECTION 400.6:5 Special Land Uses**

- (1) Communication Towers.
- (2) Child Care Center
- (3) Group Day Care Home

**SECTION 400.6:6 References.** Any references in this zoning ordinance to “neighborhood business district” shall be deemed to mean “old town business district”.

## **ARTICLE 400.7 C-2 GENERAL RETAIL DISTRICT**

**SECTION 400.7:1 Intent.** The intent of this district is to provide suitable locations for those commercial activities which function relatively independent of intensive pedestrian traffic and proximity of other firms. These activities typically require direct auto traffic access and visibility from the road. The characteristics which contribute to the sound functioning of these activities are on the other hand usually detrimental to the Central Business District.

### **SECTION 400.7:2 Permitted Principal Uses**

- .(1) Drive-in restaurants.
- .(2) Automobile or vehicle open-lot sales.
- .(3) Laundry or cleaning plants.
- .(4) Auto wash, with queuing space on lot at least two times inside car capacity.
- .(5) Storage and warehouses.
- (6) Veterinary hospital or office.
- (7) Commercial indoor recreational uses such as bowling, roller skating, archery and golf driving ranges, racquet ball, and similar uses.
- (8) Uses permitted in the LC, C1, and CBD districts.
- (9) Upholstery shops.
- (10) TV, radio, or appliance servicing.
- (11) Tinsmith, heating contractor shops.
- (12) Builders supply yard, utility pole yard, and similar uses requiring outdoor storage.
- (13) Institutional and public uses.

### **SECTION 400.7:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.
- (2) Accessory uses provided in Section 400.6:3 subject to the conditions of subsections (2) and (3) of Section 400.6:3 and to the conditions of Section 400.7:5 except as to setback and such accessory uses shall not be subject to subsection (4) of Section 400.7:5.

### **SECTION 400.7:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Service stations and vehicle repair shops.
- (2) Clubs and lodges
- (3) Communication Towers

### **SECTION 400.7:5 Required Conditions**

- (1) Area, height, bulk and placement regulations (Refer to 400.14:1).
- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (Refer to CHAPTER VIII).
- (4) Enclosure: All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets or properties. The foregoing shall not apply to permitted automotive sales areas, service stations, the sale of produce and plants in semi-open structures or drive-in retail establishments serving customers from their vehicles. A chain link or decorative fence of sufficient density to keep discarded debris within the confines of a site shall be provided for outdoor eating establishments or uses which are likely to have such debris.
- (5) Screening: A solid fence, berm, or deciduous planting of not less than 4-1/2 feet and not more than 6 feet will be required on the property line adjoining residential use.
- (6) Site Plan Review is required for all permitted principal uses (Reference Chapter XI)

## **ARTICLE 400.8 CBD CENTRAL BUSINESS DISTRICT**

**SECTION 400.8:1 Intent.** The intent of this district is, through certain regulations, to encourage and facilitate the development of sound and efficient shopping and central business activities, among such necessary regulations being the exclusion of certain uses and activities which typically disrupt the functioning of a highly concentrated business district, and which at the same time function better outside such district.

### **SECTION 400.8:2 Permitted Principal Uses**

(1) Retail stores: Including, but not limited to food stores, eating and drinking places (excluding drive-ins), department stores, dry goods stores, general merchandise stores, variety stores, apparel and accessory stores, furniture stores, home furnishing stores, appliance stores, sporting goods and bicycle stores, florists, cigar stores, news dealers, gift, novelty, and souvenir stores, music stores, camera and photographic supply stores, paint stores, art galleries.

(2) Showroom uses: Passenger cars, trucks, farm equipment. Garage service facilities for above when on the premises.

(3) Selected services: Personal Service Establishment such as barber and beauty shops, shoe repair shops, laundry and cleaning shops without plant on premises, except that self-service machines are permitted.

(4) Other uses: Libraries, museums, fire station, police station, administrative, governmental, and professional offices, banks, business offices, general office buildings, institutional and other public uses.

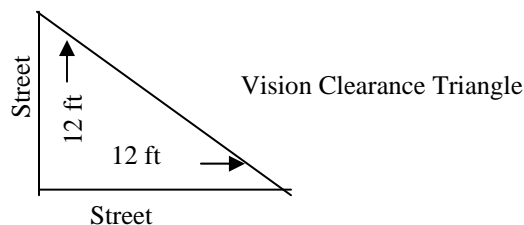
(5) Outdoor sales by temporary use permit. See ARTICLE 500.14.

(6) Theaters, arcades, and pool halls.

(7) Residential Use above first floor

(8) Outdoor Dining Areas: Outdoor dining areas are permitted as an accessory use for eating establishments subject to the following conditions:

- a. Permitted Areas: Outdoor dining shall be permitted on the same lot as an existing and legally operating eating establishment in an area under the control of the eating establishment. If a sidewalk is used for outdoor dining it shall be immediately adjacent to the eating establishment abutting the eating establishment with the exception of those establishments on corners that do not have parallel parking spaces. A twelve foot (12') vision clearance triangle will apply to those corners, measured within a line connecting points on street lot lines 12 feet distant from the corner.



- b. Any outdoor dining area using a sidewalk is subject to the Downtown Ludington Outdoor Dining Design Guidelines obtained from the Zoning Administrator.
- c. The use of the sidewalk for and outdoor dining area must allow a minimum pedestrian right-of-way of five feet. No dining operations shall take place in the right-of-way.

- d. No equipment, including but not limited to umbrellas, shall extend into or over the pedestrian right-of-way and no barriers to pedestrian visibility are allowed.
- e. No food preparation or food preparation equipment shall be permitted in the outside dining area, excluding rooftop dining areas, including heating or cooking on open flames.
- f. Outdoor dining shall be allowed during the hours of operation of the restaurant
- g. way.
- h. If a sidewalk is used as part of an outdoor dining area, all tables, chairs, barriers, umbrellas and other equipment must be removed and stored off the sidewalk and shall be stored inside the restaurant for extended periods of non-use and during the offseason.
- i. If alcohol is to be served in the outdoor dining area, a removable thirty-six (36) inch high barrier designating the service area must be used as required by the Michigan Liquor Control Commission. Such barrier must be architecturally compatible with the standards set forth in the Downtown Ludington Outdoor Dining Design Guidelines.
- j. The outdoor dining area shall be maintained in an aesthetically pleasing manner.

**SECTION 400.8:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.
- (2) Drive-in facilities are permitted only when accessory to a permitted use. (Site Plan Review required. Refer to Chapter XI).
- (3) Accessory uses provided in Section 400.6:3 subject to the conditions of subsection (2) and (4) except Section 400.6:3 (3) related to outdoor dining, which is a permitted use in the Central Business District but subject to the conditions of Section 400.8:5 except as to setback and such accessory uses shall not be subject to subsection (5) of Section 400.8.5.

**SECTION 400.8:4 Special Land Uses** (Refer to CHAPTER IX).

- (1) Gasoline service stations.
- (2) Any use permitted in the M-1 Wholesale and Light Industrial zone when conducted in connection with a permitted retail use.
- (3) The expansion or rehabilitation of any existing light industrial, warehouse, or wholesale use.
- (4) Clubs and lodges
- (5) Communication towers.
- (6) Hotels, motels, convention facilities or meeting facilities.
- (7) Bed and Breakfast establishments

**SECTION 400.8:5 Required Conditions**

- (1) Area, height, bulk and placement regulations (Refer to 400.14)
- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (Refer to CHAPTER VIII).
- (4) Screening: A solid fence, berm, or deciduous planting of not less than 4 1/2 feet and not more than 6 feet will be required on the property line adjoining any residential use.
- (5) Enclosure: All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets or properties. The foregoing shall not apply to permitted automotive sales areas, service stations, the sale of produce and plants in semi-open structures or outdoor service of food and beverages approved as a special land use, or drive-in retail establishments serving the customers from their vehicles.
- (6) Site Plan Review is required for all permitted principal uses. (Refer to CHAPTER XI).

**ARTICLE 400.8A MC MARITIME COMMERCIAL DISTRICT**

**SECTION 400.8A:1 Intent.** The intent of this District is to recognize that this District is a transitional district between the Waterfront District and the CBD District, to recognize that the CBD uses which have been allowed in this District are not the only uses which may be compatible with this transitional district, and to encourage the redevelopment of the MC district while attempting to preserve the historical character of the area.

**SECTION 400.8A:2 Permitted Principal Uses.**

- (1) All uses permitted in the CBD District, subject to all of the applicable conditions or restrictions on such uses.
- (2) Commercial indoor recreational uses such as bowling, roller skating, dance studios, gymnastics, archery, golf driving ranges, racquetball, exercise and fitness centers and similar indoor recreational uses.
- (3) Upholstery shop.
- (4) Repair facilities for T.V., radio, computers, appliances, and similar items (but not including vehicle or engine repairs except where specifically allowed as a principal permitted use in the CBD District).
- (5) Residential Uses above first floor

**SECTION 400.8A:3 Permitted Accessory Uses.**

- (1) The same accessory uses as permitted in 400.8:3.
- (2) Accessory uses provided in Section 400.6:3 subject to the conditions of subsections (2) and (4) of Section 400.6:3 except Section 400.6:3(3) related to outdoor dining, which is a permitted use in the Maritime Commercial District but subject to the conditions of Section 400.8A:5 except as to setback and such accessory uses shall not be subject to subsection (5) of Section 400.8:5.

**SECTION 400.8A:4 Special Land Uses** (Refer to Chapter IX)

- (1) Tinsmith, heating contractor and plumbing contractor shops.
- (2) Warehousing and sale at wholesale.
- (3) Light fabrication and assembly without involving heavy equipment, noise, dust, fumes, etc.
- (4) Bakery.
- (5) Bottling.
- (6) Micro Brewery.

- (7) Printing shops and engraving.
- (8) Bed & Breakfast, motel, and hotel
- (9) Veterinary hospitals and offices
- (10) Laundry and dry cleaning, including plant
- (11) Convention and meeting facility
- (12) Multi-family residential.
- (13) Communication Towers
- (14) Outdoor service of food and beverage, including alcoholic beverages, not otherwise allowed under Section 400.8A:3 when the service is accessory to a permitted food and beverage service use (See Section 900.3:21).

**SECTION 400.8A:5 Required Conditions**

(1) The same conditions as are contained in Section 400.8:5 shall apply to uses allowed in this District.

**SECTION 404.8A:6 Applicable Zoning Provisions.**

(1) Unless otherwise specifically provided, all provisions of the Zoning Ordinance applicable to the CBD District shall be applicable to this District, including, but not limited to setback, lot coverage, parking, and sign provisions.

**ARTICLE 400.9 M-1 WHOLESALE AND LIGHT INDUSTRY DISTRICT**

**SECTION 400.9:1 Intent.** The intent of this district is to encourage and facilitate the development of industrial enterprises in a setting conducive to economic stability and growth and efficient traffic movement including employee and truck traffic. It is also the intent to protect public health, and prevent blight and deterioration in adjacent residential areas. The land conducive to the intent of this district is limited and therefore is primarily restricted to industrial use and do not cause excessive noise, vibrations, odors, visual blight, pollution or use hazardous processes.

**SECTION 400.9:2 Permitted Principal Uses**

- (1) Assembly without fabrication: The assembly without fabrication of completely fabricated parts made of metal wood, plastic, glass, etc.
- (2) Automobile, vehicle, boat body repair .
- (3) Fabrication of parts and products such as but not limited to:
  - a. Clothing and accessories
  - b. Domestic appliances
  - c. Electronic equipment and instruments
  - d. Extrusion and induction molding....
  - e. Furniture and accessories
  - f. Games, toys and crafts
  - g. Glass and ceramics
  - h. Medical equipment, appliances and devices
  - i. Sporting goods
  - j. Tools, dies and gauges
  - k. Welding
  - l. Wire articles and components
- (4) Offices, facilities and operations such as, but not limited to:
  - a. Car, boat, vehicle sales and storage
  - b. Contractor’s facility
  - c. Design, electronic, high tech facilities



- d. Distribution and warehousing
- e. Eating and Drinking establishments
- f. Financial Institutions
- g. Home occupations
- h. Lumber Yards
- i. Marina
- j. Research/testing laboratories
- k. Retail markets and stores
- l. Service establishments
- m. Storage yards and garages
- n. Terminal facilities for railroads, trucks, ships including marinas, docks, wharves and related industries
- o. Veterinary clinics and animal grooming facilities
- p. Adult Day Care-Group
- (5) Shops and Processes such as but not limited to:
  - a. Bakery
  - b. Greenhouse and plant nursery
  - c. Laundry and dry cleaning establishments
  - d. Metal working and tin smith shops
  - e. Printing, engraving and binding
  - f. Sheet products of various materials ie paper, cardboard, wood, plastic, fiberglass etc.
  - g. Warehouses and self storage facilities
  - h. Wholesale facilities
- (6) Recreation such as but not limited to:
  - a. Indoor and outdoor sport facilities, classes and programs
  - b. Sports and recreation clubs
- (7) Utilities such as but not limited to:
  - a. Communication exchanges and substations
  - b. Electrical sub station
  - c. Fire, water, sewage, garages, plants and structures
  - d. Lift stations and pumps
  - e. Gas regulator stations

**SECTION 400.9:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.
- (2) Enclosed storage for goods processed on the premises.
- (3) Incidental retailing of goods fabricated, wholesale, warehoused, or assembled by principal use on the same lot.

**SECTION 400.9:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Metal working stamping, punching, plating, buffing, polishing, riveting, grinding, welding, pressing, and turning.
- (2) Planned Development in accord with Section 1000b.
- (3) Canning factories and food processing.
- (4) Storage facilities for coal, coke, and building materials, sand, gravel, stone, lumber, open storage of construction contractors' equipment and supplies-
- (5) Radio, television, cellular, and similar communication transmitter stations and commercial towers. Towers either stand-alone or mounted on building roofs of other structures (i.e. towers for radio, television, cellular, and similar communication transmitter stations, including towers for “ham” operators and industrial trade schools)

- (6) Dispensaries, commercial on site day care center and clinics on the premises of and clearly incidental to any business, trade or industry.

**SECTION 400.9:5 Required Conditions**

Area, height, bulk, and placement regulations (Refer to 400.14:1).

- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (refer to CHAPTER VIII).
- (4) Screening: A solid fence, berm, or deciduous planting of not less than 6 feet and not more than 10 feet will be required on the property line adjoining any residential or commercial use.

(5) Before the issuance of any building or occupancy permit, the applicant shall sign an agreement stating that the use of the property will meet the performance standards in the following section, and that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant.

(6) Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).

(7) Lot size: For placement of stand alone communication towers, the required lot dimensions will be determined by the height of the proposed tower. Tower must be placed at a location on lot so that the distance to any lot boundary is equal to or greater than the height of the tower. A minimum lot size of one (1) acre is required for all towers regardless of height with the exception of private “ham” radios.

**SECTION 400.9:6 Performance Standards**

(1) Storage of nonflammable materials: Storage of nonflammable materials shall be conducted within the confines of a building or within an enclosure which screens any outdoor operations or storage of materials from the view of adjoining streets and properties.

(2) Fire and explosion hazards: All activities with the exception of those described in 400.9:6(1) shall be carried on only in buildings conforming to the City Building Code. The operation shall be carried on in such a manner as required by the City's fire prevention code and with such precautions as to produce no explosion hazard, as determined by the Michigan Department of Labor, to a use on an adjacent property. Flammable liquids or explosive chemicals or materials, other than fuels used for heating, shall be stored in a separate building or tank provided said building or tank is not closer than 80 feet to any building occupied by more than one human, nor closer than 40 feet to any property line. Every manufacturing building or other building permitted only in this industrial zone shall be equipped with automatic sprinklers or other automatic fire extinguishers approved by the Chief of the Fire Department as being sufficient in view of the nature and extent of the fire risk.

(3) Smoke, fumes, gases, dust, odors: There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to violate federal and state regulations for air quality, to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of animals or humans.

(4) Liquid or solid waste: No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond, or lake. All methods of sewage and industrial waste treatment and disposal shall be in compliance with local, state and federal laws and regulations.

(5) Vibration: There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

(6) Noise: There shall be no noise emanating from the operation which will impair the use or value of adjoining conforming property. Maximum sound level in decibels permissible at common property lines as follows:

Residential uses:	night 55	day 65
Commercial uses	night 65	day 75

Industrial uses night 70 day 85

(7) Glare: There shall be no direct or sky-reflected glare which would be damaging to the human eye at the property line of the lot occupied by such use. This regulation does not apply to source shielded lights.

(8) The Planning Commission may allow the expansion of a non-conforming structure where there is minimal adverse impact to surrounding properties in accordance with Section 900.3:15.

(9) No fence shall be erected prior to the issuance of a permit by the City of Ludington Building Inspector. The permit application shall describe the fence and include the height, length, location, opacity (open space percentage), material, and general type of fence. The distance from the face to the nearest property line is also required.

No fence shall contain barbed wire, electrical current, broken glass, sharp edges, discarded materials or other dangerous elements unless required for exceptional security purposes.

## **ARTICLE 400.10 M-2 HEAVY INDUSTRY DISTRICT**

**SECTION 400.10:1 Intent.** The intent of this district is to provide suitable locations for heavy manufacturing and industrial operations.

### **SECTION 400.10:2 Permitted Principal Uses**

(1) Permitted Principal Uses permitted in M-1, Wholesale and Light Industry District.

- (2) Concrete, block, brick facilities
- (3) Forges and foundries
- (4) Shipping terminal and facilities

### **SECTION 400.10:3 Permitted Accessory Uses**

- (1) Same as M-1.

### **SECTION 400.10:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Salvage yards.
- (2) Planned Development in accord with Section 1000b.

### **SECTION 400.10:5 Required Conditions**

(1) Area, height, bulk, and placement regulations (Refer to 400.14:1).

(2) Parking (Refer to CHAPTER VII).

(3) Signs (Refer to CHAPTER VIII).

(4) Isolation: All permitted principal uses with the exception of those in Section 400.10:2 (1) must be 250 feet from any residential district boundary.

(5) Screening: A solid fence, berm, or deciduous planting of not less than 6 feet and not more than 10 feet will be required on the property line adjoining any residential or commercial use.

- (6) Performance standards: Same as 400.9:6.

(7) Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).

(8) Lot size: For placement of stand alone communication towers, the required lot dimensions will be determined by the height of the proposed tower. Tower must be placed at a location on lot so that the distance to any lot boundary is equal to or greater than the height of the tower. A minimum lot size of one (1) acre is required for all towers regardless of height, with the exception of those for private “ham” radios.

## **ARTICLE 400.11 P PARKING DISTRICT**

**SECTION 400.11:1 Intent.** The intent of this district is to provide specific location for public or private off-street parking in those situations where it is in the public interest that parking be located. Public interest includes relief of traffic congestion, a balance between parking and commercial land use, and enhancement of the Central Business District.

### **SECTION 400.11:2 Permitted Principal Uses**

- (1) Off-street parking lot or structure.
- (2) Public utility uses.

### **SECTION 400.11:3 Permitted Accessory Uses**

- (1) Shelter for attendant, not to exceed 64 square feet of usable floor area and 15 feet building height.
- (2) Outdoor displays, bazaars, carnivals, and civic events by temporary permit.

### **SECTION 400.11:4 Special Land Uses**

- (1) Communication towers.

### **SECTION 400.11:5 Required Conditions**

- (1) Area, height, bulk, and placement regulations (Refer to 400.14:1).
- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (Refer to CHAPTER VIII).
- (4) Screening: A solid fence, berm, or deciduous planting of 4-1/2 feet will be required on the property line adjoining any residential use.
- (5) Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).

## **ARTICLE 400.12 M-R MOTEL-RESORT DISTRICT**

**SECTION 400.12.1 Intent.** The intent of this district is to provide suitable locations for motels and related facilities, oriented to the vacationing and traveling public.

### **SECTION 400.12:2 Permitted Principal Uses**

- (1) Motels.
- (2) Institutional and public uses.
- (3) Single-family dwellings.

### **SECTION 400.12:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.

### **SECTION 400.12:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Multi-family dwellings.
- (2) Bed and Breakfast establishments.
- (3) Communications towers.
- (4) Personal Service Establishment.

### **SECTION 400.12:5 Required Conditions**

- (1) Area, height, bulk, and placement regulation (Refer to 400.14:1).
- (2) Parking (Refer to CHAPTER VII).
- (3) Signs (Refer to CHAPTER VIII).

(4) Screening: A solid fence, berm, or deciduous planting of not less than six feet or more than eight feet will be required on the property line adjoining any residential use.

(5) Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).

## **ARTICLE 400.13 G1 GOVERNMENT SERVICE DISTRICT**

**SECTION 400.13:1 Intent.** The intent of this district is to designate certain locations for various public services. This district also designates certain private uses that, upon approval by the City Commission may be located on city-owned land on a lease or concession basis.

### **SECTION 400.13:2 Permitted Principal Uses**

- (1) City, county, state, and federal government buildings.
- (2) Park and recreational uses.
- (3) Marine and recreational developments such as piers, boatwells or basins, parkways, play areas, off-street parking, beaches, or other related uses which tend to preserve and enhance the recreational resort use of the shore front.
- (4) Privately operated concessions serving the public such as refreshment stands and bicycle rentals which may be located on city-owned land under a lease or concession arrangement on a continuous or permanent basis as opposed to a temporary basis.
- (5) Cemeteries.
- (6) Hospitals and other institutional and public uses.
- (7) Public Parking Lots.
- (8) Radio, television, cellular, and similar communication transmitter stations, including towers.
- (9) Communication towers; either stand-alone or mounted on building roofs or other structures (i.e. water towers).

### **SECTION 400.13:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.

### **SECTION 400.13:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Medical professional offices.

### **SECTION 400.13.5 Required Conditions**

- (1) Parking (Refer to CHAPTER VII).
- (2) Site Plan Review is required for all permitted principal uses (Refer to CHAPTER XI).
- (3) Lot size: for placement of stand-alone communication towers, the required lot dimensions will be determined by height of proposed tower. Stand-alone towers must be placed at a location on lot so that the distance to any lot boundary is equal to or greater than the height of the tower. A minimum lot size of one(1) acre is required for all towers regardless of height.

## **ARTICLE 400.15 W WATERFRONT**

**SECTION 400.15:1 Intent:** The intent of this district is to provide for a variety of permitted recreational, resort, residential, service or public uses and businesses. The district regulations are designed to (1) promote physical development which uses nearby water resources and (2) encourages land use developments which are aesthetically and functionally compatible with the waterfront.

### **SECTION 400.15:2 Permitted Principal Uses**

- (1) Public and private marinas for the berthing and servicing of boats, including public and private boat launch sites, but not including major repair facilities.
- (2) Car ferry dock and related administrative and maintenance facilities.
- (3) Fishing piers, parkways, play areas, and beaches.
- (4) Boat clubs.
- (5) Multi-family residences which conform to lot and area requirements as specified in Section 400.14:1, R3A. Single family and two-family homes are not permitted, except as provided in Section 400.15:4(8).
- (6) libraries, museums, fire stations, police station, and other governmental facilities, professional offices, banks, general office uses, institutional and other public uses.

### **SECTION 400.15:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use.
- (2) Outdoor storage of boats is allowed as an accessory to any permitted principal use, but is not permitted in any required setback.
- (3) **IF SPECIAL LAND USE IS GRANTED FOR RETAIL:** Open air displays of retail merchandise regularly sold or displayed by the retailer, owning, operating or leasing the property; such as displays of dry goods, sporting goods (except equipment utilizing projectiles), tools, small equipment, flowers or similar merchandise and temporary seating and tables provided that all areas shall be well maintained and cleaned regularly. Such activities shall not be conducted upon required off-street parking or adjacent vacant lots and provided that the location of such uses shall not pose a risk of injury to or obstruction of persons using streets, alleys, sidewalks or fire exits adjacent to such uses

### **SECTION 400.15:4 Special Land Uses (Refer to CHAPTER IX)**

- (1) Facilities for major repair or reconstruction of boats.
- (2) Buildings over 35 ft. high.
- (3) Storage of boats.
- (4) Planned unit waterfront development (Refer to CHAPTER Xa)
- (5) Boat sales & display.
- (6) Restaurants, cafes and food concession stands.
- (7) Hotels, motels, convention facilities or meeting facilities.
- (8) Bed and breakfast establishments
- (9) One dwelling unit, which is accessory to any principal permitted use or special land use when occupied by the owner or an employee of the business. The dwelling unit must be part of the building in which the principal use or special use is located.
- (10) Retail stores and establishments, but not including sales of cars, trucks or farm equipment.
- (11) Barber shops and beauty shops.
- (12) Artisan shops.
- (13) Commercial indoor recreation uses such as bowling, roller skating, dance studios, gymnastics, archery, golf driving ranges, racquetball, exercise and fitness centers and similar indoor recreational uses.
- (14) Bakery
- (15) Micro brewery.

- (16) Fences.
- (17) Communication towers.
- (18) Planned Development in accord with Section 1000b.

**SECTION 400.15:5 Required Conditions**

- (1) Site Plan Review is required for all uses, buildings, and structures. (Refer to Chapter XI.)
- (2) Area, height, bulk, and placement regulations:
  - (a) Maximum floor area of principal and accessory building is governed by setback and parking requirements.
  - (b) Setback requirements: 15 ft. from high water mark for all uses except docks, wharves, and similar structures, 7-1/2 ft. for all yards, 10 ft. from any street. All buildings or structures (notwithstanding SECTION 500.4:1) must conform to these setback requirements: except in the case of a Special Land Use for boat storage where the planning commission may allow fences & boat storage, but no other structures within the setback areas. Parking must be at least 30 ft. from the high water mark. Buildings for indoor and/or rack storage of boats must be at least 15 ft. from any property line and at least 30 ft. from any residential use; for purposes of this regulation, residential uses include in addition to dwellings, hotels and motels or any other facilities for human accommodation. No such residential use may be constructed within 30 ft. of a rack-storage facility, either on the same lot or on an adjoining lot.
  - (c) Maximum building height for all buildings or structures: 35 ft.
  - (d) Minimum lot size will be determined by the use and the setback and parking requirements, except that the minimum lot square foot requirements specified for multi-family dwelling units in Section 400.14:1 will be required.
- (3) All utilities must be installed underground.
- (4) Parking requirements: Refer to Chapter VII for general requirements concerning number of spaces and design and construction.
  - (a) On-street parking of vehicles with boat trailers attached or of boat trailers is not permitted.
  - (b) Screening for parking lots may be required if it is determined by the Site Plan Review Committee that there would be negative impact on adjoining uses.
- (5) Signs (Refer to Chapter VIII).
- (6) Screening: A solid fence, berm, or planting of up to 4-1/2 ft. may be required if it is determined by the Site Plan Review Committee. Under no circumstances will a fence, berm, or hedge be permitted in the setback from the water.
- (7) Fire protection: All boats stored in buildings must have master battery switches which must be turned off to disconnect all electric motors before storage. No motors may be started inside such buildings.
- (8) Refuse disposal:
  - (a) Fish-cleaning facilities must be entirely enclosed and self-contained. All refuse must be disposed of in a manner to prevent noxious odors.
  - (b) Outdoor refuse containers for all uses must be covered, enclosed in a solid screened area, not be located in any required setback areas, and must be maintained in a manner to prevent noxious odors.
- (9) All boat display must have the display area paved and the setback area greened (grass or natural barrier).



## **ARTICLE 400.16 WS WATERFRONT SHIPPING**

**SECTION 400.16:1 Intent.** The intent of this District is to allow all uses allowed in the Waterfront District subject to the same conditions and restrictions as contained in the Waterfront District, and to allow additional special land uses relating to shipping which provide for a “working harbor” but are compatible with other uses allowed in the Waterfront District.

### **SECTION 400.16:2 Permitted Principal Uses.**

(1) Same as permitted principal uses in “W” (Waterfront District), subject to all conditions and restriction for such uses in the “W” (Waterfront District).

### **SECTION 400.16:3 Permitted Accessory Uses.**

(1) Same as permitted accessory uses in “W” (Waterfront District), subject to all conditions and restrictions for such uses in the “W” (Waterfront District).

### **SECTION 400.16:4 Special Land Uses.** (Refer to Chapter IX)

- (1) Same special land uses in “W” (Waterfront District), subject to all conditions and restrictions for such uses in the “W” (Waterfront District).
- (2) Storage and distribution of aggregate and containerized cargo which items have been unloaded from ships or barges or are to be loaded on ships or barges.
- (3) Communication towers.
- (4) Planned Development in accord with Section 1000b.

## **ARTICLE 400.17 WM 1 AND 2 (WATERFRONT MARITIME)**

**SECTION 400..17:1 Intent.** This district is designed to provide a bridge between the established business areas and the developing waterfront area. The mixing of residential and non-residential uses on the same property is encouraged to promote an active waterfront area and prosperous downtown business environment. The use, improvement and preservation of existing streets and alleys to promote pedestrian traffic circulating in the waterfront area and the downtown area are viewed as an enhancement to the community. Existing public right-of-ways should only be altered to enhance the overall objectives of the City. District regulations are designed to promote physical developments and reuse existing buildings where feasible which are aesthetically, visually, and functionally compatible with the surrounding area.

### **SECTION 400.17:2 Permitted Principal Uses**

- (1) Libraries, museums, and other governmental facilities;
- (2) Multi-family residential;
- (3) General and professional offices;
- (4) Single-Family dwellings in **WM2 only**.

### **SECTION 400.17:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use;
- (2) During the period from April 1<sup>st</sup> to December 1<sup>st</sup>, outdoor storage of boats is allowed as an accessory to any permitted use, but is not permitted in any required setback;

- (3) Retail uses subordinate to and used in conjunction with a principal permitted or special land use and when conducted entirely within an enclosed building.
- (4) Accessory uses provided in Section 400.6:3 subject to the conditions of subsections (2) and (3) of Section 400.6:3 and to the conditions of Section 400.17:5 except as to setback.

#### **SECTION 400.17:4 Special Land Uses**

- (1) Planned unit waterfront development (refer to Chapter Xa);
- (2) Restaurants and cafes;
- (3) Hotels, motels, convention facilities or meeting facilities;
- (4) Bed and Breakfast establishments
- (5) Outdoor food or beverage service or outdoor entertainment;
- (6) Artisan shops;
- (7) Fences

#### **SECTION 400.17:5 Required Conditions**

- (1) Site plan review is required for all uses, buildings, and structures. (Refer to Chapter XI)
- (2) Area, height, and placement regulations:
  - a) Maximum floor area of principal and accessory buildings will be governed by setback and parking requirements.
  - b) Setback Requirements: WM1-Ten (10) feet from any street, alley or property line; WM2-Ten (10) feet from front and rear, seven and one-half (7 ½) feet from side yard; twenty-five (25) from the high water mark for all uses except docks, wharves and similar structures; all buildings or structures (notwithstanding SECTION 500.4:1) must conform to these setback requirements: except in the case of a Special Land Use for boat storage where the Planning Commission may allow fences and boat storage, but no other structures within the setback areas. Parking must be at least thirty (30) from the high water mark.
  - c) Minimum lot sizes will be determined by the use and the setback and parking requirements;
- d) *Height: In the WM 1 District, no building or structure shall be permitted to exceed forty-five (45) feet in height;*
  - i) *Architectural features not intended for human occupancy, (such as, but not limited to, a weather vane, clock tower, cupola) may be permitted to exceed the main roof height up to ten (10%) of the regulation height. The longest dimension of the architectural feature shall not exceed ten (10%) of the shortest dimension of the building it is to be constructed upon.*
  - ii) *For the purposes of this District, building height shall be defined as the distance from the average grade level of the existing adjoining street or property to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there is more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line*

*extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.*

- e) *Height: In the WM 2 District, no building or structure shall be permitted to exceed thirty-five (35) feet in height;*
- i) *Architectural features not intended for human occupancy, (such as, but not limited to, a weather vane, clock tower, cupola) may be permitted to exceed the main roof height up to ten (10%) of the regulation height. The longest dimension of the architectural feature shall not exceed ten (10%) of the shortest dimension of the building it is to be constructed upon.*
  - ii) *For the purposes of this District, building height shall be defined as the distance from the average grade level of the existing adjoining street or property to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there is more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.*
- (3) The maximum density shall not *exceed thirty (30) units per acre* for residential use. When calculating the density and the number is fractional, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall be rounded to the next whole number.
- (4) All utilities must be installed underground.
- (5) Parking requirement: Refer to Chapter VII for general requirements concerning number of spaces and design and construction.
- a) On street parking of campers, motor homes, and vehicles with boat trailers attached or of boat trailers is not permitted.
  - b) Screening for parking lots may be required if it is determined by the Site Plan Review Committee that there would be negative impact on adjoining uses.
- (6) Signs (Refer to Chapter VIII)
- (7) Building Length: the maximum length of a building shall not exceed one hundred and thirty (130) feet.
- (8) Screening: A solid fence, berm or planting of up to 4 ½ ft. may be required if it is determined by the Site Plan Review Committee to be necessary or desirable in protecting neighboring properties or public ways. Under no circumstances will a fence, berm or hedge exceeding 4 ½ feet in height be permitted in the setback from the water.
- (9) Refuse disposal:
- a) Fish-cleaning facilities must be entirely enclosed and self-contained. All refuse must be disposed of in a manner to prevent noxious odors.

- b) Outdoor refuse containers for all uses must be covered, enclosed in a solid screened area, not be located in any required setback areas or view corridors and must be maintained in a manner to prevent noxious odors.

## **ARTICLE 400.18 WCB (WATERFRONT CENTRAL BUSINESS)**

**SECTION 400.18:1 Intent.** The intent of this District has a dual purpose. The first is to permit an expansion of the Central Business District while encouraging pedestrian traffic to engage the natural assets of the waterfront during a shopping experience. The second is to allow higher residential densities that foster preservation and enhancement of the neighboring business district and to encourage pedestrian traffic to and from the waterfront. These regulations are also designed to promote physical developments that encourage land use developments, which are aesthetically, visually, and functionally compatible with an accessible waterfront.

### **SECTION 400.18:2 Permitted Principal Uses**

- (1) Parks, parkways, play areas;
- (2) Libraries, museums, and other governmental facilities;
- (3) Multi-family residential;
- (5) General and professional offices;
- (6) Banks;

### **SECTION 400.18:3 Permitted Accessory Uses**

- (1) Any use customarily incidental to the permitted principal use;
- (2) During the period from April 1<sup>st</sup> to December 1<sup>st</sup>, outdoor storage of boats is allowed as an accessory to any permitted use, but is not permitted in any required setback;
- (3) Except in any public park, or other publicly owned facility, outdoor food or beverage service or outdoor entertainment shall be by special land use only.
- (4) Accessory uses provided in Section 400.6:3 subject to the conditions of subsections (2) and (3) of Section 400.6:3 and to the conditions of Section 400.18:5 except as to setback and such accessory uses shall not be subject to subsection (8) of Section 400.18:5.

### **SECTION 400.18:4 Special Land Uses**

- (1) Planned unit waterfront development (refer to Chapter Xa).
- (2) Restaurants and cafes;
- (3) Hotels, motels, convention facilities or meeting facilities;
- (4) Bed and Breakfast establishments
- (5) Retail stores or establishments, not including sales of cars, trucks, farm equipment, boats, or other similar items;
- (6) Artisan shops;
- (7) Fences
- (8) Outdoor service of food and beverage, including alcoholic beverages, not otherwise allowed under Section 400.18:3, when the service is accessory to a permitted food and beverage service use (See Section 900.3:21).

### **SECTION 400.18:5 Required Conditions**

- (1) Site plan review is required for all uses, buildings, and structures. (Refer to Chapter XI)
- (2) Area, height, and placement regulations:
  - a) Maximum floor area of principal and accessory buildings will be governed by setback and parking requirements.
  - b) Setback Requirements:
    - 1) 10 feet from any street right of way or any property line;
  - c) Minimum lot size will be determined by the use, and the parking and ;
  - d) Height: no building or structure shall be permitted to exceed 45 (forty-five) ft.
    - i) Buildings proposed at a height greater than 45' (forty-five) ft. may be permitted as a special land use. In consideration of the greater height, the Planning Commission shall have the ability to increase the yard setback facing or nearest the water frontage by one (1) foot for each five (5) feet of building height that exceeds the maximum height permitted, but not to exceed an added height of ten (10) feet (fifty-five (55) feet total).
    - ii) Architectural features not intended for human occupancy, (such as but not limited to a weather vane, clock tower, cupola) may be permitted to exceed the main roof height

up to ten (10%) percent of the regulation height. The longest dimension of the architectural feature shall not exceed ten (10%) of the shortest dimension of the building it is to be constructed upon.

- iii) For purposes of this District, building height shall be defined as the distance from the average grade level of the existing adjoining street to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there are more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.
- (3) The maximum density shall not exceed 30 units per acre for residential use. The Planning Commission may administratively, as part of site plan review, allow increases in density up to 10% if the projects are designed to provide or maintain maximum viewing opportunities to the waterfront as seen from public activity centers located within 300 ft. of the waterfront (lake or marina) shoreline, as defined in chapter Xa, Section 1000a4:7(2).
- (4) All utilities must be installed underground.
- (5) Parking requirement: Refer to Chapter VII for general requirements concerning number of spaces and design and construction.
  - a) On street parking of campers, motor homes, and vehicles with boat trailers attached or of boat trailers is not permitted.
  - b) Screening for parking lots may be required if it is determined by the Site Plan Review Committee that there would be negative impact on adjoining uses.
- (6) Signs (Refer to Chapter VIII)
- (7) Screening: A solid fence, berm or planting of up to 4 ½ ft. may be required if it is determined by the Site Plan Review Committee to be necessary or desirable in protecting neighboring properties or public ways. Under no circumstances will a fence, berm or hedge exceeding 4½ feet in height be permitted in the setback from the water.
- (8) Enclosure: All permitted uses shall be conducted within the confines of a building or within an enclosure that screens any outdoor operations or storage of materials from the view of adjoining streets or properties. The foregoing shall not apply to permitted temporary uses (See Article 500.14), or when allowed by special land use, to drive-in retail establishments serving the customers from their vehicles or outdoor service of food or beverages.
- (9) Fire Protection: Where two or more boats are stored in a commercial storage facility or a facility that is public accessible, all boats stored in such buildings must have master battery switches which must be turned off to disconnect all electric motors before storage. No motors may be started inside such buildings, except in repair facilities.
- (10) Refuse disposal:
- (11) Fish-cleaning facilities must be entirely enclosed and self-contained. All refuse must be disposed of in a manner to prevent noxious odors.
- (12) Outdoor refuse containers for all uses must be covered, enclosed in a solid screened area, not be located in any required setback areas or view corridors and must be maintained in a manner to prevent noxious odors.

## Article 400.19 U.S. 10/M-116 CORRIDOR OVERLAY ZONE

**SECTION 400.19:1 Findings.** Conditions along US-10 continue to change in the City of Ludington, Pere Marquette Charter Township and Mason County. A primary function of this state highway is to move traffic through the City of Ludington, Pere Marquette Township, and to points beyond. Studies of motorists traveling along this segment of US-10 indicate, however, that a very high percentage of the traffic has an origin or destination in the City or townships. Thus, US-10 also has a secondary, but important, function to provide access to adjacent and nearby land uses. M-116 also serves such a secondary role and so is included in the overlay zone and is included in the discussion for the US-10 Corridor below.

The need for this overlay district is based, in part, on specific studies for US-10 that conclude the road is in need of improved access management. Continued development along the corridor will increase traffic volumes and introduce additional conflict points which will further erode traffic operations and increase potential for vehicular and pedestrian accidents. Numerous published studies and reports document the positive relationship between well-designed access management systems and traffic operations and safety. Those reports and experiences of other communities demonstrate that implementing standards on the number and placement of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for accidents while providing a good business or residential environment along the roadway. The standards set forth in this Article are based on recommendations published by various national and Michigan transportation agencies that were refined during preparation of the US-10 Access Management, which is on file.

The City of Ludington finds that special comprehensive standards are needed along the US-10 corridor based upon the following findings:

- A. The combination of roadway design, function (arterial highway), traffic speeds, current and projected traffic volumes, traffic accidents, neighboring residential areas and other characteristics necessitate special access standards.
- B. Studies by transportation organizations in Michigan and nationally have found a direct correlation between the number of access points and the number of accidents.
- C. The standards of this overlay zone are based upon considerable research and recommendations by the Michigan Department of Transportation (MDOT).
- D. Preservation of roadway capacity through access management protects the substantial public investment in the roadway system and helps avoid the need for costly reconstruction, which disrupts businesses.

**SECTION 400.19:2 Purpose.** The MDOT has jurisdiction within the highway's right-of-way, while the City of Ludington and Pere Marquette Township have authority for land use and site plan decisions within individual parcels along the highway. The standards of this overlay district were created to help ensure a collaborative process by MDOT, the City, the Mason County Road Commission and the township on access decisions along US-10 to implement the recommendations of the US-10 Corridor Improvement Plan and other adopted community plans.

Among the specific purposes of this Corridor Overlay Zoning District are to:

- A. Preserve the capacity of US-10 by limiting and controlling the number, location and design of access points and requiring alternate means of access through shared driveways, service drives, and access off at cross streets in certain locations, as appropriate.
- B. Encourage efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
- C. Improve safety and reduce the potential for vehicular and pedestrian accidents.

- D. Avoid the proliferation of unnecessary curb cuts and driveways, and eliminate or reconfigure existing access points that do not conform to standards when the opportunities arise.
- E. Implement the recommendations of the City of Ludington Comprehensive Plan and the US-10 Corridor Improvement Plan.
- F. Require coordinated access among adjacent lands where possible.
- G. Improve situations where existing development within the corridor area does not conform to the standards and intent of this overlay district.
- H. Identify additional submittal information and review procedures required for parcels that front along US-10.
- I. Avoid the need for unnecessary and costly reconstruction which disrupts business operations and traffic flow.
- J. Ensure efficient access by emergency vehicles.
- K. Improve safety for pedestrians and other non-motorized travelers.
- L. Establish uniform standards to ensure fair and equal application.
- M. Provide landowners with reasonable access, even though the access may be restricted to a shared driveway or service drive or via a side street, or the number and location of access points may not be the arrangement most desired by the landowner or applicant.
- N. Promote a more coordinated development review process for the City and the township with MDOT and the Mason County Road Commission.

**SECTION 400.19:3 Applicability.** The standards of this Article shall apply to all lands with frontage along or with direct access to US-10 and M-116 and illustrated as the US-10 Corridor Overlay Zone on the Zoning Map, including S. James St. The regulations herein apply in addition to, and simultaneously with, the other applicable regulations of the zoning ordinance. Permitted and special land uses within the US-10 Corridor Overlay Zone shall be as regulated in the underlying zoning district and shall meet all the applicable requirements for that district.

**SECTION 400.19:4 Additional Submittal Information.** In addition to the submittal information required for site plan review in Section 1100.4:3, the following shall be provided with any application for site plan or special land use review. The information listed in items A-H below shall also be required with any request for a land division.

- A. Existing access points. Existing access points within 100 feet on either side of the US-10 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
- B. The applicant shall submit evidence indicating that the sight distance requirements of MDOT are met.
- C. Dimensions between proposed and existing access points (and median cross-overs if applicable in the future).
- D. Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the Mason County Register of Deeds, by the applicant, and a copy of the recorded agreement furnished to the City. Any amendments to the access and maintenance agreement subsequently proposed shall be submitted to the Zoning Administrator for approval and once approved, shall be recorded and filed as the original.
- E. Dimensions shall be provided for driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs) and all curb radii within the site.
- F. The site plan shall illustrate the route and dimensioned turning movements of any expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles expected to service the site. The plan should confirm that routing the vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.
- G. Traffic impact study. Submittal of a traffic impact study may be required for any special land use that would be expected to generate 100 or more vehicle trips during any peak hour, or 1,000 or more vehicle trips daily, or where modifications from the generally applicable access spacing standards are requested. The traffic impact study shall be prepared by a firm or individual that is a



member of the Institute of Transportation Engineers with demonstrated experience in production of such studies. The methodology and analysis of the study shall be in accordance with accepted principles as described in the handbook "Evaluating Traffic Impact Studies, a Recommended Practice for Michigan," developed by the MDOT and other Michigan transportation agencies-

H. Review coordination. The applicant shall provide evidence that the proposal has been submitted to MDOT. Any correspondence from MDOT, the Township or MCRC shall be submitted to the Zoning Administrator and considered during the site plan review process. The City may request attendance at coordination meetings with representatives of the other applicable road agency. Attendance by the township or MCRC during a land division or site plan review by the City is optional. The approval of a land division or site plan does not eliminate the responsibility of an applicant to subsequently secure access permits from the applicable road agencies.

**SECTION 400.19:5 Access Management Standards.** Access points (not including driveways that serve a single family home, duplex or essential service facility structure) shall meet the following standards.

A. Each lot/site shall be permitted one access. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted above, land divisions shall not be permitted that may prevent compliance with the access location standards of this overlay district.

B. An additional driveway may be permitted by the Planning Commission upon finding the conditions 1 and 2, or 3 and 4, below exist. The additional driveway may be required to be along a side street or a shared access with an adjacent site. Approval by the Planning Commission does not relieve applicant from obtaining approval from applicable road agencies, which may or may not approve the request.

1. The site has a frontage of over 600 feet and the spacing standards between access points listed below are met, and

2. The additional driveway will not prevent adjacent lots from complying with the access spacing standards when such lots develop or redevelop in the future.

3. A traffic impact study, prepared in accordance with accepted practices as described in Section 1100.10:4 above, demonstrates the site will generate over 300 trips in a peak hour or 3,000 trips daily, or 400 and 4,000 respectively if the site has access to a traffic signal, and

4. The traffic impact study demonstrates the additional driveway will provide improved conditions for the motoring public and will not create negative impacts on through traffic flow.

C. Access points shall be spaced based upon recommendations of the US-10 Corridor Improvement Plan and MDOT.

D. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential out lots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.

E. Access points along sections of US-10 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards. The City supports MDOT policies to limit the number of median crossovers to maintain traffic flow and reduce the potential for accidents. In some cases, existing median cuts may need to be redesigned or closed to meet current design standards.

F. Access points shall be aligned based upon recommendations within the US-10 Corridor Improvement Plan and MDOT.

G. Minimum spacing of access points from intersections shall be in accordance with the US-10 Corridor Improvement Plan and the recommendations of MDOT.

Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized intersections, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.

Frontage roads or service drives shall be constructed in accordance with the following standards:

1. Service drives and frontage roads shall be set back as far as reasonably possible. A minimum of twenty-five (25) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point.
  2. The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This may require use of aerial photographs, property line maps, topographic information and other supporting documentation
  3. In cases where a shared access driveway is recommended, but is not yet available, temporary direct access may be permitted, provided the plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a bond.
- H. Driveways shall be located to provide safe sight distance, or as determined by the US-10 Access Management Plan and MDOT.
- I. No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any such new or proposed driveways shall be at the expense of the-property owner.

**SECTION 400.19:6 Modification of Access Standards.**

- A. Modification by the Planning Commission. Given the variation in existing physical conditions along the US-10 Corridor, modifications to the spacing and other standards above may be permitted by the Planning Commission as part of the site plan review process upon a review of the following conditions:
1. Practical difficulties exist on the site that make compliance unreasonable (sight distance limitations, topography, wetlands, drain or water body, trees or vegetation that will be preserved, existing development, unique site configuration or shape), or existing off-site access points make it impractical to fully comply with the standards.
  2. The use involves an access improvement to an existing site or a new use that will generate less traffic than the previous use.
  3. The proposed modification is consistent with MDOT guidelines and MDOT staff support the proposed access design.
  4. The proposed modification is consistent with the general intent of the standards of this overlay district and the recommendations of the US-10 Corridor Improvement Plan.
  5. If deemed necessary by the Planning Commission, a traffic impact study by a qualified traffic engineer has been provided that certifies the modification will improve traffic operations and safety along US-10, and is not simply for convenience of the development.
  6. The applicant shall demonstrate with dimensioned drawings that such modification shall not create non-compliant access to adjacent lands that may develop or redevelop in the future.
  7. Roadway improvements will be made to improve overall traffic operations prior to the project completion or occupancy of the first building.
  8. Indirect or shared access is not reasonable due to practical difficulties or the inability to reach agreement on shared access.
  9. Such modification shall be demonstrated to be the minimum necessary.
- B. Appeals. The decision of the Planning Commission may be appealed to the Zoning Board of Appeals, in accord with Section 1200.3:5.**

## **CHAPTER V GENERAL PROVISIONS**

### **ARTICLE 500.1 APPLICATION OF ZONING ORDINANCE**

**SECTION 500.1:1** Except as herein specified, no structure, land, or premises shall be used or occupied and no structure or part thereof shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except subject to and in conformity with the regulations herein set forth for the district in which it is located.

### **ARTICLE 500.2 STANDARDS FOR CONSTRUCTION OF SINGLE-FAMILY DWELLINGS**

**SECTION 500.2:1** Any single-family dwelling shall comply with the minimum square footage requirements of this Ordinance for the zone in which it is located.

**SECTION 500.2:2** It shall have a minimum width across any section of 24 feet and comply in all respects with the City building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction which are less stringent than those imposed by the City building code, then federal or state regulations shall apply.

**SECTION 500.2:3** It shall be firmly attached to a permanent foundation, constructed on the site in accordance with the City building code and co-extensive with the perimeter of the building, which attachment shall also meet all applicable building codes and other state and federal regulations. In addition, if the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

**SECTION 500.2:4** In the event that a dwelling is a mobile home as defined herein, it shall be installed with the wheels removed. No dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

**SECTION 500.2:5** It shall be connected to a public sewer and water supply when available or, if not available, to private facilities approved by the local health department.

**SECTION 500.2:6** It shall contain storage area either in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure being of standard construction similar to or of better quality than the principal dwelling. Such storage shall be in addition to the space for the storage of automobiles and shall be equal to not less than 15 percent of the minimum square footage requirement of this Ordinance for the zone in which the dwelling is located. In no case, however, shall more than 200 square feet of storage area be required by this provision.

**SECTION 500.2:7** The dwelling shall have either a roof overhang of not less than six inches on all sides, or window sills and roof drainage systems concentrating roof drainage along the sides of the

dwelling. It shall have not less than two exterior doors with one in the front of the dwelling and the other either at the rear or side of the dwelling. It shall have permanently attached steps connected to said exterior doors or to porches connected to said doors where a difference in elevation requires the same.

SECTION 500.2:8 It shall contain no additions or rooms or other areas which are not constructed with similar materials and similar quality of workmanship as the original structure, including the construction of a foundation and permanent attachment to the principal structure as required herein.

SECTION 500.2:9 The dwelling shall comply with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the U.S. Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards," effective June 15, 1976, as amended.

SECTION 500.2:10 The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.

SECTION 500.2:11 Conformity with the requirements of this Ordinance shall be determined in the first instance by the City Building Inspector upon review of the plans submitted for the particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of the Building Inspector's decision.

SECTION 500.2:12 The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the conventionally designed home.

### **ARTICLE 500.3 REAR DWELLINGS PROHIBITED**

SECTION 500.3 No building to be used as a dwelling shall be constructed, altered, or moved in the rear yard of a building situated on the same lot, nor shall any such building be constructed or moved in front of a principal building situated on the same lot.

## **ARTICLE 500.4 ACCESSORY BUILDINGS**

**SECTION 500.4:1 Accessory Buildings in any District.** No accessory building may be built upon any lot in single ownership on which there is no principal building. No accessory building shall be in any required front yard. No accessory building or other structure located in the rear yard shall be closer than 3 feet to any side lot line nor closer than 5 feet to any alley right-of-way or rear lot line except where there are no side and/or rear yard setbacks required in Section 400.14:1.

### **SECTION 500.4:2 Accessory Buildings in Residential Districts**

- 1) Accessory buildings, including private garages, may be erected in the rear yard only; except that a private garage may be erected in the side yard provided that the garage has the same side yard setback as the setback required for the principal building. A private garage is considered an accessory building whether attached to the principal residence or not, or whether in side or rear yards.
- 2) No single accessory building shall exceed 900 square feet and a total of all accessory buildings shall not exceed 1,200 square feet in area and are not to exceed primary residence height or 15 feet, whichever is less, except that an attached garage may be up to the same height as the residence.
- 3) A single building over 900 square feet or a combination of buildings over 1,200 square feet shall be allowed by special land use only.
- 4) When the rear line of a corner lot abuts the side line of an adjoining lot in a residential district, no accessory building shall be within 7 ½ feet of such abutting lot line nor closer to the side street lot line than the front yard setback of the principal building on the adjoining lot, but in no case shall the setback be less than 25 feet.
- 5) When the rear line of a corner lot abuts the rear line of any other lot or is directly across an alley there from, no accessory building shall be closer to the side street lot line of a corner lot than the side yard setback of the principal building on the corner lot.
- 6) A private garage or portion thereof may be rented or leased for not more than one motor vehicle or boat (non-commercial only) to a person not a resident of the dwelling on the lot.
- 7) The maximum total building floor area of accessory buildings in the rear yard shall not exceed 25% of the rear yard area. The requirement shall be in addition to the requirements of Section 400.14:1, but shall not increase the percentage of coverage as required in Section 400.14:1.

### **SECTION 500.4:3 Satellite Television Antennas**

(1) A satellite television antenna shall be classified and regulated under this Ordinance as an accessory building. A satellite television antenna less than 20 inches in diameter is exempt from this ordinance.

(2) Satellite television antennas are permitted in R1A, R1B, and R2A districts subject to requirements in SECTIONS 500.4:1 AND 500.4:2.

(3) If a usable signal cannot be obtained in these residential districts by installation within the requirements of this Ordinance, the unit may be installed on the roof of an existing accessory building, or a pole, tower, or raised platform if the total combined height does not exceed 25 feet; and if such antenna is installed to withstand stresses caused by weight and wind.

(4) In all other districts, a satellite television antenna may be installed in the rear yard or may be installed on any roof if a usable signal cannot be received from the rear yard, provided that such antenna is installed to withstand stresses caused by weight and wind.

(5) A usable satellite signal is one which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

## **ARTICLE 500.5 CORNER LOTS AND VISION CLEARANCE**

**SECTION 500.5:1 Corner Lots.** Where a lot is bounded by two intersecting streets, the front yard requirements shall be met on one abutting street and the side yard requirement shall be met on the other abutting street. The owner shall have the discretion to decide upon which abutting street the front yard requirement shall be met.

**SECTION 500.5:2 Vision Clearance on Corner Lots.** *On any corner lot in any zone other than the Central Business District, any sign, structure, fence or deciduous plantings above established curb grade, shall comply with Article 500.6, except trees with a minimum clearance of 8 feet from the ground to the lowest branch, shall be erected or maintained within a line connecting points on street lot lines 20 feet distant from the corner. No structure or planting which is deemed a traffic hazard by the Chief of Police shall be permitted in any zone.*

## **ARTICLE 500.6 FENCES, WALLS, AND HEDGES ON RESIDENTIAL PROPERTY**

### **Section 500.6 Fences, Walls and Hedges on Residential Property**

(1) The erection, construction, or alteration of any fence in a residential zone shall conform to the requirements below. For purposes of this section, the term fences shall include walls and/or similar structures or hedges.

(2) Definitions.

(a) An "open fence" is defined as one with at least 50% open spaces uniformly distributed along its surface.

(b) A "solid fence" is defined as one with less than 50% open spaces uniformly distributed along its surface.

(c) A "combination fence" is defined as one being 48" (4') or less in height with 50% open spaces uniformly distributed along its surface above the height of 30".

(3) General.

(a) No fence shall be erected prior to the issuance of a zoning permit by the City of Ludington's building inspector. The permit application shall describe the fence and include the height, length, location, opacity (open space percentage), material, and general type of fence. The distance from the face to the nearest property line is also required.

(b) The fence shall be residential in nature and intent and includes, but is not limited to chain link, picket, western rail stockade, stockade, wood slat, shadow box, and wrought iron. Woven wire fences, such as poultry netting, field fences, cattle fences and similar fences, or snow fences are not permitted except to enclose gardens or protect shrubs or trees. No fence shall be constructed of corrugated metal or corrugated plastic or similar materials, or include old doors, or other discarded materials.

(c) No fence shall contain barbed wire, electrical current, broken glass, sharp edges, or other dangerous elements.

(d) No fence shall exceed 72" (6') in height except as noted below.

(e) Height of fence shall be measured from the ground elevation prior to any filling, berming, or excavation.

(f) The finished side of a fence shall be oriented towards the closest adjacent property line. Fences constructed of alternating boards on opposite sides of the supporting structure are considered as finished on both sides.

(g) Fences shall be maintained to retain their original appearance, shape, and configuration. If the “fence” is a hedge, the height shall be maintained as noted above or below. Any fence that deteriorates due to lack of repair or type of construction shall be deemed a nuisance and be repaired or removed. The building inspector shall notify the owner of the property on which such a fence is located and specify the time period in which required repairs shall be made or the fence removed.

(4) Fences for Interior Lots. In the area between any street right of way and the principal use or building (which excludes porches or enclosed porches), a solid fence may not exceed 36” (3’) in height or an open fence or combination fence may not exceed 48” (4’) in height.

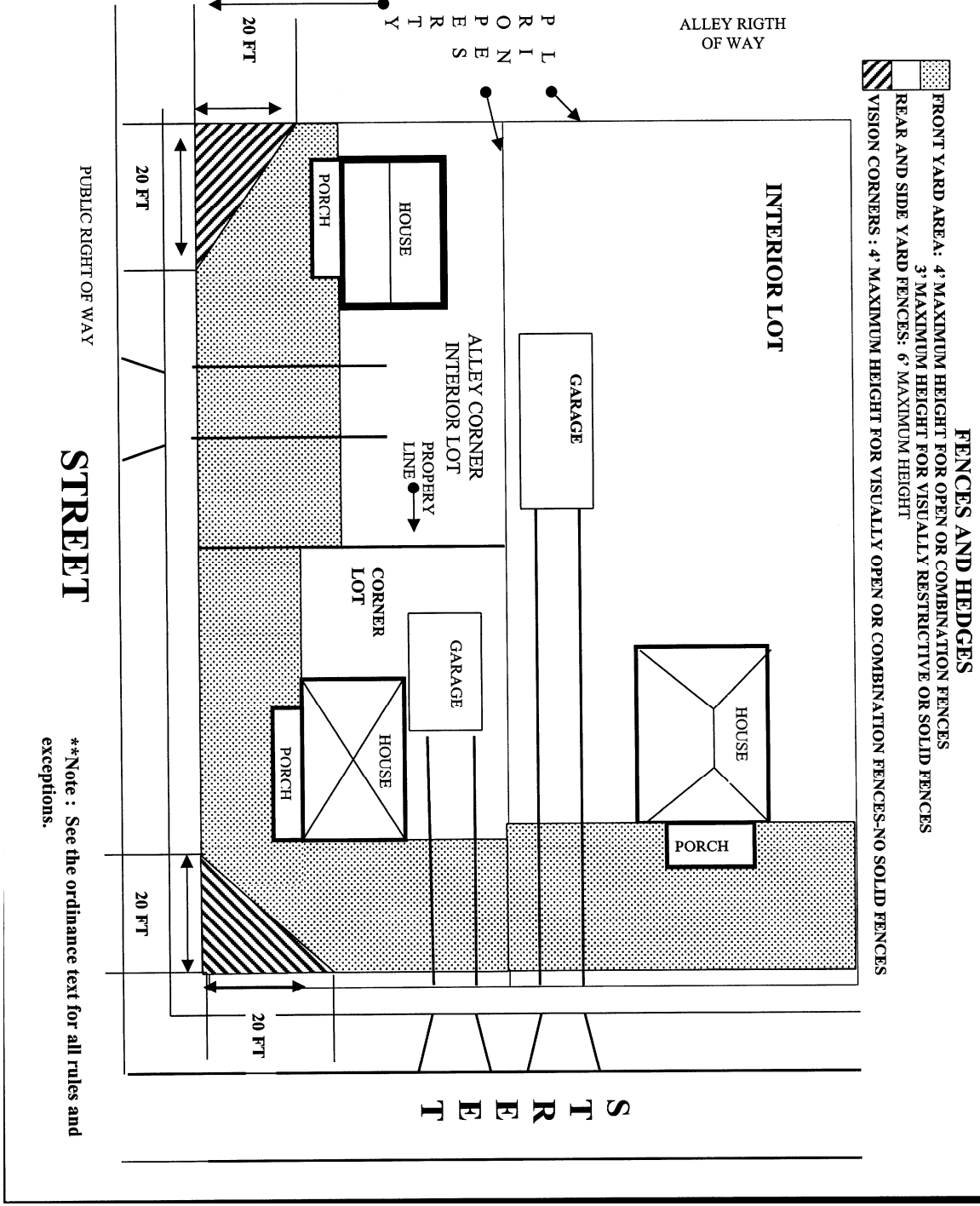
(5) Fences for Corner Lots. The standard for interior lots above applies except that at street right of way intersections only an open or combination fence up to 48” (4’) in height may be located in the triangle formed by measuring 20’ along each street right of way from the intersection of the right of way lines and a straight line drawn between those two end points.

(6) Fences for Lots with Alley Corners. The standard for the corner lot 20 ft. vision triangles also applies at alley and street intersections.

(7) Miscellaneous. Fences which enclose public or institutional parks, playgrounds, or schoolyards in residential areas shall be of open type not exceeding 6’ in height except as required for recreational purposes such as baseball backstop when a limited section(s) of open fence up to 10’ in height is allowed, where necessary to provide for such backstop or similar purposes.

(8) Safety fences for pools and hot tubs shall comply with all applicable codes, including required height.

# ALLEY



## FENCES AND HEDGES

- FRONT YARD AREA: 4' MAXIMUM HEIGHT FOR OPEN OR COMBINATION FENCES
- REAR AND SIDE YARD FENCES: 3' MAXIMUM HEIGHT FOR VISUALLY RESTRICTIVE OR SOLID FENCES
- VISION CORNERS: 4' MAXIMUM HEIGHT FOR VISUALLY OPEN OR COMBINATION FENCES-NO SOLID FENCES

\*\*Note : See the ordinance text for all rules and exceptions.



## **ARTICLE 500.7 REQUIRED ACCESS**

**SECTION 500.7:1** No dwelling unit shall be built on a lot where less than 50% of such lots frontage is along a public or private street right-of-way.

## **ARTICLE 500.8 AREA OR SPACE REQUIRED**

**SECTION 500.8:1** No lot, yard, court, parking area, or other space shall be divided, altered, or reduced so as to make said area or dimensions less than the minimum required under this ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced. No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building or structure or use shall, through sale or otherwise, again be used as a part of the lot required in connection with any other building or structure or use.

## **ARTICLE 500.9 EXCEPTIONS TO LOT, AREA, AND HEIGHT LIMITS**

**SECTION 500.9:1** **Exception to Lot Width.** A single-family dwelling may be constructed on any officially platted and recorded lot which is less than the width required by this Ordinance, provided that said lot width is not less than 80 percent of the zoning district requirements, and that all other requirements of this ordinance are complied with.

**SECTION 500.9:2** **Exception to Area Limits.** A single-family dwelling may be constructed on any officially platted and recorded lot which has less than the minimum area required by this Ordinance, provided said lot area is not less than 80 percent of the zoning district requirement, and that all other requirements of this Ordinance are complied with.

**SECTION 500.9:3** **Exception to Height Limits.** Governmentally owned structures, churches, parapet walls not exceeding four feet in height, belfries, cupolas, domes, chimneys, flagpoles, radio towers, masts and aerials, television antennas, ornamental towers, monuments, transmission towers, and necessary mechanical appurtenances are excepted from the required height limitations unless otherwise specified in this Ordinance. In industrial zones, stack chimneys, cooling and fire towers, elevator buildings and bulkheads, storage tanks, and other necessary appurtenances are permitted, provided they are located the same distance as their height from any adjoining property line. This section shall not apply to communication towers.

## **ARTICLE 500.10 FRONT, REAR, AND SIDE YARD EXCEPTIONS**

### **SECTION 500.10:1 Structures or Projections Permitted**

(1) Terraces, steps, uncovered or covered open porches, and other similar features shall not be located closer than five feet from a side or front lot line and not closer than ten feet from a rear lot line or closer than six feet from an accessory building.

(2) Normal chimneys, flues, elevator shafts, connecting hallways, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and other similar features may project into a required front, side, or rear yard by not more than 14 inches.

(3) Bays, including their cornices and eaves, balconies and fireplaces, shall not project more than three feet into a required rear yard.

**SECTION 500.10:2 Front Yard Exception for Existing Alignment**

(1) In any residential district, except R1A, Shore Front Residence, the front yard requirements of a lot may be modified so as to equal the average depth of existing developed front yards on lots within 100 feet of said lot and within the same block and fronting on the same street, provided the front depth shall not be less than 15 feet.

**SECTION 500.10:3 Side Yard Exception for Residential Property**

(1) On lots with a width of less than 60 feet and recorded as such prior to the effective date of this Ordinance, the minimum width of each of the side yards shall be five feet.

**SECTION 500.10:4 Rear Yard Exceptions**

(1) In all residential districts any platted and recorded lot less than 120 feet deep may have three inches deducted from the required rear yard depth for every foot the lot is less than 120 feet deep, provided no rear yard shall be less than 20 feet.

**ARTICLE 500.11 ESSENTIAL SERVICES**

**SECTION 500.11:1** Essential services are permitted in any zone as regulated by state law and by city ordinance, provided that any essential service use which is in an above-ground substation, a building housing equipment, or any tower structure shall be deemed an institutional use and subject to Site Plan Review as stipulated in CHAPTER XI.

**ARTICLE 500.12 SEWAGE AND WATER REQUIREMENTS**

**SECTION 500.12:1** No building permit shall be issued for any building to be occupied by human beings unless provision has been made to provide public sewer and water to such building. A building permit may be issued in the absence of public sewer and/or water if plans and necessary soil test data approved by the County Health Department are presented to the Building Inspector.

**ARTICLE 500.13 SURFACE RUNOFF**

**SECTION 500.13:1** No premises shall be filled or graded to discharge surface runoff to abutting premises in such a manner to cause ponding or surface accumulation of such runoff on those premises. This would include water runoff from a building via eaves or similar apparatus.

## **ARTICLE 500.14 TEMPORARY USE PERMITS**

**SECTION 500.14:1** The temporary use of a building or premises in any district for purposes that do not conform to the regulations prescribed by this Ordinance for the district in which it is located is permitted for up to 60 days upon permit issued by the Building Inspector under the following conditions:

- (1) Provided that such use be of a true temporary nature and does not involve the erection of a substantial building or buildings.
- (2) Provided that the Building Inspector has determined that such uses will not be detrimental to adjacent conforming uses during the permitted period of use.
- (3) A second temporary use permit may be issued by the Building Inspector at the end of such time limit for good cause shown.
- (4) The Building Inspector may attach such conditions and requirements deemed necessary to meet the intent of the provisions of this Ordinance.
- (5) The Planning Commission may issue the initial permit(s) if in the discretion of the Building Inspector it would be advisable to obtain commission action.

**SECTION 500.14:2** The following uses may be eligible for temporary use permits:

- (1) An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to six months while a dwelling or structure, except a single-family residence, is being constructed or reconstructed on the same premises.
- (2) A temporary permit may be issued for seasonal or unusual non-recurrent temporary uses and signs. Seasonal temporary uses may include outdoor sales, outdoor displays, bazaars, carnivals, and civic events.

**SECTION 500.14:3** Temporary use of membrane structures not requiring a permit in residential districts may include but is not limited to weddings, graduations, family reunions, birthday parties. These uses may be allowed up to five (5) consecutive days with a limit of three (3) occurrences per year.

## **ARTICLE 500.15 PRIVATE SWIMMING POOLS**

**SECTION 500.15:1** Swimming pools accessory to a principal permitted use are allowed in all districts provided said pools are constructed, operated, and maintained in accordance with City regulations pertaining thereto, and further provided that no pool shall be closer than six feet to any side or rear lot line nor located in any required side yard, or required front yard setback.

## **ARTICLE 500.16 BASEMENT DWELLINGS**

**SECTION 500.16:1** The use of the basement of a partially built or planned building as a residence or dwelling unit is prohibited in all zones. This shall not prohibit a dwelling unit located partially below ground which provides two remote means of egress to ground level.

## **ARTICLE 500.17 MEMBRANE COVERED STRUCTURES**

**SECTION 500.17:1** A membrane covered structure, which is a non-pressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane which provides the weather barrier, including but not limited to plastic, tarpaulins, fiberglass fabric or canvas, may not be erected except for purposes as noted in Section 500.14:3.

Canopies and awnings, as defined by this Ordinance, are not considered membrane covered structures. Small tents for parties, recreation, cold frames for gardening, *greenhouses*, seasonal shades over patios or decks, or similar items are also not considered membrane covered structures.

## **ARTICLE 500.18**

### **ADULT BUSINESSES**

**SECTION 500.18:1 INTENT AND PURPOSE.** There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious harmful, negative and objectionable impact upon children, particularly when such businesses are located in close proximity to each other.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or Article I, Section 5 of the Michigan Constitution of 1963, but to enact content neutral regulations which address the adverse secondary effects of sexually oriented businesses in order to protect the health, safety and general welfare of the City.

It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the City. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, and Article I, Section 5 of the Michigan Constitution of 1963, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

**SECTION 500.18:2 LOCATION.**

a) Adult entertainment establishments may be located only in the following districts:

- 1) LC: Limited Commercial
- 2) CBD: Central Business District
- 3) C1: Old Town Business District
- 4) C2: General Retail
- 5) M1: Wholesale Light Industry
- 6) M2: Heavy Industry

b) No adult entertainment establishment may be established, operated or maintained within the distance prescribed for each of the following uses or districts:

- 1) Public or private school, including preschool, 1,000 feet
- 2) Licensed daycare facilities, 300 feet
- 3) Church, 1,000 feet
- 4) Occupied residences, 300 feet
- 5) Public Library and other public buildings open to and used by members of the public, such as the Court House or City, County, or other government offices and facilities, 500 feet
- 6) Public Park, 500 feet
- 7) Residentially zoned district, including R1A, R1B, R2A, R3A and R4A, 300 feet
- 8) Another adult entertainment establishment, 1,000 feet

c) Nothing in the Ordinance shall prohibit the continuation of an adult entertainment establishment which complies with the above requirements when originally established, from continuing its operation despite the fact that changes in uses or districts within the above described distances have occurred subsequent to the establishment of such adult entertainment establishment.

d) Distance limitations shall be measured in a straight line from the nearest lot lines of both the subject parcel upon which an adult entertainment establishment is located or to be located and the parcel upon which any of the other uses are located.

**SECTION 500.18:3 DEFINITIONS.**

a) The term “Adult Business Establishment” shall include any of the following:

A. Adult Bookstore: An establishment that has a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, computer disks or other digital format, or other visual representations in any format that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
2. Instruments, devices or paraphernalia designed for use as part of, or in connection with, specified sexual activities.

B. Adult Cabaret: A nightclub, bar, restaurant, lounge, dance hall, or similar establishment where, for any form of consideration, employees and/or entertainers provide patrons, guests, or members with exposure to specified anatomical areas or specified sexual activities on a regular, irregular, or special event basis.

C. Adult Personal Service Establishment: An establishment or business having as a substantial portion of its activities, one or more persons who for any form of consideration, while nude or partially nude, provide personal services for one or more other persons in a closed room consisting of actual or simulated specified sexual activities, or erotic modeling, rubs, body painting, wrestling, or theatrical performances which are characterized by, or include emphasis on, the display of specified anatomical areas.

D. Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities.

E. Massage Parlor: An establishment where persons conduct or permit to be conducted or engaged in, massages specified anatomical areas by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands or other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations.

b) Substantial Portion: Substantial portion means a use or activity accounting for more than five percent (5%) of any one or more of the following:

1. Stock-in-trade, display space, floor space, or viewing time, movie display time, or entertainment time measured per month.

c) Stock-in-Trade: For purposes of this ordinance, Stock-in-Trade shall mean items on display for sale or rent, and shall not include any items stored in a warehouse or similar storage facility.

- d) Specified Anatomical Areas: Specified anatomical areas means and includes any one or more of the following:
2. Less than completely covered human genitals, pubic region, anus, or female breasts below a point immediately above the top of the areola.
  3. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- e) Specified Activities: Specified sexual activities means and includes any one or more of the following:
1. The fondling or erotic touching of human genitals, pubic region, anus, or female breasts.
  2. Human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy.
  4. Human masturbation, actual, or simulated.
  5. Human excretory functions as part of, or as related to any of the activities described above.
  6. Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to any of the activities described above.

#### **SECTION 500.18:4 PROHIBITED ACTIVITIES.**

- a) No merchandise or pictures of the products or entertainment on the adult business establishment's premises shall be displayed in any window area or any area where they can be viewed from a public street or sidewalk adjacent to the establishment.
- b) No person or establishment shall knowingly or intentionally conduct or allow any of the following in a public place:
1. engage in sexual intercourse
  2. engage in deviate sexual intercourse
  3. appear in a state of nudity, or
  4. fondle the genitals of himself, herself or another person.
- c) "Nudity" means the showing of the human male or female genital, pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.
- e) "Public Place" includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquets halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

### **ARTICLE 500.19 TRANSIENT RENTALS OF A DWELLING**

**SECTION 500.19 TRANSIENT RENTALS OF A DWELLING:** The transient rentals by the day, week or similar periods of less than twenty-eight days (28) shall only be permitted in a hotel or motel as defined in this Ordinance, except the transient rental of a condominium unit approved as part of a Planned Unit Development or as a Special Land Use may be permitted when specifically requested as part of the application.

## **CHAPTER VI NONCONFORMING USES AND STRUCTURES**

### **ARTICLE 600.1 NONCONFORMING USES ESTABLISHED**

**SECTION 600.1:1** Within the districts established by this Ordinance or amendments that may be adopted, there exist lots, structures, uses of land, and structures and characteristics of use which were useful before this Ordinance was passed or amended, but which are prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival unless they have been designated as Special Land Uses under Section 900.3:15.

### **ARTICLE 600.2 NONCONFORMING USES OF LAND**

**SECTION 600.2:1** Where, at the time of the passage of this Ordinance, a lawful use of land existed which is not permitted by the regulations imposed by this Ordinance and where such uses involve individual structures, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance except as a Special Land Use as specified in Section 900.3:15.

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

(3) If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent uses of such land shall conform to the regulations specified by the Ordinance for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

(5) Any structure designed for a use that is nonconforming which has been damaged or destroyed by any means to an extent of more than 75 percent of its replacement cost at the time of damage or destruction shall not be reconstructed unless such structure shall thereafter be used for a conforming use, or unless reconstructed as a Special Land Use under Section 900.3:15.

### **ARTICLE 600.3 NONCONFORMING STRUCTURES**

**SECTION 600.3:1** Where a lawful structure existed or was lawfully under construction at the effective date of adoption or amendments of this Ordinance that cannot be built under the terms of this Ordinance by reason of restrictions on area, height, yards, its location on the lot, or other requirements the following shall apply to such structure:

- (1) The nonconforming structure may not be enlarged or altered in any way that will increase its nonconformity except that:
  - a. Maintenance or remodeling, including a new basement or increasing the height of the building, not to exceed the height allowed in the district in which the property is located, is allowed within the existing footprint of a nonconforming structure.



- b. Demolition and related reconstruction of not more than 75 percent of the footprint of an existing nonconforming structure is allowed within that existing footprint.
- c. Additions, limited to 5% or less of the existing footprint area may be made where all of the requirements of this ordinance are met except the basis for the existing nonconformity. No additions may take place in any required front yard.
- d. Porches may be demolished and reconstructed or maintained on existing nonconforming porch footprint, or where the entire new footprint is more conforming than the existing nonconforming footprint.
- e. Any portion of the building may be replaced where the entire footprint after such replacement is more conforming than the existing nonconforming footprint.

(2) All other expansions, modifications, or improvements shall require a Special Land Use approval.

(3) Any such non-conforming structure which has been damaged or destroyed by any means to an extent of more than 75 percent of its replacement cost at the time of damage or destruction, shall not be reconstructed except as a Special Land Use under Section 900.3:15.

(4) Should such nonconforming structure be moved for any reason for any horizontal distance whatever, it shall thereafter conform to the regulations for the district in which it is located. Any such non-conforming structure which has been damaged or destroyed by any means to an extent of more than 75 percent of its replacement cost at the time of damage or destruction, shall not be reconstructed except as a Special Land Use under Section 900.3:15.

## **ARTICLE 600.4 NONCONFORMING USE OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION**

**SECTION 600.4:1** If lawful use involving individual structures or of structure and land in combination existed at the effective date of adoption or amendment of this Ordinance that is not allowed in the district under the terms of this Ordinance, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located, or as a special land use under Section 900.3:15.

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

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

(4) When a nonconforming use of a structure or structure and land in combination is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises or if it is a seasonal use), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(5) When a nonconforming use status applies to a structure and land in combination, and the structure is damaged or destroyed by any means to an extent of more than 75 percent of its replacement cost at the time of damage or destruction, such structure shall not be reconstructed unless it shall thereafter be used for a conforming use, or unless reconstructed as a special land use under Section 900.3:15.

(6) The use of a nonconforming building may be changed to another non-conforming use if the Zoning Board of Appeals finds that such new use would markedly decrease the degree of nonconformity and would enhance the value and desirability of adjacent conforming uses.

## **ARTICLE 600.5 REPAIR OR REPLACEMENT**

SECTION 600.5:1 Repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed in or on a nonconforming structure or portion of a structure containing a nonconforming use provided that the cubic contents of the structure shall not be increased.

SECTION 600.5:2 Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

### **ARTICLE 600.6 CHANGE OF OWNERSHIP**

SECTION 600.6:1 Change of ownership between private parties does not remove the nonconformity nor extend the time limits.

### **ARTICLE 600.7 REPLACEMENT COST**

SECTION 600.7:1 Replacement cost is the cost of restoring the structure to its original condition as appraised by a qualified appraiser employed by the City Council. Persons aggrieved by said appraisal may appeal to the Zoning Board of Appeals.

### **ARTICLE 600.8 REMOVAL OF NONCONFORMING STATUS**

SECTION 600.8:1 Any nonconforming structure or land may be made conforming by appropriate action or modification which causes the structure or land to fulfill the requirements of the district in which it is located.

SECTION 600.8:2 Special Land Use Designation. In case of a non-conforming use which is a use designated as a Special Land Use by this Ordinance, the nonconforming status may be removed after appropriate action has been taken and the use has been approved in accordance with the provisions of this Ordinance. It shall be the responsibility of the owner or person requesting the Special Land Use designation to initiate the request in accordance with the procedures specified in CHAPTER IX.

### **ARTICLE 600.9 ELIMINATION OF NONCONFORMING STRUCTURE OR USES**

SECTION 600.9:1

(1) In accordance with Act 207, PA 1921, as amended, the City may acquire by purchase, condemnation, or otherwise, private property for the removal of nonconforming uses and structures, provided that the property shall not be used for public housing.

(2) The City Council may in its discretion provide that the cost and expense of acquiring such private property be paid from general funds, or the cost and expense or any portion thereof may be assessed to a special district.

(3) The City Council shall have the authority to institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the laws of the State or provisions of the City Charter relative to condemnation.

## **CHAPTER VII OFF-STREET PARKING AND LOADING**

### **ARTICLE 700.1 LOADING SPACES**

**SECTION 700.1:1** Loading and unloading spaces shall be provided in W, WS, WCB, LC, C1, C2, CBD, MC, C3, M-1, and M-2 districts in connection with all commercial and industrial uses, except in cases where adequate space, as determined by the Building Inspector, is or can be provided on adjacent public property as follows: For 10,000 to 20,000 square feet of floor area, one space; for 20,000 to 50,000 square feet of floor area, two spaces; for 50,000 to 100,000 square feet of floor area, three spaces; one additional space for each additional 100,000 square feet or part thereof, provided that:

- (1) Each loading space shall be at least 10 feet in width, 50 feet in length, and have a clearance of 14 feet above grade.
- (2) Such space may occupy all or any part of any required yard or court space, excluding front yard.
- (3) No such space shall be located closer than 50 feet to any lot in a 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 feet in height.

### **ARTICLE 700.2 REQUIRED PARKING SPACES FOR MOTOR VEHICLES**

**SECTION 700.2:1** Required off-street parking shall be for the use of occupants, employees, visitors, and patrons and shall be limited in use to motor vehicles.

- (1) All off-street parking for nonresidential uses, whether public or private, shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

**SECTION 700.2:2** 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, in accordance with the following schedule and in compliance with Article 700.3.

- (1) Residential Uses:
  - a. Dwellings – single, two and multiple families: Two (2) for each dwelling unit.
  - b. Rooming Houses/Bed & Breakfast: One (1) for each guest room plus one (1) for the owner/occupant.
  - c. Housing for the Elderly: One (1) for each three (3) units and one (1) for each employee on the largest shift.
  - d. Group Day Care Home: One (1) for each employee on the largest shift.
- (2) Institutional:
  - a. Churches, Temples or Places of Public Assembly (fixed seats): One (1) for each four (4) seats in the main hall/room.
  - b. Hospitals: One (1) for each four (4) beds and one (1) additional space for each two (2) employees or members of the staff on the largest shift.
  - c. Convalescent/Nursing Homes: One (1) for each six (6) beds and one (1) for each two (2) employees and/or staff members on the largest shift.

- d. Outpatient Clinics: One (1) for each 300 sq ft of usable floor area.
  - e. Elementary and Junior High Schools: One (1) for each staff member.
  - f. Senior High Schools: One (1) for each staff member and one (1) for each 10 students.
  - g. Private Clubs/Lodges: One (1) for each four (4) persons allowed within the maximum occupancy load as established by the City or State fire/health codes or one (1) for each one hundred (100) square feet of usable floor area, which ever is the greater.
  - h. Places of outdoor assembly where seats or benches are used: One (1) for each six (6) seats or twelve (12) feet of benches.
  - i. Theaters/Auditoriums: One (1) for each four (4) seats.
  - j. Libraries, Museums, Galleries, Governmental Administrative Buildings: One (1) space for each four hundred (400) square feet of usable floor area.
- (3) Business and Commercial:
- a. Retail Sales and Services/Supermarkets: One (1) space for each three hundred (300) square feet of usable floor area.
  - b. Office Buildings, including Banking, Business and Professional Offices: One (1) space for each four hundred (400) square feet of usable floor area.
  - c. Bowling Alleys: Four (4) for each bowling lane.
  - d. Recreational Halls, including Billiard, Pool, Dance, Roller Rinks, etc.: One (1) for each four (4) persons allowed within the maximum occupancy load established by the City or State fire/health codes or for each one hundred (100) square feet of usable floor area, whichever is greater.
  - e. Restaurants, Bars and Taverns and similar eating establishments: One (1) for each one hundred (100) square feet of usable floor area.
  - f. Furniture, Appliance, Repair, Decorator and other similar uses: One (1) for each one thousand (1,000) square feet of usable floor area.
  - g. Service Station, Garages: One (1) for each employee on the largest shift plus one (1) for each pump or service bay.
  - h. Laundromats, Coin Operated Cleaners: One (1) for each three (3) washing machines or cleaner.
  - i. Funeral Homes/Mortuaries: One (1) for each one hundred (100) square feet of usable floor area of assembly rooms.
  - j. Motel, Hotel, Cabins and Tourist Home: One (1) for each rental unit plus one (1) for each employee on the largest shift, except housekeeping staff.
  - k. Childcare: One (1) for each four hundred (400) square feet of usable floor area.
  - l. Automobile and Equipment Sales: One (1) space per each five hundred (500) sq ft of usable floor area.
  - m. Beauty and Barber Shop: One (1) for each shop chair plus one (1) for each employee
  - n. Marinas: One (1) for each boat slip for both seasonal and transient slips.
- (4) Industrial:
- a. Industrial or Research Establishments: Five (5) plus one (1) for every two (2) employees on largest shift.

- b. Warehouses or Wholesale Establishments: One (1) for every one (1) employee on the largest shift or one (1) for each two thousand (2,000) square feet of usable floor area.

**SECTION 700.2:3** In the case of a building, structure, or premises, the use of which is not specifically mentioned herein, the provisions for a similar use shall apply.

**SECTION 700.2:4** Where there is more than one use in a single structure, the following off-street parking regulations may apply:

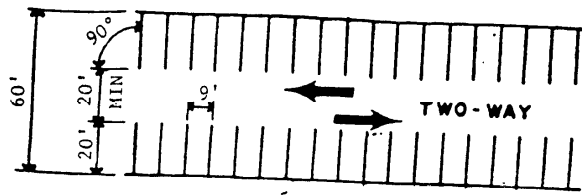
- (1) For two uses: 95 percent of the otherwise combined required parking.
- (2) For three uses: 90 percent of the combined required spaces.
- (3) For four uses: 85 percent of the combined required spaces.

**SECTION 700.2:5 Calculation of Required Parking Area.** The required parking area for a building shall be figured on the entire usable floor area of the first floor; parking for additional uses on other floors, including any basement, shall be added to the total of the required usable floor area for the first floor. Storage area on other than the first floor shall not be included in the total required area. Required access drives are not included in the computation of required off-street parking areas.

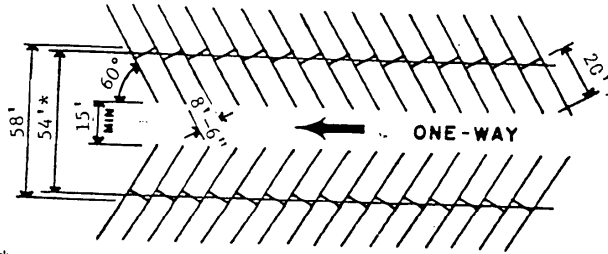
**SECTION 700.2:6 Change of Use.** The occupancy of an existing building or any portion of an existing building shall not change from one use to another of the uses specified in Sections 700.2:2 through 700.2:5 unless the minimum off-street parking requirements are met for the new use; except that no additional off-street parking will be required for existing buildings in the Central Business District, Old Town Business District or the “MC” Maritime Commercial District when occupancy changes from one permitted principal use to another permitted principal use or Special Land Use, unless the Planning Commission, in approving any Special Land Use, shall require additional off-street parking.

**SECTION 700.2:7 Enlargement of Use.** No building shall be enlarged if the enlargement requires additional parking space unless the minimum requirements for off-street parking are provided.

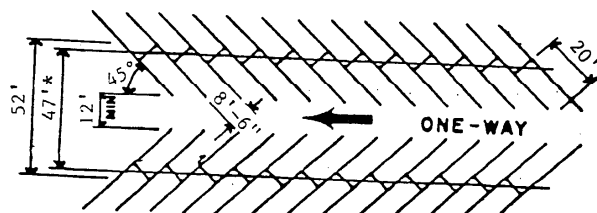
**SECTION 700.2:8 Continuity.** Any area once designated as required off-street parking shall not be changed to any other use unless and until equivalent facilities are provided elsewhere.



90 DEGREE

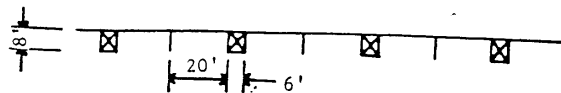


\*overlapping dimension



\*overlapping dimension (including herringbone pattern)

45 DEGREE



PARALLEL

## **ARTICLE 700.3 DESIGN AND CONSTRUCTION**

**SECTION 700.3:1 Application for Parking Lot Construction.** Any person desiring to establish or change a parking area shall file an application with the Building Inspector in accordance with the procedures for Site Plan Review as specified in CHAPTER XI.

### **SECTION 700.3:2 Parking Lot Design**

(1) Off-street parking lots shall be arranged and marked with adequate drives and aisles for safe and convenient maneuvering to give access to parking spaces. In no case shall a parking space be permitted which would necessitate the backing of a motor vehicle into a street or over a public walk.

(2) Design and dimensions of parking spaces and aisles in off-street parking lots shall be in accordance with one of the following diagrams:

### **SECTION 700.3:3 Construction Requirements**

(1) There shall be a curb or bumper rail provided wherever an off-street parking and loading area adjoins a public sidewalk or right-of-way. The bumper rail shall be designed to prevent any portion of a vehicle from encroaching upon the sidewalk or right-of-way.

(2) Any lighting used to illuminate any off-street parking and loading area shall be arranged to direct light away from adjoining premises.

(3) Except for single- and two-family dwellings, and a bed and breakfast establishment in the R2A district, off-street parking and loading areas shall be surfaced with asphalt, bituminous, or concrete pavement, and shall be graded and drained to dispose of all surface water.

(4) Access drives to and from any parking area shall be constructed and shall be paved as required for a parking lot.

(5) Any construction or rearrangement of existing drives which involve the ingress and/or egress of vehicular traffic to or from a public street shall be arranged to insure the maximum safety and the least interference of traffic upon said streets.

(6) All parking areas for commercial or industrial district uses shall be screened on all sides abutting or across a street or alley from a residential district. The screen shall be an ornamental fence or compact hedge meeting the requirements of ARTICLE 1100.9.

**SECTION 700.3:4 Buffer Strip.** The land between the setback line and the lot line in a parking lot in a P Parking District (such as in the case of a required front yard) is for the purposes of this Ordinance called a buffer strip. There shall be a bumper rail or curb provided so as to prevent any vehicle from projecting into the buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials. Where buffer strips are not required, such as in the case of a zero setback, bumper rails or curbs shall be so located as to prevent any vehicle from projecting over the lot line.

## **ARTICLE 700.4 OFF-STREET PARKING IN RESIDENTIAL DISTRICTS**

### **SECTION 700.4:1**

(1) For all residential buildings, required parking areas shall be provided on the same lot on a lot adjacent to the lot it is intended to serve.

(2) Such parking areas shall not be located in any required front yard, except in the case of a dwelling with a driveway leading to a garage or parking area when the drive may be used for parking.

(3) At no time shall parking in the area between the sidewalk and curb be permitted, whether the area is paved or unpaved, except when parking on the street is prohibited.

(4) There shall be no parking or storage of any truck tractors and/or trailer rigs on a residential lot.

(5) No commercial repair work, servicing, or selling of any kind 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.

SECTION 700.4:2 The establishment and operation of an off-street parking area in a part of a residential district that is adjacent to or across an alley from a business or industrial district and is intended to serve that business or industry may be authorized by the Planning Commission as a Special Land Use in certain residential districts, in accordance with the procedures specified in CHAPTER IX.

## **ARTICLE 700.5 JOINT PARTICIPATION**

SECTION 700.5:1 The provisions of this Ordinance may be met by participation in a municipal or joint community parking program designed to serve a larger area, provided all plans for such community parking have been approved by the Planning Commission.

### **SHARED PARKING**

The requirements of Chapter VII provisions apply except that for projects of significant scope, staged development, or concurrent development, shared parking may allow a reduction in required parking spaces. This reduction may be allowed by Special Land Use based on a traffic and parking study made by a registered engineer for the developer and approved by the Planning Commission.

## **ARTICLE 700.6 TEMPORARY PARKING AREA IN CBD, MC, W, AND WS ZONES**

SECTION 700.6:1 Notwithstanding any other provision of this Ordinance, where a vacant lot currently exists or is created in the future in the CBD, MC, W, or WS Districts due to fire, demolition or other cause, off street parking lots may be constructed as a temporary use until such time as redevelopment of such lot takes place. Prior to such temporary use for parking, the parking lot shall be designed in accordance with Article 700.3, except that for the first two (2) years of such use, such parking lot may be temporarily surfaced with gravel or other similar material. Such temporary use shall not extend beyond two (2) years from the commencement of such use, unless such lot shall be paved in accordance with Article 700.3. Any parking lot created under this section shall not be used to meet any required off-street parking for any building or other use. Such parking shall meet the setback and screening requirements for the district in which it is located. Site plan review is required for any parking lot or parking area created under this Article. Such parking lots may not be used for the parking of boat trailers, campers, truck tractors, truck trailers, vehicles with more than two (2) axles, or for storage of items including boats.



## CHAPTER VIII SIGNS

### ARTICLE 800.1 PURPOSE

SECTION 800.1:1 The purpose of this Chapter is to permit such signs as will not, by reason of their size, location, construction, or manner of display, endanger health and safety, confuse or mislead traffic, obstruct vision, impede traffic safety; and further to regulate such permitted signs in such a way as to prevent them from causing annoyance or disturbance to the citizens and residents of the City or to adversely impair property values. All signs shall conform to all codes and ordinances of the City and, excepting "Exempted Signs", shall require approval and a permit issued by the Building Inspector for all signs erected or structurally altered. Any sign not permitted by this Ordinance is prohibited. No sign, except those maintained by a unit of government, permitted by the City on a temporary basis, or specifically permitted by this Ordinance, shall be located in a public right-of-way or dedicated easement.

### ARTICLE 800.2 DEFINITIONS

SECTION 800.2:1 Certain terms are defined for the purpose of this Chapter as follows:

(1) **Sign:** Any display, figure, symbol, drawing, object, or other graphic representation with or without words and intended or used to convey a message, advertise, inform, or direct attention to a person, institution, organization, activity, place, or product.

#### SECTION 800.2:2

(1) **Banner Sign:** A sign made of fabric or any non-rigid material with no enclosing framework.

(2) **Billboard:** See "Off-Premises Sign."

(3) **Changeable Copy Sign (Automatic):** A sign on which the copy changes automatically, e.g., electrical or electronic time and temperature units.

(4) **Changeable Copy Sign (Manual):** A sign on which copy is changed manually in the field, e.g., readerboards with changeable letters.

(5) **Clearance (of a Sign):** The smallest vertical distance between the grade of the adjacent street or street curb or the surface grade beneath the sign, whichever is less, and the lowest point of any sign, including framework and embellishments.

#### SECTION 800.2:3

(1) **Directional/Information Sign:** An on-premises sign giving directions, instructions, or facility information, which may contain the name or logo of the establishment but no advertising copy, e.g., parking or exit and entrance signs.

(2) **Freestanding Sign:** A sign supported upon the ground by poles or braces and not attached to any building.

(3) **Government Sign:** Any temporary or permanent sign erected and maintained by the City, county, state, or federal government for traffic direction or for designation of, or direction to, any school, hospital, historical site, or public service, property, or facility.

(4) **Height (of a Sign):** The vertical distance measured from the highest point of the sign, including decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

#### SECTION 800.2:4

(1) **Identification Sign:** A sign whose copy is limited to the name and address of a building, institution, or person and/or the activity or occupation being identified.

(2) **Illuminated Sign:** A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign. Illumination of signs shall be directed or shaded downward, such that no direct ray from such illumination shall interfere with the vision of persons on the adjacent streets or of adjacent property owners.

(3) **Maintenance:** For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

(4) **Marquee:** A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building.

(5) **Marquee Sign:** Any sign attached to or supported by a marquee structure.

(6) **Monument Sign:** a sign constructed on an in ground footing and not supported by columns, posts or braces.

#### SECTION 800.2:5

(1) **Nameplate:** A non electric, on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

(2) **Off-premises Sign:** A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

(3) **Owner:** For the purpose of this Chapter, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Building Inspector, e.g., a sign leased from a sign company.

(4) **Painted Wall Sign:** Any sign which is applied with paint or similar substance on the face of the wall.

(5) **Parapet:** The extension of a false front or wall above a roof line.

(6) **Portable Sign:** Any sign designated to be removed easily and not permanently affixed to the ground or to a structure or building (other than a tent sign).

## SECTION 800.2:6

- (1) **Roof line:** The top edge of a roof or building parapet, whichever is higher.
- (2) **Roof Sign:** Any sign erected over or on the roof of a building.
- (3) **Temporary Sign:** A sign not constructed or intended for long-term use.
- (4) **Tent Sign:** A temporary sign constructed of rigid materials (portable in nature) used to give notice of special sales, hours, or special attractions placed in front of a business during certain hours of the business day, as permitted during certain seasons of the year.
- (5) **Under Canopy Sign:** A sign suspended beneath a canopy, ceiling, roof, or marquee.
- (6) **Wall Sign:** a sign attached parallel to and extending not more than 15 inches from the wall of a building. This definition includes painted and individual letter signs.

## ARTICLE 800.3 EXEMPTED SIGNS

SECTION 800.3:1 The signs and devices listed in this Section are exempted from the restrictions and requirements of this Chapter and may be used without permit or approval when not in violation of any law or safety standard or any other portion of this Ordinance.

- (1) Signs erected by an official government body or agency and deemed necessary for the protection of the public health, safety, or welfare.
- (2) Signs required by law to be displayed.
- (3) Signs not visible from any public way or from any point off the lot on which they are located.
- (4) Official flags of governments or noncommercial organizations approved by the government or organization represented.
- (5) Scoreboards on athletic fields.
- (6) Holiday decorations and greetings in season.
- (7) Commemorative plaques.
- (8) Non illuminated signs not exceeding one square foot in area and having thereon no letter or symbol exceeding two inches in any direction.
- (9) Two directional/information signs per lot, each not to exceed 10 square feet in sign area or 5 feet in height.

## ARTICLE 800.4 TEMPORARY SIGNS

SECTION 800.4:1 Temporary Signs Not Requiring Permit. The signs and devices listed in this Section shall be permitted on a temporary basis in all zones if installed in compliance with existing regulations and shall not require a permit.

(1) Construction signs which identify the name of the building, owner, architect, engineer, contractor, or other individuals involved with the construction, but not including any advertisement of any product or service during the period of construction. Signs shall have a maximum surface area of 16 square feet, shall be confined to the site of construction, and shall be removed within 14 days following occupancy for the intended use of the project.

(2) Real estate signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet. These signs shall be confined to private property, and shall be removed within 14 days after the sale, rental, or lease.

(3) Election campaign signs announcing a candidate or issue to be voted upon, up to a total area of 16 square feet for each premises. These signs shall be confined to private property and shall be removed within 14 days following the election which they announce.

(4) Community or special event signs advertising a public entertainment or event, if approved by the City Council as to location, size, duration, and content.

(5) Pennants, flags, banners, or bunting shall be permitted in any commercial or industrial district for a period of 30 days without a permit provided that they are kept in a state of good repair. No such pennants, flags, banners, or bunting shall be redisplayed on the same premises until the expiration of an interim period of 90 days unless specifically permitted.

(6) One tent sign is permitted to be located in front of each establishment in the C1, C2, Central Business District and Maritime Commercial districts. Such signs shall not exceed nine square feet in area, or 4 ½ feet in height and may be displayed only during business hours.

For a business directly fronting on City Property zoned G-1 (i.e. 100 block of N. James St.), one tent sign will be permitted as above on City property.

(7) Yard, garage, estate sale or similar signs advertising the location of the sale shall be confined to private property and only placed with permission of the owner or occupant. These signs shall be removed immediately after any single event.

No more than two (2) such signs shall be located on a single property. Any individual sign shall be no larger than two (2) square feet in area (12" x 24" for example).

#### **SECTION 800.4:2 Temporary Signs Requiring Permit**

(1) Portable signs (other than tent signs) advertising a particular business or product may be permitted for a period not to exceed 30 days.

(2) A building permit must be obtained from the Building Inspector before installation of such sign.

(3) Any such sign must be located on the premises to be served.

(4) Any such sign must conform to the requirements of the district in which it is located.

(5) No such sign shall be redisplayed on the same premises until the expiration of an interim period of 90 days.

### **ARTICLE 800.5 PROHIBITED SIGNS**

**SECTION 800.5:1** The signs and devices listed in this Section shall not be permitted, erected, or maintained in any district.

(1) Signs which incorporate in any manner any flashing or moving lights.

(2) String lights used in connection with commercial premises for commercial purposes, except in outdoor cafes' with approved electrical permit as required in the Ludington Outdoor Regulations and Guidelines.

(3) Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of location, inadequate maintenance, dilapidation or abandonment, or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.

(4) Any sign which by reason of its size, location, content, colorings, or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic sign or control device on public streets or roads.

(5) There shall be no red or blue or green illumination on any sign located in the same line of vision as a traffic control system. All light sources used for the illumination of signs or buildings or areas surrounding them, or for the illumination of display merchandise or products shall be completely shielded from view of vehicular traffic using roads abutting such properties.

(6) Signs which make use of words such as "STOP", "LOOK," "DANGER," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.

(7) Any sign which obstructs free ingress to or egress from a required door, window, fire escape, or other required exit.

(8) Any sign unlawfully installed, erected, or maintained.

(9) Any sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold upon the premises.

(10) Portable signs except as listed in SECTION 800.4:2.

(11) Signs or posters attached to trees, telephone poles, public benches, street lights, or placed on any public property or public right-of-way.

(12) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. This does not apply to allowed portable signs or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

(13) Roof signs, or any sign extending above the height of the roof of a building located on the same lot.

## **ARTICLE 800.6 NONCONFORMING SIGNS**

**SECTION 800.6:1** Signs lawfully erected prior to the date of adoption of this Ordinance which do not meet the requirements of this Ordinance, may be continued except as hereafter provided.

(1) No nonconforming sign shall be changed to another nonconforming sign.

(2) No nonconforming sign shall be structurally altered so as to prolong the life of the sign or as to change the shape, size, type, or design of the sign.

(3) No nonconforming sign shall be reestablished or continued after the activity, business, or use to which it relates has been discontinued for 90 days or longer.

(4) No nonconforming sign damaged more than 50 percent of replacement cost shall be repaired or replaced unless brought into conformity with this Ordinance.

**SECTION 800.6:2** If the owner of a sign or the premises on which a sign is located changes the location of a building, property line, or sign, or changes the use of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to the sign requirements specified herein.

## **ARTICLE 800.7 SIGNS ALLOWED IN SPECIFIED ZONING DISTRICTS**

**SECTION 800.7:1 Signs in R1A, R1B, and R2A** (Single- and Two-family Residential) Districts: Only the following accessory signs shall be permitted. (See SECTION 1000.4:9 for sign standards in Planned Unit Developments.)

(1) One exterior or interior non illuminated profession, home occupation or nameplate sign not to exceed 324 square inches per lot.

(2) A sign or signs aggregating not more than 9 square feet in area advertising the name, activities, or condition of use of a permitted nonresidential use, except that churches, synagogues, and schools may have sign(s) aggregating not more than 64 square feet in area.

(3) No sign shall be erected nearer any street than half the required setback, except that a non illuminated nameplate sign not more than 324 square inches in area may be placed anywhere in the front yard.

**SECTION 800.7:2 Signs in R3A (Multi-Family Residential) District**

(1) The provisions of SECTION 800.7:1 shall apply, except that the professional or nameplate sign as regulated above may be increased to a total area of four square feet.

(2) A group of multi-family buildings with nine or more dwelling units or permitted nonresidential uses may display one identification sign of not more than 32 square feet. (See SECTION 1000.4:9 for sign standards in Planned Unit Developments.)

**SECTION 800.7:3 Signs in the LC (Limited Commercial) District**

(1) No sign shall be permitted which is not accessory to the business conducted on the property.

(2) One freestanding sign per lot or parcel and one wall sign per on-premise business shall be permitted with the total square feet of all signs combined not to exceed twenty four (24) square feet; provided however, a lot or parcel possessing a lot width exceeding minimum lot width requirements by twenty five (25) feet or more may add an additional six square feet of sign area per each additional twenty five (25) feet of said additional lot width up to a maximum of twenty four (24) square feet of additional sign area. In no instance, under the later provision, shall the total square feet of all signs combined exceed forty eight (48) square feet.

(3) Any freestanding sign shall not exceed six feet in height and shall not be located within the required side yard as extended into the front yard.

(4) Any freestanding sign shall be located at least one-half the required front setback from the front lot line.

(5) Signs shall be designed and constructed in a manner consistent with the intent and character of the district.

**SECTION 800.7:4 Signs in the CBD (Central Business) and  
C-1 (Old Town Business) Districts**

(1) No sign shall be permitted which is not accessory to the business conducted on the property.

(2) No establishment shall have a total of more than three (3) signs facing upon any one street or parking area, provided however, the rear side of any establishment shall be limited to one (1) wall or canopy sign.

(3) No sign shall extend more than thirty (30) feet above ground level.

(4) Floodlights shall not be located above the highest wall of the building. Any illuminated sign shall be located not less than one hundred (100) feet from a residential district.

(5) No sign attached to a building shall extend farther than fifteen (15) inches over a street or public property, or required side yard, provided that where a sign extends more than three (3) inches from the face of the building, said sign shall not be closer than eight (8) feet to the ground.

(6) The maximum width of any sign attached parallel to a wall shall not exceed ninety (90) percent of the width of the wall.

(7) Canopy signs shall limit all copy to the front (face) of the canopy.

(8) The following types of accessory signs may be erected, painted, or placed, providing the respective requirements are met:

(a) Wall (front and side only), freestanding, marquee, canopy (front and side only), and under-canopy (front and side only) signs:

(i) The sign area of all front and side wall signs, freestanding signs, marquee, and canopy signs shall not exceed a combined total of forty eight (48) square feet per establishment.

(ii) NOTE: FOR CBD ONLY - Only one freestanding or monument sign shall be permitted per establishment. The freestanding sign must be located entirely within the property lines and not less than ten (10) feet nor more than twenty (20) feet above the ground. A monument sign must be located within the property lines, may begin at ground level, and cannot exceed a height of 6' to the top of the sign.

(iii) NOTE: FOR C-1 ONLY - Only one freestanding or monument sign shall be permitted per establishment. The freestanding or monument sign must be located entirely within the property lines and may begin at ground level and cannot exceed a height of six (6) feet to the top of the sign.

(iv) Where a building has a marquee constructed as an integral part of said building, a sign may be placed on it if parallel to the building face.

(v) One under-canopy sign per establishment, not to exceed two (2) square feet in area. Such sign shall be not closer than eight (8) feet to the ground and may extend not more than thirty (30) inches from the building.

(vi) The area of any sign painted on the wall of a building shall be included in the total of forty eight (48) square feet permitted under this section.

(b) Rear Wall or Canopy Sign:

(i) One (1) rear wall or canopy sign, not to exceed twelve (12) square feet, shall be permitted on the rear wall of each establishment.

(c) Tent sign:

(i) One (1) tent sign shall be permitted per establishment. The tent sign shall not exceed nine (9) square feet in area and four and one-half (4-1/2) feet in height and must be displayed as specified in subsection 800.4:1(6)

(9) Gasoline service stations and vehicle sales areas in the CBD may display the following signs which are deemed customary and necessary to their respective uses.

(a) One freestanding sign advertising the name of the principal use including any company brand name or emblem, provided that such sign shall not exceed 48 square feet in area and shall be entirely within the property lines and not less than ten feet nor more than 20 feet above the ground.

- (b) One wall sign not to exceed 48 square feet in area.
- (c) Two temporary signs located inside the property lines and specifically advertising special seasonal servicing of automobiles or gasoline pricing provided that each sign does not exceed nine square feet in area.
- (d) Customary directional signs or lettering displayed over entrance doors or bays.
- (e) Customary lettering or other insignia which are a structural part of a gasoline pumping island, including credit card or seasonal temporary signs.

**SECTION 800.7:5 Signs in the C-2 (General Retail) District**

- (1) No sign shall be permitted which is not accessory to the business conducted on the property .
- (2) No establishment shall have a total of more than three signs facing upon any one street or parking area.
- (3) The total area of all signs attached to a building shall not exceed 96 square feet.
- (4) No sign attached to a building shall extend farther than 15 inches over a street or public property, or required side yard, provided that where a sign extends more than three inches from the face of the building, said sign shall not be closer than eight feet to the ground.
- (5) The maximum width of any sign attached parallel to the wall of a building shall not exceed 90 percent of the width of the wall.
- (6) One freestanding or monument sign is permitted provided the area of such sign shall not exceed 48 square feet in area. Such sign shall be located entirely within the property lines and may start at ground level and cannot exceed a height of six (6) feet to the top of the sign.
- (7) Floodlights shall not be located above the highest wall of the building. Any illuminated sign shall be located not less than 100 feet from a residential district.
- (8) Gasoline service stations, vehicle sales areas, and vehicle repair shops may display the signs permitted in 800.7:4(6), except the total area of the permitted wall sign may be 96 square feet.
- (9) One (1) tent sign per establishment not to exceed nine (9) square feet in area and four and one half (4-1/2) feet in height, displayed as specified in subsection 800.4:1(6).

**SECTION 800.7:6 Signs in the M-1 (Wholesale and Light Industry) and M-2 (Heavy Industry) Districts.**

- (1) Signs accessory to the business on the property may be erected, painted, or placed under the following conditions:
  - (a) Total sign area per lot shall not exceed 300 square feet.
  - (b) No establishment shall have more than three signs facing upon any one street or parking area.
  - (c) No sign shall be permitted in any required front, side or rear yard, except that freestanding signs shall be permitted in the required front yard provided said signs are located at least one-half (1/2) the required front setback from the front lot line.



- (d) Signs shall not be more than 30 feet in height.
  - (e) Floodlights shall not be located above the highest wall of the building. Any illuminated sign shall be located not less than 100 feet from a residential district.
- (2) Off-premise signs not accessory to the business on the property may be permitted provided that any sign exceeding 100 square feet shall be located at least 200 feet from all other such signs; and provided that (c), (d), and (e) above are complied with.

#### **SECTION 800.7:7 Signs in P (Parking) District**

- (1) One sign shall be permitted at each point of ingress and egress to a parking lot to indicate the operator, parking rates, and directions of movement. Such signs shall each not exceed 15 square feet in area, shall not extend more than 10 feet in height above grade, and shall be entirely on the parking lot.
- (2) In addition to the signs above indicated, only signs advertising the uses being served by the parking lot may be erected, provided such signs do not exceed six square feet in area. Such signs are prohibited in the buffer strips and shall not be located along or parallel to the street lot lines in a manner that hides any parking spaces from the street, and shall not project beyond the lot line of the premises.

#### **SECTION 800.7:8 Signs in M-R (Motel-Resort) District**

- (1) No sign shall be permitted which is not accessory to the business conducted on the property.
- (2) The total sign area shall not exceed forty eight (48) square feet.
- (3) Signage shall be limited to one (1) wall sign or one (1) freestanding sign.
- (4) No sign attached to a building shall extend farther than 15 inches over a street or public property, or required side yard, provided that where a sign extends more than three inches from the face of the building, said sign shall not be closer than eight feet to the ground. The maximum width of any sign attached parallel to a wall shall not exceed 90 percent of the width of the wall.
- (5) Any freestanding or monument sign shall be located entirely within the property lines and may start at ground level and cannot exceed a height of six (6) feet to the top of the sign.
- (6) No sign shall extend more than 30 feet above ground level.
- (7) Floodlights shall not be located above the highest wall of the building.

#### **SECTION 800.7:9 Signs in the W (Waterfront) and WCB (Waterfront Central Business) District**

- (1) No sign shall be permitted which is not accessory to the business conducted on the property.
- (2) No establishment shall have a total of more than two signs facing upon any one street, parking area, any one lot line, or the waterfront.
- (3) No sign shall extend more than 30 feet above ground level.

(4) Floodlights shall not be located above the highest wall of the building. Any illuminated sign shall be located not less than 100 feet from a residential use.

(5) The following types of accessory signs may be erected, painted or placed, providing the respective requirements are met.

(a) Wall signs attached parallel to the building wall, not to exceed a total of 48 square feet per establishment, or 48 square feet per acre in the case of developments larger than one acre. No one sign may be larger than 48 square feet. No sign attached to a building shall extend farther than 15 inches from the face of the building. The maximum width of any sign attached parallel to a wall shall not exceed 90 percent of the width of the wall.

(b) One freestanding or monument sign per establishment instead of a wall sign, or computed as part of the total sign area permitted for the wall sign. Such signs shall be located entirely within the property lines and may start at ground level and cannot exceed a height of six (6) feet to the top of the sign.

(c) One under-canopy sign per establishment, not to exceed two square feet in area; such signs shall be no closer than eight feet to the ground, and may extend not more than 30 inches from the building.

(d) Where a building has a marquee constructed as an integral part of said building, a sign may be placed upon it if parallel to the building face, and if the area is included in the total sign area permitted. No such sign shall exceed 90 percent of the width of the marquee.

(e) The area of any sign painted on the wall of a building shall be included in the total sign area permitted. No such sign shall exceed 90 percent of the width of the wall.

#### **SECTION 800.7:10 Signs in the WM 1 AND 2 (Waterfront Maritime) District**

(1) No sign shall be permitted which is not accessory to the business conducted on the property.

(2) No sign shall extend more than ten (10) feet above the ground.

(3) Floodlights shall not be located above the highest wall of the building. Any illuminated sign shall be located not less than one hundred (50) feet from a residential use.

(4) One freestanding permanent development sign shall be permitted not to exceed thirty-two (32) square feet in area for the purpose of identifying the name of the development.

(5) One parking area entry sign not to exceed four (4) square feet is permitted per entrance. The logo of the business may be incorporated into the sign.

(6) Identification nameplates not exceeding twenty (20) square feet in area identifying residential and non-residential uses shall be permitted flat against the wall of a building. The total display surface of all such identification nameplates shall not exceed twenty (20) square feet in area and shall not consist of more than one such identification nameplate per building.

(7) Signs of an informational, non-advertising nature, such as street signs and signs concerning public or quasi-public areas shall be permitted.

(8) Temporary real estate signs not exceeding six (6) square feet in area or four (4) feet in height shall be permitted provided no illumination is used.

## **ARTICLE 800.8 AREA COMPUTATION**

### **SECTION 800.8:1**

(1) If a sign has two or more parallel sides, the area provisions shall apply to one side only. If the sides are not parallel, each side shall be considered separately for the area provisions.

(2) The area of a sign shall be either:

(a) The total area of the lettering and display background where the sign background is separated from the principal building, whether the sign is attached or separate from the principle building; or

(b) The total area encompassed by an imaginary line which can be drawn around all the lettering or designs that are affixed to the wall of a building and the wall constitutes the background.

## **ARTICLE 800.9 BUILDING PERMIT REQUIRED**

**SECTION 800.9:1** With the exception of those signs specified in Sections 800.3:1 and 800.4:1, no sign over 144 square inches shall be erected, constructed, repaired, or relocated without a building permit or a temporary permit.

## **CHAPTER IX SPECIAL LAND USES**

### **ARTICLE 900.1 PURPOSE**

**SECTION 900.1:1** The development and execution of this Ordinance is based upon the division of the City into zoning districts within which the uses of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are special land uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and the public need for the particular use or the particular location.

### **ARTICLE 900.2 GENERAL PROVISIONS**

**SECTION 900.2:1 Special Land Use Designation.** Those uses which may be designated as Special Land Uses and the zoning districts in which they are permitted are listed in CHAPTER IV and defined in detail in this CHAPTER.

**SECTION 900.2:2 Planned Unit Development as Special Land Use.** An applicant requesting special land use designation for a planned unit development shall conform to the requirements and procedures stipulated in CHAPTER X, (or Chapter Xa where applicable) in lieu of the following requirements.

**SECTION 900.2:3 Application for Special Land Use.**

(1) Application for a special land use shall be filed with the Building Inspector on the form required for Site Plan Review (CHAPTER XI).

(2) The application shall be accompanied by a Special Land Use Plan showing all relevant information, including the following requirements contained in Section 1100.4:3 (a), (b), (c), (e), (g), (h), (i), (1), and any other data required by the Building Inspector.

(3) In addition, the applicant shall present a statement indicating how the proposed use will conform to the requirements set forth in this Chapter for the particular special land use.

(4) The application shall be accompanied by a fee to be established by resolution of the City Commission to cover the expense of public hearings.

**SECTION 900.2:4 Hearing on Application.** Upon receipt in proper form of the application and accompanying documents, the Planning Commission shall hold a public hearing on the proposed special land use, not more than 45 days following the date of receipt of the application by the Building Inspector. Notice for such public hearing shall be given in accordance with Article 1200.6.

**SECTION 900.2:5 Decision on Application.** Following the public hearing, the Planning Commission may deny, approve, or approve with conditions any application for a special land use. A final decision on the special land use application shall be made within 100 days of receipt of the application by the Building Inspector. The Planning Commission shall incorporate its decision in a statement of conclusions relative to the special land use under consideration. The statement shall specify the basis for the decision and any conditions imposed.

**SECTION 900.2:6 Standards.** No special land use shall be approved by the Planning Commission unless the Commission finds:

(1) That the establishment, maintenance, or operation of the special land use will not be detrimental to or endanger the public health, safety, or general welfare and shall be in compliance with all local ordinances and codes and state and federal law and regulations.

(2) That the special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values in the neighborhood.

(3) That the establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(4) That adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.

(5) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

(6) That the special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in CHAPTER IV.

**SECTION 900.2:7 Conditions and Guarantees.** Prior to the granting of any special land use, the Planning Commission shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special land use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this CHAPTER. In all cases in which special land uses are granted, the Planning Commission shall require such evidence and guarantees as deemed necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

**SECTION 900.2:8 Effect of Denial.** No application for a special land use which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one year from the date of said order of denial.

**SECTION 900.2:9 Nullification.** In any case where a special Land use has not been established within one year after the date of granting such use, the special land use shall automatically be declared null and void without further action by the Planning Commission.

## **ARTICLE 900.3 PERMITTED USES**

**SECTION 900.3:1** The following uses are classified as special land uses for which a building permit or certificate of occupancy will be granted in accordance with ARTICLE 900.2. Additional conditions and procedures for each special land use are specified as follows:

**SECTION 900.3:2 Planned Unit Development.** Planned Unit Developments may be permitted in the R1A, R1B, R2A, and R3A districts as a special land use under the procedures and limitations specified in CHAPTER X, or in W, WS, and WCB Districts as a special land use under the procedures and limitations specified in Chapter Xa and X.

### **SECTION 900.3:3 Two-Family Dwellings.**

(a) Two-family dwellings may be permitted in R1A and R1B residential districts as a special land use under the following conditions:

- (1) The area accommodating the two-family facility shall not be less than 13,200 square feet in area in R1B and not less than 43, 560 Sq. Ft in area in R1A.
- (2) The buildings must meet all set back or other requirements of the R1A or R1B district and be located not less than 25 feet from all property lines. The maximum height of said buildings shall be 35 feet.
- (3) The gross area cannot be more than 25 percent occupied by buildings.
- (4) Off-street parking shall be provided in accordance with the provisions of this Ordinance.
- (5) Each dwelling unit must have two separate entrances.
- (6) The two-family structure shall have a minimum of 1,700 square feet of floor area and no dwelling unit may contain less than 550 square feet of floor area.

(b) Two-family dwellings may be permitted in the R2A residential district as a special land use under the following conditions:

- (1) The lot area accommodating the two-family facility shall not be less than 9,000 square feet.
- (2) The building must meet all set back and other requirements of the R2A district, and in addition, no principal structure may be closer than 15 feet to any property line.
- (3) The use and structure shall meet all other requirements of the R2A district.

(4) Off-street parking shall be provided in accordance with the provisions of this ordinance. In addition, the planning commission may prohibit parking upon the streets or in designated areas upon the property in connection with this use.

(5) Each dwelling unit must have two separate entrances.

(6) The two-family structure shall have a minimum of 1,600 square feet of floor area and no dwelling unit may contain less than 550 square feet of floor area.

**SECTION 900.3:4 Multi-Family Dwellings.** Multi-family dwellings may be permitted in the LC, and M-R districts as a special land use under the following conditions:

(1) The area accommodating the multi-family facility shall not be less than one-half acre.

(2) There must be a minimum gross land area of 5,000 square feet per dwelling unit.

(3) The buildings must be located not less than 50 feet from all property lines. The maximum height of said buildings shall be 35 feet.

(4) Park area or recreational space must be provided at the rate of 10 percent of the gross area of development.

(5) The gross area cannot be more than 25 percent occupied by buildings.

(6) The area must be completely surrounded by screen planting and landscape development, the ultimate height of which will not be less than six feet. Said planting shall be within the above specified setbacks.

(7) Off-street parking shall be provided in accordance with the provisions of this Ordinance except that said parking shall be screened with an ornamental fence or compact hedge not less than six feet high of a type which will obscure vision at all seasons from adjoining premises. The parking area shall be hard-surfaced, properly drained, properly marked, and lighted in such a manner that said lighting is not objectionable to adjoining property owners.

(8) Ingress and egress to the area shall be located in such a manner as to provide maximum safety to the public utilizing this facility and the public streets. Said ingress and egress shall be hard-surfaced and properly drained.

(9) Any sign designating the location of the facility to the public must be limited to one such sign per facility and shall have a height not greater than eight feet above finished grade and a square footage of surface not greater than eight square feet. Such signs may be illuminated provided the source of light is not the intermittent type.

(10) The following minimum area requirements shall apply: efficiency unit, 375 square feet; one-bedroom unit, 550 square feet; two-bedroom unit, 650 square feet; and three-bedroom unit, 750 square feet.

**SECTION 900.3:5 Conversions**

The conversion of one or two-family dwellings to two- and three-family dwellings shall be permitted in R3A and LC districts under the following conditions:

(1) It can be demonstrated that larger houses in these districts of the City have been or can be converted from one or two-family to two- or three- family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.

(2) That adequate off-street parking can be provided in accordance with the provisions of this ordinance.

(3) That undue traffic congestion will not result.

(4) That the imposition on existing sanitary facilities will not be excessive.

(5) That such use will not unduly injure the character or value of the existing neighborhood.

(6) That the floor area per dwelling unit is not less than the minimums specified in SUBSECTION 900.3:4(10).

**SECTION 900.3:6 Home Occupations**

Home occupations may be permitted in the R1A, R1B, R2A and R3A (in single and two-family dwellings only in R3A) districts as a special land use under the following conditions:

- (1) The home occupation shall be subordinate to the permitted principal residential use on the premises
- (2) The home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or other nuisance(s).
- (3) The exterior appearance of the structure shall not be altered in a manner which causes the premises to differ from its residential character by the use of colors, materials, construction, lighting, or other physical attributes.
- (4) There shall be no outside storage of any kind related to the home occupation.
- (5) No more than 20 percent of the total floor area of the residence and accessory buildings shall be used for such purposes.
- (6) The use may not increase vehicular traffic flow and parking by more than one additional vehicle at a time.
- (7) No person other than the immediate family occupying such dwelling shall conduct the home occupation.
- (8) The Planning Commission may impose further conditions, e.g. hours of operation, and limitations in order to ensure the compatibility of the home occupation use with adjacent properties and will protect the residential character of the neighborhood.

**SECTION 900.3:8 Boarding House or Rooming House:** Such facilities may be permitted in the R3A, LC, and M-R districts under the following conditions:

- (1) One off-street parking space shall be provided for each sleeping room.
- (2) The Planning Commission finds that such a use will not unduly injure the character or value of the neighborhood.
- (3) Each sleeping room shall be at least 120 square feet in area. If more than two such rooms are rented or are for rent, each room shall have direct access to a common hallway having two separate means of egress.

**SECTION 900.3:8A Bed and Breakfast Establishment.** Such establishments may be permitted in the R3A, LC, CBD, MC, M-R, W, WM1, and WM2, WCB and along key street segments in R2A district. In the R2A district, a Bed and Breakfast Establishment is only permitted along Ludington Avenue from Lakeshore Dr. to Staffon St. and along Washington Ave. from Ludington Ave. to Foster St.

1. General Standards:
  - a. Bed and Breakfast Establishment shall comply with all applicable State and City Codes and shall secure all applicable State and Local Permits or Certifications.
  - b. The Bed and Breakfast Establishment shall not alter any residential character of the building or structure.
  - c. Carriage houses currently in existence, and located on the same parcel as a Bed and Breakfast Establishment, may be utilized for sleeping rooms, in accordance with this Section.
  - d. Approval for a Bed and Breakfast Establishment shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
2. Site Standards:
  - a. Vehicle parking shall be in compliance with Section 700.2:2 (1) b and Section 900.3:11, when applicable.
    - i. No principal building or structure shall be removed in order to allow a Bed and Breakfast use or provide required parking.



- b. Signs shall comply with Article 800.7 and shall be based on the zoning district where the proposed Bed and Breakfast Establishment is located.
  - c. Landscaping and Buffering shall comply with Article 1100.9.
  - d. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from the front yard.
3. Operational Standards:
- a. The Bed and Breakfast Establishment shall be the principal use on the property and shall be owner-occupied when the bed and breakfast operation is active.
  - b. The maximum stay for any customer of a Bed and Breakfast Establishment shall be twenty-one (21) continuous days.
  - c. Limited conference/meeting room facilities will be permitted as well as weddings, receptions and other group events.
    - i. Neighborhood impacts in terms of parking, noise, lighting, time and general disturbance shall be minimized.
4. Establishment Standards.
- a. No premises shall be utilized for a Bed and Breakfast Establishment unless there are at least two (2) exits to the outdoors from such premises.
  - b. Each sleeping room shall have a separate smoke alarm detector and a fire extinguisher in proper working order shall be installed on every floor.
  - c. One bathroom, with complete lavatory and bathing facilities, shall be furnished to serve no more than four (4) guest rooms.
  - d. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.

**SECTION 900.3:9 Service Stations and Vehicle Repair Shops.** Service stations may be permitted in the CBD district, and service stations and vehicle repair shops may be permitted in the C-2 district under the following conditions:

- (1) The lot is at least 100 feet in width and depth.
- (2) All above-ground or underground structures are at least 20 feet from any lot line other than permitted signs or drives, and at least 25 feet from any residential district line.
- (3) The area for outdoor parking, servicing, or storage of vehicles is paved and conforms to CHAPTER VII.
- (4) Driveways will be at least 24 feet from any intersecting street right-of way or residential district lines.
- (5) All proposed structures shall be located at least 300 feet from any property which is used as a public or private school, church, hospital, theater, playground, fire station, place of public congregation, or another service station or vehicle repair shop.
- (6) A paved or enclosed area is required for the storage of inoperable or damaged vehicles awaiting repair which is screened from any public street or residential district.
- (7) Sign requirements specified in CHAPTER VIII shall be met.

**SECTION 900.3:10 Light Industry Uses.** Light industrial uses in connection with a permitted retail use, or expansion or rehabilitation of any such existing use may be permitted in the CBD under the following conditions:

- (1) Performance standards in SECTION 400.9:6 shall be met.
- (2) A solid fence, berm, or deciduous planting of not less than 4-1/2 feet in height and not more than 8 feet in height will be required on the property line adjoining any residential or public use.

**SECTION 900.3:11 Off-Street Parking in Residential Districts.** Off-street parking in R1B, R2A, and R3A districts may be permitted as a special land use under the following conditions:

- (1) The proposed parking area must be within reasonable proximity of, and not separated by a major thoroughfare from, the use it is intended to serve.
- (2) It will not unduly adversely affect traffic movement in the neighborhood.
- (3) Size and location of the proposed parking area will not substantially change the character of the neighborhood.
- (4) Design and construction shall meet the requirements specified in ARTICLE 700.3, greenbelt requirements specified in ARTICLE 1100.9, and exterior lighting requirements in SECTION 1100.8:1. Setbacks must conform to requirements in the district in which the parking area is located.
- (5) In addition to application requirements cited in 900.2:3, any application for an off-street parking area in a residential district must include the following: Site plan must show the uses and ownership of abutting properties; a statement on how the proposed parking area will be maintained; if construction is to be in phases, the projected time for each phase and the total time for completion. A separate Special Land Use permit shall not be required for off-street parking if it is part of a principal use seeking Special Land Use approval in the R2A district

**SECTION 900.3:12 Metal Working and Similar Uses.** Metal working and similar uses (stamping, punching, plating, buffing, polishing, hammering, riveting, grinding, welding, pressing, and tuning) may be permitted in the M-1 (Wholesale & Light Industry) district as a special land use under the following conditions:

- (1) Performance standards specified under SECTION 400.9:6 shall be met.
- (2) The facility shall be located not less than 350 feet from the nearest residential district.

**SECTION 900.3:13 Salvage Yards.** Salvage yards may be permitted in the M-1 and M-2 districts under the following conditions:

- (1) Plans and specifications required:
  - (a) Specific location of the facility shown on a vicinity map.
  - (b) Location of public roadways, habitable structures, and places of public use on the site and other properties influenced by the project.
  - (c) Legal descriptions and site boundaries.
  - (d) Means of limiting access including fencing, gates, natural barriers, or other methods.
  - (e) Details of the method of treating or disposing of liquid waste resulting from operation of the facility.
  - (f) Location of all structures and equipment.
  - (g) Detailed description of appurtenances and procedures intended to handle heavy or bulky items, store refuse beyond the end of the working day, and control dust, odors, and fire.
  - (h) Location of existing proposed utilities available at the site.
  - (i) Method of final reduction such as compacting, grinding, shredding, compression, or tamping equipment.
  - (j) Daily clean-up procedures.
  - (k) Other details necessary as required by the Planning Commission.
- (2) A facility shall be located not less than 500 feet from the nearest residential district and must be screened by a fence of not less than 8 feet in height with 75 percent screening. It must also be screened by fences from streets, roads, or highways open to public vehicle travel.

(3) The site must be located on major arterial roads and not on residential or collector roads. Roadways on the property shall be all-weather roads and maintained to prevent dust nuisance.

(4) Dust and odor resulting from unloading and operation of the facility shall be reasonably controlled at all times. Operation of the facility shall be carried on in a manner to prevent noise and vibration nuisance to an adjoining property.

(5) Highly flammable or explosive materials shall not be accepted unless approved by the local health department.

(6) Salvage yard site shall not be less than two acres in size.

(7) Open burning shall not be carried on in a salvage yard.

(8) Salvage yard area shall be maintained in a sanitary manner at all times so as not to create general unsightliness or health and safety hazards.

(9) Necessary operations of the salvage yard shall be carried out promptly in a systematic manner so that conditions are unfavorable for harboring and production of insects and rodents.

(10) Adequate provisions shall be made for routine operational maintenance of the facility and all appurtenances.

**SECTION 900.3:15 Expansion of a Nonconforming Use or Structure.** Expansion of a nonconforming use or structure, or reconstruction of a nonconforming structure more than 75 percent destroyed may be permitted as a Special Land Use under the following conditions:

(1) The nonconforming use or structure is compatible with surrounding uses and structures to a degree that continuance is reasonable.

(2) Expansion of the nonconforming use or structure will not have a significant impact on surrounding properties.

(3) Reconstruction of a nonconforming structure which has been more than 75 percent destroyed will not have a significant adverse effect on surrounding property.

(4) The proposed expansion will not result in undue traffic congestion.

(5) Off-street parking as required in the Ordinance is adequate.

(6) Screening may be required in order to minimize negative impacts on neighboring residential uses.

(7) All other requirements of this Ordinance are met except the basis for the nonconformity.

(8) The Planning Commission may impose any other conditions necessary to prevent adverse impacts on surrounding properties.

(9) The Planning Commission may approve the special land use if (2) or (3) above is not met if the Planning Commission concludes that failure to grant the special land use would have a greater negative impact on neighboring properties than would granting the special land use.

**SECTION 900.3:16 Facilities for Major Repair or Reconstruction of Boats.**

Major repair or reconstruction of boats may be permitted in the Waterfront District under the following conditions:

(1) Performance standards stated in Section 400.9:6 must be met.

(2) All spray painting and similar activities shall be done in compliance with local, state and federal regulations.

(3) Minimum setback from any residential use of 25 feet is required.

(4) All major repair or reconstruction will be conducted in an enclosed building.

(5) No outside storage of severely damaged or dilapidated boats or outside storage of boats for use of parts will be permitted.

**SECTION 900.3:17 Special Land Uses in any Waterfront District Other than Major Repair of Boats.**

(1) All conditions contained in the applicable Waterfront district shall be met, except, in the event of a Special Land Use request for a building with a height or density of greater than

allowed, in which event such limitation on height or density shall not prevent the Planning Commission from granting such Special Land Use.

(2) Uses must be compatible with and conducive to the existing and future development of the applicable Waterfront district.

(3) The Planning Commission may deny a Special Land Use request where the Planning Commission finds that the granting of such use in the applicable Waterfront district would have a significant adverse impact on development of other districts in the city.

(4) Outdoor services of food and beverages, and outdoor entertainment shall comply with the requirements of Section 900.3:21, except that references to CBD shall be deemed, for purposes of this subsection, to be references to the applicable Waterfront district.

(5) The Planning Commission may impose restrictions on such use for purposes of reasonably preserving views of the applicable Waterfront or which encourage access to the Waterfront by residents or customers of such uses.

(6) Because developments which are inconsistent with other uses in any Waterfront District would have a significant adverse impact on future development and on property values in such

Waterfront District or any adjoining district, the Planning Commission may impose reasonable restrictions on the exterior appearances of buildings and structures, including signs, to provide for compatibility of uses in such waterfront district or adjoining districts.

(7) No use shall be permitted which such use would, by reason of noise, smoke, dust, vibration, glare or similar characteristics, have a significant adverse impact on neighboring uses or on future uses in the district.

(8) The Planning Commission shall not grant a Special Land Use, which would create undue traffic congestion, unless conditions can be, imposed which shall reasonably alleviate such traffic congestion.

(9) The Planning Commission may impose conditions necessary to prevent adverse impact on neighboring and future uses or to insure the compatibility of such use with the development of such waterfront district or any adjoining districts, or to insure that such use is in keeping with the intent of the Zoning Ordinance generally.

#### **SECTION 900.3:18 Medical Professional Offices In G-1 District**

Medical Professional Offices may be located in a G-1 district under the following conditions:

(1) The G-1 district in which the medical professional office is to be located already includes, or is contiguous or adjacent to, an existing hospital, convalescent/nursing home, or public or quasi-public health-related institutional use.

(2) Road access to the medical professional office shall be from a state trunk line or major street as defined in the City of Ludington Comprehensive Plan, either directly or by road or other easement across adjacent G-1 parcels. The Planning Commission may waive this requirement, but only if the applicant for the special land use demonstrates all of the following:

(a) Practical difficulties or unnecessary hardships exist which make it impracticable to gain direct access from a state trunk line or major street.

(b) The applicant has made a good-faith effort to obtain indirect access across adjacent G-1 parcels, by road, easement or otherwise, and has been unable to do so through no fault of the applicant;

(c) The road the applicant proposes to use has sufficient capacity to handle increased peak-traffic loads resulting from the special land use; and

(d) Use of the road for the special land use will not have a significant impact on the character of the area which the road is principally designed to serve.

(3) In considering road access to the Medical Professional Office, the Planning Commission may, as a part of Site Plan Review, impose specific requirements about curb cuts, driveway alignment, and related access and site circulation elements, and may request the applicant to submit additional information from the applicant's architect, engineer, contractor, planner, or traffic engineer to support the applicant's position on peak-traffic loads, road capacity, or road-use impact.

(4) The medical professional office site shall comply with the general design standards of ARTICLE 1100.8 and the greenbelt design standards of ARTICLE 1100.9.

(5) Parking shall be oriented to those sections of the site which are most distant from adjoining residential districts.

(6) Maximum floor area and accessory building floor area in percent of lot area, minimum required setback dimensions, maximum building height, minimum lot size, minimum floor area, parking, and signage requirements and limitations shall comply with the requirements and limitations for similar office uses in Limited Commercial zones, except as specifically required by this section.

(7) Front, side, and rear building elevations shall be provided at time of site plan review.

**SECTION 900.3.19 Storage of Aggregate and Containerized Cargo in Waterfront Shipping District.**

(1) The Planning Commission shall find that such use is compatible with surrounding uses and with the intent of the Waterfront and Waterfront Shipping Districts.

(2) That such use will not be injurious to the environment or to the uses on and surrounding Pere Marquette Lake.

(3) Storage of aggregate and containerized cargo may take place in the Waterfront Shipping District under the following conditions which conditions shall apply whether or not such specific conditions are imposed upon such use by the Planning Commission:

(a) The Planning Commission shall impose such screening requirements as shall be appropriate to protect surrounding uses, including its impact upon vistas from other waterfront areas and from Pere Marquette Lake.

(b) The Planning Commission shall impose such conditions on the use of mechanical equipment, including restrictions on the hours of operation as it shall deem appropriate to protect surrounding uses.

(c) No bulk storage, including storage in barrels, shall be permitted for gasoline, oil, petroleum products, pesticides, or other hazardous materials which impose a significant risk of environmental contamination shall be allowed.

(d) No storage shall be located within required setbacks.

(e) The Planning Commission shall require the design of the surface, by the use of paving, berms, or other appropriate measures to prevent runoff from the site into Pere Marquette Lake.

(f) No materials, other than aggregate or containerized cargo and such equipment as is related to such items, may be stored upon the property.

(g) No garbage, refuse, or other materials which create noxious odors may be stored upon the property.

(h) Aggregate shall be of sufficient size so that such materials will not create dust emanating off of the property.

(i) Containerized cargo shall be cargo which is placed in a large trunk-like box (typically 8 feet by 8 feet by 20 feet). Barrels of liquid shall not be considered containerized cargo.

(j) All other requirements for uses in the Waterfront District, including Section 400.15:5 shall be met.

(k) No crushing or other processing of aggregate shall be done on the property.

(l) Packaging, unpacking or repackaging of containerized cargo shall not be done on the property.

(m) The owner shall take such measures as are reasonably necessary to prevent contamination of Pere Marquette Lake, the property and the ground water.

(4) The Planning Commission may impose such additional conditions as it may deem reasonable for the protection of Pere Marquette Lake, the property, and environment, and surrounding uses and to assure the compatibility of such use with the orderly development of the Waterfront.

(5) Such special land use shall be authorized only to the extent shown in the application for such special land use and only to the extent approved by the Planning Commission. Any expansion or extension shall require approval as a special land use.

**SECTION 900.3:20 Clubs & Lodges**

- (1) No exterior uses of the property other than parking will be permitted unless specifically approved by the Planning Commission as part of the Special Land Use approval.
- (2) Adequate parking is available.
- (3) That undue traffic congestion will not result.
- (4) That the Planning commission finds that such a use will not unduly injure the character or value of surrounding properties.

**SECTION 900.3:21 Outdoor Service of Food and Beverage Service in CBD, MC OR WCB Districts**

(1) No exterior use or service of food and beverage not otherwise specifically allowed as an accessory use, nor the outdoor service of alcoholic beverages or the outdoor service of food and beverages involving more than 200 sq. feet in the WMB, WM1 or WM2 Districts shall be approved by the planning commission unless the planning commission finds that such use is compatible with surrounding uses and with the intent of the district or neighboring districts.

(2) A deck or defined patio area is required and the planning commission shall impose screening requirements as shall be appropriate to protect surrounding uses.

(3) The planning commission may impose restrictions on the hours of operation as deemed appropriate to protect surrounding uses.

(4) Amplification of voice, musical instrument or recordings is not permitted.

(5) The planning commission may impose further conditions to ensure the compatibility of the use with adjacent properties in consideration of the character of the district or neighboring districts.

**SECTION 900.3:22 MC Maritime Commercial District** The following standards restrictions shall apply to the Special Land Uses in the MC District, except for those identified in Section 400.8A:4(1):

(1) No such Special Land Use shall be allowed unless the Planning Commission shall find that the use is compatible with the other uses in the MC District and is in keeping with the intent of said district.

(2) The approval of the requested use together with the approval of prior Special Land Uses in this district shall not cause the Special Land Uses to become the dominant uses in the district; it being the intent that the Special Land Uses provided for in this district are intended to enhance the traditional CBD type uses rather than significantly changing the character of the area.

(3) Such uses shall be of a nature which does not cause excessive noise, fumes, odor, vibrations, or any other similar impact on neighboring uses.

(4) Such uses will not create the need for substantial use of existing parking over and above the parking needs that would be created by a principal permitted use. The Planning Commission may require that such uses provide for off-street parking.

(5) The minimum floor area per dwelling unit is not less than the minimum specified in Subsection 900.3:4(10).

(6) The Planning Commission may impose such conditions as the Planning Commission shall deem appropriate to ensure the compatibility of such use within the MC District.

SECTION 900.3:24 Communication Towers in R1A, R1B, R2A, R3A, R4A, LC and C1

(1) Towers in these districts can only be proposed for stand-alone installation and will not be permitted for installation onto building roofs or other structures, except in multi-family districts (R3A), where towers may be proposed for building roofs or other structures greater than four stories in height.

(2) Applicant must demonstrate to the satisfaction of the Planning Commission that it has made a reasonable effort to (1) locate sites for proposed tower in permitted use districts (M1, M2 or G1) or districts with less restrictive special land use considerations (C2, CBD, MC, P, M-R, W, or WS) or (2) co-locate antennae on existing towers in any district and indicate why this has not been successful or cannot be accomplished for technical reasons.

(3) Lot size: The required lot dimensions will be determined by height of proposed tower. Tower (including accessory building to house supporting equipment) must be placed at a location on lot so that the distance to any lot boundary is equal to or greater than the height of the tower. A minimum lot size of one (1) acre is required for all towers regardless of height.

(4) Height: The planning commission may restrict tower height to the minimum height necessary to provide services. Towers cannot be placed on top of buildings or other structures in these districts except as stated in 900.3:24(1).

(5) Accessory Equipment Building: one building is allowed and must conform to size and height requirements of the respective district but in no case shall the building be larger than permitted garages in the R1A or R1B districts. All equipment accessory to tower and/or supportive of tower operation must be completely enclosed within the accessory building (i.e. standby power sources).

(6) Aesthetic Considerations.

(a) Material used in tower or accessory building construction must not be likely to rust or become unsightly.

(b) Screening may be required in order to minimize negative impacts on neighboring residential or other similar uses.

(c) Lighting on tower shall be limited to that required by the Federal Aviation Authority (FAA) or by other agency or law except when necessary to repair; security lighting for the area shall be limited to placement on the exterior of accessory building.

(d) Minimum tower setback from all lot boundaries shall be equal to tower height.

(e) Signage on tower or accessory building shall be limited to 144 square inches for purpose of company identification.

(f) Fencing is required to enclose tower and accessory building to a height of ten (10) feet. Fences shall not contain barbed wire, electric current, broken glass or other types with sharp wire edges exposed or any other dangerous condition.

(g) Alternative tower construction: the Planning Commission will consider alternatives (i.e. towers made to resemble trees) to traditional tower construction materials as proposed by the applicant.

(h) The Planning Commission will consider the proximity of other existing towers in granting or denial of any request for special land use.



(7) Removal: In cases where antennae or towers are not used for a period of twelve (12) months or more, the owner shall remove them.

(8) Safety: The tower and related facilities shall not create a circumstance which is dangerous for neighboring persons or property nor cause interference with television, radio, etc. reception of the same.

(9) The Planning Commission may impose additional conditions necessary to prevent adverse impact on neighboring and future uses or to insure the compatibility of such use with the development of the district or to ensure the use is in keeping with the intent of the Zoning Ordinance.

(10) In consideration of a special land use for communication towers, the Planning Commission shall make a decision within 60 days of application for the special land use request.

#### SECTION 900.3:25 Communication Towers in C2, CBD, MC, P, M-R, W and WS

(1) Towers in these districts may be placed upon building roofs or exist as stand alone structures.

(a) Stand-alone towers shall conform to all requirements detailed in 900.3:24 except 900.3:24 (1) and (2).

(b) Towers placed on building roofs shall conform to all requirements detailed in 900.3:24 except 900.3 24 (1), (2) (5), (6b), (6f).

(1) setbacks for towers placed upon building roofs shall be 25 feet from any boundary line extended vertically and 50 feet from any street right of way extended vertically.

#### SECTION 900.3:26 Accessory Buildings in Residential Districts, Single Building over 900 sq. ft., or combination of buildings over 1,200 sq. ft. in floor area:

(1) The maximum total building floor area of detached accessory buildings, where ever the location, shall not exceed 25% of the rear yard area.

(2) The side yard setbacks shall have the same side yard set backs as required for the principal building.

(3) Personal matter such as family size, ownership of vehicles or boats or similar issues shall NOT constitute "Practical Difficulties" except where requests are necessary to accommodate a hardship under the American with Disabilities Act or similar laws, as far as additional size is concerned.

(4) A combination of detached accessory buildings that is requested over 1,200 sq. ft. in floor area shall be limited to three separate buildings.

(5) For accessory buildings to exceed 1,200 sq. ft., lot sizes must be larger than 15,000 sq. ft. An increase in size MAY be allowed up to 5% for each additional 1,000 sq. ft. of lot area or portion thereof, however the maximum size shall be 1,600 sq. ft. for any lot size.

(6) The architectural character shall be suitable for a residential area with siding, paint, doors, roof, etc. compatible with the principal structure and the neighborhood.

(7) Accessory buildings under 200 sq. ft. in floor area do not require a building permit but must conform to all set back requirements and to all other requirements for accessory buildings. They shall be included in determining the maximum total area of all accessory buildings.

(8) Landscaping or screening may be required to lessen the visual impact on adjacent property owners.

(9) The design standards of Article 1100.8 and 1100.9 shall apply.

(10) No parcel may be split or divided in such a way as would result in accessory buildings exceeding the ordinance limitation, or that would result in accessory buildings on parcels for which no principal building is located. Where the maximum square footage of all accessory buildings exceeds 1,200 square feet, an Affidavit shall be recorded with the Register of Deeds describing the lot or parcel and indicating that the property owner must check with the City of Ludington Zoning Administrator to make sure that a division or split of the parcel does not result in a violation of the City of Ludington Zoning Ordinance.

### SECTION 900.3:27 Child Care Centers:

- (1) All required state and local licensing shall be maintained at all times.
- (2) All outdoor areas used for care and play shall have appropriate fencing for the safety of those using the facility. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front of the building line. Play areas abutting the public right-of-way shall be prohibited.
- (3) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- (4) The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
- (5) All parking areas shall comply with the provisions of Chapter VII, Off-street Parking and Loading of this Zoning Ordinance.
- (6) All signs shall comply with Chapter VIII, Signs of this Ordinance.

### SECTION 900.3:28 Group Day Care Home

- (1) All required state and local licensing shall be maintained at all times.
- (2) All outdoor areas used for care and play shall have appropriate fencing for the safety of those using the facility. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front of the building line. Play areas abutting the public right-of-way shall be prohibited.
- (3) The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
- (4) All parking areas shall comply with the provisions of Chapter VII, Off-street Parking and Loading of this Zoning Ordinance.
- (5) All signs shall comply with Chapter VIII, Signs of this Ordinance.

### Section 900.3:29 Personal Service Establishment:

A personal service establishment may be located in the M-R district under the following conditions:

- (1) The personal service establishment shall be considered for only those properties zoned M-R fronting on Ludington Avenue.
- (2) Such uses shall be of a nature which does not cause excessive noise, fumes, odor, vibrations, or any other similar impact on neighboring uses.
- (3) The Planning Commission may impose further conditions to ensure the compatibility of the use with adjacent properties in consideration of the character of the district or neighboring districts.
- (4) That undue traffic congestion will not result and curb cuts comply with the US-10/Ludington Avenue Access Management Plan.
- (5) That the Planning commission finds that such a use will not unduly injure the character or value of surrounding properties.
- (6) That parking conforms to Chapter VII, in addition to the following:
  - a. Section 700.2:4 shall not apply to personal service establishments;
  - b. Shared parking shall not be permitted; and
  - c. Parking for any personal service establishment with other uses in the same building shall be cumulative such that the total number of spaces for each use is provided.

## **CHAPTER X PLANNED UNIT DEVELOPMENTS**

### **ARTICLE 1000.1 PURPOSE**

The purpose of these regulations is to permit greater flexibility and consequently more creative and imaginative design in the development than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of building choices, the integration of necessary commercial and community facilities, and the preservation of open space for park and recreational use. A building permit may be issued for construction and development of a planned unit development subject to compliance with the requirements, standards, and procedures set forth in this Chapter.

Three PUD Special Land Uses, (Residential, Waterfront, and Industrial), shall regulate different parts of the City. Each will have separate regulatory standards including uses and design standards.

### **ARTICLE 1000.2:1 RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) GENERAL REQUIREMENTS**

Any application for a residential planned unit development (RPUD) as a special land use must meet the following conditions to qualify for consideration:

- A. Ownership.** The tract of land for a project must be either in single ownership or the subject of an application filed jointly by the owners of all property included, and the area of the parcels must total two (2) acres or greater. The holder of a written option to purchase land or the holder of an executory land contract shall, for the purposes of such application, be deemed to be an owner of such land.
- B. Location.** RPUDs shall be allowed only in the RIC district.
- C. Utilities.** Public water and sanitary sewer/storm drainage facilities shall be provided as part of the site development. All electric and communication transmission lines shall be placed underground.

### **ARTICLE 1000.2:2 RPUD PERMITTED USES**

- A.** No structure or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following, in the RIC zoning district.
- B. Residential uses.**
  - (1) Single-family detached dwellings.
  - (2) Two-family dwellings.
  - (3) Townhouses.
  - (4) Condominiums.
  - (5) Other multi-family dwellings
- C. Accessory and Associated Uses.** Accessory and associated uses designed and intended to serve the convenience needs of the people residing in the RPUD, including but not limited to: Recreational play areas, churches, or child day care facilities.

### **ARTICLE 1000.2:3 RPUD DESIGN REQUIREMENTS**

The following requirements and the design standards in ARTICLES 1100.8 and 1100.9 shall apply to RPUDs in lieu of any conflicting regulations set forth in the zoning district. Unless listed, the requirements within the zoning district shall apply.

- A. Number of Dwelling Units Permitted.** The maximum number of dwelling units permitted in the project shall be determined by dividing the net RPUD area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately. The number of units allowed may be increased by the Planning Commission up to an additional 20 percent if special scenic vistas are preserved and/or open space creatively provided.
- B. Lot Area Requirements.** The minimum lot area shall not be reduced for any permitted use more than 10 percent below that required in the district in which the project is located.
- C. Setback and Yards.** The minimum setback and yard or open space requirements for buildings and structures may be reduced or increased at the discretion of the Planning Commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere upon the site.
- D. Minimum Lot Frontage and Width.** The minimum lot frontage and width for any lot designated for single-family dwelling may be reduced 10 percent below the requirements of the district in which the RPUD is located.
- E. Screening.** A screening area may be required by the Planning Commission along the perimeter of the development if deemed necessary to protect the value of adjoining property under separate ownership.
- F. Landscaping.** Landscaping requirements may be set forth by the Planning Commission.
- G. Open Space Required.**
  - (1) As part of the total development in every RPUD, there shall be an amount of open space equal to not less than the summation of lot area reduction below the minimum dimensions required in Article 400:14 for the underlying zoning district.
  - (2) Before accepting the open space as meeting the requirements of this provision, the Planning Commission must find that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of future maintenance thereof.
  - (3) All required open space within a RPUD shall be arranged to provide access and benefit to all residents of the development.
- H. Parking.** Parking shall be regulated per Chapter VII.
- I. Architectural Standards** All architectural standards including building massing shall be regulated per the zoning district.
- K. Lot Coverage.** Lot coverage shall be regulated per the zoning district in which the development is located.

**ARTICLE 1000.3:1 WATERFRONT PLANNED UNIT DEVELOPMENT (WPUD) GENERAL REQUIREMENTS**

Development plans within any of the Waterfront Districts, W, WS, WM1, WM2, and WCBD, which are submitted for review under this WPUD option shall comply with all regulations contained in the applicable underlying zoning district, except as otherwise provided for in this Chapter. Where conflict exists, or where the regulations of this Chapter are more specific or address issues not

addressed in Article 400.15, 400.16, 400.17, or 400.18, in which the property is located, the regulations of this Chapter shall control.

### **ARTICLE 1000.3:2 WPUD PERMITTED USES**

- A. Permitted Uses.** The permitted "principal uses" and "special land uses" as identified in the applicable waterfront district may be permitted. The Planning Commission and City Council may also consider and approve uses not identified in the applicable waterfront district based on their determination that such uses meet the following standards:
- (1) The use is consistent with the intent of the applicable waterfront district.
  - (2) The use meets the standards for the WPUD as contained in this Chapter.
  - (3) The use is compatible with, and has a positive supportive relationship with the existing conforming uses in the district.
  - (4) The use shall be of a commercial, residential, or recreational nature.
  - (5) The use must have a distinct advantage in being located at a waterfront location which does not generally exist at other locations.
  - (6) The use must project a positive aesthetic impact.
- B. Accessory Uses.** Accessory uses, as identified in the applicable waterfront district, to the above permitted uses may also be permitted.

### **ARTICLE 1000.3:3 WPUD DESIGN REQUIREMENTS**

- A. Number of Dwelling Units Permitted.** The number of dwelling units permitted in WPUD within this section shall be subject to the following regulations:
- (1) WPUD having a multiple family residential component may be permitted to have a density of 30 dwelling units per acre.
  - (2) Only that land area within the project area which is devoted to residential use shall be permitted to be used in the density calculation for dwelling units.
  - (3) When non-residential uses are incorporated into the same development with multiple family residential units, located either above or below such units, the parking and loading areas associated with such non-residential uses shall not be included in the land area used to calculate the multiple family residential density.
- B. Minimum Lot Area.** No specific minimum lot area shall be in effect, however, sufficient lot area to meet the design requirements of this Chapter shall be required.
- C. Setbacks and Yards.**
- (1) A minimum setback of 15 feet from the high water mark shall be required of all uses with the exception of marinas, docks, and similar structures.
  - (2) A minimum setback of 7.5 feet shall be required from lot lines which do not abut a public right-of-way, except in WCB where such setback shall be a minimum of 10 feet.
  - (3) A setback of 10 feet shall be required from lot lines which abut a public right-of-way.
  - (4) The Planning Commission may reduce these setbacks, with the exception of the 15 foot setback from the high water mark in those cases where it is felt that such reduction will not result in adverse impacts to safety, viewing qualities, or adjoining properties.
- D. Minimum Lot Frontage and Width.** A minimum lot width and frontage along a public right-of-way of 50 feet shall be required.
- E. Screening.**

- (1) Screening of parking areas through the use of fences, walls, berms, or natural vegetation may be required when it is felt by the Planning Commission that such screening is necessary to protect the value of adjoining properties, provide for safe pedestrian movement, or maintain a reasonable aesthetic image.
- (2) The Planning Commission may also require the screening of waste receptacles, mechanical equipment, and other similar structures.

**F. Landscaping.** Landscaping shall be required within open space and parking areas. Landscape plans shall be designed with a sensitivity to maximizing viewing opportunities of the waterfront area.

- (1) Landscape plans shall feature dwarf and understory deciduous trees (those with mature heights of less than 40 feet) to assist in maximizing waterfront views.
- (2) Evergreen landscape materials shall be limited to smaller shrubs and trees with mature heights of 15 feet or less. If used, evergreen landscape species should be arranged to minimize the blockage of waterfront views.
- (3) A minimum of one deciduous tree for each 5,000 square feet of lot area shall be required.

**G. Open Space.**

- (1) A minimum of 25 percent of the project area shall be maintained in open space, except in WCB where open space shall be governed by Article 400.18.
- (2) This space may be maintained as a landscaped area, site amenity (such as a tennis court, gazebo, fountain, etc.), or consist of a decorative surface material such as brick pavers.
- (3) Such open space may not be maintained in a common concrete or asphalt state.

**H. View Corridors.**

- (1) Projects shall be designed to maintain maximum viewing opportunities of the waterfront area as seen from public activity centers located within 300 feet of the waterfront shoreline.
- (2) For the purpose of this Section public activity centers shall be defined as pedestrian walkways, outdoor recreation areas, outdoor eating/drinking facilities, outdoor attractions or amenities (such as fountains, statues, monuments, public benches/seating, and other similar features) which are designed to attract and promote the gathering of the general public on site.
- (3) To achieve view corridors it is required that the linear feet of any building along the waterfront not exceed 60 percent of the amount of linear feet of shoreline existing on the subject parcel.
- (4) Under no instance shall any building exceed 125 linear feet.

**I. Parking.** Parking shall be provided as provided for in Chapter VII (Off-street Parking and Loading) with the exception of the following:

- (1) The Planning Commission may reduce the parking requirement for residential dwelling units to 1.5 spaces.
- (2) The Planning Commission may reduce the parking requirements for commercial businesses by up to 20 percent. Such reductions may only be made upon demonstration by the applicant that the parking spaces to be provided (under a reduced requirement) will adequately meet the projected parking demand for the proposed project.
- (3) Underground parking may be permitted.

**J. Architectural Standards**

- (1) **Building Massing:** Except as provided herein, exterior building surfaces must not exceed 30 feet in length without an architectural break, such as a change in elevation, window or doorway or building line. Buildings will be massed to accommodate landscape areas consisting of 10-25% of the site including such features as open space, tennis court, gazebo, fountain or other such amenities.

- (2) Buildings shall not exceed 35 feet in height except that greater heights may be permitted if the lowest angle of the unobstructed sight line to the sky from the WPUD boundary is no greater than would result from a two story building located at the minimum pre-existing setback standard of the underlying zoning district. Provided further that no structure with a height greater than 55 feet shall be permitted without the approval of the City of Ludington Fire Chief. Building height shall be defined as the distance from the average grade level of the existing adjoining street or property to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there is more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.
- (3) Architectural Character: Building architecture shall reflect a common theme or pattern which shall be internally consistent within the WPUD and aesthetically appropriate for the setting and neighborhood.
- (4) Artificial Light: Artificial lighting shall be aesthetically designed and shielded to prevent light from casting off the property or into the night sky to the greatest extent possible. Building surface reflectivity, on-site lighting and landscape screening shall be planned and executed such that the degree of light cast off the site shall not exceed one (1) foot candle at the WPUD boundary. Exceptions may be made for decorative fixtures.

**K. Lot Coverage.**

- (1) The maximum lot area to be covered by buildings shall be 35 percent except in WCB where lot coverage shall be governed by Article 400.18.
- (2) Except in WCB, additional building coverage of up to 50 percent may be permitted based upon the type of landscaping which is proposed for the site, site amenities to be provided, and degree to which the site design has maintained views to the waterfront.
- (3) The maximum lot area to be covered by the combination of building and parking areas shall be 75 percent, except in WCB where lot coverage shall be governed by Article 400.18.

**ARTICLE 1000.4:1 INDUSTRIAL PLANNED UNIT DEVELOPMENT (IPUD) GENERAL REQUIREMENTS**

An IPUD special land use may be considered in any M-1 or M-2 District in the City, except for the Industrial Park, on a parcel containing one and a half acres or more. However, as a condition of a IPUD, the applicant must demonstrate that the IPUD will result in a recognizable and substantial benefit to the ultimate users and occupants of the project and to the community, where such benefit would otherwise be unfeasible or unlikely. Such benefit may include, but shall not be limited to, the preservation of important natural features, the provision of open lands, the provision of a mix of land uses, and/or innovation in design and project configuration.

**ARTICLE 1000.4:2 IPUD PERMITTED USES**

**A. Uses.** Any principal or accessory land uses permitted in the M-1 or M-2 zoning district, either as a principal use or as a special land use subject to special conditions under this Ordinance may be considered within the IPUD. Provided, however, that the Planning Commission and the City Council must reach a finding that all such proposed uses and the impacts they may generate on one another and on the surrounding community shall be generally compatible and harmonious with one another.

- B. Underlying Zoning.** Unless specifically waived by the City Council upon the recommendation of the Planning Commission all regulations of the underlying zoning district prior to the IPUD request relative to lot size, lot width, yard area, lot coverage, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply. In projects with more than one underlying district, the most restrictive district regulations within this Ordinance shall apply.
- C. Departures from Underlying Zoning.** Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations may be granted at the discretion of the City Council upon the recommendation of the Planning Commission as part of the approval of an IPUD. Such departures may be authorized if, in the judgment of the City Council upon the recommendation of the Planning Commission, (1) there are features or planning mechanisms incorporated into the project which would generally achieve the objectives of each of the regulations from which a departure is being requested, and/or (2) the proposed IPUD is likely to be more consistent with the objectives of the City's future Land Use Plan than a development under the terms of the underlying zoning.
- D. Phasing.** The stages or phases of any IPUD development shall be so structured and scheduled that, if later stages or phases of the development are not implemented, the initial stage(s) shall be consistent with the provisions of this Article and shall not detract from the feasibility of developing the remaining portion of the subject IPUD area in an appropriate and desirable manner.

#### **ARTICLE 1000.4:3 IPUD DESIGN REQUIREMENTS**

All proposed IPUDs shall take into account the following design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located. The Planning Commission shall review the sketch plan to evaluate whether each of the following standards are appropriately addressed in the design and development plan either through the application of the standards of the underlying zoning district or through other planned departures from said standards as proposed by the applicant. In each instance, the Planning Commission may recommend exceptions where the imposition of the following standards would result in patterns of development that would be out of character with the development and/or with the surrounding area.

- A. Minimum Lot Area.** The minimum lot area shall be regulated by the zoning district in which the development is located.
- B. Setbacks and Yards.** The setbacks and yard requirements shall be regulated by the zoning district in which the development is located.
- C. Minimum Lot Frontage and Width.** The minimum lot frontage and width shall be regulated by the zoning district in which the development is located.
- D. Screening.** A visual screen, preferably consisting of mixed evergreens and deciduous vegetation, shall be established and maintained along the perimeter of the IPUD. The purpose of this screening shall be to provide a permanent screen of service areas, dumpsters and loading docks and a partial buffer to parking areas and similar less intrusive elements, from surrounding property. Where natural landscaping is not feasible, fences or walls may be substituted if they are designed to compliment the proposed development and buildings and are generally compatible with surrounding uses.
- E. Landscaping.** Landscaping shall be required along public roadways to soften presentation from the street.
- F. Open Space.** Open space shall be regulated by the zoning district which the development is located.



**G. View Corridors.** View corridors shall be regulated by the zoning district which the development is located.

**H. Parking.** Off-street parking shall be provided in accord with the requirements of Chapter VII of the Zoning Ordinance. In a mixed-use development, the applicant shall propose shared parking arrangements to reduce pavement within the development. For such shared parking arrangement, the applicant shall provide for an enforceable mechanism to assure cooperation among future building owners and occupants to assure the viability of a shared parking arrangement. The minimum number of off-street parking spaces shall be determined by considering each proposed use and its likely peak hour parking demand. A maximum daily parking demand matrix will be used to determine the peak hour demand for all combined uses and the proposed IPUD shall provide for not less than the greatest peak hour requirement for the combined uses reflected in such matrix. The use of deferred parking areas (or reserved interim green areas) may be considered to calibrate the required parking standards with evolving conditions.

**I. Architectural Standards.**

- (1) **Building Massing:** Except as provided herein, exterior building surfaces must not exceed 30 feet in length without an architectural break, such as a change in elevation, window or doorway or building line. Buildings will be massed to accommodate landscape areas consisting of 10-25% of the site including such features as open space, recreation area, gazebo, fountain or other such amenities.
- (2) Buildings shall not exceed 35 feet height except that greater heights may be permitted if the lowest angle of the unobstructed sight line to the sky from the IPUD boundary is no greater than would result from a two story building located at the minimum pre-existing setback standard of the underlying zoning district. Provided further that no structure with a height greater than 55 feet shall be permitted without the approval of the City of Ludington Fire Chief. Building height shall be defined as the distance from the average grade level of the existing adjoining street or property to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there is more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.
- (3) **Architectural Character:** Building architecture shall reflect a common theme or pattern which shall be internally consistent within the IPUD and aesthetically appropriate for the setting and neighborhood.
- (4) **Artificial Light:** Artificial lighting shall be aesthetically designed and shielded to prevent light from casting off the property or into the night sky to the greatest extent possible. Building surface reflectivity, on-site lighting and landscape screening shall be planned and executed such that the degree of light cast off the site shall not exceed one (1) foot candle at the IPUD boundary. Exceptions may be made for decorative fixtures.

**J. Lot Coverage.** Lot coverage shall be regulated by the zoning district in which the development is located.

**ARTICLE 1000:5 APPLICATION PROCEDURE AND APPROVAL PROCESS FOR ALL  
PLANNED UNIT DEVELOPMENTS.**

Whenever any PUD is proposed, before any building permit is issued, the developer shall apply for approval of the PUD in accordance with the following procedures.

#### SECTION 1000.5:1 APPLICATION FOR SKETCH PLAN APPROVAL.

In order to allow the Planning Commission, the City Council and the developer to reach an understanding of basic design concept and avoid unnecessary investment, the developer shall submit a sketch plan to the Planning Commission. The sketch plan shall be drawn to approximate scale and provide the following information and documentation:

- A.** Boundaries of the property.
- B.** Location map showing uses and ownership of abutting lands.
- C.** Location and height of all buildings.
- D.** Interior roadway system, parking facilities, and all existing rights-of-way and easements, whether public or private.
- E.** Delineation of the various residential and /or commercial areas; indicate for each such area its size, number of buildings, number of dwelling units, and approximate percentage allocation by dwelling unit type. Indicate the net residential density and the net commercial density.
- F.** Interior traffic and pedestrian circulation patterns.
- G.** Areas designated as open space.
- H.** If grades exceed 30 percent, or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be provided.
- I.** Principal ties to the neighborhood and community with respect to transportation, water supply, and sewage disposal.
- J.** General description of the provision of other community facilities such as schools, recreational facilities, fire protection and service, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
- K.** Evidence that the proposal is compatible with the objectives of the City's master plan.
- L.** General statement as to how common open space is to be owned and maintained.
- M.** If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified. In any case, the sketch plan shall show the total intended project.

#### SECTION 1000.5:3 ACTION ON APPLICATION.

- A.** The Planning Commission shall hold a public hearing on the sketch plan in accordance with the provisions of this Ordinance for special land uses (CHAPTER IX).
- B.** Following the public hearing, the Planning Commission shall, within 60 days, approve, approve with conditions, or disapprove the sketch plan and so notify the applicant of the decision.
- C.** Upon approval, the Planning Commission shall forward the sketch plan and their decision, including any conditions, to the City Council for action within 30 days.

- D.** Approval of the sketch plan by the Planning Commission and the City Council shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed site plan.

#### SECTION 1000.5:4 CHANGES IN SKETCH PLAN.

If the applicant wishes to make changes in the sketch plan as it has been approved by the Planning Commission and the City Council, the amended sketch plan shall then be resubmitted to the Planning Commission and the City Council pursuant to the above procedures.

#### SECTION 1000.5:5 APPLICATION FOR DETAILED SITE PLAN APPROVAL.

The detailed site plan shall conform to the sketch plan that has been approved. It shall incorporate any revisions or other features that have been recommended by the Planning Commission or the City Council at the preliminary review. All such revisions shall be clearly indicated. If more than six months elapse between approval of the sketch plan and submission of the detailed site plan, the Planning Commission may require a resubmission of the sketch plan for further review and possible revision. The detailed site plan shall include the following information:

- A.** An area map showing the applicant's entire holding, and subdivisions, streets, utilities, and easements within 300 feet of the applicant's property.
- B.** A topographic map showing contour intervals of not more than four feet of elevation.
- C.** A site plan showing location, proposed use, and height of all buildings; all parking areas with access and egress drives thereto; location of outdoor storage if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.
- D.** A report showing all soil types, their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the report shall also include an outline and description of existing vegetation.

#### SECTION 1000.5:6 REQUIRED STANDARDS FOR APPROVAL.

In addition to the standards for Site Plan Review in CHAPTER XI, consideration of the detailed site plan shall include the following:

- A.** Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movement.
- B.** Location, arrangement, appearance, and sufficiency of off-street parking.
- C.** Location, arrangement, size, and entrances of buildings, walkways, and lighting with special emphasis on preserving open-space vistas where appropriate.
- D.** Relationship of the various uses to each other.
- E.** Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise-detering screen between adjacent uses and adjoining lands.
- F.** In the case of residential uses, the adequacy of usable open space for playgrounds and recreation.

- G. Adequacy of water supply, storm water and sanitary waste disposal facilities.
- H. Adequacy of structures, roadway and landscaping in areas with moderate to high susceptibility to flooding, ponding, and/or erosion.
- I. Compliance with all regulations of this Ordinance.
- J. Compatibility of adjoining uses on and off the site and preservation thereof, particularly the adequacy of open-space vistas.

**SECTION 1000.5:7 ACTION ON THE DETAILED SITE PLAN**

After review of the detailed site plan, the Planning Commission shall approve or disapprove the application, and so notify the applicant and the Zoning Administrator. When a detailed site plan has been approved by the Planning Commission, the applicant shall secure a building permit before beginning construction.

**SECTION 1000.5:8 NULLIFICATION**

In any case where construction on an approved PUD has not commenced within one year from the date of approval, the PUD approval shall be null and void.

**SECTION 1000.5:9 EFFECT OF APPROVAL**

After a detailed site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the Planning Commission and the City Council after proceedings conducted as in the original application. This limitation shall apply to successive owners.

**ARTICLE 1000.6 BOND REQUIREMENT**

- A. A performance bond or bank letter of credit conditioned upon construction and development in accordance with the approved plans may be required by the City Council to be filed with the Zoning Administrator at the time of issuance of a building permit, where the development is to be completed in phases over a period of years, in such amounts and for such periods as in the discretion of the Council appears adequate to insure compliance with the approved plans.
- B. Such bond or letter of credit may also be required as security for the completion of any particular improvements upon which approval is conditioned for the protection of natural resources or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Where a cash deposit is made in lieu of a bond or letter of credit, the City Council shall provide for a rebate of the same in reasonable proportion to the ratio of the work completed and for which the deposit has been required, provided that the amount remaining on deposit still provides reasonable security for the completion of the unfinished improvements germane to the deposit.

**ARTICLE 1000.7 MODIFICATION OF A DEVELOPMENT**

Minor changes to a PUD's sketch plan or detailed site plan may be approved by mutual agreement of the applicant and the Planning Commission, provided the changes comply with all applicable requirements of this Zoning Ordinance and all other City regulations or state law. Minor changes include:

- A. All matters that were approved by the Planning Commission in the detailed site plan that were not part of the sketch plan,

- B.** The relocation of structures, roads, planting areas, parking areas, signs, lighting, and driveways provided that all such improvements remain in the same general location as approved in the preliminary development plan, as determined by the Planning Commission, and
- C.** Adjustments to total building size not to exceed the lesser of five thousand (5,000) square feet or five (5) percent of the gross floor area.
- D.** All other changes shall be considered major changes to any approved PUD and shall be processed in accord with the original approval procedures.

## **CHAPTER XI SITE PLAN REVIEW**

### **ARTICLE 1100.1 INTENT**

**SECTION 1100.1:1** The intent of this CHAPTER is to provide for stronger requirements for development projects and to promote communication between the land owner and the Planning Commission in order that the owner may accomplish his objectives in the utilization of his land in accordance with the regulations of this Ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

### **ARTICLE 1100.2 SCOPE**

**SECTION 1100.2:1** Except as set forth below, the Building Inspector shall not issue a building permit for construction of any buildings, structures, or uses until a site plan, submitted in accordance with this Ordinance, shall have been reviewed and approved by the Site Plan Review Committee as herein designated.

#### **SECTION 1100.2:2 Site Plan Review Committee**

(1) Functions of the Planning Commission, with reference to Site Plan Review, are hereby transferred from the Planning Commission to the Site Plan Review Committee.

(2) The Site Plan Review Committee shall be composed of two members of the Planning Commission, the City Manager, Department Heads as determined by the City Manager, and the Building Inspector.

(3) The Site Plan Review Committee will be on call as applications are received in the Building Inspector's office, and may act on preliminary sketch plans and formal site plan reviews.

(4) Records of applications and decisions thereon will be kept on file in the Building Inspector's office. Planning Commission members involved will make regular reports to the Planning Commission.

(5) If the Site Plan Review Committee deems it advisable, any site plan may be referred to the Planning Commission for review and/or recommendation.

**SECTION 1100.2:3 Exceptions.** The following buildings, structures, or uses shall be exempt from the site plan review procedure.

(1) Single- and two-family homes.

(2) Interior alterations.

(3) Accessory or subordinate buildings not exceeding 5,000 square feet total floor area, and requiring no new or additional or enlarged means of access thereto from adjoining public roads or highways and complying with all the requirements of this Ordinance.

(4) These exceptions do not apply to any Waterfront District.

### **ARTICLE 1100.3 OPTIONAL SKETCH PLAN REVIEW**

**SECTION 1100.3:1** Preliminary sketches of proposed site and development plans may be submitted for review to the Site Plan Review Committee prior to formal application. The purpose of such procedure is to allow discussion between an owner or developer and the Site

Plan Review Committee concerning the acceptability of his proposed plans prior to the development of a detailed site plan requiring extensive engineering and other costs. The Site Plan Review Committee shall not be bound by any tentative approval given at this time. Such a sketch plan shall include as a minimum the following:

- (1) Name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership.
- (2) Address and legal description of the property.
- (3) Sketch drawings showing tentative site and development plans.

## **ARTICLE 1100.4 APPLICATION PROCEDURE**

**SECTION 1100.4:1** Requests for formal site plan review shall be made by filing with the Building Inspector the following:

- (1) The application shall be accompanied by a fee to be established by resolution of the City Council to cover the cost of processing the review.

**SECTION 1100.4:2** Six copies of the completed application form to contain, as a minimum the following:

- (1) Name and address of the applicant.
- (2) Legal description of the subject parcel of land.
- (3) Area of the subject parcel of land stated in acres, or if less than one acre, in square feet.
- (4) Present zoning classification of the subject parcel.
- (5) A general description of the proposed development.

### **SECTION 1100.4:3**

(1) Up to six copies of the proposed site plan shall be filed with the application and shall include as a minimum the following:

- (a) The plan shall be drawn to a scale of not greater than one inch equals 20 feet for a development of not more than three acres and a scale of not less than one inch equals 100 feet for a development in excess of three acres.
- (b) The plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation, and name and address of the individual or firm preparing the same.
- (c) The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.
- (d) The topography of the site with at least two-foot contour intervals and 111 natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils and similar features shall be shown.
- (e) Existing man-made features upon the site and within 100 feet of the site shall be indicated.
- (f) The location, proposed finish floor and grade line elevations, size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be indicated. Site plans for multi-family residential development shall also include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each such unit.
- (g) All proposed and existing streets, driveways, sidewalks, and other vehicle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size, and number of parking spaces in off-street parking areas, service lanes thereto, and service parking and delivery or loading areas.

(h) The location, use, and size of open spaces together with landscaping, screening, fences, walls, and proposed alterations of topography or other natural features shall be indicated.

(i) The proposed operations on the site shall be described in sufficient detail to indicate the effect, if any, upon adjoining lands and their occupants, together with any special features which are proposed to relieve any adverse effects to adjoining lands and their occupants. Any potential demands for future community services will also be described, together with any special features which will assist in satisfying such demands.

(j) Any earth-change plans required by state law, shall also be submitted with the application.

(k) On-site lighting, surface water drainage for the site, and proposed sanitary sewage disposal and water supply shall be included in the plans.

(l) Such other information as may be determined to be necessary by the Site Plan Review Committee because of any peculiar features of the proposed development.

(2) The Site Plan review Committee may waive any of the requirements in subsection (1) when, in the opinion of the Site Plan Review Committee, such requirement(s) will not be a significant factor(s) in the Site Plan Review process for that particular use.

## **ARTICLE 1100.5 ACTION ON APPLICATION AND PLANS**

**SECTION 1100.5:1** The Building Inspector shall record the date of receipt of the application and plans, and reserve up to six copies for the Site Plan Review Committee.

**SECTION 1100.5:2** The Building Inspector shall schedule a meeting of the Site Plan Review Committee within not more than ten days following the receipt of the plans and application.

(1) The applicant shall be notified of the date, time, and place of the review of his application not less than three days prior to such date, unless the applicant has waived such three-day notice.

(2) Following the review, the Site Plan Review Committee shall have the authority to approve, disapprove, modify, or alter the proposed plans. Any required modification or alteration, together with the reasons for such modification, shall be stated in writing and delivered to the applicant. The Site Plan Review Committee may approve the plans including any alterations or modifications, or the Committee may require a further review after the applicant has submitted a revised plan. The decision of the Site Plan Review Committee shall be made within 60 days of receipt of the application by the Building Inspector.

(3) Two copies of the approved final site plan, including any required modifications or alterations shall be maintained as part of the City records for future review or enforcement. One copy shall be returned to the applicant. Each copy shall be signed by the Chairman of the Planning Commission for identification of the final approved plans. If any variances from this Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variance duly signed shall also be filed with the City records as a part of the site plan and delivered to the applicant for his information and direction.



## **ARTICLE 1100.6 CRITERIA FOR REVIEW**

**SECTION 1100.6:1** In reviewing the application and site plan and approving, disapproving, or modifying the same, the Planning Commission shall be governed by the following standards as well as those in SECTION 1100.9:5:

(1) That there is a proper relationship between the existing streets and highways in the vicinity further defined as: Deceleration lanes, service drives, entrance and exit driveways, and parking areas to insure the safety and convenience of pedestrian and vehicular traffic.

(2) That the buildings and structures proposed to be located on the premises are so situated as to minimize adverse effects upon owners and occupants of adjacent properties, in relationship to lighting, loading activities, motorized vehicle circulation, and site access.

(3) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood.

(4) That any adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures, and entryways.

(5) That the layout of buildings and improvements will minimize any harmful or adverse effect which the development might otherwise have upon the surrounding neighborhood.

(6) That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.

## **ARTICLE 1100.7 CONFORMITY WITH APPROVED SITE PLAN**

**SECTION 1100.7:1 Revocation of Site Plan Approval.** Any property which is the subject of site plan review must be developed in strict compliance with the approved site plan, inclusive of any amendments which have received approval of the Planning Commission. If construction and development do not conform with such approved plan, the approval of the site plan shall be revoked by the Building Inspector by written notice posted upon the premises and mailed to the owner at his last known address. Upon revocation of approval, all construction activities on the site shall cease until such time as the violation has been corrected or the Planning Commission has, upon proper application of the owner and after hearing, approved a modification in the site plan to coincide with the owner's construction or altered plans for construction as being in compliance with the criteria contained herein and with the spirit, purpose, and intent of this Ordinance.

**SECTION 1100.7:2 Limitation of Approval.** Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development actually commenced within one year, the site plan shall automatically be declared null and void without further action by the Planning Commission. In such case, a new application for site plan approval shall be required and new approval obtained before any construction or earth-change is commenced upon the site.

**SECTION 1100.7:3 Amendment to Approved Site Plan.** A proposed amendment, modification, or alteration to a previously approved site plan may be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

**SECTION 1100.7:4 Performance Bond.** The Planning Commission shall have the right and authority to require the developer to file with the City at the time of the application for a building permit a performance bond or bank letter of credit in such amounts as may be determined by the commission to insure the development of the site in accordance with the approved site plan. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in face amount which is a reasonable percentage of the estimated total cost of construction and site development.

## **ARTICLE 1100.8 GENERAL DESIGN STANDARDS**

### **SECTION 1100.8:1 Exterior Lighting.**

(1) All outdoor lighting in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.

(2) All outdoor lighting in all use districts shall be directed toward and confined to the ground areas of lawns or parking lots.

(3) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.

(4) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.

(5) No illumination of signs and any other outdoor features shall be of a flashing, moving, or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

**SECTION 1100.8:2 Residential Entranceway.** In all residential districts, entranceway structures, including but not limited to walls, columns, and gates marking entrances to single-family subdivisions or multi-family projects may be permitted and may be located in a required yard, except as provided in SECTION 1100.8:3, provided that such entranceway structures shall comply to all City codes issued.

**SECTION 1100.8:3 Corner Clearance.** No fence, wall, shrubbery, sign, or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 20 feet from their point of intersection.

## **ARTICLE 1100.9 GREENBELT DESIGN STANDARDS**

**SECTION 1100.9:1** Wherever a greenbelt or planting screen is required under the provisions of this Ordinance, such greenbelt or planting screen shall be subject to the following conditions.

**SECTION 1100.9:2 Planting and Maintenance.** The required greenbelt or planting screen shall be planted with permanent plant materials within six months from the date of occupancy and shall thereafter be maintained in presentable condition, and shall be kept free from refuse and debris. All plant materials shall be continuously maintained in a sound, healthy, and vigorous growing condition, and shall be kept free of plant diseases and insect pests.

**SECTION 1100.9:3 Screening Effect.** The selection, spacing, and size of plant material shall be such as to create, within a five-year period from the date of planting, a horizontal obscuring effect for the entire length of the required greenbelt area, and a vertical obscuring effect of such height as is determined adequate by the Planning Commission for proper screening between land uses.

**SECTION 1100.9:4 Initial Planting.** In no instance shall the minimum dimensions of plant materials at initial planting be less than the following:

- (1) Deciduous shrubs: 2 feet in height.
- (2) Deciduous trees: 1-1/2 inches in caliper.
- (3) Evergreen shrubs: 2 feet in height.
- (4) Evergreen trees: 4 feet in height.

(5) Where, under the provisions of this Ordinance, an option is provided to the developer relative to the substitution of a greenbelt for a required wall or berm, the minimum starting height of plant materials shall be equivalent to the required wall height.

**SECTION 1100.9:5** Whenever a greenbelt or planting screen is required under the provisions of this Ordinance, the site plan of the parcel to be developed shall include a planting plan which shall indicate, to scale, the location, spacing, starting size and description for each unit of plant material proposed for use in the required greenbelt area, together with the finished grade elevations proposed therein. The Planning Commission shall review the planting plan relative to:

(1) The proper spacing, placement, and location of plant materials relative to the length and width of greenbelt so as to insure that the required horizontal and vertical obscuring effect of proposed land uses will be achieved.

(2) The choice and selection of plant materials so as to insure that the root system will not interfere with public utilities and that fruit and other debris (other than leaves) will not constitute a nuisance in public rights-of-way, or to abutting property owners.

(3) The proposed relationship between deciduous and evergreen plant materials so as to insure that a maximum obscuring effect will be maintained throughout the various seasonal periods.

(4) The size of plant material (both starting and ultimate) to insure adequate maturity and optimum screening effect of proposed plant materials.

(5) The Planning Commission may furnish a list of suggested plant materials upon request.

### **SECTION 1100.9:6 Required Height for Walls and Berms**

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 or landscaped berm as required below.

The height of the wall or berm shall be measured from the surface of the parking area or land on the nonresidential side of the wall.

- (1) Multi-family districts (on those sides adjacent to one-family districts): 4-1/2 to 6 feet high.
- (2) Vehicular parking districts: 4-1/2 feet high.
- (3) Off-street parking area (other than vehicular parking districts): 4-1/2 feet high.
- (4) Office and commercial districts: 4-1/2 to 6 feet high.
- (5) Industrial districts: 4-1/2 to 8 feet high.
- (6) Hospital (ambulance and delivery areas): 6 feet high.
- (7) Medical Professional Offices: 4-1/2 to 6 feet high.
- (8) Utility buildings, stations, and/or substations: 6 feet high.
- (9) Motels: 6 to 8 feet high.
- (10) In the case of variable wall or berm height requirements such as in 1, 4, 5, and 9 above, the height of the obscuring wall or berm shall be determined by the Planning Commission on the basis of land use, provided that no wall or berm shall be less than the above required minimum height.

#### **SECTION 1100.9:7 Location And Construction Of Walls And Berms**

(1) Walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformity with yard setback lines. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone. The continuity of the required wall on a given block will be a major consideration of the Planning Commission in reviewing such a request.

(2) Walls shall have no openings for vehicular traffic or other purposes except as otherwise provided in this Ordinance and except such openings as may be approved by the Planning Commission. All walls herein required shall be constructed of material determined to be durable, weather-resistant, rust-proof, and easily maintainable.

(3) Walls may be constructed with openings which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the Planning Commission.

(4) Berms shall be constructed as landscaped earth mounds with a crest area at least 4 feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope, or retained by means of a wall, terrace, or other means acceptable to the Planning Commission. Whenever an earthen slope is provided, it shall be constructed with an incline not to exceed one foot of vertical rise to three feet of horizontal distance.

(5) Berm slopes shall be protected from erosion by sodding or seeding. If slopes are seeded, they shall be protected with a straw mulch held in place by jute netting until the seed germinates and a permanent lawn is established. The straw mulch is not required if the seeded slope is protected by a net that is specifically designed to control erosion. The berm area shall be kept free from refuse and debris and shall be planted with shrubs, trees, or lawn and shall be maintained in a healthy, growing condition.

(6) A planting plan and grading plan shall be prepared for the berm and shall be reviewed by the Planning Commission. Plant materials within the berm area shall be installed in accordance with the requirements for greenbelts and plant material contained herein.

## **ARTICLE 1100.10 APPEAL**

**SECTION 1100.10:1** The Zoning Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall or berm be permitted to be less than 4-1/2 feet in height.

## **CHAPTER XII ADMINISTRATION AND ENFORCEMENT**

### **ARTICLE 1200.1:1 CITY BUILDING INSPECTOR**

#### **SECTION 1200.1:1 Building Permits.**

(1) No sign, parking area, fence, building, or other structure regulated by this Ordinance shall be erected, razed, moved, extended, enlarged, altered, or changed in use until a building permit has been issued by the Building Inspector.

(2) An application for a building permit shall be filed with the Building Inspector by the Owner of the land involved or by an authorized agent.

(3) If Site Plan Review is stipulated by this Ordinance, no building permit shall be issued until the site plan has been approved in accordance with the procedures in CHAPTER XI.

(4) If Site Plan Review is not required by this Ordinance, the application for a building permit shall contain a written statement of the intended use or change and shall be accompanied by building plans and a plot plan showing the location of the proposed improvements upon the lot. Prints of all plans shall be submitted in duplicate, showing pertinent dimensions to scale. The application and plans shall be signed by the property owner or his agent, and by the person preparing them.

(5) A fee established by resolution of the City Council shall accompany all applications to defray administration and inspection costs.

(6) No building permit shall be issued unless the application and plans conform in all respects to this Ordinance and to other applicable city, state, and federal regulations, and have been approved by any required review board or person. The building permit shall state any special condition imposed by this Ordinance or by any review board or person and shall be signed by the Building Inspector and the owner. A copy of the signed building permit shall be sent to the City Assessor.

#### **SECTION 1200.1:2 Occupancy Permits.**

(1) Before any new sign, parking area, building, or other new structure or a new part thereof regulated by this Ordinance is occupied or used, an occupancy permit shall be obtained.

(2) The Building Inspector shall ascertain by inspection that the intended use, premises, building, structure, or parts thereof, comply with the requirements of this Ordinance, other ordinances or regulations of the City, the requirements of State and Federal law, and all aspects of the approved plan, including any special conditions attached to the building permit.

(3) Upon so finding, the Building Inspector shall issue an occupancy permit, acknowledged by the signature of the owner thereon. A copy of the occupancy permit shall be sent to the City Assessor by the Building Inspector.

(4) No building declared unsafe or unfit for human habitation shall be occupied or used.

**SECTION 1200.1:3 Enforcement.** This Ordinance shall be enforced by the Building Inspector.

(1) Building Inspector shall not issue any permit which would authorize a violation of any provisions of this Ordinance or of any other applicable City regulation, except upon the order of the Zoning Board of Appeals.

(2) The Building Inspector shall investigate any alleged violation of this Ordinance coming to his attention, whether by complaint or from personal knowledge. If a violation is found to exist, the Building Inspector shall send notice of the violation to the owner as shown on the tax role. If a violation is found to exist 30 days after such notification, the Building Inspector shall notify the City Commission. The foregoing shall not prevent the Building Inspector from at any time commencing a criminal prosecution or seeking injunctive or other relief.

(3) The Building Inspector shall keep records of all inspections, investigations, applications, fees, and permits issued with notations of all special conditions involved. Copies of all plot plans approved by the Planning Commission or Zoning Board of Appeals shall also be kept. Said records shall be available as a public record.

## **ARTICLE 1200.2 CITY PLANNING COMMISSION**

**SECTION 1200.2:1 Designation.** The City Planning Commission is hereby designated as specified in the Michigan Planning Enabling Act, Act 33 of the Public Acts of Michigan of 2008, as amended, and shall perform the duties as provided in these Acts together with such other powers and duties as are given by the provisions of this Ordinance.

**SECTION 1200.2:2 Membership.** The Planning Commission shall consist of a total of nine members, one of whom shall be a member of the City Council to be selected by resolution of the City Council to serve as a member ex officio, and eight of whom shall represent insofar as possible, different professions or occupations who shall be appointed by the Mayor, subject to approval by the majority vote of the City Council. Eight (8) of the nine (9) members shall be qualified electors of the City. All members including the ex officio member shall have the right to vote. All appointed members of the Commission shall hold no other municipal office, or be an employee of the City, except that one of the appointed members may be a member of the Zoning Board of Appeals. Appointed members shall serve staggered three-year terms. All members shall hold office until successors are appointed.

**SECTION 1200.2:3 Procedures.** The Planning Commission shall elect its chairman from the appointed members, and create and fill such other offices as it may determine. The ex-officio member is not eligible to serve as chairman. The chairman's term shall be one year, with eligibility for re-election. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. The commission shall hold at least one regular meeting each month. (this not required, only four meetings per year are required) It shall adopt bylaws and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. The Planning Commission shall prepare and submit to the City Council, an annual written report to the City Council concerning its operations and the status of planning activities, including recommendations regarding actions by the City Council related to planning and development.

**SECTION 1200.2:4 Expenditures.** The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council which shall provide the funds, equipment and accommodations necessary for the Commission's work.

**SECTION 1200.2:5 Authority.** Whenever in this Ordinance the lawful exercise or existence of a use requires the review by the Planning Commission, the Planning Commission is hereby authorized

and directed to investigate, to hold required public hearings, and to recommend approval or denial of the request. The Planning Commission is authorized to do all things reasonably necessary to the making of such investigation and recommendation, subject to the provisions of this Ordinance.

**SECTION 1200.2:6 Standards for Discretionary Decisions.** In making any recommendation or determination authorized by the provisions of this Ordinance and where not otherwise provided, the Planning Commission shall be governed by the following standards:

- (1) The use or activity involved is in accordance with the intent and purpose of this Ordinance.
- (2) The use or activity involved is compatible with adjacent uses of land and the natural environment.
- (3) The use or activity involved is compatible with the capacities of public services and facilities affected by the request.
- (4) The use or activity would not affect the natural or planned drainage system to the detriment of the surrounding neighborhood.
- (5) The use or activity involved would not constitute a public or private nuisance.

**SECTION 1200.2:7 Capital Improvements Program:** The Planning Commission shall be exempted from the Capital Improvements Program.

**SECTION 1200.2:8 Removal from Office.** The City Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure of a member to disclose a potential conflict of interest constitutes a malfeasance in office.

1200.3:3(1) Revised 6/11/90  
1200.3:3(2) Added 6/11/90  
1200.3:5(4) Revised 8/14/89

## **ARTICLE 1200.3 ZONING BOARD OF APPEALS**

**SECTION 1200.3:1 Authority.** The Zoning Board of Appeals shall perform all the duties and have the powers prescribed by Michigan statutes, as amended.

### **SECTION 1200.3:2 Procedures.**

(1) The Zoning Board of Appeals shall adopt such rules of procedure, consistent with the provisions of Michigan statutes and local ordinances, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

(2) Meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the board may determine.

(3) Hearings of the Zoning Board of Appeals shall be public. The Board shall keep minutes of its proceedings showing the action and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be public record.

(4) The Zoning Board of Appeals shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative official or body changed with enforcement of this Ordinance.

The Board shall also hear and decide matters referred to them or upon which they are required to pass under the provisions of this Ordinance.

(5) An application to the Zoning Board of Appeals in cases in which it has original jurisdiction under the provisions of this Ordinance may be made by any property owner, including a tenant, or by a government office, department, board or bureau. If an application for a variance is filed by other than the owner of the property, consent of the owner shall be required in order to act on such application. Such application shall be filed with the Building Inspector, who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application to the Zoning Board of Appeals.

### **SECTION 1200.3:3 Membership.**

(1) The Zoning Board of Appeals shall consist of seven members, to be appointed by the City Council for staggered terms of three years from the date of appointment, and extending until a successor shall be appointed. Vacancies shall be filled by appointment for unexpired terms. The Zoning Board of Appeals shall elect its own Chairman, vice chairman, and secretary from among its membership. Members of the Zoning Board of Appeals must be residents of the City.

(2) The City Council may appoint two alternate members to the Zoning Board of Appeals for staggered terms of three years. The Chairman of the Zoning Board of Appeals may call the alternate members on a rotating basis to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. The Chairman may also call an alternate member to serve in the place of 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 having been appointed to hear a case, whether for absence or conflict of interest, shall serve in the case until a final decision has been made. The alternate members shall have the same voting rights as regular members of the Zoning Board of Appeals.

**SECTION 1200.3:4 Voting.** A majority vote of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under this Ordinance, or to effect a variance in an ordinance, except that in cases of land use variance, a two-thirds vote is required.

### **SECTION 1200.3:5 Appeal Procedure**

(1) An appeal may be filed by a person aggrieved, or by an officer, department, board, or bureau of the City. Such appeal shall be taken within 30 days of the date the individual receives notice of the decision being appealed. Such notice must include a statement of the individual's right to appeal and the time limit for filing such an appeal.

(2) An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application of or notice to the officer or body from whom the appeal is taken and due cause shown

(3) Decisions on appeals shall be rendered within 60 days after the hearing thereon, and in any event, within 90 days after the filing of the appeal. All decisions of the Zoning Board of Appeals shall become final five days after the date of entry of an order, unless the Board shall find and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal right.

(4) If the Zoning Board of Appeals fails to decide an appeal within the time required by subsection (3) of this section, the appeal shall be deemed to be denied, and the person filing the appeal may pursue his other legal remedies as if a decision had been rendered denying the appeal.

### **SECTION 1200.3:6 Variance Procedures.**

(1) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance, the Zoning Board of Appeals may, in passing upon appeals, vary or modify any of the rules or provisions of this Ordinance relating to the construction, or structural changes in equipment, or alterations of buildings and structures, or the use of land, buildings, or structures, so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done.

(2) A variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence in the official record of the hearing that:



- (a) Practical difficulties or unnecessary hardships do exist.
- (b) The variance will not be detrimental to adjacent properties, or to the surrounding neighborhood.
- (c) The variance is in harmony with and serves the general intent and purpose of this Ordinance.
- (d) Alleged hardships or practical difficulties include more than personal inconvenience and financial hardship. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

**SECTION 1200.3:7 Public Utility Permits.** The Zoning Board of Appeals shall have the power to permit the erection and use of a building by a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the district requirements herein established.

**SECTION 1200.3:8 Interpretation of Zoning Map.** Where a street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Zoning Board of Appeals, after notice to the owners of the property and the immediately adjoining property, and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of this Ordinance for the particular section or district in question.

**SECTION 1200.3:9 Public Hearings.** Upon the filing of any appeal or application as herein provided, or upon any other application in any matter or proceeding over which the Zoning Board of Appeals shall have jurisdiction by law or ordinance, the Zoning Board of Appeals shall hold a public hearing on such appeal or application. Notice for such public hearing shall be given in accordance with Article 1200.6.

**SECTION 1200.3:10 Fees.** Upon the filing of any appeal or application to the Zoning Board of Appeals by any person other than an officer, department, board, or agency of the City, the applicant shall pay a fee set by resolution of the City Council to defray the cost of hearing and recording the matter.

**SECTION 1200.3:11 Time Limit for Construction**

(1) If a variance is granted or the issuance of a permit is finally approved or other action by the applicant is authorized, any necessary permits shall be secured for the authorized action, and construction or use begun within six months after the date when the variance is finally granted, or the issuance of the permit is finally approved. The structure, building, or alteration, as the case may be, shall be completed within 15 months of said date. Appropriate dates indicating these limits shall be entered on the building permit when issued. For good cause shown, the Zoning Board of Appeals may, upon application in writing stating the reasons thereof, extend either the six-month or the fifteen-month period for such further time as the Zoning Board of Appeals may, in its discretion, deem sufficient.

(2) Should the applicant fail to obtain any necessary permit within such six-month period, or having obtained the same, should fail to commence work, it shall be conclusively presumed that the applicant has waived, withdrawn, and abandoned his appeal, and all permissions, permits, and variances granted to him by reason of said appeal shall be deemed automatically rescinded by the Zoning Board of Appeals.

(3) Should the applicant commence any required construction or alteration within the said six-month period, but fail to complete such construction or alteration within the said fifteen-month period, the Zoning Board of Appeals may, upon 10 days written notice, rescind or revoke the granted variance, or the issuance of the permit, or the right to take such other action as may have been authorized to the applicant, if the Board finds that no good cause appears for such failure.

**SECTION 1200.3:12 Employees.** The Zoning Board of Appeals may employ such clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and then available for that purpose.

**SECTION 1200.3:13 Denial of Appeal.** When any application made under the provisions of this Ordinance shall have been denied by the Zoning Board of Appeals, not less than one year must intervene before the application may be resubmitted, unless a positive finding is made by the Building Inspector that the facts of the case have substantially changed since its previous consideration.

## **ARTICLE 1200.4 DISTRICT CHANGES AND ORDINANCE AMENDMENTS**

**SECTION 1200.4:1 Grant of Power.** In accordance with the provisions of Act 110, PA 2006, as amended, the City Council may from time to time amend, or change by ordinance, the number, shape, or area of districts established on the Zoning Map or the regulations set forth in this Ordinance; but no such amendment or change shall become effective unless the ordinance proposing such amendment or change shall first be submitted to the Planning Commission for approval, disapproval, or suggestion, and the Planning Commission shall have been allowed a reasonable time, not less than 60 days, for setting a public hearing and submitting a recommendation to the City Council.

### **SECTION 1200.4:2 Application Content and Required Fee**

(1) Any person or persons desiring a change in this Ordinance or the Zoning Map shall make application to the Zoning Administrator. In case of an Ordinance text amendment, a letter shall be submitted which shall contain the requested change and the reason for such change; in case of a Zoning Map change, an application shall be submitted which shall describe the property involved, the zone change requested, and the reason for such change; provided, however, in order to have standing to apply for a map change, a person must demonstrate an interest in the property to be rezoned. Persons who may request a map change include, but are not necessarily limited to, the owner, a mortgage holder and other persons having a similar legal or equitable interest in the property to be rezoned.

(2) With either type of request, there shall be an accompanying remittance of a fee to cover costs encountered in conducting a public hearing, the amount of the fee to be established by resolution of the City Council.

### **SECTION 1200.4:3 Amendment Procedure**

(1) Before submitting recommendations for a zoning ordinance amendment to the City Council, the Planning Commission shall conduct a public hearing on the proposed text or map change.

(2) Conditional Zoning Map Amendment:

(a) **Intent**

It is recognized that there are certain instances when it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning classification, if certain conditions are proposed by property owners as part of a request for a zoning map amendment, otherwise referred to as rezoning. It is the intent of this section to provide a process consistent with the provisions of the Michigan Zoning Enabling Act by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(b) All owners of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(c) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section. All other provisions of this section shall apply.

(d) Hearing notices shall clearly indicate the proposed zoning amendment is a conditional rezoning amendment, which is specific to property that is indicated

in the notice. The notice shall also indicate the condition(s), or zoning amendment request may be rejected, approved or modified by City Council.

- (e) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- (f) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- (g) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- (h) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is first granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- (i) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- (j) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are offered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original conditional rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation without consideration of the withdrawn conditions, and a new application fee will be charged to the owner to cover the costs of the additional public hearing.
- (k) A conditional zoning proposal shall not be accepted for consideration if the proposed statement of conditions contains provisions, which are less restrictive than those found in the proposed zoning district. Such requests shall be pursued as a variance.
- (l) The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

#### **SECTION 1200.4:4 City Council Action**

(1) (a) After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning or conditional zoning proposal and may approve or deny the request. The City Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Ordinance. Should the City Council consider amendments to the proposed conditional rezoning advisable, and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council may accept such amendments without referral back to the Planning Commission.

(b) Upon presentation of a protest petition meeting the requirements designated below, the amendment in question shall be passed only by a two-thirds vote of the City Council. The protest petition shall be presented to the City Council before final legislative action and shall be signed by either:

- (i) The owners of at least 20 percent of the area of land included in the proposed change: or

- (ii) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (2) Publicly owned land shall be excluded in calculating the 20 percent requirements contained in Subsection (1)(b).
  - (3) The Statement of Conditions shall:
    - (a) Be in a form recordable with the Mason County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.
    - (b) Contain a legal description of the land to which it pertains.
    - (c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
    - (d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
    - (e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the Mason County Register of Deeds.
    - (f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
    - (g) Upon approval of a conditional zoning amendment, the statement of conditions shall be recorded in the Mason County Register of Deeds office. Upon approval of a conditional zoning amendment, the boundary of the parcel(s) subject to the conditional rezoning shall be shown on the zoning map with a symbol (such as but not limited to an asterisk) to indicate a statement of conditions exists for the parcel(s).
  - (4) Enforcement of provisions:
    - (a) If the terms of the Statement of Conditions in an approved conditional rezoning are violated and enforcement efforts have not been successful in correcting the violations, then the Planning Commission shall initiate, and the City Council shall adopt, a zoning amendment to revert the zoning classification of the subject land back to what it was prior to adoption of the conditional zoning. In doing so, the same process for amending the Zoning Ordinance in this section shall be followed, except for the requirement of a finding of compliance with the plan.
  - (5) Compliance with Conditions:
    - (a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
    - (b) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.
  - (6) Time Period for Establishing Development or Use:
 

Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits shall be commenced upon the land within 18 months after the effective date of the ordinance conditionally rezoning the land and thereafter proceed

diligently to completion. This time limitation may upon written request be extended by the City Council if:

- (a) It is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
  - (b) The City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- (a)
  - (b)
  - (c) If approved development and/or use of the conditionally rezoned land does not occur within the time frame specified under Subsection 6 above, then the land shall revert to its former zoning classification, as set forth in the Michigan Zoning Enabling Act MCL 125.3405, as amended. The reversion process may be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification or it may be initiated by the Planning Commission. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
- (8) Subsequent Rezoning of Land:
- (a) When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection 7 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The Zoning Administrator shall record with the Mason County Register of Deeds a notice that the Statement of Conditions is no longer in effect.
- (9) Amendment of Conditions:
- (a) During the time period for commencement of an approved development or use specified pursuant to Subsection 6 above or during any extension thereof granted by the City Council, the City shall not unilaterally add to or alter the conditions in the Statement of Conditions.
  - (b) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions as set forth in Subsection 2(j) above.
- (10) City Right to Rezone:
- Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A 110 of 2006, as amended.
- (11) Failure to Offer Conditions:
- The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**SECTION 1200.4:5 Publication Requirements.** Following the adoption of an amendment to this Ordinance by the City Council, one Notice of Adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. The notice shall include the following information:

- (1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
- (2) The effective date of the ordinance.
- (3) Place and time where a copy of the ordinance may be purchased or inspected.

## **ARTICLE 1200.5 VIOLATIONS AND PENALTIES**

**SECTION 1200.5:1 Violation** Violations of any provision of this Zoning Ordinance shall constitute a municipal civil infraction subject to the sanctions as provided in Section 1.7 of Chapter 1 of Part II of the Ludington City Code.

**SECTION 1200.5:2 Public Nuisance Per Se.** Buildings erected, altered, razed, or converted, or uses carried on in violation of this Ordinance are declared to be a public nuisance per se.

**SECTION 1200.5:3 Separate Offense.** Each day in which a violation shall occur or continue shall be a separate violation.

**SECTION 1200.5:4 Rights and Remedies Cumulative.** The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

## **ARTICLE 1200.6 NOTICE FOR PUBLIC HEARINGS**

**SECTION 1200.6:1** The purpose of this Article shall be to provide uniform notification requirements for public hearings where such public hearings are required under the Michigan Zoning Enabling Act, PA 110 of 2006.

**SECTION 1200.6:2 Notices:** Except as otherwise provided in the Zoning Enabling Act where the City is required to provide notice of hearing, such notice shall be provided as follows:

- (A.) A notice shall be published in a newspaper of general circulation at least 15 days before the hearing.
- (B.) At least 15 days before the hearing, notices shall be mailed or hand delivered to
  - i. the owners of property for which approval is being considered and to the applicant, if different than the owner(s) of the property,
  - ii. to all persons or firms to whom real property is assessed within 300 feet of the subject property, and
  - iii. to all occupants of structures which are within 300 feet of the subject property.
- (C) notices shall be provided regardless of whether property within 300 feet of the property under consideration is inside the City. If the name of an occupant is not known, the term “occupant” may be used in making notification.
- (D.) Notice under subsection 1200.6:2(B)(ii) and (iii) need not be given where the request involves eleven (11) or more adjacent properties, or where the request does not involve any specific parcels of property.  
The notices shall:
  - i. Describe the nature of the request.
  - ii. Identify any property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
  - iii. State when and where the request will be considered.
  - iv. Indicate when and where written comments will be received concerning the request.



**CHAPTER XIII SEVERABILITY**

**ARTICLE 1300.1**

Should any ARTICLE, SECTION, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

**CHAPTER XIV CONFLICTING ORDINANCES**

**ARTICLE 1400.1**

Any and all ordinances or parts thereof in conflict with or inconsistent with any of the terms of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent, provided, however, that the adoption of this Ordinance shall not prevent or bar the continuance or institution of any proceedings for offenses heretofore committed in violation of any existing ordinances of the City of Ludington. However, in the event that this Ordinance shall be held, by any court, to be invalid, Ordinance No. 788 as amended, and as existing immediately prior to the effective date of this Ordinance, shall then remain in effect.

**CHAPTER XV EFFECTIVE DATE**

**ARTICLE 1500.1**

This Ordinance was adopted by the City Council of the City of Ludington, Michigan, March 27, 2000.

This Ordinance shall take effect on April 17, 2000.

CAROL POMORSKI, MAYOR

I, the duly qualified Clerk of the City of Ludington, a municipal corporation of the State of Michigan, hereby certify that the foregoing is a true, accurate, and correct copy of the Zoning Ordinance, as amended, adopted by the City Council of said City on the 27th day of March, 2000.

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Gerry Pehrson Klaft,  
City Clerk

