CITY OF WHITEHALL ZONING ORDINANCE

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ARTICLE I

SHORT TITLE

15-1-1 This Ordinance shall be known and may be cited as the City of Whitehall Zoning Ordinance.

ARTICLE II
PURPOSE

15-2-1 Pursuant to the authority conferred by the City or Village Zoning Act (P.A. 207 of 1921, as amended), this Ordinance has been established for the purpose of:

1) Promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City.
2) Protecting the character and stability of the open space**,** residential, and commercial areas and promoting the orderly and beneficial development of such areas.
3) Providing adequate light, air, privacy, and reasonable access to property.
4) Regulating the use intensity of land areas and determining the area of open spaces surrounding buildings necessary to provide adequate light and air, and to protect the public health.
5) Lessening and avoiding congestion of the public highways and streets.
6) Promoting healthful surroundings for family life in residential areas.
7) Protecting the public and adjacent uses from fire, explosion, fumes, odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards.
8) Preventing the overcrowding of land and undue concentration of buildings so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the surrounding land.
9) Enhancing social and economic stability.
10) Enhancing the aesthetic desirability of the environment.
11) Conserving the expenditures of funds for public improvements, energy, and other services to conform with the most advantageous uses of land.
12) Implementing the recommendations and desires of the Comprehensive Master Plan.

ARTICLE III
DEFINITIONS

15-3-1 CONSTRUCTION OF LANGUAGE

The following shall apply to the text of this Ordinance:

(A) All words and phrases shall be construed and understood according to the common and approved usage of the language. Technical words and phrases that may have a particular and appropriate meaning in the law, shall be construed and understood according to such particular and appropriate meaning.

(B) The particular shall control the general.

(C) In case of any difference in meaning or implication between the text and any caption or illustration, the text shall control.

(D) The word "shall" is mandatory, "may" is permissive.

(E) If not inconsistent with the context, words in the present tense shall include the future and words in the singular number shall include the plural.

(F) The word "building" includes "structure". The word "dwelling" includes "residence". A "building" or "dwelling" includes any part thereof.

(G) The words "used" or "occupied" include "intended", "designed", or "arranged" to be used or occupied.

(H) The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.

(I) The word "lot" includes "plot" and "parcel".

(J) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by a conjunction, the conjunction shall be interpreted as follows:
   (1) "and" indicates that all the connected items, conditions, provisions, or events shall apply.
   (2) "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
   (3) "either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

(K) Every word importing the singular number only may extend to and embrace the plural number. Every word importing the plural number may

be applied and limited to the singular number. Every word importing a particular gender may extend to and embrace the opposite gender.

(L) Whenever a reference is made to several sections and the section numbers are connected by the word "to", the reference includes both sections whose numbers are given and all intervening sections.

(M) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

15-3-2 DEFINITIONS

For the purpose of this Ordinance, words pertaining to access, building, property, land use, building use, building measurement, and enforcement shall have the following meaning:

(1) ACCESSORY BUILDING. A structure customarily incidental and subordinate to a principal structure located on the same lot as the principal building.

(2) ACCESSORY USE. A function customarily incidental and subordinate to the principal function located on the same lot as the principal use.

(3) ADULT FOSTER CARE FAMILY HOME. A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for (5) or more days a week and for two (2) consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

(4) ADULT FOSTER CARE FACILITY. A facility defined as an "adult foster care facility" by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.) as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An "adult foster care facility" include facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an on-going basis, but who do not require continuous nursing care.

(5) AGRICULTURE. Any land or building used for pasturage, floriculture, dairying, horticulture, viticulture, livestock or poultry husbandry.

(6) ALLEY. A public or legally established private thoroughfare affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

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

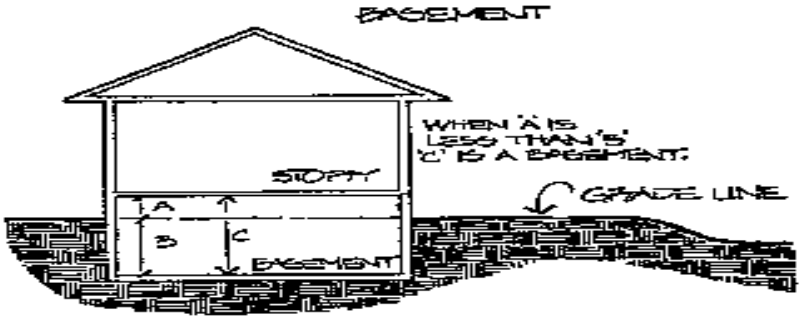
(8) APARTMENT. A dwelling unit within a building with other uses/units for long term rental to one family.

(9) ASSISTED LIVING A dwelling unit where the furnishing of medical care, nursing, housekeeping, personal care and/or meals are available to the occupants.

(10) AUTOMOBILE REPAIR GARAGE. A premise where general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame, or fender straightening and repair, or painting and under coating of vehicles carried out in a completely enclosed building.

(11) AUTOMOBILE SERVICE STATION. A building or premise used primarily for the sale and installation of major automobile accessories such as tires, batteries, radios, air conditioners, and mufflers, plus such services as brake adjustment, wheel alignment and balancing excluding major mechanical repairs, collision work, undercoating, painting**,** or detailing. The sale of gasoline shall be incidental to the above enumerated activities.

(12) BASEMENT. That portion of a building where 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.



(13) BED AND BREAKFAST. An accessory use to the principal use of a dwelling as a single family detached dwelling unit in which transient guests are provided a sleeping room and food for payment.

(14) BERM. A man made earth mound used for sound absorption and/or obscuring purposes and to provide a transition between uses of differing intensity.

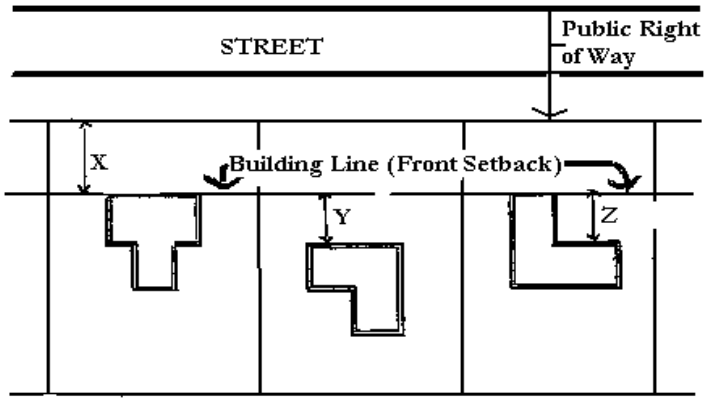
(15) BLOCK. The property abutting one side of a street and lying between the two nearest intersecting streets or between the nearest such street and railroad right of way, unsubdivided acreage, lake, river, stream, or other barrier to the continuity of development or corporate boundary lines.

(16) BUFFER. A strip of land, including any specified plantings or structures required to provide a transition between uses of differing intensity.

(17) BUILDING. A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or property. When such a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate building, except for minimum setbacks as required.

(18) BUILDING HEIGHT. The vertical distance measured from the established grade to the highest point of the roof surface.

(19) BUILDING LINE. A line parallel to the front lot line. A minimum building line is the same as the minimum required front setback line.



BUILDING LINE AND YARDS
NOTES:
1. Building line is minimum set back line.
2. "X" is minimum front yard required.
3. "Y" is front yard in excess of the minimum front yard required.
4. "Z" is court yard in excess of the minimum front yard required.

(20) CAMPGROUND. A parcel or tract of land on which five or more campsites for tents or recreational vehicles are located and offered for recreational or travel use, either free of charge, or for a fee, for use by the traveling public, or members of an organization.

(21) CARPORT. A partially open structure, intended to shelter one or more vehicles. Such structure shall comply with all yard requirements applicable to private garages.

(22) CERTIFICATE OF ZONING COMPLIANCE. A certificate issued by the Zoning Administrator to a party intending to initiate any work or change any use of property.

(23) CHILD CARE CENTER. A facility, other than a private residence, where child care is provided for 1 or more children whose parents are not immediately available. (State of Michigan definition)

(24) CHURCH. A building wherein persons assemble for religious worship controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

(25) CLINIC. A place for the care, diagnosis, and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to the operation of the clinic or service to the patients, excluding facilities for inpatient care or major surgery.

(26) CLUB. An organization of persons for special purposes such as the promulgation of sports, arts, science, literary, or political activities, not operated for profit and open only to members and not to the general public.

(27) COMPREHENSIVE MASTER PLAN. The City of Whitehall Comprehensive Master Plan prepared and adopted under the authority of the Municipal Planning Act (P.A. 285 of 1931, as amended).

(28) CONDOMINIUM. A system of separate ownership of individual units and/or multi-unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by the unit owners.

(29) CURB LEVEL. The grade elevation established by the City, of the curb in front of the center of the building or proposed building, or the elevation of the traveled street in the absence of a curb.

(30) DRY CLEANING PLANT. A building used or intended to be used for cleaning fabrics, textiles, wearing apparel or articles of any sort.

(31) DWELLING. A building or portion thereof designed for or used exclusively as a home, residence, or sleeping place. Where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling.

(a) Single Family - A detached building designed for or occupied exclusively by one family.

(b) Two Family - A detached building designed for or occupied by two families living independently of each other.

(c) Multiple Family - A building designed for or used as a residence for three or more families living independently of each other.

(d) Duplex - A building designed for use as a two family residence with the units being side by side.

(32) DWELLING UNIT. One or more rooms connected together with kitchen and bathroom facilities designed for use by one family or one functional family for living and sleeping purposes, constituting a separate independent housekeeping unit, and physically separated from any other rooms or dwelling units in the same structure.

(33) EASEMENT. The right of one land owner to make lawful and beneficial use of the land of another, created by an express or implied agreement.

(34) EFFICIENCY APARTMENT. A self-contained dwelling unit with bathroom and principal kitchen facilities designed for living, cooking, and sleeping purposes with no separate designated bedroom.

(35) ERECTED. Anything that is built, constructed, reconstructed, moved upon, or any physical operations on the premises. Excavations, fill, and drainage shall be considered a part of erection.

(36) ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead facilities such as gas, communication, telephone, electrical, etc., necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, excluding buildings, substations, or structures which are enclosures or shelters for equipment, or maintenance depots.

(37) ESTABLISHED GRADE. Shall be the average grade of the footprint of a proposed structure prior to any excavation taking place (in the case of a walkout, the front wall of the structure shall control).

(38) FAMILY. An individual; two or more persons related by blood, marriage, or adoption; parents along with their direct lineal descendants and adopted or foster children including domestic employees; or no more than two persons not related by blood or marriage occupying a premise and living as a single housekeeping unit with single cooking facilities. This

definition shall not apply to group care centers or state licensed residential facilities established under PA 395 of 1976.

(39) FAMILY DAY CARE HOME. A private residence that the child care provider lives in and cares for up to six unrelated children for more than 4 weeks in a year when the children's parents/guardians are not immediately available. (State of Michigan definition) Note: A Family Day Care Home shall be considered a residential use and thus, permitted by right in all residential districts.

(40) FAMILY, FUNCTIONAL. Persons living in a dwelling unit and intending to live together as a group for the indefinite future. This definition shall not include fraternity, sorority, club, hotel or other groups whose association is temporary or commercial in nature.

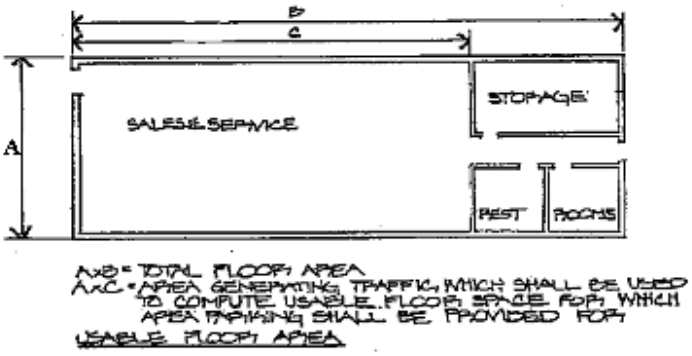
(41) FENCE. An artificially constructed barrier of wood, metal, stone, or any manufactured materials erected for the enclosure of yard areas.

(42) FILLING. The depositing or dumping of any matter into or onto the ground except common household gardening and maintenance.

(43) FLOOR AREA.

(a) Gross - The sum of all horizontal areas of the several floors of a building measured from the outside dimensions of the structure. Unenclosed porches, courtyards, or patios whether covered or uncovered shall not be considered as a part of the gross floor area unless used for commercial purposes such as nursery beds or sales of outdoor equipment.

(b) Usable - That area to be used for the sale of merchandise or services, or to service patrons, clients, or customers, excluding floor area used or intended to be used for the storage or processing of merchandise, hallways, stairways, elevator shafts, utilities, or sanitary facilities. Total usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.



(44) GARAGE, PRIVATE. An accessory building or portion thereof designed or used solely for the storage of noncommercial motor vehicles, boats, and similar items or equipment having no regular public sales or services, excluding approved garage sales.

(45) GASOLINE SERVICE CENTER. A structure used for the retail sale or supply of fuels, lubricants, air, water, and other commodities for motor vehicles including customary facilities for the storage and installation of such commodities while excluding bumping, painting, refinishing, or conveyer type car wash operations. Such operations may include the sale of convenience type products.

(46) GRADE. An elevation as determined by the level of the ground adjacent to the walls of any structure used to control the number of stories and height of a structure. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

(47) GREENBELT. A strip of land reserved for the planting of shrubs or trees to serve as an obscuring screen or buffer.

(48) GROUP DAY CARE HOME. A private residence that the child care provider lives in and cares for up to 12 unrelated children for more than 4 weeks in a year when the children's parents/guardians are not immediately available. (State of Michigan definition)

(49) HOME OCCUPATION. A profession conducted entirely within a dwelling and carried on by the inhabitants thereof which use is clearly incidental and secondary to the use of the structure as a dwelling and does not involve any alteration or change in character of the structure.

(50) HOTEL. A building in which lodging is offered and provided to the public for compensation as transient guests.

(51) KENNEL.

(a) Commercial - A lot or premise used for the commercial maintenance of dogs, cats, or other domestic pets.

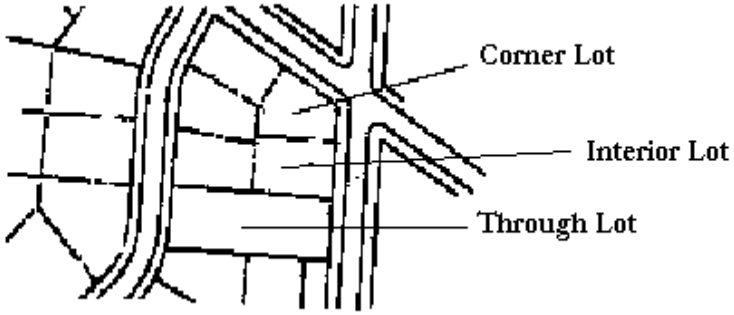
(b) Private - A lot or premise used for the private maintenance of up to four dogs, cats, or other domestic pets in any combination. The keeping of more than four animals, regardless of ownership or species, shall be considered a commercial kennel.

(52) LOADING SPACE. An off street area located on the same lot it is intended to serve, used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

(53) LOT. Land occupied or to be occupied by a building or land use having its frontage upon a street.

(a) Corner - A parcel having at least two contiguous sides abutting upon a street.
(b) Interior - A parcel that has only one property line abutting a street.
(c) Through - A double frontage parcel having two noncontiguous sides abutting a street right of way.

CORNER, INTERIOR AND THROUGH LOTS



(54) LOT AREA. The total horizontal area within the boundary lines of a parcel of property.

(55) LOT, DEPTH OF. The distance from the front property line of the parcel to the opposite rear line measured in the general parallel direction of the side lines of the property.

(56) LOT LINES.
(a) Front Lot Line - For an interior lot, it is the street right-of-way. For a through lot, it is the street right-of-way for either street. For a corner lot, the shorter street line shall be considered the front lot line. If both street lines are equal, the choice may be made at the discretion of the property owner.
(b) Rear Lot Line - The line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten feet in length, lying farthest from the front lot line and wholly within the lot.
(c) Side Lot Line - Any lot lines other than the front or rear lot lines.

(57) LOT OF RECORD. A parcel which is part of a subdivision or described by metes and bounds, the deed of which has been recorded in the Office of the Register of Deeds of Muskegon County, Michigan prior to the adoption of this ordinance.

(58) LOT, WIDTH OF. The straight line horizontal distance between the side lot lines measured at the two points where the building line intersects the side lot lines.

(59) LOT, ZONING. A tract of land designated by the owner or developer to be used, developed, or built on as a unit, under single ownership or control. A zoning lot may coincide with a lot of record.

(60) MAJOR THOROUGHFARE. An arterial road intended to serve large volumes of traffic for the immediate area and the region beyond.

(61) MARQUEE. A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building.

(62) MEZZANINE. That part of a building between a pitched roof and the upper most full story having a finished floor which does not exceed 50% of a full story floor area.

(63) MOBILE HOME. A moveable single family dwelling, constructed to be towed on a chassis and capable of being connected to public utilities, designed for year round living excluding pick-up campers, travel trailers, motor homes, converted buses, and tent trailers.

(64) MOTEL. A series of rental units providing overnight lodging, offered to the public traveling by motor vehicle for compensation.

(65) NONCONFORMING.

(a) Building - A building or portion thereof lawfully existing at the time of adoption of this Ordinance or any subsequent amendments, that does not conform to the regulations of the zoning district in which it is located.

(b) Use - The use of a building or land, lawfully existing at the time of adoption of this Ordinance or any subsequent amendments, that does not conform to the regulations of the zoning district in which it is located.

(66) NUISANCE. Whatever annoys, injures, or endangers the safety, health, comfort, or repose of the public; offends public decency; interferes with, obstructs, or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property.

(67) PLANNED UNIT DEVELOPMENT (PUD). A form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. A planned unit development may contain a single type of use or mix of uses if provided for by the underlying zone district.

(68) PLANNING COMMISSION. The City Planning Commission of the City of Whitehall.

(69) PUBLIC UTILITY. Any person, firm, corporation, municipal department, board, or commission duly authorized under federal, state, or municipal regulations to furnish gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation, or water to the public.

(70) RECREATION AREA. All lands and structures operated for outdoor recreation activities.

(71) RECREATIONAL VEHICLE. A motorized or non-motorized vehicle designed and used as a temporary living quarters for recreational, camping, or travel use. A recreational vehicle is not a dwelling for the purpose of this Ordinance. A tent is not a recreational vehicle for the purpose of this Ordinance. The term recreational vehicle includes the following:

(a) Travel trailer means a transportable, non-motorized vehicle which is mounted on wheels and drawn upon a highway by a motorized vehicle.

(b) Camping trailer means a transportable, non-motorized vehicle which is mounted on wheels and drawn upon a highway by a motorized vehicle, and which is constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material, which fold for towing and unfold at a campsite.

(c) Motor home means a self-propelled vehicle built on a motor vehicle chassis, and designed and constructed to provide temporary living quarters for recreation, camping or travel use.

(d) Truck camper means a portable structure designed and constructed to be loaded onto, or affixed to, the bed or chassis of a truck or other motor vehicle.

(72) RECREATIONAL VEHICLE PARK. A parcel or tract of land on which a minimum of 10 recreational vehicle sites are located and offered for use on a transient basis by persons traveling in recreational vehicles.

(73) RESTAURANT.

(a) Fast Food - An establishment whose principal business is the sale of food or beverages in a ready to consume state for consumption within a building, motor vehicle, or as carry out orders. The principal method of operation includes the service of food or beverages in edible containers, paper, plastic, or other disposable containers.

(b) Standard - An establishment whose principal business is the sale of food or beverages in a ready to consume state. The principal method of operation includes providing a menu, service by a restaurant employee to a table at which the food and beverages are consumed, or a cafeteria style operation where food and beverages are consumed within the building.

(74) RIGHT-OF-WAY. A public or private street, alley, or other thoroughfare or easement permanently established for the passage of persons or vehicles, or for the location of utilities delineated by legally established lines or boundaries.

(75) SALVAGE YARD. Land or buildings used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, machinery, scrap metals, or other discarded materials; or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in normal running condition.

(76) SATELLITE DISH ANTENNA. A parabolic antenna designed as an earth based station for the reception of radio, television, microwave, or other such signals from orbiting satellites or other sources, together with other incidental transmission equipment related to such purpose.

(77) SCREEN. A man made or natural vegetative structure providing an enclosure or visual barrier between two properties.

(78) SETBACK.

(a) Front - The required minimum unoccupied distance, extending the full lot width, between the front lot line and any structures.

(b) Rear - The required minimum unoccupied distance, extending the full lot width, between the lot line opposite the front lot line and any structures.

(c) Side - The required minimum unoccupied distance, extending the full lot length, between the side lot lines and any structures.

(79) SEXUALLY ORIENTED BUSINESS. A sexually oriented business shall include an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult hotel, adult motion picture theater, escort, escort agency, nude model studio, or other such business in which specified anatomical areas and/or specified sexually oriented activities are performed, as defined by the City of Whitehall Code of Ordinances governing Sexually Oriented Businesses, presently identified as Title XI.

(80) SHOPPING CENTER. A business or group of businesses providing a variety of merchandise or services requiring a location on a major street and a large parking lot.

(81) SIGN. Any device designed or utilized to inform or attract the attention of persons not on the premises on which the sign is located.

(82) SITE CONDOMINIUM - A condominium development containing residential, commercial, office, industrial or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within

which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

(83) SITE PLAN. A diagram showing all salient features of a proposed development in order to determine whether it meets the provisions of this Ordinance.

(84) SKILLED NURSING FACILITY. An establishment, other than a hospital, with the primary function of rendering nursing care for extended periods of time.

(85) SOLID FUEL HEATING APPLIANCE. Heating appliances that are intended to burn solid fuels, such as wood, coal, or any other biomass fuel. Solid fuel heating appliance does not include solid fuel fired cooking appliances.

(86) SPECIAL USE PERMIT. Authorization issued by the Planning Commission to a person or persons intending to undertake an activity upon land or within a structure and for those uses not specifically mentioned in this Ordinance which possess unique characteristics.

(87) STORY. That part of a building, excluding mezzanines, between the surface of one floor and the surface of the next floor or ceiling above it. A story will be counted as such when more than 50% is above the height level of the adjoining ground.

(88) STREET. A public or private dedicated right of way which affords traffic circulation and principal means of access to abutting property.

(89) STRUCTURE. Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground excluding sidewalks, drives, and utility poles.

(90) SUBDIVISION. The division of a parcel of land into five or more lots for sale or building development, excluding the dividing of land into parcels exceeding 10 acres.

(91) TENT. A collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors.

(92) TRANSITIONAL FUNCTION. A permitted use or structure that by nature or level and scale of activity acts as a transition or buffer between two or more incompatible uses.

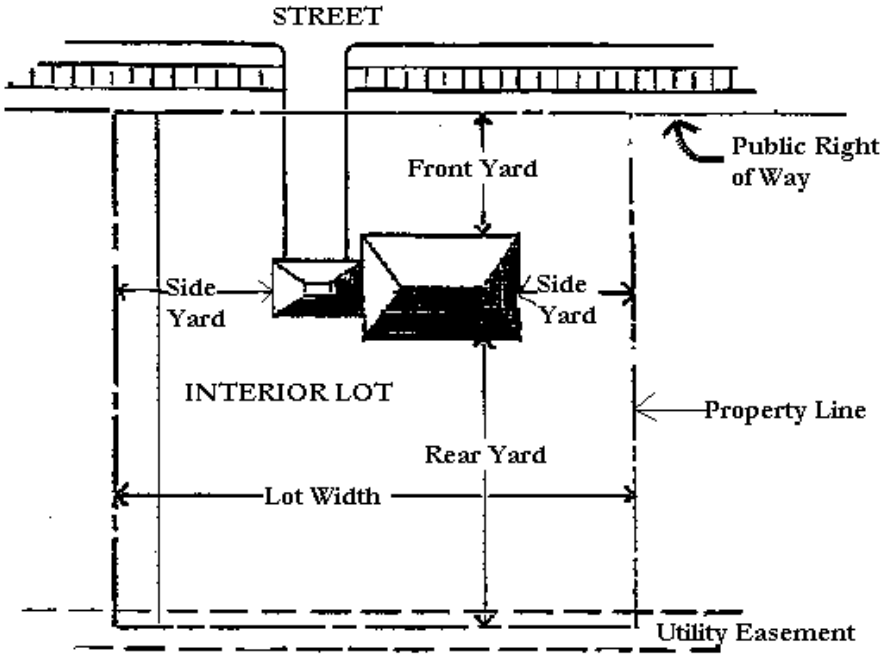
(93) VARIANCE. A modification to the literal provisions of the Zoning Ordinance.

(94) YARDS

(a) Front - An open space extending the full width of the lot lying between the front lot line and the nearest principal building.

(b) Rear - An open space extending the full width of the lot lying between the rear lot line and the nearest principal building.

(c) Side - An open space extending from the front yard to the rear yard between the side lot lines and the nearest principal building.



Lot Area = Total Horizontal Area
Lot Coverage = Percent of Lot covered by building

(95) ZONING ADMINISTRATOR. The City of Whitehall official or an authorized representative charged with the responsibility of administering this Ordinance.

(96) ZONING BOARD OF APPEALS. The City of Whitehall Zoning Board of Appeals.

ARTICLE IV
ZONING DISTRICTS AND MAP

15-4-1 ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, the City of Whitehall is hereby divided into the following zoning districts, which shall be known by the following symbols and names.

Residential Districts
R1 - Single Family Residential
R2 - Moderate Density Residential
R3 - Multiple Family Residential

Nonresidential Districts
RC1 - Restricted Commercial
B1 - General Business
B2 - Central Business
M1 - Limited Industrial
M2 - General Industrial
LR - Lakefront Recreation
AG - Agricultural Enterprise
OS - Open Space Conservation/Recreation
MC1 - Limited Industrial Commercial

15-4-2 ZONING DISTRICTS MAP

The boundaries of the zoning districts are established as shown on the Zoning Map, City of Whitehall. This map along with all notations, references, or other information shown shall be a part of this Ordinance as if fully described herein.

One copy of the Zoning Map is to be maintained and kept up to date by the City Clerk, accessible to the public, and shall be the final authority as to the current zoning status of properties within the City.

15-4-3 INTERPRETATION OF DISTRICT BOUNDARIES

Upon written application, the Board of Zoning Appeals shall determine the exact location of zoning district boundaries where due to the scale, lack of details, or illegibility of the Zoning Map, there is uncertainty, contradiction, or conflict as to the intended location of such boundaries. The Board shall apply the following standards in arriving at a decision.

(A) The boundaries are intended to follow centerline of alleys, streets, or other rights of way, or be parallel or perpendicular to lot lines, unless otherwise clearly indicated on the Zoning Map.

(B) Where district boundaries are indicated to approximately follow Lot of Record lines, such lines shall be construed as the boundary lines.

(C) For property not subdivided or where a district boundary divides a Lot of Record, the location of such boundary shall be determined by the map scale, unless shown by dimensions on the Zoning Map.

(D) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(E) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(F) Boundaries indicated as following shorelines shall be construed to follow such shorelines. In the event of a change in the shoreline, the district boundary shall move with the shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, lakes, or other bodies of water shall be construed to follow such centerline.

(G) A boundary indicated as parallel to or an extension of, any feature indicated in 15-4-3(A) through (F) shall be so construed.

(H) Where physical or natural features existing on the ground are at variance with those shown on the Zoning Map or not covered by 15-4-3(A) through (G), the Board of Zoning Appeals shall interpret the district boundaries.

15-4-4 ZONING OF VACATED AREAS

Whenever any street, alley, or other public way is vacated by official governmental action and becomes a part of the lands adjoining the vacated land, such vacated land shall automatically acquire the same zoning district, be subject to the regulations of that district, and be used for uses permitted for the adjoining lands.

15-4-5 ZONING OF FILLED LAND, USE OF WATERS

Whenever fill is placed in any body of water, the land created shall automatically acquire and be subject to the same zoning district regulations as are applicable for the adjoining lands. The surface of any body of water shall only be used for purpose permitted on the land from which the use emanates.

15-4-6 SCOPE OF PROVISIONS

(A) Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of this Ordinance shall be

subject to all regulations of this Ordinance which are applicable in the zoning district in which such use, building, or structure shall be located.

(B) Uses are permitted by right only if specifically listed as uses permitted by right within the various zoning districts unless construed to be similar to a use expressly permitted by the Board of Zoning Appeals.

(C) Accessory uses are permitted as indicated for the various zoning districts if such uses are clearly incidental to the permitted principal uses.

(D) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

15-4-7 CONFLICTING REGULATIONS

When any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. When any provision of any other law or ordinance imposes more stringent requirements than are imposed by this Ordinance, then the provisions of such law or ordinance shall govern.

15-4-8 ZONING OF ANNEXED AREAS

Any area annexed to the City of Whitehall shall immediately upon annexation, be automatically classified as an R1 District, until a zoning map for said area has been adopted by the City Council. The Planning Commission shall recommend appropriate zoning for such an area within 3 months after the annexation.

Insert Zoning Map

ARTICLE V
R1 DISTRICT - SINGLE FAMILY RESIDENTIAL

15-5-1 PURPOSE

A single family residential district implies a predominance of dwelling structures located on individual lots of land and housing only one family or household group. The R1 Single Family Residential Districts are designed to be the most restrictive of all zoning districts. The purpose of this section is to create districts providing stability to the essential characteristics of residential areas and to promote and encourage a suitable and safe environment for family life. Regulations contained in this Article provide for the development of certain limited, residentially related facilities which can provide convenient services to residential areas while preserving the residential character. To avoid the intrusion of undesirable uses and to foster all possible benefits for the continued high quality of the residential environment, specified nonresidential uses may be classified as being permitted by special use permit. Such uses present a potential injurious effect upon residential and other properties unless authorized under specific imposed conditions.

15-5-2 USES PERMITTED BY RIGHT

In an R1 Single Family Residential District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance:

(A) Single family detached dwellings.

(B) Adult Foster Care

15-5-3 PERMITTED ACCESSORY USES

(A) Accessory structures normally associated with single family dwellings, such as private garages, sheds, playhouses, and boathouses.

(B) Swimming pools.

(C) Automobile parking.

(D) Pens or enclosures for household pets.

(E) Signs subject to the regulations established in Article XXIII.

15-5-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this district by the application for and the issuance of a special use permit as provided for in Article XXIV.

(A) Religious institutions such as churches, convents, and parsonages.

(B) Educational and social institutions such as group day care homes, child care centers, pre-school, elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly, centers for social activities, libraries, museums and art galleries.

(C) Recreational facilities such as parks, playgrounds, community centers, parkways, and golf courses.

(D) Public buildings and essential public service installations excluding storage yards, telephone exchange buildings, transformer stations and substations.

(E) Two family dwellings per 15-24-13.

(F) Bed and breakfast operations per 15-20-22.

15-5-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the R1 District.

(A) No structure shall be established on any parcel, nor shall any lot hereinafter be subdivided, providing less than 6,000 square feet of lot area.

(B) The density of development as measured in the number of dwelling units per acre of land shall not exceed 7.26 units per acre for single family dwellings and 14.52 units per acre for two family dwellings.

(C) The minimum lot width shall be 60 feet. In the case where a curvilinear street pattern produces irregularly shaped lots with nonparallel side lot lines, a lesser frontage width at the street line may be permitted, provided said frontage width at the street line is no less than 45 feet. Interior lot widths may be reduced for no more than 25% of the lots in any one subdivision plat provided lots so reduced are no less than 50 feet, the interior lot width of the subdivision plat averages 60 feet in width, and no more than two adjacent lots shall be less than 60 feet in width.

(D) The maximum lot coverage by all buildings including accessory buildings shall not exceed 35%.

(E) Yard and Setback Requirements

(1) The required minimum front yard setback shall be not less than 30 feet or equal to the established setback line as specified in 15-20-13.

(2) The required minimum side yard setback shall be in accordance with the following schedule, except in the case of a corner lot, the side yard shall not be less than the setback required for the front yard as specified in 15-20-16.

Number of Stories	Minimum Side Yard	Total Side Yards
1 to 1 1/2	6 feet	16 feet
2 to 2 1/2	8 feet	20 feet

(3) The required minimum rear yard setback shall be 30 feet.

(F) No residential structure shall exceed 2 and 2 stories or 35 feet in height as measured from the average finished grade at the front setback line. Accessory buildings shall not exceed a height of 20 feet on any residential lot. (Amended by Ordinance 06-03 – 7/5/2006)

(G) Every dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than 1,000 square exclusive of basements, garages, porches, and breezeways.

ARTICLE VI
R2 DISTRICT - MODERATE DENSITY RESIDENTIAL

15-6-1 PURPOSE

The purpose of the R2 District is to achieve the same character, stability, and sound residential development intended for the R1 Districts, yet at a slightly higher density of population. This is to be accomplished through the construction and occupancy of single family dwellings on slightly smaller lots and by permitting two family dwellings. There is no intent to promote, by these requirements, a residential district of lower quality than the R1 District.

15-6-2 USES PERMITTED BY RIGHT

In an R2 Moderate Density Residential District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance:

(A) Single family detached dwellings.

(B) Two family dwellings.

15-6-3 PERMITTED ACCESSORY USES

(A) Those accessory uses as permitted in 15-5-3.

15-6-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in an R2 District, by the application for and the issuance of a Special Use Permit as provided for in Article XXIII.

(A) Those special uses as permitted in 15-5-4.

(B) Institutions for human care such as skilled nursing and assisted living facilities. All institutions shall be licensed in accordance with Michigan laws.

(C) Adult Foster Care Facility

15-6-5 SITE DEVELOPMENTS STANDARDS

The following standards shall apply to all uses and structures in the R2 District.

(A) Lot Area

(1) Single family detached dwellings shall require a minimum parcel size of not less than 5,000 square feet of lot area.

(2) Two family dwellings shall require a minimum parcel size of not less than 7,200 square feet of lot area.

(B) The density of development as measured in number of dwelling units per acre of land shall not exceed 8.71 units per acre for single family dwellings and 12.10 units per acre for two family dwellings.

(C) Lot Width

(1) The minimum lot width for single family detached dwellings shall be 50 feet. In the case where a curvilinear street pattern produces irregularly shaped lots with nonparallel side lot lines, a lesser frontage width at the street may be permitted provided that the lot line width at the front setback lines is no less than 50 feet.

(2) The minimum lot width for two family dwellings shall be 60 feet.

(D) Yard and Setback Requirements

(1) The required minimum front yard setback shall not be less than 30 feet, or equal to the established setback line as specified in 15-20-13.

(2) The required minimum side yard setback shall be in accordance with the following schedule, except in the case of a corner lot, the side yard shall not be less than the setback required for the front yard as specified in 15-20-16.

Type of Dwelling	Minimum Side Yard	Total Side Yards
Single Family	5 feet	10 feet
Two Family	7 feet	14 feet

(3) Rear Yard

(a) Single Family 30 feet

(b) Two Family 40 feet

(E) No residential structure shall exceed 2 and 1/2 stories or 35 feet, measured from the average finished grade at the front setback line. Accessory buildings shall not exceed a height of 20 feet on any residential lot. (Amended by Ordinance 06-03 – 7/5/2006)

(F) Minimum Building Floor Area

(1) Single family dwellings - see 15-5-5(G)

(2) Two family dwellings - the minimum gross living space in a two family dwelling shall not be less than 1,800 square feet. Neither living unit shall contain less than 800 square feet of living area, exclusive of basements, garages, porches, and breezeways.

ARTICLE VII
R3 DISTRICT - MULTIPLE-FAMILY RESIDENTIAL

15-7-1 PURPOSE

The purpose of the R3 District is to accommodate a mixture of housing types, including multiple family residential uses, occurring at a higher density than in the single family districts, but at no lower standards of quality. Multiple family residential developments are to be located near major utility and transportation corridors, and major concentrations of natural and social amenities. This district may act as a buffer area between single family residential and nonresidential uses. This district is provided to serve the residential needs of persons desiring apartment type accommodations with central services and minimal maintenance.

15-7-2 USES PERMITTED BY RIGHT

In an R3 Multiple Family Residential District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) Single family detached dwellings.

(B) Single family attached dwellings, such as townhouses.

(C) Two family dwellings, such as duplexes.

(D) Multiple family dwellings such as apartments of 2 1/2 stories (35 feet) or less.

15-7-3 PERMITTED ACCESSORY USES

(A) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(B) Accessory buildings or uses developed to service only the residents of a residential complex, including swimming pools, community buildings, recreation areas and other similar uses.

15-7-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in the R3 District by application for and the issuance of a Special Use Permit as provided for in Article XXIV.

(A) Those special uses as permitted in 15-6-4.

(B) Multiple family dwellings such as apartments, in structures of 3 or more stories.

(C) Adult Foster Care Facility

15-7-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the R3 District.

(A) No structure shall be established on any parcel, nor shall any lot hereinafter be subdivided, providing less than the following minimum area:

Use	Minimum Lot Area
Single family attached dwellings	10,000 square feet
Two family dwellings	7,200 square feet
Multiple family dwellings	10,000 square feet

(B) The density of development as measured in number of dwelling units per acre of land shall not exceed 10 units per acre for single family attached dwellings, 12.1 units per acre for two family dwellings, and 14.5 units per acre for multiple family residents.

(C) Lot Width

(1) The minimum lot width for single family attached residential dwellings shall be 100 feet of public road frontage.

(2) The minimum lot width for two family dwellings shall be 60 feet. In the case where a curvilinear street pattern produces irregularly shaped lots with nonparallel side lot lines, a lesser frontage width at the street may be permitted provided that the lot width at the front setback lines is no less than 60 feet. Interior lot widths may be reduced for no more than 25% of the lots in one subdivision plat provided those lots reduced are no less than 50 feet in width and provided no more than two adjacent lots shall be less than 50 feet in width.

(3) The minimum lot width for multiple family dwellings shall be 100 feet.

(D) Yard and Setback requirements

(1) The required minimum front yard setback shall be not less than 30 feet plus an additional foot required for each additional one foot the building exceeds 30 feet in height.

(2) Side Yards

(a) The required minimum side yard setback for two family dwellings shall not be less than 10 feet.

(b) The required minimum side yard setback for three to ten family dwellings shall not be less than 15 feet.

(c) The required minimum side yard setback for dwellings designed for greater than 10 families shall not be less than 25 feet from the property line plus an additional foot required for each additional foot of height of the building over 30 feet.

(3) The required minimum rear yard setback shall not be less than 40 feet plus an additional foot required for each additional foot of height of the building over 30 feet.

(4) Other requirements

(a) No multiple family building designed, erected, or used for ten or more families shall be located closer than 50 feet to any single family residential zone~~s~~.

(b) No single building or connected buildings shall exceed 200 feet in any one dimension. All buildings shall be so arranged as to permit emergency vehicle access to all sides.

(c) Grouped buildings shall separated by a minimum of 25 feet.

(d) No entrance to a multiple family structure shall be located closer to any street, access road, driveway or parking area than 25 feet.

(E) Living Space

(1) The minimum gross living space in a two family dwelling shall not be less than 1,800 square feet. Neither living unit shall contain less than 800 square feet of living area, exclusive of basements, garages, porches, and breezeways.

(2) The minimum gross living space in a single family attached or multiple family dwelling shall be provided in accordance with the following schedule:

	Square feet
Efficiency	350
One Bedroom unit	600
Two bedroom unit	800
Three or more Bedroom unit	1,000

ARTICLE VIII
SITE CONDOMINIUM PROJECTS

15-8-1 PURPOSE

The purpose of this Article is to regulate and control site condominiums within the corporate limits of the City of Whitehall in order to promote the health, safety, comfort, convenience, and general welfare of the residents of the City, consistent with the Master Plan and Zoning Ordinance; to secure adequate traffic circulation through coordinated street systems so as to lessen congestion on the streets and highways; to insure adequate provision for water, drainage and sanitary sewer facilities, and other health requirements; to achieve the maximum utility and livability on individual lots; to fulfill the purposes of this Ordinance as specified by Article II; and to provide logical procedures for the achievement of these purposes. In meeting said purposes, these regulations are not intended to prohibit nor treat site condominiums in a manner more stringent than other forms of property development or ownership.

15-8-2 DEFINITIONS

The following definitions shall apply to the construction and application of this Article.

(A) Condominium Act - Act 59, Michigan Public Acts of 1978, as amended.

(B) Condominium, Conversion - A condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.

(C) Condominium Documents - The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner of the condominium.

(D) Condominium, Expandable - A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

(E) Condominium Lot - The condominium unit and the contiguous limited common element surrounding the condominium unit. Condominium lot shall be the counter-part of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288, Michigan Public Acts of 1967, as amended.

(F) Condominium Project - Is equivalent to "Subdivision" as used in this Ordinance and City of Whitehall Subdivision Regulations.

(G) Condominium Setbacks - The required yard areas as described and measured as follows:

(1) Front Yard Setback: The distance between the front of the building envelope and the street right-of-way.

(2) Side Yard Setback: The distance between the side of the building envelope and the condominium unit site (the location equivalent to a side lot line), or the distance between the sides of any two (2) adjacent buildings.

(3) Rear Yard Setback: The distance between the rear of the building envelope and the condominium unit site (the location equivalent to a rear lot line), or the distance between the rear of any two (2) adjacent buildings.

(H) Condominium Subdivision Plan (Site Condominium Project Plan) - The site, survey, and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The plan shall follow and show all project and site plan elements as required under the Condominium Act and this Ordinance.

(I) Condominium Unit - The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

(J) Condominium Unit Site - The area designating the perimeter within which the condominium unit must be built.

(K) Consolidating Master Deed - The final amended Master Deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended Master Deed fully describes the condominium project as completed (See also Master Deed).

(L) Contractible Condominium - A condominium project from which any portion of the submitted land or building may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

(M) General Common Elements - The common elements other than the limited common elements. General common elements are for the use of all condominium owners.

(N) Limited Common Elements - A portion of the common elements reserved in the master deed for the exclusive use of less than all of the condominium owners.

(O) Master Deed - The condominium document recording the condominium project as approved by the City Council to which are attached as exhibits and incorporated by reference the approved bylaws for the project, the approved condominium subdivision plan for the project, and all other information required by Section 8 of the Condominium Act. (See also Consolidating Master Deed).

(P) Site Condominium - A condominium development containing residential, commercial, office, industrial or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

15-8-3 GENERAL REQUIREMENTS

Site condominium projects shall comply with the following general requirements:

(A) Each condominium lot shall front on and have direct access to a public street or a private street approved by City Council. Public and private streets shall comply with the design and construction standards of Chapter 153, Subdivision Regulations, of the Code of Ordinances of the City of Whitehall, provided, however, the City Council may modify the design and construction requirements of said Chapter 153 as determined necessary for the public health, safety, and welfare.

(B) After construction of the condominium unit, the balance of the condominium unit site shall become a limited common element.

(C) The term "condominium unit site" shall be equivalent to the term "lot" (zoning lot) for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage, maximum lot width to depth ratio, and other area requirements.

(D) The use or uses of a condominium project shall be as regulated by the underlying zone district.

(E) The condominium subdivision plan shall include all necessary easements granted to the City for purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character for the purpose of providing public utilities, including conveyance of sewage,

water and storm water run-off across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures. The condominium plan shall also include all easements necessary for the placement of other essential public services including, but not limited to, natural gas, electric, telephone, cable, and other such services.

(F) All utilities, lines, mains, wires, cables, conduit, and related transmission facilities shall be placed underground.

(G) All utilities, sidewalks, and other public infrastructure components of the site condominium project shall comply with the design and construction standards of Chapter 153, Subdivision Regulations, of the Code of Ordinances of the City of Whitehall, provided, however, the City Council may modify the design and construction requirements of said Chapter 153 as determined necessary for the public health, safety, and welfare.

(H) Approval of a site condominium project by the City of Whitehall does not relieve the applicant from compliance with applicable county, state and federal regulations governing said project.

(I) Prior to approval of a preliminary or final plan, the Zoning Administrator may forward copies of the site plan, plan application, and related documentation to City staff and consultants for review and comment. Said staff and consultants may include, but shall not be limited to, the City Manager, City Clerk, City Engineer, Public Works Director, Building Inspector, Fire Chief, Police Chief, City Attorney, City Planning Consultant, and City Engineering Consultant.

(J) Processing of a preliminary and final site plan shall not be completed concurrently.

15-8-4 REQUIRED APPLICATION AND SITE PLAN INFORMATION

The following information shall be required for the preliminary and final site condominium project application and site plan. Refer also to Section 15-8-5 (B) for additional information required for the final site plan.

(A) The name, address, and telephone and fax number of :
- (1) All persons, firms, corporations and other entities with an ownership interest in the land on which the project will be located.
- (2) All engineers, attorneys, architects, registered land surveys and other design professionals associated with the project.
- (3) The developer of the condominium project.

(B) The legal description of the land on which the condominium project will be developed together with appropriate (property) tax identification numbers.

(C) A survey of the subject parcel. The survey shall be used for purposes of preparing the preliminary and final plan required by this Article.

(D) The size (acres and square feet) of the land on which the condominium project will be developed.

(E) The purpose of the project (e.g. residential, commercial, industrial, etc.).

(F) Number of condominium units to be developed on the subject parcel.

(G) For residential projects, specify the proposed site density and type of dwelling units.

(H) Delineation of wetlands and other natural features. Note: a wetlands and tree survey may be required by the Planning Commission or City Council.

(I) The size, location, area, vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit.

(J) The condominium plan shall include the nature, location, proposed use and size of common elements.

(K) Size, location and identification of all utilities, proposed utility easements, sidewalks, lighting, and related public infrastructure elements.

(L) Type, size and location of the proposed street system including the proposed right-of-way, pavement width, point(s) of connection to other street systems, relationship to streets abutting the subject site, and associated elements.

(M) Storm drainage and storm water management plan, including proposed lines, swales, drains, basins, and associated elements.

(N) A flood plain plan if the subject site is located within, abutting, or included in a flood plan area.

(O) Other information required by Article XXV, Site Plan Review.

(P) Other information required by the Condominium Act necessary for preliminary site plan review.

15-8-5 PRELIMINARY AND FINAL SITE CONDOMINIUM PROJECT PLAN APPROVAL REQUIRED

Pursuant to authority conferred by the Condominium Act, all site condominium projects shall be subject to preliminary and final site plan review. The primary purpose of preliminary review is to insure consistency of the proposed project with the City's Zoning Ordinance and Master Plan. Final review provides opportunity to confirm that the design and legal aspects of the proposed project comply with the City's specific engineering, building code, and legal requirements. Notwithstanding these purposes, the City may require the applicant to provide detailed project information as part of the preliminary review process.

(A) Preliminary Site Plan Review - Applicants shall submit an application and site plan for preliminary review and approval to be prepared and processed as follows:

(1) Planning Commission Review - An application and preliminary site plan shall be prepared pursuant to the Site Plan Review standards and procedures set forth in Article XXV of this Ordinance. The application and site plan, and any attachments thereto, shall also include the information required by Section 15-8-4 of Article VIII (Site Condominium Projects).

(a) The Planning Commission shall review the application and plan in accordance with the standards and requirements of Articles VIII and XXV of this Ordinance and shall recommend to the City Council approval of said plan, approval with conditions, or denial of the preliminary plan.

(b) If the site plan conforms in all respects to applicable laws, ordinances and design standards, as required by this Ordinance, preliminary approval shall be granted.

(c) If the site plan fails to conform in all respects to applicable laws, ordinances and design standards, as required by this Ordinance, preliminary approval shall either be denied or granted with conditions.

(2) City Council Review - The recommendation of the Planning Commission, copies of the application and preliminary site plan, and other pertinent information shall be forwarded to the City Council. In the event the Planning Commission approved the site condominium project with conditions, said conditions shall be detailed on a revised preliminary site plan prior to submission of said plan to the City Council. The City Council shall review the plan in accordance with the standards and requirements of Articles VIII and XXV of this Ordinance.

(a) If the site plan conforms in all respects to applicable laws, ordinances and design standards, as required by this Ordinance, preliminary approval shall be granted.

(b) If the site plan fails to conform in all respects to applicable laws, ordinances and design standards, as required by this Ordinance, preliminary approval shall either be denied or granted with conditions.

B) Review of the Final Site Plan and Condominium Documents - The final site condominium project plan and associated documentation shall contain the information detailed on the approved preliminary site plan plus additional design information necessary to certify compliance with the City's public works, engineering, building, and other design and construction standards, and legal requirements. Final approval shall rest with the City Council.

(1) Plan Review by City Staff - Following preliminary approval, the applicant shall submit a final site plan and condominium documents to the City Zoning Administrator. As determined necessary, the Zoning Administrator shall forward copies of all such instruments to City Staff and City Consultants for review and comment. The final plan and support documentation shall contain the information required by Section 15-8-4. Information submitted for final plan review, including the information required by Sections 15-8-4, shall be of sufficient design detail (e.g. construction detail as opposed to concept detail) to permit the City to determine compliance with local building and safety codes and engineering requirements. Additionally, the final plan and associated documents shall contain detailed information regarding:

(a) Fire suppression system/hydrants
(b) Street identification and traffic control signs
(c) Exterior elevations
(d) Detailed description of the proposed maintenance programs for the long term maintenance of private streets, drainage facilities, street and pedestrian lighting, and other site features
(e) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed
(f) Restrictive covenants
(g) Conditions attached as part of preliminary plan approval
(h) Other information required by this Ordinance and the Condominium Act

(2) Forwarding of Review Comments - Following staff and consultant review of the final plan and support documentation, the Zoning Administrator shall forward a copy of said plan and support documentation and a summary of the review comments to the City Council.

(3) City Council Review - The City Council shall review said plan in accordance with the standards and requirements of Articles VIII and XXV of this Ordinance.

(a) If the site plan conforms in all respects to applicable laws, ordinances and design standards, as required by this Ordinance, final approval shall be granted.

(b) If the site plan fails to conform in all respects to applicable laws, ordinances and design standards, as required by this Ordinance, final approval shall be denied.

15-8-6 PERFORMANCE GUARANTEE

In the interest of insuring of compliance with this Ordinance and protecting the public health, safety, and welfare, the City Council as a condition of final approval of the site condominium project may require the applicant to deposit a performance guarantee as set forth in Section 15-25-7 of Article XXV of the Zoning Code for the completion of improvements associated with the proposed use.

15-8-7 CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium project plan as approved by the City Council, including any conditions of approval. Prior to the issuance of a building permit for any condominium units, the applicant shall submit the following to the City:

(A) A copy of the recorded Condominium Documents, including all exhibits.

(B) A copy of any restrictive covenants.

(C) A copy of the approved site plan on a laminated photo static copy or mylar sheet suitable for reproduction purposes. In the event the site plan has been computer generated, an electronic copy (e.g. computer disk, diskette, C.D., etc.) of said plan shall also be provided.

(D) Evidence of completion of public improvements associated with the condominium project, including a copy of an "as-built" survey. The survey shall be placed on a laminated photo static copy or mylar sheet suitable for reproduction purposes. In the event the survey has been computer generated, an electronic copy (e.g. computer disk, diskette, C.D., etc.) of said survey shall also be provided. The as-built survey shall be prepared, signed, and sealed by a licensed Engineer or Surveyor registered in the State of Michigan.

15-8-8 LAPSE OF APPROVAL

Approval of a preliminary or final site condominium project plan will expire after one year as provided in Section 15-25-2 (C) of Article XXV of this Ordinance.

15-8-9 EXPANDABLE OR CONVERTIBLE CONDOMINIUM PROJECTS

Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the City in compliance with the procedures, standards, and requirements of Article VIII.

15-8-10 REVISIONS OF APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN

Any proposed changes to an approved final site condominium project plan shall be reviewed by the Planning Commission and City Council as provided for by Article VIII for the original review and approval of preliminary and final plans.

15-8-11 INCORPORATION OF APPROVED PROVISIONS IN MASTER DEED

All provisions of a final site condominium project plan which are approved by the City Council as provided in for Article VIII shall be incorporated in the master deed for the site condominium project. A copy of the master deed as filed with the Muskegon County Register of Deeds for recording shall be provided to the City within ten (10) days after filing with the County.

15-8-12 EXEMPTION OF EXISTING PROJECTS

Article VIII shall not apply to a site condominium project which is determined by the City Council to have met the following conditions as of the effective date of this Article:

(A) A condominium master deed was recorded for the project with the Muskegon County Register of Deeds in accordance with the requirements of the Condominium Act and other applicable laws and ordinances; and,

(B) The project fully complies with all other applicable requirements under City ordinances in effect on the date when the condominium master deed was recorded.

The exemption provided by this Article shall apply only to an existing project precisely as described in the condominium master deed recorded for the project on the effective date of this Article, and not to any subsequent expansion, conversion, or re-division of the project or subsequent modification or amendment to the master deed which shall be fully subject to the review and approval requirements as provided for by this Article.

ARTICLE IX
PLANNED UNIT DEVELOPMENT (PUD)

15-9-1 PURPOSE

Planned Unit Developments (PUD) in the City of Whitehall may be established as Special Land Uses when approved by the City Council in accordance with the procedures specified herein. It is the intent of the PUD to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the select relaxation of conventional zone district requirements. The use of land and the construction and use of buildings and other structures as a PUD shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Article.

15-9-2 QUALIFYING CONDITIONS

In order to establish a PUD, the following qualifying conditions shall be met:

(A) PUD Districts and Required PUD Parcel Size - A PUD may be established in the R1, R2, R3, RC1, B1, B2, LR, M1 and M2 Zone Districts. Due to historic development patterns, development constraints unique to the City's individual use districts, environmental considerations and other factors associated with the ability and need to develop land in creative ways, the minimum lot size for a PUD shall be as follows:

MINIMUM PARCEL SIZE (ACRES)	ZONE DISTRICT		
	R1-R2-R3	RC1-B1-B2-LR	M1-M2
	10	2	10

A parcel not meeting the minimum PUD size standards may be considered for a PUD provided the applicant demonstrates that use of the PUD technique provides opportunity to develop the parcel in a unique and innovative fashion which will prove beneficial to the public health, safety, and welfare.

(B) Public Water and Sanitary Sewer Service - All PUD's shall be served by public water and sanitary sewer facilities.

(C) Ownership Status - The tract of land for which a PUD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all properties.

(D) Master Plan Consistency - The proposed uses of the PUD must be consistent with the City of Whitehall Master Plan for the subject property.

15-9-3 MODIFICATION OF UNDERLYING ZONE DISTRICT STANDARDS

To achieve a development which is consistent with Section 15-9-1 (PUD INTENT), this Article provides for the controlled modification of certain underlying zone district standards. These are:

(A) Combining of Land Uses - The combining of different land uses within a PUD may be permitted subject to the following table, provided, however, uses which are not normally permitted (either by right or as a special use) within the underlying zone district in which the PUD is located shall occupy no more than forty (40) percent of the total land area of said PUD.

[Example: A PUD is to be placed in an R2, Moderate Density Residential District. The applicant wants to combine single family and multiple-family housing on the R2 site. The parcel contains 4.0 acres. Single family homes are permitted by right in the R2 District. Multiple family housing (e.g. apartments, attached condominiums, etc.) is not permitted by right, nor as a special land use. Using a PUD, however, the applicant may combine the two housing types. In doing so, the multiple family portion may not occupy more than 40 percent of the area of the PUD site (1.6 acres). The remaining 60 percent (2.4 acres) may then be devoted to single family use.]

	USES WHICH MAY BE PLACED IN THE UNDERLYING PUD ZONE DISTRICT [DENOTED BY "•" BLOCKS]								
UNDERLYING ZONE DISTRICT	R1	R2	R3	RC1	B1	B2	LR	M1	M2
R1	•	•	•	•	•	•			
R2	•	•	•	•	•	•			
R3	•	•	•	•	•	•			
RC1	•	•	•	•					
B1			•	•	•	•			
B2			•	•	•	•			
LR	•	•	•	•	•	•	•		
M1								•	•
M2								•	•

(B) Dimensional Reductions - Reduction of underlying zone district standards as follows (refer also to C), following):

(1) Reduction of Lot Size and Area per Dwelling Unit or Use - not to exceed twenty (20) percent.

(2) Reduction of Building Setback - not to exceed twenty (20) percent, provided, however, that where a PUD site abuts a single-family

district, the normal underlying setback standards shall apply along that portion of the PUD site abutting said single-family district.

(3) Reduction of Required Parking - not to exceed ten (10) percent.

(C) Additional Reduction in Standards - The Planning Commission, subject to City Council approval, may authorize greater reduction in the dimensional standards as detailed under B, above, provided:

(1) Said reductions are necessary to achieve an innovative PUD design which is determined to be in the interest of the adjoining residents and the City as a whole. Pursuant to this item, the applicant shall demonstrate (identify) the innovative aspects of the PUD design and shall specifically detail the ways in which said design is beneficial to adjacent residents, surrounding properties, and the City;

(2) The receipt of public comment during the public hearing f or the PUD demonstrates general support for the proposed PUD plan;

(3) There are demonstrated public benefits such as maintenance of open space, open views through the site, pedestrian pathways, pedestrian plazas, waterfront access and views, placement of aesthetic features such as sculptures depicting the history and unique qualities of the City, and other such elements;

(4) All of the PUD approval standards are met; and,

(5) The PUD is constructed as a single phase.

15-9-4 REQUIRED PRE-APPLICATION CONFERENCE

(A) Pre-Application Conference - A pre-application conference shall be held with a Committee of the Planning Commission and City staff for the purpose of determining the eligibility of the request for consideration as a PUD. The Committee shall be comprised of three (3) Planning Commission members, the Zoning Administrator, and the City Manager.

(B) Filing for Pre-Application Conference - A request for a pre-application conference shall be made to the City Clerk who shall schedule a date and time with the Planning Committee. A fee shall not be charged for the pre-application conference.

At the time of the request for a pre-application conference, the applicant shall submit twelve (12) copies of a conceptual plan which shows:

(1) The property location, boundaries and size.

(2) Significant natural features.

(3) Existing and proposed vehicular and pedestrian circulation.

(4) Existing and proposed land use (development) for the entire site.

(C) Planning Committee Review of PUD Concept - The Planning Committee shall advise the applicant:

(1) Of the general conformance of the PUD concept with the intent and objectives of the PUD provisions of this Ordinance.
(2) Whether or not the PUD qualifies under the minimum requirements of Section 15-9-2.
(3) Whether or not the general PUD concept is consistent with the City's Master Plan.

In no case shall any representations made by the Planning Committee be construed as an endorsement of the PUD, approval of the PUD concept, or other such affirmative action. The Pre-Application Conference is purely advisory in nature and shall not bind the Planning Commission nor City Council in any way.

15-9-5 PUD APPLICATION AND PRELIMINARY DEVELOPMENT PLAN

Following the pre-application conference, applicants seeking approval of a PUD shall submit a complete application and a preliminary development plan to the City Clerk who shall schedule a date and time for a public hearing and Planning Commission review. Such application shall include the following:

(A) Application Form - a completed application form, supplied by the City Clerk.

(B) Fee - Payment of a PUD processing fee, as established by City Council.

(C) Project Narrative - A narrative statement describing the following PUD elements. Information shall be provided as a supplement to the PUD site plan and/or may be placed directly on the development (site) plan. All information must be sufficiently detailed to provide opportunity for the City to make a determination of compliance with the standards of this Ordinance. The Zoning Administrator, Planning Commission and/or City Council may require the applicant to provide additional detail if considered necessary to ascertain compliance with the provisions of this Ordinance.
(1) PUD Objectives - Outline the objectives of the PUD and describe how they relate to the Intent of the PUD District, as described in Sect. 15-9-1.
(2) Relationship of PUD to the City Master Plan - Describe the relationship of the PUD to the City of Whitehall Master Plan. How is the PUD consistent with the Plan?
(3) Project Schedule and Project Phasing - Indicate the anticipated start and completion of construction. If project is to be phased, detail and phases of development and approximate time frame for each phase.
(4) Deed Restrictions and Other Legal Instruments - Describe all proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.

(5) Common Open Space - Indicate the location, type, and size of areas to be dedicated for common open space. Describe the use of the open space locations.

(D) Preliminary Development Plan - The applicant shall provide twelve (12) copies of a preliminary development plan. If the PUD is to be developed in phases, the preliminary development plan shall show all phases [Refer also to 15-9-14, PUD PHASING]. The preliminary plan shall contain the following information [refer to the Site Information Checklist, Sub-section E]. Information which is not applicable to the PUD may be waived by the Zoning Administrator.

(E) PUD Development Plan - Site Information Checklist

	1	Name, address, and legal description of development (project site)
	2	Applicant's name, address and telephone number
	3	Name, address and telephone number of firm/individual who prepared the plan
	4	Scale, date and north arrow
	5	PUD site location map
	6	Location and dimensions of all property lines
	7	Site of the PUD parcel (and individual phases) in acres and square feet
	8	Existing zoning of the PUD site and all abutting property
	9	Existing natural features including water, drainage ways, flood plains, wetlands, slopes in excess of 7 percent, stands/clusters of trees, and similar/other natural features
	10	Existing buildings on the site, including detail on size, height, setbacks, and use
	11	Proposed uses and structures, including detail on size, height, setbacks and type of use
	12	The right-of-way, pavement edges, and names of existing streets abutting the PUD
	13	The location, surface type, and dimensions of proposed access drives, streets, & aisles
	14	The proposed method of providing water, including main location and sizing
	15	The proposed method of providing sanitary sewer, including main location and sizing
	16	The proposed method of providing surface water detention and retention, as applicable
	17	The layout and dimensions of proposed lots.
	18	Proposed residential density, including detail on unit sizes (e.g., square feet & bedroom mix
	19	Area to be retained as open space, including detail on size and use
	20	Location, size, and function of existing and proposed easements
	21	Location, surface type, and dimensions of parking areas, including number of spaces and space size
	22	Location and size of signs, exterior lighting, fence, dumpsters, and dumpster screening
	23	Pedestrian circulation (sidewalks and pathways with detail on location, size and material)
	24	Preliminary landscape plan (e.g. general detail on landscape and hardscape locations and types)
	25	Location, number and size of boat slips, including detail on vehicular/trailer access and parking
	26	Other:

15-9-6 NOTICE AND PUBLIC HEARING FOR PUD

(A) Notice of PUD Hearing - Upon receipt of an application for PUD (preliminary development plan) approval, the City Clerk shall cause public notice to be given pursuant to Section 15-26-6. (Amended Ordinance 06-06 – Effective 12/28/2006)

(B) Public Hearing - Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

15-9-7 PLANNING COMMISSION RECOMMENDATION

(A) Planning Commission Review of the PUD Application - Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the Standards for Approval (Section 15-9-11).

(B) Planning Commission Recommendation - The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the PUD application. In its recommendation to the Council, the Planning Commission shall include:

(1) The reasons for such recommendation, specifically citing appropriate findings of fact based on the review standards of this Ordinance (Paragraph A, above).

(2) Shall specify conditions, if any, it considers necessary to achieve compliance with the standards of this Ordinance (Paragraph A, above).

15-9-8 CITY COUNCIL ACTION

(A) After receiving the recommendation of the Planning Commission, the City Council shall review the application package, preliminary development plan, the record of the Planning Commission proceedings, and the recommendation. Within forty-five (45) days of receipt of said recommendation, the Council shall hold a public hearing for receipt of public comment and shall make its findings as to approval, approval with conditions, or denial of the PUD application. Approval of the PUD application shall be based on the PUD Standards for Approval (15-9-11).

(B) An approval with conditions, or in which the Council requires a change or modification in the PUD, shall not be considered final until the applicant submits a written acceptance of the conditions, changes, and modifications and all necessary revisions to the preliminary development plan have been made and submitted to the City as a Final Development Plan.

(C) A preliminary development plan which has received Council approval without the attachment of any conditions or required changes or modifications shall be considered a final development plan and the applicant may proceed accordingly. A preliminary development plan serving as a final development plan shall be signed and dated by the Zoning Administrator and applicant. Accompanying his/her signature, the Zoning Administrator shall note that the preliminary development plan has been approved by the City council as the final development plan. Three (3) copies of the preliminary development plan shall be so noted and signed. One (1) signed copy shall be provided to the applicant and one (1) to the City Clerk. The third copy shall be retained by the Zoning Administrator. The signed plan shall serve as the official PUD plan for purposes of PUD construction and zoning enforcement.

15-9-9 FINAL DEVELOPMENT PLAN

(A) Final Development Plan

(1) Preliminary PUD Development Plan Approved Subject to Change or Conditions - Within twelve (12) months of the City Council's approval of a preliminary development plan which is subject to conditions, or other modification or change as required by said Council, the applicant shall submit a request for approval of a final PUD development plan. Application shall include the following:

(a) A completed application form, supplied by the City Clerk.

(b) A narrative explanation of all changes made to the preliminary development plan in response to the Council's attachment of required conditions, changes, and modifications of said plan. As applicable, items associated with the narrative explanation may be incorporated on a revised site plan, in lieu of said narrative.

(c) A revised PUD site plan containing all of the information contained on the preliminary development plan and the additional conditions, changes, and modifications required by the City Council pursuant to review, approval, and conditioning of said preliminary development plan. The revised site plan shall include a list of all changes which have been made to the plan in response to the conditions, changes, and modifications required by the Council.

15-9-10 CITY COUNCIL REVIEW OF FINAL DEVELOPMENT PLAN

(A) The City Council shall review the final development plan in relation to its conformance with the approved preliminary development plan and the conditions, if any, of the PUD approval.

(B) If the final development plan is fully consistent with the approved preliminary development plan, and if the plan has been satisfactorily updated to reflect the review and approval requirements of the City Council, said Council shall approve the final development plan for purposes of establishing a PUD. If not, it shall be denied, and the application considered null and void.

(C) Three (3) copies of the approved final development plan shall be signed and dated by the Zoning Administrator and Applicant. One (1) signed copy shall be provided to the applicant and one (1) to the City Clerk. The third copy shall be retained by the Zoning Administrator. The signed plan shall serve as the official PUD plan for purposes of PUD construction and zoning enforcement.

15-9-11 STANDARDS FOR APPROVAL

A PUD shall be approved based on compliance with the following standards:

(A) The proposed PUD complies with all qualifying conditions of 15-9-2.

(B) The uses to be conducted within the proposed PUD are consistent with the City's Master Plan.

(C) The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development. All elements of the PUD shall be harmoniously and efficiently organized in relation to topography, size and type of parcel, and character of adjoining properties. Buildings and uses shall be arranged to utilize natural topography, existing vegetation, and views within and through the site.

(D) The proposed PUD will not contain uses or conditions of use that would be injurious to the public health, safety or welfare of the community.

(E) The PUD improvements shall be coordinated with other existing or planned streets, utility systems, sidewalks and pathways, and other such infrastructure elements. All utilities, including electrical, cable, telephone, and other such services shall be placed underground.

(F) The PUD shall incorporate, as feasible, public spaces and features including common open space areas, pedestrian plazas, pathways, and other such features.

(G) Signage, landscaping, lighting, and related factors shall be designed and constructed in a manner that is complementary to the overall design of the PUD and surrounding neighborhood.

(H) The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 15-9-1 and represents a development opportunity for the community that could not be achieved through conventional zoning.

15-9-12 PUD AGREEMENT

Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the City in recordable form, setting forth the applicant's obligations with respect to the PUD. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the City Council. The agreement shall also establish the remedies of the City in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Muskegon County Register of Deeds.

15-9-13 CHANGES TO AN APPROVED PUD

Changes to an approved PUD shall be permitted only under the following circumstances:

(A) Submission of Request to Change - The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.

(B) Minor Changes - Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

(1) Reduction of the size of any building and/or sign.
(2) Movement of buildings and/or signs by no more than ten (10) feet.
(3) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
(4) Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
(5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
(6) Changes required or requested by the City, Muskegon County, or other State or Federal regulatory agency in order to conform to other laws or regulations.

(C) Other Changes - A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.

15-9-14 PUD PHASING

(A) Site Plan Detail for Phased Projects - For developments which are to be constructed in phases, a plan meeting the requirements of Section 15-9-4 may be submitted for the overall PUD and a detailed plan as required for Planning Commission consideration may be submitted for the first phase, provided, however:

(1) If the total PUD site area is ten (10) acres, or less, a detailed plan shall be required for the entire PUD site.

(2) If the total PUD site area is greater than ten (10) acres, a final development plan shall be required for the first ten (10) acres to be developed, plus any additional acreage to be included in the first phase. The remaining land area (Phase 2 and above) may be shown pursuant to the requirements of Section 15-9-4.

(3) The Planning Commission or City Council may require any level of plan detail on the entire site, or any portion thereof, if necessary to determine compliance with the provisions of this Ordinance.

(4) Each phase shall be subject to preliminary and final site development plan review and approval, including the filing of necessary applications and review fees.

15-9-15 TIME LIMIT FOR APPROVED PUD DISTRICT

Each development shall be under construction within one (1) year after the date of approval of the PUD final development plan, except as noted in this Section.

(A) The City Council may grant one (1) extension of up to an additional one (1) year period if the applicant applies for such extension prior to the date of the expiration of the PUD and provided that:

(1) The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and

(2) The PUD requirements and standards, including those of the Zoning Ordinance and Master Plan, that are reasonably related to said development, have not changed.

(B) Should neither of the provisions of Section 15-9-15(A) be fulfilled, or an extension has expired without construction underway, the PUD approval shall be null and void.

15-9-16 PERFORMANCE GUARANTEES

As a condition of approval, the City Council may require performance guarantees for a PUD, subject to the following:

(A) The guarantee may cover any or all development requirements and/or site conditions placed on the PUD which have a direct impact on the public health, safety, and welfare, including, but not limited to, public water, sanitary sewers, drainage, lighting, landscaping, pedestrian circulation, streets, fire hydrants, traffic control measures, and related site development features. The guarantee may cover the cost of design, bidding, construction, construction observation, site clean-up, reasonable contingencies, and related development costs.

15-9-17 APPEALS OF PLANNED UNIT DEVELOPMENTS

The decisions of the City Council on matters of PUD shall not be appealable to the Zoning Board of Appeals.

ARTICLE X
RC1 DISTRICT - RESTRICTED COMMERCIAL

15-10-1 PURPOSE

It is the purpose of the RC1 District to permit the integration of office, personal service, and limited business uses, in what is predominantly a residential setting. This district is specifically designed for application to the transitional sections of the Mears Avenue and Colby Street Corridors where existing residential uses are experiencing redevelopment pressures. Among the purposes of the RC1 district is the accommodation of a variety of housing types at a moderate density of development, as well as various office uses performing administrative, professional, and personal services, and limited commercial ventures.

Upon individual review and the granting of a special use permit, retail shopping facilities providing service to persons living in adjacent areas, and having minimal impact upon the surrounding neighborhoods may also be permitted. In order to minimize incompatibility with existing residential development and to promote a unified and positive physical image for these critical areas, all office and commercial uses shall be housed in structures possessing a residential facade and the general character of a residence.

15-10-2 USES PERMITTED BY RIGHT

In an RC1 District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) All uses permitted by right in the R2 - Moderate Density Residential District.

(B) Office establishments which perform services on the premises such as financial institutions, insurance offices, real estate offices, photographic studios, and offices for attorneys, accountants, architects, and engineers.

(C) Professional service establishments providing human health care on an outpatient basis.

(D) Miscellaneous business services such as consumer credit reporting agencies, mailing list and stenographic services, business management consulting services, and duplicating services.

(E) Establishments customarily related to medical and dental uses when located in a medical or dental building or complex and when intended primarily to serve the occupants of the building or complex in which they are located such as pharmacies, stores offering supportive or corrective

garments and prosthetic appliances, and medical, dental, or optical laboratories.

(F) Governmental offices and libraries.

(G) Churches and related facilities.

(H) Offices of nonprofit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations, political organizations.

(I) Mortuaries and funeral homes subject to the following restrictions:

(1) Sufficient off street parking and assembly area shall be provided for vehicles to be used in funeral processions. The assembly area shall be provided in addition to otherwise required off street parking area.

(2) Loading and unloading areas used by ambulances, hearses, or other such service vehicles shall be obscured from view with an opaque fence or wall not less than six feet in height.

(J) Fraternal lodges or similar civic social clubs.

(K) Establishments operated for the sale of antiques, collectibles, and similar merchandise.

(L) Bed and breakfast operations.

(M) Educational institutions and other places for assembly; centers for fine arts education, activities and development; libraries, museums and fine art studios**;** and dance studios. A fine arts studio may include life drawing classes, provided classes are conducted within an enclosed building under the direction and control of a bona fide non-profit, fine arts organization. (Ordinance 98-04)

15-10-3 PERMITTED ACCESSORY USES

The following are permitted accessory uses:

(A) Any use customarily incidental to the permitted principal use.

(B) Signs subject to the regulations in Article XXIII.

(C) Off street parking as required by Article XXII.

15-10-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this district, by the application for and the issuance of a Special Use Permit as provided for in Article XXIV.

(A) Retail establishments marketing convenience goods, such as groceries, fruit, meats, dairy products, produce, baked goods and alcoholic beverages, stores selling drugs, hardware, novelties and gifts, flowers, books, stationary, tobacco, and sundry small household articles.

(B) Office or commercial uses located in a structure erected for residential purposes, provided all commercial structure standards of the City Building Code are complied with.

(C) Those special uses as permitted in 15-5-4, except those uses permitted by right in 15-10-2.

(D) Eating establishments, which may provide for outside facilities for eating.

(E) Barber and beauty shops. (Ordinance 97-06)

15-10-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the RC1 District.

(A) The site development standards as prescribed in 15-6-5 shall apply to all residential uses.

(B) No structure shall be established on any parcel providing less than 5,000 square feet of lot area.

(C) The minimum lot width shall be 50 feet.

(D) Yard and Setback Requirements
   (1) The required front yard setback shall not be less than 20 feet or equal to the established setback lines as specified in 15-20-13.
   (2) The required side and rear yard setback shall not be less than 10 feet, except in the case of a corner lot, the side yard setback shall not be less than the established setback required for the front yard as specified in 15-20-16.
   (3) No structure shall be less than 20 feet from any residential district boundary line.

(E) The maximum height shall be 35 feet measured from the average finished grade at the front setback line, unless the required front yard is increased by one foot for every foot of height above 35 feet.

(F) Other Requirements

(1) Landscaping shall be maintained in all required front, side, and rear yards in accordance with plans approved by the Planning Commission as a part of site plan review.

(2) Lighting shall be accomplished in a manner that no illumination source is visible beyond the property lines of the lot upon which the use is located, and such that no illumination shall adversely affect the welfare of an adjacent property.

(3) Yards may not be used for unenclosed storage.

(4) Trash containers shall be enclosed as per City Ordinance 96.07. The property shall be maintained free from litter.

(5) Air conditioning units, heating oil storage tanks, or similar structures shall be screened as approved by the Planning Commission.

(6) In addition to the site plan requirements of Article XXV, for all proposed office or commercial uses in the RC1 District, an elevation drawing shall be submitted for Planning Commission approval. All office or commercial structures in the RC1 District shall be constructed with a residential facade and be of a residential scale and character.

ARTICLE XI
B1 DISTRICT - GENERAL BUSINESS

15-11-1 PURPOSE

It is the purpose of the B1 District to accommodate a wide variety of retail and business activities that serve both the Whitehall community and adjoining areas. Uses in this district typically require larger land area and larger parking facilities than uses in other commercial districts, due to greater dependence upon adjacent road and highway traffic. The regulations contained in this article are designed to promote the economic viability of existing arterial oriented commercial areas by encouraging improved site development standards which will provide more safety and convenience for customers and lessen traffic congestion on adjacent streets and thoroughfares. Regulations contained herein are further intended to ensure that development in the B1 District will relate harmoniously to surrounding land uses.

15-11-2 USES PERMITTED BY RIGHT

In a B1 General Business District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) Office uses including administrative, business, professional, governmental and nonprofit organizational uses.

(B) Chiropractic, dental, medical, and optometric offices and clinics.

(C) Miscellaneous business services such as mailing and stenographic services, consulting services, photocopying service, and similar uses.

(D) Churches and related facilities.

(E) Mortuaries and funeral homes, subject to the following:
- (1) Sufficient off street parking and vehicle assembly area shall be provided for vehicles to be used for funeral processions. The assembly area shall be provided in addition to otherwise required off street parking area.
- (2) Loading and unloading areas used by ambulance, hearse, or other similar vehicles shall be obscured from view with an opaque fence or wall not less than six feet in height.

(F) Fraternal, union, civic, and social clubs and halls.

(G) Convenience retail and general retail uses, including food stores, bakeries, liquor stores, pharmacies, hardware, novelty and gifts, florists, books, video tape rental, stationary, tobacco and sundry items, household appliances, furniture, office supplies and other retail uses similar to and

compatible with the above, provided the business is conducted within a totally enclosed building, and provided repair and service facilities occupy no more than 10% of the total floor area.

(H) Personal service establishments performing services on the premises such as barber and beauty shops, shoe repair, self service laundry and dry cleaning, dry cleaning and laundry pick up stations, photographic studios and other personal services similar to and compatible with the above.

(I) Eating and drinking establishments.

(J) Bed and Breakfast operations.

(K) Hotels and motels.

(L) Any service establishment such as office, showroom or workshop of a decorator, dressmaker, tailor, baker, painter, upholsterer, or an establishment doing radio, television or home appliance repair, and similar service establishments that require a retail adjunct.

(M) Theaters, excepting outdoor or drive in theaters.

(N) Amusement enterprises such as billiard or pool hall, bowling alley, dance hall, night club, skating rink if conducted wholly within an enclosed building.

(O) Non-industrial printing, publishing, photographic reproduction, blue printing, and related trades and arts.

(P) Other retail or service uses similar to the above uses.

15-11-3 PERMITTED ACCESSORY USES

The following are permitted accessory uses.

(A) Any use customarily incidental to the permitted principal use.

(B) Signs subject to the regulations in Article XXIII.

(C) Off street parking as required in Article XXII.

15-11-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this district by the application for and issuance of a Special use Permit as provided for in Article XXIV.

(A) Planned neighborhood convenience shopping center.

(B) Automobile service stations.

(C) Gasoline Service Center.

(D) Automatic and self service car wash establishments.

(E) Motor vehicle, boat, motor home, and camper sales, rental, repair, and outdoor display, provided the outdoor area is paved and properly drained, and provided no dismantled or inoperative vehicles are stored outside a wholly enclosed building.

(F) Any retail, service, or restaurant use with drive through windows or other means of providing service to patrons inside their vehicles.

(G) Open air businesses such as retail sales of nursery stock, lawn furniture, playground equipment and garden supplies, rental yards, provided the total sales and storage area is fenced or otherwise enclosed.

(H) Retail lumber yard, building material sales yard.

(I) Automobile repair garages doing general automobile repair work, including body and fender work, painting and upholstering, providing all work is conducted wholly within an enclosed building and no dismantled or inoperative vehicles are stored outside said building.

(J) Auto parts, tire, battery, and accessory dealers.

(K) Temporary outdoor uses or sales incidental to the business conducted on the premises.

(L) Utility and public service facilities and uses, excluding outdoor storage areas.

(M) Outdoor or drive in theaters.

(N) Educational, artistic and social institutions, museums and art galleries, libraries, auditoriums, community centers**,** dance studios and other places for assembly.

15-11-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the B1 District.

(A) No structure shall be established on any parcel providing less than 10,000 square feet of lot area.

(B) The minimum lot width shall be 80 feet.

(C) Yard and Setback Requirements

(1) The required front yard setback shall not be less than 20 feet or equal to the established setback line as specified in 15-20-13.

(2) The required side and rear yard setbacks shall not be less than 10 feet. In the case of a corner lot, the side yard shall not be less than the setback required for the front yard as specified in 15-20-16.

(3) No structure shall be less than 20 feet from any residential district boundary.

(D) The maximum height shall be 35 feet measured from the average finished grade at the front setback line, unless the required front yard is increased by one foot for every foot of height above 35 feet.

(E) Other Requirements

(1) Landscaping shall be maintained in all required yards in accordance with plans approved by the Planning Commission as part of site plan review.

(2) Lighting shall be accomplished in a manner that no illumination source is visible beyond the property lines of the lot upon which the use is located and such that no illumination shall adversely affect the welfare of an adjacent property.

(3) Yards may not be used for unenclosed storage.

(4) Trash containers shall be enclosed as per City Ordinances. The property shall be maintained free from litter.

(5) Air conditioning units, heating oil storage tanks or similar structures shall be screened as approved by the Planning Commission.

(6) Where a B1 District is located adjacent to a residential district, a greenbelt buffer, vertical screen or berm shall be provided along the side and rear yards as approved by the Planning Commission.

ARTICLE XII
B2 DISTRICT - CENTRAL BUSINESS

15-12-1 PURPOSE

It is the purpose of the B2 District to provide a district and area within the City where a wide range of commercial and business facilities can be centralized to most efficiently and effectively serve the community. Such consolidation is intended to reduce strip development pressures, thereby lessening congestion on major streets. These regulations are intended to ensure harmonious relationships with surrounding land uses and in particular have minimal impact on surrounding residential neighborhoods.

15-12-2 USES PERMITTED BY RIGHT

In a B2 Central Business District, no building or land shall be used and no building erected except for one or more of the following specified uses.

(A) Office uses including administrative, business, professional, governmental and nonprofit organizational uses.

(B) Chiropractic, dental, medical, and optometric offices and clinics.

(C) Miscellaneous business services such as mailing and stenographic services, consulting services, photocopying service, and similar uses.

(D) Community center and libraries

(E) Churches and related facilities.

(F) Fraternal, union, civic, and social clubs and halls.

(G) Convenience retail and general retail uses, including food stores, bakeries, liquor stores, pharmacies, hardware, novelty and gifts, florists, books, video tape rental, stationary, tobacco and sundry items, household appliances, furniture, office supplies and other retail uses similar to and compatible with the above, provided the business is conducted within a totally enclosed building, and provided repair and service facilities occupy no more than 10% of the total floor area.

(H) Personal service establishments performing services on the premises such as barber and beauty shops, shoe repair, self service laundry and dry cleaning, dry cleaning and laundry pick up stations, photographic studios and other personal services similar to and compatible with the above.

(I) Eating and drinking establishments.

(J) Bed and Breakfast operations.

(K) Hotels and motels.

(L) Any service establishment such as office, showroom or workshop of a decorator, dressmaker, tailor, baker, painter, upholsterer, or an establishment doing radio, television or home appliance repair, and similar service establishments that require a retail adjunct.

(M) Theaters, excepting outdoor or drive in theaters.

(N) Amusement enterprises including billiard or pool hall, bowling alley, dance hall, night club, and skating rink if conducted wholly within an enclosed building.

(O) Nonindustrial printing, publishing, photographic reproduction, blue printing, and related trades and arts.

(P) Other retail or service uses similar to the above uses.

(Q) Apartments provided they are not located in the front half of the main floor and meet the following minimum living space requirements: (Ordinance 06-07 – Effective 12/28/2006)

	Square Feet
Efficiency	350
One Bedroom Unit	600
Two Bedroom Unit	800
Three or more Bedroom Unit	1,000

15-12-3 PERMITTED ACCESSORY USES

The following are permitted accessory uses.

(A) Any use customarily incidental to the permitted principal use.

(B) Signs subject to the regulations in Article XXII

(C) Off street parking as required in Article XXII

15-12-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this district by the application for and issuance of a Special use Permit as provided for in Article XXIII.

(A) Planned neighborhood convenience shopping center.

(B) Utility and public service facilities and uses, excluding outdoor storage areas.

(C) Temporary outdoor uses or sales, incidental to the business conducted on the premises.

(D) Other retail, commercial, or service uses similar to and compatible with the above.

(E) Motor vehicle, boat, motor home, and camper sales, rental, repair, and outdoor display, provided the outdoor area is paved and properly drained, and provided no dismantled or inoperative vehicles are stored outside a wholly enclosed building.

(F) Artistic and social institutions, museums and art galleries, libraries, auditoriums, community centers, dance studios and other places for assembly.

15-12-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the B2 District.

(A) No minimum lot area requirements.

(B) No minimum lot width requirements.

(C) Yard and Setback Requirements

(1) The required front yard setback shall be equal to the minimum distance established by existing buildings within 200 feet on the same side of the street and on the same block of the proposed principal building location.

(2) The principal building may be constructed on the side property line provided that access is available to the rear yard by means of a drive or alley. If side yards are provided, they shall be at least 10 feet. Rear yards shall be at least 10 feet.

(3) No structure shall be less than 20 feet from any residential district boundary.

(D) The maximum height shall be 40 feet as measured from the average finished grade at the front setback line.

(E) Other Requirements

(1) Lighting shall be accomplished in a manner that no illumination source is visible beyond the property lines of the lot upon which the use is located and such that no illumination shall adversely affect the welfare of an adjacent property.

(2) Yards may not be used for unenclosed storage.

(3) Trash containers shall be enclosed as per City Ordinance. The property shall be maintained free from litter.

(4) Air conditioning units, heating oil storage tanks or similar structures shall be properly screened as approved by the Planning Commission.

(5) Where a B2 District is located adjacent to a residential district, a greenbelt buffer, vertical screen or berm shall be provided along the side and rear yards as approved by the Planning Commission.

ARTICLE XIII
M1 DISTRICT - LIMITED INDUSTRIAL

15-13-1 PURPOSE

The purpose of the M1 District is to encourage and facilitate the development of research, warehouse, and light industrial activities in a setting conducive to public health, economic stability and growth, protection from blight, deterioration and nonindustrial encroachment, and efficient traffic movement, including both employee and truck traffic. The above mentioned enterprises will be characterized by the absence of objectionable external effects and the potentiality of attractive industrial architecture.

Regulations contained in this District are designed to promote the development of industrial areas and industrial or research parks which will be compatible with one another and with adjacent or surrounding districts. The regulations contained herein are intended to prohibit residential or commercial uses as being incompatible with the primary permitted uses, as well as being adequately provided for in other districts.

15-13-2 USES PERMITTED BY RIGHT

In an M1 Limited Industrial District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) Non-manufacturing research and development establishment such as laboratories; offices and facilities for research, both basic and applied, conducted by or for any individual, organization, or concern; production of prototyping products, limited to the scale necessary for full investigation of the merits of the product.

(B) The sale at wholesale or warehousing of automotive equipment; dry goods and apparel; groceries and related products; raw farm products except livestock; electrical goods; hardware; plumbing; heating equipment and supplies; machinery; tobacco and tobacco products; beer, wine and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; any commodity the manufacture of which is permitted in this district; storage or transfer buildings; commercial laundries or cleaning establishments; and frozen food lockers.

(C) Industrial establishments such as:

(1) The assembly, fabrication, compounding, packaging, manufacture, or treatment of such articles as food products, candy, drugs, cosmetics and toiletries, musical instruments, toys, novelties, electrical instruments and appliances, radios and phonographs,

pottery and figurines or other similar ceramic products using only previously pulverized clay.

(2) The assembly, fabrication, compounding, packaging, manufacture, or treatment of products from previously prepared materials such as bone, canvas, cellophane, cloth, cork, felt, fibre, glass, leather, paper, plastic, precious or semiprecious metals or stones, sheet metal ferrous or nonferrous metals, shell textiles, wax, wire, wood (excluding saw and planing mills), yarn and paint.

(3) Tool and die shops, metal working machine shops involving the use of grinding or cutting tools, such as manufacturing tools, dies, jigs and fixtures, publishing, printing, or forming of box, carton, and cardboard products.

(D) Retail sales typically incidental to contractors establishments which require a workshop and retail outlet or showroom as accessory uses, such as:

(1) Plumbing and electrical contractors.
(2) Building and material suppliers and wholesalers such as lumber yards and other similar uses.
(3) Carpenter shops including door, sash, or trim manufacturing.
(4) Jobbing and repair machine shops.
(5) Commercial garage, bump shops, or automobile repair garages.
(6) Plastic products forming and molding.
(7) Printing and publishing.
(8) Trade, training, technical, and industrial facilities.
(9) Air conditioning and heating dealers including incidental sheet metal work.
(10) Furniture reupholstering and refinishing establishments.
(11) Sign painting establishments.
(12) Establishments producing and selling monuments, cut stone, stone, and similar products.
(13) Other uses similar to and compatible with the above uses.

(E) Communication facilities with buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations, communication and relay stations with outdoor storage.

(F) Credit Union which has as its primary purpose the providing of financial services to the employees and their families of an M1 or M2 District Industrial Business located in the City of Whitehall.

15-13-3 PERMITTED ACCESSORY USES

The following are permitted accessory uses.

(A) Any use customarily incidental to the permitted principal use.

(B) Living quarters of a watchman or caretaker employed on the premises.

(C) Dispensaries and clinics on the premises of and clearly incidental to any business, trade, or industry.

(D) Restaurant or cafeteria facilities for employees.

(E) Signs subject to the regulations established in Article XXIII.

(F) Off street parking as required by Article XXII.

15-13-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this district by the application for and the issuance of a Special Use Permit as provided for in Article XXIV.

(A) Planned research or industrial parks.

(B) Commercial television and radio towers and public utility microwaves or television transmitting towers and other attendant facilities.

(C) The exterior storage of semi-trucks, semi-trailers, mobile homes, campers, buses, and recreational vehicles.

(D) Public buildings and services.

15-13-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the M1 District.

(A) No structure or use shall be established on any parcel providing less than 12,000 square feet of lot area.

(B) The minimum lot width shall be 100 feet.

(C) Yard and Setback requirements
  (1) The required front yard setback shall not be less than 50 feet.
  (2) The required side and rear yard setbacks shall not be less than 20 feet except. In the case of a corner lot, the side yard shall not be less than the setback required for the front yard.
  (3) No structure shall be located less than 50 feet from any residential boundary line.

(D) The maximum height shall be 30 feet as measured from the average finished grade at the front setback line, unless each required yard setback is increased by one foot for every foot of height above 30 feet.

(E) Other requirements

(1) Unless specifically mentioned, all activities in this district shall be carried on in completely enclosed buildings.

(2) Storage of finished or unfinished materials, or any equipment or machinery necessary to the operation, is permitted, but all storage areas shall be effectively screened by solid, uniformly finished wall or fence with solid entrance and exit gates. Said wall or fence shall in no case be lower than the enclosed storage.

(3) Landscaping shall be maintained in all required yards, in accordance with plans approved by the Planning Commission as a part of site plan review.

(4) Lighting shall be accomplished in a manner that no illumination source is visible beyond the property lines of the lot upon which the use is located, and such that no illumination shall adversely affect the welfare of an adjacent property.

(5) Refuse containers shall be enclosed on all sides by an obscuring masonry wall or tight-board wooden fence of adequate height to obscure such containers and any refuse materials from view. In no case shall such wall or fence be less than six feet in height.

(6) Air conditioning units, heating, oil storage, or similar structures shall be screened as approved by the Planning Commission.

15-13-6 PERFORMANCE STANDARDS

It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activity. Such measures may be supplemented by other measures which are duly determined to be the maximum permissible hazards to humans or to human activity.

(A) (Repealed by Ordinance 10-04, Effective May 26, 2010)

(B) Vibration - All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch, as measured at the property line.

(C) Odor - The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines is prohibited.

(D) Gases - The escape or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.

(E) Glare and Heat - Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

(F) Light - exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line 5 feet above the ground in a residential district.

(G) Electromagnetic Radiation - applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this Ordinance.

(H) Smoke - It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than 4 minutes in any one-half hour which is:

(1) As dark or darker in shade as that designated as Number 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this Ordinance, shall be the standard. However, the Umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the Building Inspector.

(2) Of such opacity as to obscure an observer=s view to a degree equal to or greater than the smoke described in (1) above, except when the emission consists only of water vapor.

(I) Drifted and Blown Material - the drifting or airborne transmission to areas beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.

(J) Radioactive Material - radioactive materials shall not be emitted to exceed quantities established as safe by the U. S. Bureau of Standards, as amended from time to time.

(K) Sewage Wastes - No industrial sewage wastes shall be discharged into sewers that will cause chemical reaction, either directly or indirectly, with the materials of construction to impair the strength or durability of sewer structures, cause mechanical action that will destroy or damage the sewer structures, cause restriction of the hydraulic capacity of sewer structures, cause placing of unusual demands on the sewage treatment equipment or process, cause limitation of the effectiveness of the sewage treatment process, cause danger to public health and safety, or cause obnoxious conditions inimical to the public interest. Industrial sewage discharges shall meet all applicable State and Federal requirements.

ARTICLE XIV
M2 DISTRICT - GENERAL INDUSTRIAL

15-14-1 PURPOSE

It is the purpose of the M2 District to encourage sound industrial development by providing and protecting an environment exclusively for such development subject to regulations necessary to insure the purity of the air and ground or surface waters, and the protection of adjacent uses from hazards or nuisance factors.

15-14-2 USES PERMITTED BY RIGHT

In an M2 District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) All uses permitted by right in the M1 Limited Industrial District.

(B) Industrial, manufacturing, or repair use may be permitted, provided the nature and manner of operation is in compliance with 15-13-6 Performance Standards.

15-14-3 PERMITTED ACCESSORY USES

Those accessory uses as permitted in the M1 Limited Industrial District.

15-14-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this district by the application for and the issuance of a Special Use Permit as provided for in Article XXIV.

(A) Those special uses as permitted in the M1 Limited Industrial District.

(B) The storage of used materials, including rags, wastepaper, waste products or similar materials, all open storage and salvage yards.

(C) Petroleum bulk stations and terminals.

(D) Breweries and distilleries.

(E) Millwork lumber and planing mills.

(F) Metal stamping, punching, buffing, plating, and hammering.

(G) Chemical processes and manufacture.

(H) Railroad terminal facilities.

15-14-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the M2 District.

(A) No structure or use shall be established on any parcel providing less than 20,000 square feet of lot area.

(B) The minimum lot width shall be 120 feet

(C) Yard and Setback requirements
- (1) The required front yard setback shall not be less than 50 feet.
- (2) The required side and rear yard setback shall not be less than 25 feet. In the case of a corner lot, the side yard shall not be less than the setback required for the front yard.
- (3) No structure shall be located less than 75 feet from any residential boundary line.

(D) No structure shall exceed 30 feet as measured from the existing average finished grade at the front setback line, unless each required yard setback is increased by one foot for every foot of height above 30 feet.

(E) Other requirements
- (1) Storage of materials or equipment is permitted. All storage areas shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates. Said wall or fence shall in no case be lower than the enclosed storage.
- (2) Landscaping shall be maintained in all required yards in accordance with plans approved by the Planning Commission.
- (3) Lighting shall be accomplished in a manner that no illumination source is visible beyond the property lines of the lot upon which the use is located. Any such illumination shall not adversely affect the welfare of an adjacent property.
- (4) Refuse containers shall be enclosed on all sides by an obscuring masonry wall or tight-board wooden fence of adequate height to obscure such containers and any refuse materials from view. In no case shall such wall or fence be less than six feet in height.
- (5) Air conditioning units, heating, oil storage tanks, or similar appurtenances shall be properly screened as approved by the Planning Commission.

15-14-6 PERFORMANCE STANDARDS

Those requirements as contained in 15-13-6 Performance Standards shall be complied with by all activities permitted in the M2 General Industrial District.

ARTICLE XV
LR DISTRICT: LAKEFRONT RECREATION

15-15-1 PURPOSE

It is the purpose of the Lakefront Recreation District to provide for and regulate waterfront uses along the White Lake shoreline in the City of Whitehall. This District is established to accommodate commercial recreation uses which are presently in existence and those which may be established in the future. Because of their particular commercial characteristics, lakefront orientation, and space requirements, these uses are best suited to a district designed solely for their application as opposed to other general commercial districts found in the City.

15-15-2 USES PERMITTED BY RIGHT

In the Lakefront Recreation District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance:

(A) Commercial sport fishing and sporting goods.

(B) Public and private beaches.

(C) Public or private parks or recreation areas.

15-15-3 PERMITTED ACCESSORY USES

The following are permitted accessory uses.

(A) Any use customarily incidental to the permitted principal use.

(B) Signs subject to ARTICLE XXIII.

(C) Off-street parking as required by ARTICLE XXII.

15-15-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted in this District, by the application for and issuance of a Special Use Permit as provided for in ARTICLE XXIV.

(A) Utility and public service facilities and uses.

(B) Fraternal lodges, or similar civic or social clubs.

(C) Hotels and motels.

(D) Taverns and night clubs.

(E) Boat storage facilities including exterior boat storage.

(F) Bowling alleys.

(G) Eating and drinking establishments, except those with drive-in characteristics.

(H) Commercial beach developments, marinas, boat launching facilities, and related boat sales and service facilities such as the sale of gasoline for boats only, boat repairs, and similar water related uses and structures.

(I) Recreational Vehicle Parks/Campgrounds, subject to the conditions and site development standards outlined by ARTICLE XXIV, Section 15-24-15.

15-15-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the Lakefront Recreation District.

(A) No structure shall be established on any parcel providing less than 5,000 square feet of lot area.

(B) The minimum lot width shall be 50 feet.

(C) Yard and Setback Requirements
   (1) The required front yard setback shall not be less than 20 feet, or equal to the established setback line as specified in 15-19-13.
   (2) The required side and rear yard setback shall not be less than 10 feet. In the case of a corner lot, the side yard shall not be less than the setback required for the front yard as specified in 15-19-16.
   (3) No structure shall be less than 20 feet from any residential district boundary line.

(D) The maximum height shall be 30 feet as measured from the average finished grade at the front setback line.

(E) The maximum lot coverage by all buildings, including accessory buildings, shall not exceed 30%.

(F) The structures and location of same, shall not unreasonably obscure public view of White Lake from adjoining street right-of-way.

(G) Other Requirements

(1) Landscaping shall be maintained in all yards in accordance with plans approved by the Planning Commission as a part of the site plan review.

(2) Trash containers shall be enclosed by a covered structure on all four sides. The property shall be maintained free from litter.

(3) Air-conditioning units, heating oil storage tanks, or similar appurtenances shall be properly screened as approved by the Planning Commission.

(4) Lighting shall be accomplished in a manner such that no illumination source is visible beyond the property lines of the lot, and such that no illumination shall adversely affect the welfare of an adjacent property.

ARTICLE XVI
AG DISTRICT - AGRICULTURAL ENTERPRISE

15-16-1 PURPOSE

It is the purpose of the AG District to provide for the preservation of agricultural land and the protection of active agricultural enterprises.

15-16-2 USES PERMITTED BY RIGHT

In an Agricultural Enterprise District, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) Specialized agricultural activities limited to the growing of crops, products and foodstuffs, and the incidental sale of crops, products, and foodstuffs raised or grown on the premises.

(B) Raising or growing of plants, trees, shrubs, and nursery stock, including the retail sale of those items raised or grown on the premises.

(C) Public or private parks or recreation areas of low intensity, utilizing the natural constraints of the land.

(D) Public and private conservation areas including structures used in the development, protection, and maintenance of open space, watersheds, water, soil, forest, and wildlife resources.

15-16-3 PERMITTED ACCESSORY USES

The following are permitted accessory uses.

(A) Accessory uses or structures clearly incidental to the operation of a principal permitted agricultural use or other principal permitted use.

15-16-4 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted by the application for and the issuance of a Special Use Permit as provided for in Article XXIV.

(A) Public and private utilities and services, providing the facilities do not detract from the natural appearance of the area or have a potential for causing erosion.

(B) Private docks or boat lifts of a semi permanent nature.

(C) Single family detached dwellings.

15-16-5 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the AG District.

(A) No structure shall be established on any parcel providing less than 1 acre of lot area.

(B) The minimum lot width shall be 200 feet.

(C) The maximum lot coverage by all buildings shall not exceed 20%.

(D) Setback Requirements
- (1) The required front yard setback shall not be less than 50 feet.
- (2) The required side yard setback shall not be less than 10 feet. In the case of a corner lot, the side yard shall not be less than 50 feet.
- (3) The required rear yard setback shall not be less than 35 feet.
- (4) Watercourses, see 15-20-15.

(E) No residential structure shall exceed 2 1/2 stories or 35 feet as measured from the average finished grade at the front setback line. Residential accessory buildings shall not exceed a height of 15 feet on any residential lot.

(F) Every dwelling unit shall have a minimum gross living space of not less than 1,000 square feet. If two stories, 800 square feet on the first floor with a total living area not less than 1,000 square feet.

ARTICLE XVII
OS DISTRICT - OPEN SPACE CONSERVATION & RECREATION

15-17-1 PURPOSE

The OS District is intended to provide for open spaces in the community designed for undeveloped low intensity, developed public and private recreational uses, and to safeguard the health, safety, and welfare by limiting development in areas where police and fire protection, protection against flooding, high water table or storm water, and dangers from excessive erosion are not possible without excessive costs to the City. The regulations and conditions contained in this Article are designed to promote development that can be compatible with the preservation of natural amenities and open space areas and to prohibit development which might detract from, injure, or destroy the natural character of these areas.

15-17-2 USES PERMITTED BY RIGHT

In an OS District no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

(A) Public and private conservation areas, including structures used in the development, protection, and maintenance of open space, watershed, water, soil, forest, and wildlife resources.

(B) Public or private parks or recreation areas such as playgrounds, playfields, golf courses, hiking or skiing trails, fishing sites, parks, parkways, or preserves.

(C) Public marinas or boat launching facilities.

15-17-3 USES PERMITTED BY SPECIAL USE PERMIT

The following uses of land and structures may be permitted by the application for and the issuance of a Special Use Permit as provided for in Article XXIV.

(A) Public and private utilities and services, providing the facilities do not detract from the natural appearance of the area or have a potential for causing erosion.

15-17-4 SITE DEVELOPMENT STANDARDS

The following standards shall apply to all uses and structures in the OS District.

(A) No structure shall exceed 12 feet in height as measured from the average finished grade at the front setback line.

(B) Yard and Setback Requirements

(1) The required front yard setback shall not be less than 15 feet.

(2) The required side and rear (waters edge) yard setback shall not be less than 10 feet. In the case of a corner lot, the side yard setback adjoining a public right of way shall not be less than 15 feet.

ARTICLE XVIII
MC-1 DISTRICT - LIMITED INDUSTRIAL COMMERCIAL

15-18-1 PURPOSE

This Ordinance provides opportunity to place selective commercial uses in the City's Industrial Districts. It is the purpose of the MC-1 District to provide for the controlled expansion of those opportunities to specific geographic locations. Accordingly, certain personal, professional, and service operations have been added to the range of uses identified in the M1 District under the provisions of the MC-1 District. Creation of this unique district is considered desirable over that of expanding the range of uses permitted under other zone districts.

In pursuit of the above, the MC-1 District recognizes the advantages and beneficial relationships that may accrue from the integration of certain commercial uses with industrial uses; offers a suitable location for certain commercial uses which may be inappropriate for placement in one of the City's core commercial areas; and, offers additional flexibility in the use and development of land.

15-18-2 USES PERMITTED BY RIGHT

In an MC-1 Limited Industrial Commercial District, no building or land shall be used and no building erected except for one or more of the following specified land uses, unless otherwise provided for in this Ordinance.

(A) Uses permitted by right in the M1 District.
(B) Printing and copy services.
(C) Office of a professional engineer, surveyor, geologist, architect, planner, or similar professional.
(D) Offices of a manufacturer's and/or sales representative.
(E) Packaging, mailing, and delivery services.
(F) Retail and wholesale of office supplies, drafting equipment, computer equipment, and similar supplies and equipment.

15-18-3 PERMITTED ACCESSORY USES

(A) Permitted accessory uses as provided for in the M1 District.

15-18-4 USES PERMITTED BY SPECIAL USE PERMIT

(A) Uses permitted by special use permit as provided for in the M1 District.
(B) Fitness clubs and health spas.
(C) Sexually oriented businesses.

15-18-5 SITE DEVELOPMENT STANDARDS

All uses and structures shall comply with the SITE DEVELOPMENT STANDARDS OF THE M1 District [Refer also to Section 15-20-27 for additional site development standards for Sexually Oriented Businesses.]

ARTICLE XXIX
WELLHEAD PROTECTION OVERLAY DISTRICT
(Ordinance 06-05 – Effective 12/28/2006)

15-19-1 PURPOSE

The intent of the City of Whitehall Wellhead Protection Overlay District is to safeguard the health, safety, and welfare of persons and property served by the City's Public Water Supply System by protecting groundwater supplies that serve as drinking water thus providing a safe potable water supply now and for future generations. The objectives of these regulations are:

(A) To protect designated groundwater supplies from contamination resulting from the improper storage, handling, use, production, or discharge of Regulated Substances in and around existing and future municipal drinking water wells and well fields and their respective Wellhead Protection Areas;

(B) To minimize the risk of spills, leaks, and other discharges into groundwater supplies within identified Wellhead Protection Areas by the use of Performance Standards or Best Management Practices;

(C) To prevent the creation or establishment of non compatible land uses within Wellhead Protection Areas which have the potential to degrade or otherwise negatively impact groundwater resources;

(D) To prevent and minimize public and private losses due to contamination of the public water supply by avoiding expenditure of public money for costly pollution remediation projects and/or replacement of Public Water Supply System assets;

(E) To minimize interruptions to businesses by only regulating specific land-use activities within specific designated time-of-travel zones as based upon determined potential risk to the Public Water Supply System.

15-19-2 DEFINITIONS

For the purposes of this chapter, the following shall apply:

(A) BEST MANAGEMENT PRACTICE (BMP). The best available methods, activities, maintenance procedures, technologies, operating methods or management practices for reducing the quantity of Regulated Substances entering groundwater and surface water from a particular land use.

(B) CERCLA. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., as amended.

(C) CITY. The City of Whitehall.

(D) DRY WELL. A type of drainage well used for the underground disposal of storm water runoff from paved areas including parking lots, streets, highways, residential subdivisions, and building rooftops; agricultural areas; and industrial areas.

(E) FACILITY. All contiguous land and related structures, appurtenances, and improvements on land with the same Facility Operator. A Facility may consist of several operations. Contiguous land shall include land separated by a public right-of-way so long as such land would otherwise be contiguous. The term Facility includes all principal and accessory uses, including residential uses.

(F) FACILITY OPERATOR. The person or designee in possession and/or control of a Facility and/or Regulated Substance storage unit regardless of whether such person is the owner, lessee, or other possessor. The term also includes contractors or site managers at construction sites who are responsible for the general management of Regulated Substances located on site.

(G) GROUNDWATER. All water below the land surface in a zone of saturation excluding water in underground piping for water, wastewater, or storm water distribution and collection systems.

(H) INDOORS. Within a building or other enclosure which provides protection from the elements, having doors or other means of entry that can be closed or otherwise protected from unauthorized entry, and which has a floor capable of containing liquid or solid materials.

(I) NON-CONFORMING FACILITY. An existing Facility that, as of the effective date of this Ordinance, would otherwise be prohibited within a designated wellhead protection area.

(J) NON-CONFORMING STORAGE UNIT. An existing regulated substance storage unit that, as of the effective date of this Ordinance, would otherwise be prohibited within a designated wellhead protection area.

(K) ORDINANCE. The City of Whitehall Wellhead Protection Overlay District Ordinance.

(L) PERMANENT. A period of more than ninety (90) consecutive days.

(M) PESTICIDE. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest as defined in Section 2(t) of the federal Insecticide, Fungicide, and Rodenticide Act, FIFRA, 7 U.S.C. 136 et seq. and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term shall include all fungicides, insecticides, nematicides, or other substances used for the control of pests.

(N) PERFORMANCE STANDARDS. Those Best Management Practices and engineering controls contained within the document titled "City of Whitehall Performance Standards for Groundwater Protection within Wellhead Protection Areas and General Stormwater Quality Management."

(O) PRIMARY CONTAINMENT. The first level of containment. The inside portion of a container or storage device which comes into immediate contact on its inner surface with a Regulated Substance.

(P) PRINCIPAL. The primary, predominant, or foremost use or activity at a property, establishment, building, structure or facility.

(Q) PROCESS. The incorporation of a Regulated Substance into a product which includes making mixtures, repackaging, or using a Regulated Substance as a feedstock, raw material, or starting material for making another chemical.

(R) PUBLIC WATER SUPPLY SYSTEM (SYSTEM). A public water system which serves at least fifteen service connections used by year-round residents, and which is permitted by consumptive use permit to withdraw an average daily use of one hundred thousand gallons or greater of groundwater. This ordinance specifically relates to the System.

(S) RCRA. The Resource Conservation and Recovery Act of 1976 42 U.S.C. 6901 et seq., as amended.

(T) REGULATED SUBSTANCES. Contaminants, including but not limited to hazardous substances, hazardous waste, petroleum, biological substances, and radiological matter as regulated under CERCLA, RCRA, FIFRA, Michigan Public Act 451 of 1994, and applicable federal and state statutes, rules and regulations. In addition, Regulated Substances include:

(1) Any substance that the Michigan Department of Environmental Quality (MDEQ) has demonstrated, on a case-by-case basis, poses an unacceptable risk to the public health, safety, welfare, or environment having considered the fate of the material, dose, response, toxicity, or adverse impact on natural resources;

(2) The entire storage volume of any compound or product that contains 1% or more, by weight, of any material meeting the above stated definition based on material safety data sheet formulation information for the compounds or products; and

(3) Any substance that the Public Works Director or designee determines to add to the list of Regulated Substances in this Ordinance.

The Director reserves the right to remove substances from the list. All changes to the List of Regulated Substances are subject to approval by the City Council as necessary for the protection of the System.

(U) REGULATED SUBSTANCE STORAGE AREA. An area where Regulated Substances are stored which can include single or multiple Regulated Substance storage units.

(V) REGULATED SUBSTANCE STORAGE UNIT. Any underground storage tank, aboveground storage tank, drum, carboy, or other container used for the storage of one or more Regulated Substances including silo, bag, tank wagon, box, glass, cylinder, tote bin, truck body, rail car, tanker, or tool crib when used for the permanent or temporary storage of Regulated Substances.

(W) RELEASE. The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Regulated Substances upon or into any land or water. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" does not include the following:

(1) Disposal, in accordance with all applicable legal requirements and in accordance with the requirements of RCRA regulations, of hazardous wastes in a Facility that has received and maintained all necessary legal approvals for that purpose;

(2) Disposal or release of any substance in compliance with applicable legal requirements, including the terms and provisions of a valid municipal, state, or federal permit if such permits are required by applicable environmental laws;

(3) Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;

(4) Disposal, in accordance with all legal requirements, of sanitary sewage to subsurface sewage disposal systems as defined and permitted by the State of Michigan or the Muskegon County Health Department;

(5) Any discharge of a petroleum substance in a quantity less than twenty-five (25) gallons unless such petroleum discharge enters a dry well, storm sewer, or surface water body;

(6) Any discharge of a non-petroleum Regulated Substance or a product containing one percent or more by weight of said substance when the discharge is less than twenty-five (25) pounds within a twenty-four (24) hour period in the one (1) year time-of-travel zone or less than one hundred (100) pounds within a twenty-four (24) hour period in the ten (10) year time-of-travel zone; or

(7) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under Generally Accepted Agricultural Management Practices (GAAMP's), or BMP's as indicated by soil tests, the Michigan State University Cooperative Extension Service, the Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture.

(X) SECONDARY CONTAINMENT. Containment external to and separate from primary containment designed to contain a release from a primary containment unit. Secondary containment may include, but is not limited to, double walls, dikes, vaults, or natural and synthetic impervious liners.

(Y) SPECIAL USES. Activities that may have a greater propensity to adversely affect surrounding uses in a zoning district and require special and individual review of their location, design, configuration, intensity, and density of use or structures to ensure land use compatibility, public facility adequacy, natural resource protection, and the public health, safety and welfare of the residents of the City.

(Z) SPILL CONTINGENCY PLAN. A written site-specific plan documenting general site operations; Regulated Substance storage areas; potential for releases of Regulated Substances; analysis of the potential destination of such releases; and procedures to be followed in the event of a release.

(AA) TEMPORARY. A period of ninety (90) consecutive days or less. Regulated Substances and the individual storage units containing such substances that are used on site as part of regular business operations are not to be considered temporary storage.

(BB) TIME OF TRAVEL (TOT) CAPTURE ZONE. The travel time for water to flow through an aquifer and reach a well or well field under specified conditions established by the MDEQ. This ordinance addresses one-year and ten-year time-of-travel capture zones. All areas that are situated within capture zones are considered to be within a Wellhead Protection Area.

(CC) USE. The handling, transferring, processing, packaging, treatment, emission, discharge, or disposal of Regulated Substances at a Facility.

(DD) WELLHEAD. An individual well for supplying water.

(EE) WELLHEAD PROTECTION AREA (WHPA). The surface and subsurface areas supplying water to wells or well fields through which contaminants are likely to move toward and reach such wells or well fields. The WHPA includes the one (1) and ten (10) year time-of-travel capture zones.

(FF) WELLHEAD PROTECTION OVERLAY ZONE (Zone). The area outlined on the overlay zoning map determined to be the wellhead capture zone(s).

(GG) WELLHEAD PROTECTION PROGRAM (WHPP). A program established by the federal Safe Drinking Water Act, 42 U.S.C. 300 et seq., and Michigan's Safe Drinking Water Act, MCL 325.1001, et seq., as amended, designed to minimize the potential for contamination of groundwater being used as a source of public drinking water.

15-19-3 ADMINISTRATION

The City's Department of Public Works (Department) shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Department may be delegated in writing by the Department Director to third parties as said Director deems appropriate.

15-19-4 COMPLIANCE WITH EXISTING REGULATIONS

Facility Operators subject to regulation under this Ordinance must comply fully with all existing applicable federal, state, and local regulations in addition to any of the requirements established in this Ordinance.

15-19-5 EXTENT and DESIGNATIONS

Certain areas are hereby established for the protection of the System and shall be collectively referred to as the Wellhead Protection Overlay Zones. These zones are shown on the City map entitled "Wellhead Protection Overlay Zone Map." The Wellhead Protection Overlay Zones(s) are further defined by ten and one year times-of-travel to a given well field. These areas are referred to as the Ten Year TOT Capture Zone and the One Year TOT Capture Zone.

The Zones were scientifically derived from hydro-geologic studies, aquifer performance tests, well records, water-use records, geologic and topographic maps, and other related information. The methods and procedures used in delineating the Zones were approved by the MDEQ as part of the City's Wellhead Protection Program.

15-19-6 USE REGULATIONS

The requirements of this Ordinance are hereby superimposed upon and, are in addition to, the requirements of the underlying zoning designation contained within the applicable TOT capture zones. This approach is taken in recognition of the different levels of potential risk associated with the location of a site related to a well or well field; types of materials and storage; specific land use and its association with known contaminants; aquifer hydraulic characteristics; and the vulnerability of the individual groundwater supplies (natural geologic and hydro-geologic protection factors).

The uses prohibited by this Ordinance are not exhaustive and represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered or other terms of description become necessary, it is the intention to modify the list of prohibited uses by this Ordinance. To screen for such other uses or terms for uses, no use shall be permitted in these areas without first complying with the relevant process and procedures described herein.

15-19-7 TEN YEAR TIME OF TRAVEL CAPTURE ZONE

(A) Location. The ten (10) year Time-of-Travel (TOT) Capture Zone is that area located within the boundaries of the ten year TOT zone from which groundwater could be drawn in a ten year time period. The ten year TOT is hereby established in those areas of the City as illustrated on the Wellhead Protection Overlay Zone Map.

(B) Prohibited Uses. The following new activities and land uses are prohibited in the Ten Year TOT Capture Zone as of the effective date of this provision

(1) Storage, handling, or use of fuels exceeding fifty-five (55) gallons aggregate, including but not limited to gasoline, diesel, kerosene, and jet-fuel, unless approved engineering controls are designed and implemented for the site to minimize the likelihood of a fuel spill, leak, or other type of release, as described in the specifications contained in the Performance Standards, as permitted by the City of Whitehall Fire Code, and according to the State of Michigan regulations.

(2) The manufacturing, processing and/or recycling of regulated substances as the principal activity where storage, handling and/or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights.

(3) Junk and salvage yards, including but not limited to auto, appliance, and machine parts.

(4) Sanitary/solid waste landfills.

(5) Construction of any building or structure within 50 feet of a municipal water well, or storage of a Regulated Substance that exceeds fifty-five (55) gallons aggregate for liquid materials or four hundred forty (440) pounds aggregate for dry weights within 200 feet of existing municipal water well.

(6) Permanent storage of regulated substances in trucks, trailers, tankers or rail cars where storage, handling or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or four hundred forty (440) pounds aggregate for dry weights.

(7) The disposal of shingles, asphalt and/or lead-based or lead containing materials in an unlicensed landfill.

(8) Use of oil, waste oil or similar liquid petroleum-type products for dust suppression.

(9) Installation of private water wells for the purpose of drinking water or irrigation where, in the determination of the Department of Public Works (DPW) or the Muskegon County Health Department, public water service is reasonably available to a particular building in which water service is required. No new private wells shall be drilled to provide such water supply and such building shall be connected to the public water supply system, either at the time of construction, when the existing private well, if any, requires re-

drilling, or at any time in the determination of the DPW or the Health Department a health hazard exists or is fairly imminent from the existing water supply. In addition, any private well that is no longer in use is required to be properly abandoned (plugged) as required by State of Michigan and Muskegon County regulations.

(10) Installation of any other water wells not installed for the purpose of drinking water or irrigation that are determined by the DPW or Health Department to likely cause adverse impact to the quality or quantity (well field source capacity) of the public water supply.

(11) The drilling of gas or oil exploration or production wells.

15-19-8 ONE YEAR TIME OF TRAVEL CAPTURE ZONE

(A) Location. The One Year TOT Capture Zone is that area around the well or well field from which groundwater could be drawn for use in a public water supply in a one year time period. The One Year TOT is hereby established in those areas of the City as illustrated on the Wellhead Protection Overlay Zone Map.

(B) Prohibited Uses. The following new activities and land uses are prohibited in the One Year TOT Capture Zone as of the effective date of this provision:

(1) All land uses prohibited within the 10 Year TOT Capture Zone.

(2) Storage, handling, and/or use of fuels exceeding fifty-five (55) gallons aggregate, including but not limited to gasoline, diesel, kerosene, and jet-fuel.

(3) Land uses that manufacture, process, store, handle, use, and/or recycle Regulated Substances where Regulated Substance storage exceeds fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights. Typical land uses include but are not limited to: commercial establishments for motor vehicle repair/service shops and/or body repair; trucking or bus terminals; primary metal product industries; commercial or industrial uses engaged in metal plating, polishing, etching, engraving, anodizing or similar processes; lawn, garden, pesticide and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides and other industry-related chemicals for commercial application; and dry cleaning facilities with on-site cleaning service.

15-19-9 WELLHEAD PROTECTION OVERLAY ZONE BOUNDARIES

In determining the location of properties within the Wellhead Protection Overlay Zone, the following rules shall apply:

(A) Properties entirely located within 1-year and 10-year TOT Capture Zones shall be governed by the restrictions applicable to that zone.

(B) Where a TOT contour, which delineates the boundary between two zones of influence, passes through a property, the entire property shall be considered to be in the more restrictive zone (the One Year Zone is more restrictive than the Ten Year Zone).

(C) The Director or their designee shall have the authority to interpret the Wellhead Protection Overlay Zone Map and determine where the boundaries of the different zones fall, if in dispute. The interpretation of the map boundaries by the Director may be appealed to the City Manager in the same manner as provided under Section 21.

(D) The Wellhead Protection Overlay Zone Map may be modified from time to time based on the recommendation of the Director. Modifications shall be based on revisions to the WHPA map and the TOT Capture Zones. The City Council shall approve any changes to the Wellhead Protection Overlay Zone Map.

15-19-10 CONFORMING NEW FACILITIES AND LAND USES

Proposed land uses allowed within the Overlay Zone and required under the requirements for site plan approval found in Article 24 – Site Plan Review, must meet the requirements of the Performance Standards. All other proposed land uses not required to undergo site plan review shall implement reasonable Performance Standards or BMPs, if necessary, to minimize the risk of groundwater contamination.

15-19-11 CONFORMING EXISTING FACILITIES AND USES

All conforming existing facilities and land uses shall implement reasonable BMPs or Performance Standards, if necessary, to minimize the risk of groundwater contamination.

15-19-12 CONTINUATION OF NON-CONFORMING FACILITIES AND USES

Nonconforming facilities and land uses will only be allowed within a designated Wellhead Protection Overlay District if reviewed and approved in accordance with Article 20 – Nonconforming Uses and Structures. In addition, the facility must meet the requirements of the Performance Standards or shall prepare a Spill Contingency Plan within two years from the adoption date of the WHP Overlay District or one year from the date of contact from the City regarding recognition of Non-Conforming status, whichever is sooner.

15-19-13 SPECIAL USES

A Special Use for land uses and activities will only be allowed within a designated Wellhead Protection Overlay District if reviewed and approved in accordance with Article 23 – Special Use Permits. Conditions may be imposed upon the special use permit by the Planning Commission to ensure protection of the City municipal water source as well as to mitigate any other issues of concern.

15-19-14 REGULATED SUBSTANCE RELEASE

(A) Remediation of Release. Upon discovery of a release, the Facility Operator or other responsible party must take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a Regulated Substance release must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported to the Director or designee by the Facility Operator.

(B) Notification. Notwithstanding other requirements of law, as soon as any person responsible for a facility, or responsible for emergency response for a facility, has information of a release, or suspected release of Regulated Substances within the Overlay Zone that escapes or has the potential to escape containment or contacts an impervious ground surface and is not immediately and completely remediated, said person shall take all reasonable and necessary steps to discover, contain, and cleanup such release, including, if necessary, contacting emergency response agencies. Said person shall also notify the Director of the discharge either in person, by telephone, or by facsimile as soon as possible the same day of the discharge.

(C) Regulated Substance Release Report. All spill notifications provided to the Director in person or by telephone shall be documented in writing and mailed to the Department within ten (10) business days of said incident. Initial release notification shall include, at a minimum, information related to the following:

(1) Location of the release (Facility name, address, and phone);

(2) Facility/responsible party's name, address, and phone (if different from above);

(3) Name and telephone number of the person making the report;

(4) Emergency contact and phone;

(5) Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released;

(6) Map showing exact release location, and relevant site features (i.e. paved area, storm sewer catch basins/inlets, water features, etc.), scale, and north arrow;

(7) All measures taken to clean up the release; and

(8) All measures proposed to be taken to reduce and prevent any recurrence.

The Director or a designee shall use the Regulated Substance Release Report to determine if and where any additional investigative work needs to be completed to assess the potential impact of the release. The Facility Operator shall retain a copy of the written notice for at least three years. Such notification in no way alleviates other federal, state, or local reporting obligations imposed by law.

15-19-15 GROUNDWATER POLLUTANTS

(A) If the Facility Operator does not provide reasonable protection for groundwater pollution, the Department may require Performance Standards, Best Management Practices (BMPs), and/or a Spill Contingency Plan for a facility that releases, or is reasonably suspected of releasing Regulated Substances that could reasonably reach groundwater, at the facility's expense. Any required Performance Standard or BMP shall either be consistent with the guidelines set forth in the Standards or provide equivalent protection that accomplishes the purposes of this ordinance and is approved by the Department.

(B) If the facility believes all or a portion of a required Performance Standard, BMP or SCP is unreasonable, it may appeal it to the Director. Such an appeal must be in writing and must be received by the Director within 14 days of when the Performance Standard, BMP, or Spill Contingency Plan notification is received by the facility. In the absence of such an appeal, the facility shall implement the required action before the deadline stipulated by the Department in the original written notification. If an appeal is denied, the facility shall implement the Performance Standard, BMP, or Spill Contingency Plan within the deadline stipulated by the Department in the appeal denial notification letter. The required implementation time period will be based on the severity of the specific situation and may range from one (1) day to forty-five (45) days.

15-19-16 FACILITY CLOSURE

(A) Applicability. This section applies to any non-residential Facility subject to regulation under this Ordinance that becomes unoccupied or where operations are permanently discontinued for a period greater than one (1) year any time after the effective date of this Ordinance. Facility Operators subject to compliance with any federal, state, or local facility closure program addressing the storage or handling of Regulated Substances at a closing facility are exempt from the requirements of this Section except for compliance with Parts C and D of this Section.

(B) Removal of All Regulated Substances. Except in the case of seasonal discontinuation of operation, the Facility Operator must remove all Regulated Substances other than those used exclusively for heating, cooling, and providing electrical lighting for the premises from the property no later than one (1) year after the date the property initially became unoccupied or operation was permanently discontinued.

(C) Closure Notice. Any Facility Operator permanently discontinuing operation of a Facility subject to regulation under this Ordinance must submit notice to the Director or their designee. This notice shall include the date on which operations will or have ceased; the current operator's new phone number and address; and the fate of the Regulated Substances stored or otherwise used on the site. Any Facility Operator required to submit a closure notification under any federal, state or local closure program may copy the Director or their designee on that notification in lieu of submitting a Closure Notice.

(D) Facility Security. Upon permanent closure of a facility, the Facility Operator must take reasonable steps to secure all Regulated Substance storage units or Regulated Substance storage areas against vandalism. Maintenance of all security measures implemented is required until all Regulated Substances are removed from the site.

15-19-17 EXEMPTIONS

The following activities, substances, or storage units are exempt from regulation under 15-19-7 through 11 of this Ordinance when located within a WHPA. These exemptions do not exempt the requirements regarding a release found under 15-19-17 or those associated with Section 15-19-18 to prevent, control, and reduce groundwater pollutants.

(A) Indoor storage or use of Regulated Substances in an amount equal or less than 2200 pounds in an area capable of fully containing a total release of the Regulated Substances within the facility or draining the release to a wastewater treatment system capable of treating the released substances. Septic tank systems do not qualify as a wastewater treatment system under this exemption.

(B) Sale and/or storage of Regulated Substances packaged as consumer products in original containers when storage is less than five (500) hundred gallons aggregate for liquid materials or four thousand (4,000) pounds of aggregate for dry weights.

(C) Household use of Regulated Substances packaged for consumer use in original pre-packaged containers.

(D) Office, maintenance, and janitorial use of Regulated Substances packaged as consumer products. This exemption does not apply to hydrocarbon or halogenated hydrocarbon solvents.

(E) Chemical storage tanks containing pressurized gases such as chlorine, propane, hydrogen, and nitrogen.

(F) Materials present as a solid inside of a manufactured item.

(G) Oils and fluids within electrical utility transformers and switches.

(H) Underground oil and water separators and stormwater treatment structures which meet the conditions of the Performance Standards.

(I) Current hazardous waste storage areas at RCRA permitted facilities.

(J) Laboratory activities, consistent with all federal, state, and local regulations.

(K) Transport of Regulated Substances in trucks, trailers, tankers, or rail cars to facilities through the Wellhead Protection Area provided the Regulated Substances are fueling the transporting vehicle or the transporting vehicle is in continuous transit, making a delivery, or is stopped for a period of time not to exceed twenty-four (24) hours.

15-19-18 ENFORCEMENT

(A) Whenever the Department finds that a person has violated a provision of this Ordinance, the Department may order compliance by issuing a written Notice of Violation to the responsible person. Such notice may require one or more of the following:

(1) Performance of monitoring, analyses, and reporting activities.

(2) Elimination of the threat to groundwater.

(3) Cease and desist discharges, practices, and/or operations in violations of this Ordinance.

(4) Abatement and/or remediation of groundwater pollution or contamination hazards and the restoration of any affected property.

(5) Abatement and correction of any degradation of groundwater supplies caused by the failure to design, install, operate, and/or maintain BMPs.

(6) Reimbursement to the City for all reasonable administrative and remediation costs.

(7) Implementation of Performance Standards and/or BMPs.

(B) If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation and/or restoration must be completed. The notice shall further advise that, should the violator fail to remediate and/or restore within the established deadline, the work may be done by the Department, with the expense charged to the violator.

15-19-19 APPEAL OF NOTICE OF VIOLATION

(A) Any person receiving a Notice of Violation may appeal the determination to the City Manager. The notice of appeal must be received by the City Manager within 30 days from the date of the Notice of Violation, identify the matter being appealed, and the basis for the appeal. The City Manager shall address the appeal within 30 days from the date of receipt of the notice of appeal. The City Manager will consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In reviewing any such appeal, the City Manager may consider the recommendations of staff and the comments of any other persons having knowledge of the matter.

(B) In considering all appeals, the City Manager may grant a variance from the terms of this Ordinance to provide relief, in whole or in part from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the Ordinance provisions being appealed will present or cause unreasonable difficulties for a facility.

(2) The granting of the relief requested will not substantially prevent the goals and purposes being sought by this ordinance from being accomplished nor result in less effective management of groundwater pollution prevention.

15-19-20 ABATEMENT ACTIVITIES BY THE DEPARTMENT

(A) The Department is authorized to order reasonable and necessary abatement activities or take other actions as may be necessary to cause abatement whenever the Department determines a violation of this Ordinance or uncontrolled release of Regulated Substances has occurred and it appears that the responsible party can not or will not timely perform said activities, or when no known responsible party exists. The responsible party shall reimburse the City for all reasonable expenses incurred.

(B) If the City seeks reimbursement from the responsible party for reasonable abatement activity expenses, the City shall, within 90 days of the completion of the activities, mail to the responsible party a Notice of Claim outlining the expenses incurred including reasonable administrative costs. The party billed shall pay the sum in full within 30 days of receipt of the claim. The party may object to all or part of the amount sought by the City, by filing an appeal with the City Manager within the same 30-day period. The City Manager shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting the objection. If the City Manager determines that some or the entire amount originally billed is appropriate, the party shall pay the sum within 30 days of receipt of that determination. If the amount due is not paid timely, the City may cause the charges to become a special assessment against the property and shall constitute a lien on the property.

15-19-21 INJUNCTIVE RELIEF

If a person has violated or continues to violate the provisions of this Ordinance, the City may petition the appropriate court for injunctive relief restraining the person from activities which would create further violations or compelling the person to perform necessary abatement and/or remediation.

15-19-22 VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance that is a threat to public health, safety, and welfare and is declared and deemed a nuisance, may be summarily abated and/or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

15-19-23 CRIMINAL PROSECUTION

Any person who violates this Ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than $500.00 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation.

15-19-24 REMEDIES NOT EXCLUSIVE

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the City to seek cumulative remedies.

ARTICLE XX
SPECIAL PROVISIONS

The following Special Provisions establish regulations which have not been specifically provided for in other portions of this Ordinance yet are applicable to all zoning districts unless otherwise indicated.

15-20-1 UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent compliance with an order by an appropriate authority to correct, improve, or strengthen, or to restore to a safe condition any building or any part of a building declared to be unsafe.

15-20-2 ONE BUILDING PER LOT

No more than one principal building may be permitted per lot, unless specifically provided for elsewhere in this ordinance.

15-20-3 ACCESS TO A STREET

Any lot of record created before the effective date of this ordinance without any street frontage shall not be occupied without access to a street provided by an easement or other right of way. Such access shall be no less than 20 feet wide. No more than one lot may be served by such an access route.

15-20-4 BUILDING GRADES

The finished surface of the ground areas outside the walls of any building constructed or altered shall be designed so that surface waters will flow away from the building in a direction and collection that shall not inconvenience or damage adjacent properties.

15-20-5 WATER AND SANITARY SEWAGE FACILITIES

Any structure erected for human occupancy after the effective date of this ordinance and used for dwelling, business, industrial or recreational purposes shall be provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, commercial, or industrial wastes. All such installations shall comply with local, county, and state requirements.

15-20-6 MOVING BUILDINGS

No existing building or structure shall be relocated upon any parcel within the City unless the building design and construction are compatible with the general architectural character, design, and construction of other structures located in the

immediate area of the proposed site. The building and all materials therein shall be in conformity with local building codes. The building, structure, or use must conform to the requirements of the respective zoning district. A moving permit shall be issued by the Building Inspector upon evidence of compliance to the requirements herein.

15-20-7 PRIOR BUILDING PERMITS

Any building permit issued prior to the effective date of this Ordinance shall be valid even though not conforming to the provisions of this Ordinance, provided that construction is commenced within 90 days after the date the permit is issued and carried on diligently without interruption for a continuous period in excess of 90 days.

15-20-8 FENCES, WALLS, SCREENS, AND BERMS

The following regulations shall apply to all fences, walls, screens, or similar devices.

(A) No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet, except for tennis court enclosures.

(B) No fence, wall, screen or plant material shall be erected or maintained in such a way as to obstruct vision or interfere with vehicular or pedestrian traffic.

No fence, wall or screen shall be erected or maintained greater than 3 feet within a triangular area formed by the intersection of the street right of way lines and a line connecting the points which are located on the intersecting right of way lines 30 feet from the point of intersection.

This height limit shall be measured for the lowest elevation of the segment of the intersecting road's centerline which lays between the point of intersection of the other centerline and the extension of the line drawn through the points 30 feet from the intersection of the right of way.

(C) No fence, wall or screen shall be erected or maintained at a height greater than 3 feet within a triangular area formed by the intersection of a street right of way line and a driveway and a line connecting the points located on the right of way line and the driveway 20 feet from the point of intersection.

The height limit shall be measured from the lowest elevation of the segment of the intersecting road and driveway's centerline which lays between a point of intersection of the centerline and the extension of the line drawn through the points 20 feet from the intersection of the right of way line and driveway.

(D) In addition to the before mentioned requirements, no fence, wall or screen shall be constructed with a height greater than 42 inches in the front yard setback. For purposes of this paragraph only, the side yard of a corner lot is not subject to front setback requirements for fences built between the rear building line and rear lot line. (Amended by Ordinance 08-01 Effective 9.24/2008).

(E) All stockade fences and similar structures, which are purchased with only one visually appealing side, shall have the most visually appealing side constructed to face away from the property on which it is constructed.

(F) All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing same, unless the adjacent property owner has provided written assurances to the Zoning Administrator that the fence, wall or screen may be constructed on the property line or within the boundaries of the adjacent property owner.

15-20-9 ACCESSORY BUILDINGS

Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations.

(A) An accessory building, including carports attached to the principal building, shall be made structurally a part thereof, and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor area.

(B) An accessory building unless attached and made structurally a part of the principal building, shall not be closer than 10 feet to any other structure on the lot.

(C) Accessory buildings shall not be closer than three feet to any interior side or rear lot line.

(D) Accessory buildings are subject to all setback requirements from the street applying to the principal building. When topographic conditions prevent compliance with this provision, the Board of Zoning Appeals may vary the above requirements in such a manner as to contribute to the public safety and general welfare.

(E) An accessory building shall not occupy more than 30% of the area of any rear yard.

(F) A detached accessory building in any residential district shall not exceed 20 feet in height. Detached accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts, subject to Zoning Board of Appeals approval if the building exceeds 1 story or 20 feet in height. This restriction shall not apply to the AG District. (Amended by Ordinance 06-03 Effective 7/5/2006)

(G) Accessory structures shall be subordinate to and on the same lot as the principal building to which it serves. Detached accessory structures may not extend beyond the front of the principal structure or be located in the side yard abutting a public right of way, excluding double frontage lots.

(H) Memorial monuments such as plaques, statutes, and military hardware may be located in any yard subject to the setback and height restrictions of the zoning district in which it is located. Monuments shall not be closer than 10 feet to any other structures or occupy more than 30% of the yard area.

15-20-10 VARIANCE OF REQUIREMENTS FOR LOTS OF RECORDS

Any residential lot created and recorded prior to the effective date of this ordinance may be used for residential purposes even though the lot area or dimensions are less than those required for the District in which the lot is located. Yard dimensions and other requirements of the district, not involving lot area or width shall be met.

15-20-11 ALLOCATION OF LOT AREA

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

15-20-12 YARD ENCROACHMENTS PERMITTED

The following elements of structures may extend or project into a required yard setback area in accordance with the following provisions.

(A) Architectural features such as cornices, eaves, gutters, chimneys, bay windows, and balconies may project a maximum of three feet into a required front setback, six feet into a required rear setback, or two feet into a required side yard setback.

(B) Unenclosed porches, patios, paved terraces, and decks may project a maximum of eight feet into a required front setback, 15 feet into the required rear setback, or three feet into a required side setback. In no case shall such a structure be placed closer than 5 feet to any lot line.

(C) Fire escapes or open stairways may project a maximum of three feet into a side setback, or six feet into the required rear setback.

15-20-13 FRONT SETBACK REDUCTIONS

(A) A front setback in any district may be reduced below the minimum requirement only when the average front setback of the existing principle buildings on the same side of the street and on the same block within 200 feet of a proposed principle building location is less than the minimum required. The Zoning Administrator shall establish the required minimum front setback based on the established average.

(B) In all residential zoning districts, except for parcels having a width of 150 feet or greater, or where the distance between the proposed principal building and the existing principal buildings on abutting lots is 150 feet or greater, a proposed principal building shall not be constructed where the front of the building is located in the established rear yard of the existing principle buildings of the abutting lot(s).

15-20-14 REAR SETBACK REDUCTIONS

(A) When a lot of record in any single family residential district has a depth of less than 120 feet prior to the effective date of this Ordinance, the rear setback area of such a lot may be reduced 1/4 of the distance of the lot depth less than 120 feet. No rear setback area shall be reduced to a depth of less than 20 feet. If a rear lot line abuts a public right of way, the Zoning Administrator may establish the required minimum rear setback, based on the procedure set forth in 15-20-13.

(B) In all residential zoning districts, except for parcels having a width of 150 feet or greater, or where the distance between the proposed principal building and the existing principal buildings on abutting lots is 150 feet or greater, a proposed principal building shall not be constructed where the rear of the building is located in the established front yard of the existing principal buildings of the abutting lot(s).

15-20-15 REQUIREMENTS FOR LAKE FRONTAGE LOTS

Residential lots having water frontage shall maintain the required rear yard open space, on the water side, as an open unobscured space. A boat well may be permitted after review and approval by the Planning Commission.

15-20-16 REQUIREMENTS FOR DOUBLE FRONTAGE LOTS

In the case of double frontage lots all sides of said lots adjacent to streets shall be considered frontage and front yard setbacks shall be provided as required.

15-20-17 ACCESS THROUGH YARDS

Access drives may be placed in the required yard setbacks to provide access to the principal or any accessory buildings. Any sidewalk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.

15-20-18 HEIGHT REQUIREMENTS EXCEPTIONS

The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy.

(A) Appurtenances purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, and flagpoles.

(B) Appurtenances necessary to mechanical or structural functions, such as chimneys, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, fire and hose towers, cooling towers, and other structures where the manufacturing process requires a greater height. All structures exceeding the height limitations of the district shall not occupy more than 25% of the area of the lot, shall be located not less than 25 feet from all lot lines, and shall be no less than one foot from the center line of each abutting street for each 2 feet of vertical height.

(C) Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five feet above the height limitations having no window openings.

(D) Public utility structures.

15-20-19 USE OF TEMPORARY BUILDINGS AND STRUCTURES

Temporary buildings and structures may be placed on a lot and occupied only under the following conditions.

(A) During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair is complete. In no case shall the temporary building or structure be located on the lot for more than 90 days.

(B) Temporary buildings and structures incidental to construction work, except single family residences. Temporary buildings shall be removed within 15 days after construction is complete. In no case shall the building

or structure be allowed for more than 12 months unless approved by the Board of Zoning Appeals.

(C) Temporary buildings and structures incidental to a church or school provided that all wiring, plumbing, fire protection, and exits are approved by the Fire Chief, Building Inspector, and any relevant state agencies. The Zoning Administrator shall approve the proposed building in relation to the requirements of this Ordinance. Such uses shall require approval by the Board of Zoning Appeals.

15-20-20 FLOOD HAZARD AREAS

(A) FLOODPLAIN MANAGEMENT:

(1) AGENCY DESIGNATED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Zoning Administrator of the City of Whitehall is hereby designated as the enforcing agency to discharge the responsibility of the City of Whitehall under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Whitehall assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this ordinance.

(2) CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the jurisdiction of the community adopting this ordinance.

(3) DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Muskegon County, Michigan (All Jurisdictions)" and dated July 6, 2015, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26121C; 0036D, 0037D, 0038D and 0039D dated July 6, 2015, are adopted by reference for the purposes of administration of the Michigan Construction Code and declared to be a part of Section 1612.3 of the Michigan Building Code and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(4) REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

(5) PUBLICATION. This ordinance shall be effective after legal publication and in accordance with the provision of the Act

governing same.
(Amended by Ordinance 15-01; 5/13/2015)

(B) FLOODPLAIN DEVELOPMENT.

(1) Flood or Flooding means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.

(2) Flood Hazard Boundary Map (FHBM) means an official map of a community, as may have been issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M and/or E.

(3) Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).

(4) Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(5) Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

(6) Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.
(Amended by Ordinance 15-02; 5/13/2015)

(C) It is the intent of this section to significantly reduce hazards to persons and damage to property as a result of flood conditions and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, as amended, and the rules and regulations promulgated in furtherance of this program by the United States Federal Emergency Management Agency and Federal Insurance Administration.

(D) Definitions - In addition to the definitions set forth in Article III, the following words shall have the meanings as set forth below.

(1) Base Flood - The flood having a 1% chance of being equaled or exceeded in any given year.

(2) Flood Hazard Boundary Map - The official map on which the Federal Insurance Administration has delineated Special Flood Hazard Areas.

(3) Flood Insurance Rate Map - The official map on which the Federal Insurance Administration has delineated both the Special Flood Areas and the risk premium zones.

(4) Flood Insurance Study - The official report provided by the Flood Insurance Administration containing flood profiles, flood boundaries, and water surface elevations of the base flood.

(5) Special Flood Hazard Area - Land which is subject to a 1% or greater chance of flooding in any given year.

(E) Development Standards

(1) All new nonresidential construction shall have:

(a) the lowest floor, including basement, elevated to or above the base flood level or,

(b) be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydronamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall indicate the elevation to which the structure is flood proofed.

(2) All new residential construction shall have:

(a) The lowest floor, including basements, elevated to or above the base flood level.

(b) All mobile homes shall be placed on a lot which is elevated on compacted fill or pilings so that the lowest floor of the mobile home will be at or above the base flood level.

Mobile homes must be anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the use of over the top or frame ties to ground anchors.

(F) Prior to the issuance of a building permit for structures located in a flood hazard area, the Zoning Administrator shall require the applicant to submit topographic data, engineering studies, site plans, or other data needed to determine the location of the flood hazard area and the possible effects of flooding on a proposed structure or the effect of the structure on the flow of water.

(G) Disclaimer of Liability: The degree of flood protection required by these provisions, is considered reasonable for regulatory purposes and based upon engineering and scientific methods. Larger floods may occur or flood heights may be affected by man made or natural causes. Approval of a permit under this section, shall not be considered a guarantee or warranty of safety from flood damage. This section does not imply that areas outside the designated flood hazard area will be free from flood damage. This section does not create liability on the part of the City of Whitehall, any officer or employee thereof, for any flood damage that results from reliance on these provisions or any administrative decision lawfully made hereunder.

15-20-21 ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance of essential services [see 15-3-2 (36)] shall be permitted as authorized and regulated by law and other ordinances of the City of Whitehall and upon filing of an application for administrative review of the proposed activity with the City Manager. While the erection, construction, alteration or maintenance of essential services are exempted from the application of other provisions as contained in this ordinance, such exemption shall not extend to utility office buildings, substations, microwave or wind generation towers, structures which are enclosures or shelters for service equipment, or maintenance depots.

15-20-22 BED AND BREAKFAST OPERATIONS

(A) It is the intent of this section to provide regulations enabling the use of single family dwellings as bed and breakfast operations. This section is enacted on the basis of a public policy that supports the City of Whitehall as a tourist destination and a need for overnight lodging of all types. This provision is also intended to provide an incentive for owners to continue occupancy and maintenance of structures of local historic significance that due to age and energy or maintenance costs may border on obsolescence. Existing neighborhoods will be protected by standards that prohibit potential nuisances or detrimental changes in the single family character of a site proposed for a bed and breakfast.

(B) Site Location and Development Standards

(1) All provisions of ARTICLE XXV - Site Plan Review shall be met.

(2) The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner.

(3) The structure shall remain a residential structure, for example the kitchen shall not be remodeled into a commercial kitchen.

(4) Meals shall be sold only to residents and overnight guests.

(5) Each operator shall keep a list of the names of all persons staying at the bed and breakfast operation. Such list shall be available for inspection by City officials.

(6) The maximum length of stay for any occupants of bed and breakfast operations shall be 14 continuous days.

(7) No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant up to a maximum of four occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate smoke detector alarms. Lavatories and bathing facilities shall be available to all persons using a bed and breakfast operation.

(8) Parking Requirements

(a) Two parking spaces for each dwelling unit plus one space per room to be rented.

(b) Tandem parking is allowed limited to two cars per space.

(c) No residential structure shall be removed in order to allow for a bed and breakfast use or in order to provide the required parking.

(d) All parking spaces shall be paved according to the standards set forth in 15-21-4.

(e) An applicant may request special consideration from the Planning Commission as part of the site plan review process. The intent is not to encourage yards to be destroyed, landscaping removed, or the integrity of the neighborhood altered in order to provide parking. The applicant shall submit an analysis of parking required and parking provided within a 300 foot radius of the subject parcel. The Planning Commission may lower the number of the required off street parking spaces based on the fact that sufficient parking exists in close proximity.

(9) One announcement sign not to exceed six square feet in surface display area, attached flat against the principal building or as a projecting sign attached directly to the principal building shall be permitted.

(10) General location criteria for bed and breakfast operations include single family structures of local historical significance located throughout the City and the older established neighborhoods.

15-20-23 COMPATIBILITY CONFERENCE

(A) It is the intent of this section to provide a process allowing an open, informal discussion session outside the arena of a formal Planning Commission public hearing, at which a development proposal would be presented to the surrounding neighborhood. The end result of the "Conference" should be a negotiated consensus regarding the proposed project and any potential impact on public services, traffic systems, or neighborhood character.

This provision allows full flexibility for the applicant to negotiate whatever conditions are considered necessary to reach a consensus. It also assumes that different land uses can be made compatible through proper planning, site, and building design and operation. Those parties best qualified to assist in determining such compatibility are the surrounding neighbors.

(B) A Compatibility Conference may be required of any application for a special use permit and site plan review applications.

(C) Procedure

(1) The parties of interest and all property owners within 300 feet of the subject property are notified by regular mail or personal delivery not less than five days prior to the Compatibility Conference.

(2) A member of the City staff acts as moderator. Minutes of the meeting are kept.

(3) An overview of the proposal and the purpose of the Conference are outlined by City staff. The applicant then presents the proposal for discussion.

(4) General discussion on the proposal is to be guided by a standardized list of topics or issues for evaluation including site analysis, utilities, surface drainage, buffers and screening, signs, vehicular circulation and parking, and outdoor spaces.

(5) The moderator summarizes the points of agreement and disagreement. If there is agreement, all negotiated conditions are made part of the proposal, are carried forward to the Planning Commission, and becomes a part of the Special Use Permit or approved Site Plan.

15-20-24 SATELLITE DISH ANTENNAS

(A) It is the intent of this section to provide regulations for the location, height and bulk, aesthetics, safety and structure, and number of satellite dish antennas. Satellite dish antennas, given their size, shape, and general appearance, may be perceived as having a significant impact on adjoining residents and the character of a given neighborhood, or the health, safety, or aesthetics of the city.

(B) No person shall construct or install a satellite dish antenna in any zoning district unless a Certificate of Zoning Compliance therefore has been issued by the Zoning Administrator, and a building permit therefore has been issued by the Building Official.

(C) Site Location and Development Standards

(1) One satellite dish antenna shall be permitted per lot.

(2) Satellite dish antennas shall not be located in front or side yards.

(3) Satellite dish antennas shall not be used for, nor contain a commercial or residential advertisement, nor be painted or altered from its original form and condition at the time of its installation so as to resemble an advertising structure.

(4) Satellite dish antennas shall not exceed a maximum size of twelve feet in diameter.

(5) Provisions applicable in all residential zoning districts:

(a) Satellite dish antennas shall not be installed on the roof of any building.

(b) The maximum height of a satellite dish antenna shall be twelve feet above grade, measured from its point of attachment to the ground surface.

(c) The satellite dish antenna shall be completely screened from view at ground level from any adjacent lot or street. The intent is to screen the antenna from view, yet not to interfere with the operational requirements of the antenna.

Screening shall be provided by any one or more of the following; the dwelling or other accessory buildings located on the same lot where the antenna is located; opaque fencing; or landscaping and plantings that provide year round screening. A site plan depicting the location of existing structures; the proposed satellite dish antenna: screening, including type, width, size, and height shall be submitted prior to approval of the building permit.

(6) Provisions applicable in all commercial and industrial zoning districts.

(a) If attached directly to the ground, the satellite dish antenna shall not extend higher than 12 feet above grade as measured from its point of attachment to the ground surface.

(b) If mounted to the roof of a building, the satellite dish antenna shall not extend higher than 12 feet above the highest point of the roof to which it is attached. In no case, shall a satellite dish antenna exceed the maximum building height of the subject commercial or industrial zoning district.

(c) If located in a yard abutting a residential zoning district or use, the satellite dish antenna shall be totally screened from view at ground level. The intent is to screen the satellite dish antenna from view yet not to interfere with the operational requirements of the satellite dish antenna.

Screening shall be provided by any one or more of the following; the building or other accessory buildings located on the same lot where the antenna is located; opaque fencing; or landscaping and plantings that provide year round screening. A site plan depicting the location of existing structures; the proposed satellite dish antenna: screening, including type, width, size, and height shall be submitted prior to approval of the building permit.

15-20-25 KEEPING OF ANIMALS

(Repealed by Ordinance 09-01 Effective 4/9/2009)

15-20-26 DWELLINGS

In addition to the appropriate building codes, fire codes, and specific requirements of the individual zoning districts in which a dwelling is located, a dwelling shall comply with the following standards.

(A) The minimum width across any front, side, or rear elevation shall be no less than 20 continuous feet of exterior wall.

(B) The dwelling shall be placed upon and secured to a permanent foundation in accordance with building codes. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable code for single family dwellings. In the event that the dwelling is a mobile home, such dwelling shall be installed pursuant to the manufacturer's set up instructions, shall be secured to the

premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

(C) If the dwelling has wheels, towing mechanisms, or undercarriages, they shall be removed.

(D) The dwelling shall be connected to a public sewer and water supply or to private facilities approved by the appropriate authorities.

(E) The dwelling shall contain storage capability in a basement, attic, closet, or in a separate structure of standard construction similar to or of better quality than the principal dwelling. Such storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(F) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans (which shall include photographs or elevations) submitted for the particular dwelling. An aggrieved party may appeal to the Board of Zoning Appeals within 15 days from receipt of notice of the Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design, and appearance of one or more residential dwellings located outside any mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area. Where said area is not so developed, by the character, design, and appearance of one or more residential dwellings located outside any mobile home parks throughout the City.

The foregoing shall not be construed to prohibit innovative design concepts such as solar energy, view, unique land contour, or relief from the common or standard designed home.

(G) A dwelling shall have either a roof overhang of not less than six inches on all sides or in the alternative, window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; have not less than two exterior doors with the second one being on either the rear or side of the dwelling; and has permanently attached steps, where needed.

(H) The dwelling shall not contain additions, rooms, or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction

of a foundation as required. All dwellings shall meet or exceed applicable roof snow load and strength requirements.

(I) In the case of a mobile home, all construction including plumbing, electrical, and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards", 24 CFR 3280 as amended.

(J) The foregoing standards shall not apply to a mobile home located in a permitted mobile home park except to the extent required by local, state, or federal laws pertaining to such parks.

15-20-27 SEXUALLY ORIENTED BUSINESSES

In addition to the appropriate building codes, fire codes and specific requirements of the individual zone district in which a sexually oriented business is located, a sexually oriented business shall comply with the following standards:

(A) The requirements of the City of Whitehall Code of Ordinances governing Sexually Oriented Businesses, shall be complied with.

(B) All buildings, parking areas and signs shall, at the time of issuance of the permit, be located a minimum of three hundred (300) feet from any Residential District and from any existing dwelling unit, church or synagogue, public or private school, day care center, public building, public park or playground, or other public use frequented by children, whether located in the City of Whitehall or other municipalities.

15-20-28 HOME OCCUPATIONS

A) The intent of this section is to allow small business operations within a dwelling provided it is carried on by the inhabitants and does not impair the primary purpose of the dwelling for dwelling purposes.

B) General requirements, restrictions and standards.

(1) The nonresidential use shall be incidental to the primary residential use.
(2) Home occupations shall use no more than 25 percent of the floor area of the principal building.
(3) The home occupation shall only involve those members of the immediate family residing on the premises.
(4) No equipment or process shall be used in such a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. No

equipment or process shall be used which creates visual or audible interferences in any radio or television receivers off the premises or cause fluctuation in line voltage off the premises.

(5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.

(6) There shall be no change in the exterior appearance of the buildings or premises, or other visible evidence of the conduct of a home occupation other than one announcement sign limited to 2 square feet in area, non-illuminated and mounted flat against the wall of the principal building as provided in 15-22-4.

(7) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off street and other than in a required front yard.

(8) Garage sales, rummage sales, yard sales and similar activities shall be regulated by the City Code of Ordinances.

15-20-29 SOLID FUEL HEATING APPLIANCES

Due to the nuisance smoke and concerns regarding the public safety and welfare of residents, outdoor solid fuel heating appliances are prohibited in the City of Whitehall.

15-20-30 RENEWABLE ENERGY SOURCES

A) The purpose of this section is to establish guidelines for exterior renewable energy sources. This section's goals are as follows:

(1) To promote the safe, effective, and efficient use of renewable energy sources.

(2) To lessen potential adverse impact renewable energy sources may have on residential areas and land uses through careful design, location, noise limitations, and innovative camouflaging techniques.

(3) To avoid potential damage to adjacent properties from failure through engineering and proper location of structures used for renewable energy.

B) Definitions as used in this Ordinance

(1) "Private Applications" are renewable energy sources, equipment, and facilities that have as their primary purpose the supply of on site energy needs. Private applications can be connected to a commercial power grid or be completely off the commercial power grid.

(2) "Commercial Applications" are renewable energy sources, equipment, and facilities that have as their primary purpose the supply of energy to the commercial power grid.

(3) "Renewable Energy" means power generated from natural resources such as sunlight, wind, rain, tides, and geothermal heat which are naturally replenished.

C) Permit Requirements

All exterior renewable energy equipment and facilities and any modifications to existing equipment or facilities that materially alters the size, type, or number shall require a zoning or special use permit and comply with the site plan provisions of this zoning ordinance. Like-kind replacements shall not require a permit. All renewable energy equipment and facilities shall comply with applicable building codes.

D) Residential Districts (R1, R2, and R3)

Private renewable energy applications may be allowed by right as an accessory use in all residential districts subject to the regulations of that particular district providing no such applications shall be allowed in any front yard and subject to approval by the Zoning Administrator.

E) Commercial Districts (RC1, B1, B2, LR, AG, and OS)

Private renewable energy applications may be allowed by right as an accessory use in all commercial districts and the lakefront recreational district subject to the regulations of that particular district providing no such applications shall be allowed in any front yard and subject to Planning Commission approval.

F) Industrial Districts (M1, M2, and MC1)

(1) Private renewable energy applications may be allowed by right as an accessory use in all industrial districts subject to the regulations of that particular district providing no such applications shall be allowed in any front yard and subject to Planning Commission approval.

(2) Commercial renewable energy applications may be allowed by special use permit only in am M2 zoning district on parcels no less than twenty (20) acres in size, subject to the regulations of that particular district providing no such applications shall be allowed in any front yard and subject to Planning Commission approval.

(3) Any equipment or facilities exceeding the height requirement of that particular district shall require a special use permit. Under no circumstance shall any equipment or facility exceed 200 feet in height.

G) Special Use Permits

Renewable energy applications that require a special use permit shall comply with the special use provisions of this zoning ordinance along with the following additional standards - a narrative describing the proposed renewable energy source; generating capacity; the number, types, size, and height of any equipment and facilities.

H) Additional Regulations

(1) Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations.

(2) Renewable energy equipment and facilities shall not display advertising except for the brand or manufacturers name.

(3) Any and all transmission and power lines shall be placed underground.

(4) Renewable energy equipment and facilities shall be set back from the nearest property line a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point.

(5) Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance.

(6) Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals.

(7) All wind turbines shall be equipped with over speed braking systems.

ARTICLE XXI
NONCONFORMING USES AND STRUCTURES

15-21-1 PURPOSE

It is recognized that there exist lots, buildings and structures and uses which were lawful before the enactment or amendment of this Ordinance which are not prohibited, restricted or otherwise regulated under the provisions of this Ordinance, or may be prohibited, restricted or otherwise regulated under future amendments thereto. It is the intent of Article XXI to permit legal nonconforming lots, buildings and structures and uses to continue until they are removed, but not to encourage their survival.

Nonconforming lots, buildings and structures, and uses are declared by this Article to be incompatible with permitted uses in the districts in which they are located. Therefore, nonconforming lots, buildings and structures, and uses shall not be enlarged upon, expanded, extended, used as grounds for adding other structures or uses prohibited elsewhere in the same district, or otherwise modified except in conformance with the provisions of this Ordinance.

15-21-2 CONSTRUCTION IN PROGRESS

To avoid undue hardship, nothing in this Article shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this Article and upon which actual construction has been diligently carried out.

Pursuant to the above, actual construction is defined as the placing of construction materials in permanent position and fastened in a permanent manner. Demolition or removal of an existing building substantially begun preparatory to rebuilding shall be deemed as actual construction. Such work shall be diligently carried on until completion of the building or structure involved, provided, however, the period of completion shall not exceed two (2) years from the date of permit issuance.

15-21-3 DEFINITIONS

(A) Nonconforming Use: Shall mean a land use (use of land) which is not permitted in the underlying zone district.

(B) Nonconforming Lot of Record: Shall mean a lot or parcel recorded with the Muskegon County Register of Deeds which does not meet the required standards of the underlying zone district pursuant to required lot area, lot width, lot width to depth ratio, maximum lot coverage by buildings and

structures, required public or private roadway frontage and access, or other such requirements as specified by this Ordinance.

(C) Nonconforming Building or Structure: Shall mean a building or structure which does not conform to the minimum size, required setbacks, maximum height, required design standards, or other such requirements or restrictions of the underlying zone district.

15-21-4 REGULATIONS COVERING NONCONFORMITIES

(A) Nonconforming Use:

(1) Enlargement - A nonconforming use shall not be enlarged, increased, extended or otherwise modified to occupy a greater area of land than was occupied at the effective date of this Ordinance or amendment thereto.

(2) Relocation - A nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of this Ordinance or amendment thereto.

(3) Change - A nonconforming use shall not be changed to another nonconforming use, unless approved by the Zoning Board of Appeals. In approving said change, the Board shall determine that the proposed change in use will not result in a greater deleterious effect on neighboring properties than the existing nonconforming use. IN reaching the above determination, the Board shall find:

(a) The new use to be equal to, or more consistent with, the range of uses permitted by the underlying zone district than the current use; and,

(b) The new use to be equal to, or more compatible with, the surrounding neighborhood as compared to the current use. In reaching the conclusion of equal or greater compatibility, the Zoning Board of Appeals shall examine the new use to determine whether or not the potential impacts of said use are equal to or less objectionable than the existing use. The impacts to be examined include, but are not necessarily limited to, traffic volumes, traffic type and delivery requirements, parking and circulation requirements, noise, odor, glare, hours of operation, public services and infrastructure needs and public safety.

In approving a substitution, the Zoning Board of Appeals may attach conditions to the new use to ensure compliance with the intent and purpose of this Ordinance.

(4) Abandonment - If a nonconforming use is abandoned for a period of more than 12 consecutive months, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one 1 or more of the following conditions exist, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:

(a) Utilities, such as water, gas and electricity to the property have been discontinued;

(b) The property, buildings and ground have fallen into disrepair;

(c) Signs or other indications of the existence of the nonconforming use have been removed;

(d) Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;

(e) Other actions, which in the opinion of the Zoning Administrator, constitute an intent on the part of the property owner or lessee to abandon the nonconforming use.

(B) Nonconforming Lot of Record

(1) Where a residential lot of record in existence at the time of the Adoption of this Ordinance, or amendment thereto, does not meet the minimum requirements of this Ordinance for lot width or lot area, such lot of record may be used for any purposes permitted by the district in which it is located, provided that the lot meets at least 80 percent of the required lot area, lot width and side yards required by that district and further provided that any building or structure constructed on the lot complies with all other yard setback requirements.

(2) If 2 or more lots of record under common ownership, or combination of lots and portions of lots of record under common ownership, in existence at the time of the adoption of this Ordinance, or amendment thereto, with continuous frontage do not

meet the requirements established for lot width or lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with the lot width and lot area requirements established by this Ordinance.

(C) Nonconforming Buildings and Structures

Where a lawful building or structure exists at the time of the effective date of this Ordinance, or amendment thereto, that does not comply with the requirements of this Ordinance by reason of restriction on area, lot coverage, height, yard setback, width or other characteristics of the building or structure or its location on the lot, such building or structure may be continued so long as it otherwise remains lawful, subject to the following provisions.

(1) Except as noted below, nonconforming buildings and structures shall not be altered or expanded without the prior approval of the Zoning Board of Appeals.

(a) Structural alterations or extensions adding to the bulk of a residential structure which is nonconforming only by reason of lot size or lot width shall be permitted provided that such alterations or extensions shall not increase the extent of nonconformity and shall satisfy all other applicable site development requirements.

(b) Structural alterations which do not increase or extend the nonconformity or increase the intensity of use of the building or structure. Intensity of use shall refer to an increase in vehicular traffic, need for additional public services or facilities, increase in off-site noise, increase in off-site odors, or an increase in any other factor above the level existing prior to the structural alteration.

(c) Normal repairs and maintenance may be done on any nonconforming building or structure, or building or structure devoted to a nonconforming use.

(2) Except for residential uses, nonconforming buildings and structures shall not be structurally altered so as to prolong the life of the building or structure unless authorized by the Zoning Board of Appeals based on the following findings:

(a) To the maximum extent possible and practicable, the proposed alteration or extension shall comply with the provisions of the district in which the building or structure is located.

(b) The proposed alteration or extension will not have a deleterious effect on adjoining properties.

(3) Except as noted below, should a nonconforming building or structure be destroyed to an extent of more than 75 percent of its replacement value, exclusive of the foundation, it shall be reconstructed only in conformance with the provisions of this Ordinance.

(a) The estimated expense of reconstruction shall be determined by the Building Inspector. If necessary, and as authorized by the City, the Building Inspector may utilize individuals knowledgeable in building construction for assistance in determining building replacement costs.

(b) If a building or structure is nonconforming due only to its having an insufficient setback or due to its being located on a site having a size or width less than required by this Ordinance, such building or structure may be replaced provided it meets the underlying zone district requirements to the maximum extent possible and practicable.

15-21-5 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership or management of any existing nonconforming use of land or nonconforming lots, buildings and structures provided there is no change in the nature or character of such nonconforming use, land, lot, building and/or structure unless authorized as provided for by this Ordinance.

15-21-6 ACQUISITION OF NONCONFORMING PROPERTY

The City may acquire, through purchase or condemnation, private nonconforming buildings, structures or land. The City Council may take such actions in the manner as provided for by law.

ARTICLE XXII
OFF STREET PARKING AND LOADING REQUIREMENTS

15-22-1 PURPOSE

It is the purpose of these requirements that parking shall be provided and adequately maintained by each property owner in every zoning district for the off street storage of motor vehicles used by the occupants, employees, or patrons of each building constructed or altered under the provision of this Ordinance.

15-22-2 OFF-STREET PARKING GENERAL PROVISIONS

At the time any building or structure is erected, enlarged, increased in capacity, or use established, off street parking spaces shall be provided on site as hereinafter prescribed. These provisions shall not apply to nonresidential uses in the B2-Central Business District or any existing single family residential structures that are enlarged or increased in capacity. Establishments having drive-through windows or providing service to patrons in vehicles, within the B2 District, shall provide the required waiting spaces. Parking facilities provided in the B-2 District shall be constructed in conformance with the development standards contained in this article.

(A) Plans and specifications showing required off street parking spaces, including ingress/egress and interior circulation, shall be submitted to the Zoning Administrator for approval prior to the construction. Parking associated with new or expanded building construction, plans shall be submitted at the time of application for a site plan approval. A land use not involving building construction, parking plans shall be submitted prior to the implementation of said use.

(B) Off street parking for other than residential uses shall be either on the same lot or within 600 feet of the building it is intended to serve, measured from the building entrance to the nearest point of the off street parking lot, without crossing any major thoroughfares.

(C) No parking area or space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purposes of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established.

(D) No repair work, servicing or selling of any kind shall be conducted on any commercial parking area except that which is specifically permitted by this Ordinance. No items such as plastic animals, streamers, cloth signs, mechanical entertainment devices or other similar devices shall be permitted in the parking area.

(E) Two or more commercial buildings or uses may collectively provide the required off street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

(F) Where the owners of two commercial buildings or uses whose operating hours do not overlap, desire to utilize common off street parking facilities, application shall be made to the Board of Appeals. The Board may grant approval of such dual function off street parking facilities, subject to a finding that all of the following conditions have been met:

(1) The office hours of the two buildings or uses, do not overlap, except for custodial personnel.

(2) The common parking lot meets the off street parking requirements of the larger building or use, plus 15% percent.

(3) The common parking lot meets all requirements of this Ordinance with respect to each building or use.

(4) Common parking lot provisions shall include appropriate deed restrictions or easements to protect all property owners' interests in parking.

(G) When units or measurements determining the number of required parking spaces result in a fractional space, any fraction up to and including 1/2 shall be disregarded and fractions over 1/2 shall require 1 parking space.

15-22-3 SCHEDULE OF REQUIREMENTS

Applicants can demonstrate substantial and compelling reasons why strict compliance would constitute an undue hardship and that a different standard will adequately serve the subject property and proposed use and otherwise conforms with the intent of this ordinance.

The minimum number of off street parking spaces, by type of use, shall be determined in accordance with the following schedule:

1) Auto service stations - 2 spaces for each stall, rack, or pit, plus 1 space for each fuel pump.
2) Auto washes, automatic - 15 waiting spaces at entry, plus 2 drying spaces at exit for each wash lane, all on the exterior of the building, plus 1 space for each employee.
3) Auto washes, hand or coin operated - 3 waiting spaces at entry, 2 drying spaces at exit for each bay, all on the exterior of the building.
4) Banks - 1 space per 200 square feet of usable floor area plus 4 spaces for each drive up window. In the case of a drive up window operation only, then 4 spaces for each drive up window, plus 1 space for each employee.
5) Beauty parlor or barber shops - 2 spaces for each chair.

6) Bowling alleys - 8 spaces for each bowling lane, plus 1 space for each employee, plus required parking for each auxiliary use.
7) Business or professional offices, except as indicated in the following item (3) - 1 space per 150 square feet of usable floor area.
8) Churches or temples - 1 space for every 3 seats or 6 feet of pews in the main unit of worship.
9) Dance halls, rinks, exhibition halls, and assembly halls without fixed seats - 1 space for every 100 square feet of gross floor area.
10) Drive in restaurants - 1 space for every 3 seats or 1 space per 30 square feet of usable floor area, whichever is greater plus 3 short term waiting spaces and 4 spaces for the stacking of vehicles per drive up window.
11) Elderly housing - 1.5 space for each dwelling unit, plus 1 space for each employee.
12) Elementary and junior high schools - 1 space for each teacher, employee, and administrator, plus 1 space for each classroom, plus required parking for an auditorium.
13) Furniture and appliance stores, household equipment repair shops, showrooms for plumbers, electricians, and similar trades, and other similar uses - 1 space per 800 square feet of usable floor area.
14) Group day care homes and child care centers - 1 space per 350 square feet of usable floor area.
15) Homes for the aged and convalescent homes - 1 space for every 2 beds, plus 1 space for each employee on peak employment shift.
16) Hospitals - 1.5 spaces for each bed, plus 1 space for each employee on peak employment shift.
17) Industrial or research establishments - 5 spaces, plus 1 space for every 2 employees on peak employment shift or 1 space per 550 square feet of usable floor area, whichever is greater.
18) Laundromats and dry cleaners - 1 space for each 2 machines plus 4 spaces for each drive up window. In the case of a drive up window operation only, then 4 spaces for each drive up window plus 1 space for each employee.
19) Libraries and museums - 1 space per 500 square feet of gross floor area, plus 1 space for each employee.
20) Marinas - 1.5 spaces for each boat slip, plus 1 space for each employee, plus required parking for each auxiliary use.
21) Miniature or par 3 golf courses - 3 spaces for each hole, plus 3 for employees.
22) Mortuary establishments - 1 space per 25 square feet of assembly room floor area.
23) Motels and hotels - 1 space for each rental unit, plus 1 space for each employee.
24) Motor vehicle sales and service establishments - 1 space per 200 square feet of sales room floor area, plus 1 space for each stall, rack, or pit, plus 1 space for each employee.

25) Planned commercial or shopping centers, or discount stores with a minimum of 25,000 square feet - 6 spaces per 1,000 square feet of gross floor area.
26) Private clubs or lodges - 1 space for every 3 persons allowed within the maximum occupancy load, plus 1 space for each employee.
27) Private golf, swimming pool, or similar clubs - 1 space for every 2 member families or member individuals.
28) Professional offices for doctors, dentists, and other similar professions - 1 space per 150 square feet of usable waiting room floor area, plus 1 space for each examination room or dental chair, plus 1 space for each doctor, dentist, and employee.
29) Public golf courses - 6 spaces for each golf hole, plus 1 space for each employee.
30) Public utilities - 1 space for each employee.
31) Residential - Multiple family - 1.5 space for each efficiency or single bedroom unit and 2 spaces for each multiple bedroom unit.
32) Residential -One and two family - 2 spaces for each dwelling unit.
33) Restaurants, bars or other establishments for on premise sale and consumption of beverages or food - 1 space per 100 square feet of gross floor area.
34) Retail stores, except as otherwise specified - 1 space per 150 square feet of usable floor area.
35) Senior high schools and colleges - 1 space for each teacher, employee, and administrator, plus 1 space for each classroom, plus 1 space for every 10 students, plus required parking for an auditorium.
36) Stadiums, sports arenas, or similar outdoor places of assembly - 1 space for every 5 seats or 10 feet of benches, plus 1 space for each employee.
37) Theaters and auditoriums - 1 space for every 3 seats, plus 1 space for each employee.
38) Wholesale or Warehouse Establishments - 1 space for every 2 employees on peak employment shift or 1 space per 1,700 square feet of usable floor area, whichever is greater.

15-22-4 OFF STREET PARKING DEVELOPMENT STANDARDS

(A) Whenever the off street parking requirements for institutional, commercial, office, or industrial uses require the building of an off street parking facility, such off street parking shall be designed, constructed, and maintained in accordance with all of the following standards and regulations listed below.

(1) Plans for the off street parking facilities shall be submitted as part of the site plan review process and must be approved prior to construction.

(2) Each off street parking space shall not be less than 20 feet in length and 8.5 feet in width, exclusive of drives or aisles.

(3) Each space shall be clearly marked and reserved for parking purposes.

(4) There shall be provided a minimum access drive of 20 feet in width and so located as to secure the most appropriate development of the individual property. Where a turning radius is necessary, it shall be of an arc that reasonably allows an unobstructed flow of vehicles.

(5) Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces. The minimum width of such aisles shall be in accordance with the following minimum regulations:

Degree of Parking Pattern	Maneuvering Lane Width		Parking Space		Total Width 2 Tiers of Spaces plus Maneuvering	
	1 way	2 way	Width	Length	1 way	2 way
0	11 ft	18 ft	8.5 ft	25 ft	28 ft	35 ft
30 - 53	12 ft	20 ft	9 ft	21 ft	54 ft	62 ft
54 - 74	13 ft	22 ft	9 ft	21 ft	55 ft	64 ft
75 - 90	15 ft	24 ft	9 ft	20 ft	55 ft	64 ft

(6) All off street parking areas shall be drained so as to eliminate surface water and prevent drainage onto abutting properties. The surface of the parking lot, including drives and aisles, excepting landscaped areas, shall be constructed of asphaltic (bituminous) material or concrete unless alternate materials are approved by the Planning Commission.

(7) The minimum required number of parking spaces shall be maintained at all times free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking. Such spaces shall be retained for customer and employee parking during business hours and shall not, absent prior Planning Commission approval, be used for extended periods of display or parking. This section does not apply where the business is closed to the general public or customers.

(8) The Commission may approve alternative pavement surface materials, provided such alternative provides a dust and mud free hard surface. Construction specifications for the installation of the off street parking lot shall be reviewed and approved by the Building Official prior to construction.

(9) The parking area shall be completed prior to the issuance of a certificate of occupancy by the Building Official. Paving may be delayed for 1 year from the date of occupancy upon approval by the Planning Commission. The Planning Commission may require that the applicant submit to the City a financial guarantee of adequate security. The financial guarantee may be forfeited towards the completion of the parking area by the City or the occupancy permit may be revoked if the parking area is not fully completed following the 1 year extension period. All unpaved parking areas shall be kept dust free.

(10) Lighting fixtures used to illuminate off street parking shall reflect the light away from adjoining properties and public rights of way. Lighting shall be installed to allow the reduction of the amount of light after normal parking hours.

(11) Where an off street parking facility adjoins a residential district, a minimum 10 foot wide buffer shall be provided between the parking area and the adjoining property or public street. This buffer shall consist of a vertical screen of structural or plant materials no less than 5 feet in height.

(12) Where an off street parking facility adjoins a public street, a buffer at least 10 feet wide shall be provided between the parking area and the street. No more than 2 driveways may break this buffer from a major street, no more than 1 driveway from a local street. Where a parking area has the capacity for more than 50 vehicles, the buffer shall be at least 20 feet.

(13) All parking areas for 10 or more vehicles shall be landscaped. Landscaping shall be accomplished throughout the parking area on the basis of 200 square feet of grass or planted area for every 10 parking spaces.

(B) Whenever the off street parking requirements for residential uses require the building of an off street parking facility, such off street parking shall be designed, constructed, and maintained in accordance with all of the following standards and regulations listed below. (NOTE: Those multiple family uses in which more than two units per parcel are constructed shall meet the requirements as set forth above for institutional, commercial, office or industrial uses.)

(1) Plans for the off street parking facilities shall be submitted as part of the site plan review process and must be approved by the Zoning Administrator or if he elects, the Planning Commission prior to construction. The Zoning Administrator or Commission may refer said plans for review and comment to an appropriate engineer, architect, or planning consultant before approving, denying, or approving with modification a site plan.

(2) Each off street parking space shall not be less than 20 feet in length and 9 feet in width, exclusive of drives or aisles.

(3) There shall be provided a minimum access drive of 10 feet in width and so located as to secure the most appropriate development of the individual property.

(4) All off street parking areas shall be drained so as to eliminate surface water and prevent drainage onto abutting properties. The surface of the parking area, including drives and aisles, excepting landscaped areas, shall be constructed of asphaltic (bituminous) material, concrete, dolomite, paving bricks, or geo mesh.

(5) The Planning Commission may approve alternative pavement surface materials, provided such alternative provides a dust and mud free hard surface and may require that detailed construction specifications for the installation of the off street parking lot be reviewed and approved by an appropriate official or consultant prior to construction.

(6) The parking area shall be completed prior to the issuance of a certificate of occupancy by the Building Official. Paving may be delayed for 1 year from the date of occupancy upon approval by the Planning Commission. The Planning Commission may require that the applicant submit to the City a financial guarantee of adequate security. The guarantee and occupancy permit may be forfeited if the parking area is not fully completed following the 1 year extension period. All unpaved parking areas shall be kept dust free.

(7) Lighting fixtures used to illuminate off street parking and driveways shall reflect the light away from adjoining properties and public rights of way. Lighting shall be installed to allow the reduction of the amount of light during the evening hours.

15-22-5 OFF STREET LOADING AND UNLOADING

For every use involving the receipt and distribution of vehicles, materials, or merchandise there shall be provided and maintained on the same premises an area adequate for standing, loading, and unloading to avoid undue interferences with public use of the streets, alleys, or required access aisles for parking areas.

(A) The location and design of loading and unloading areas shall be reviewed as part of site plan to insure adequate protection is afforded adjacent districts from disruptive elements normally associated with such facilities.

(B) Exterior loading and unloading spaces shall have a minimum paved area 10 feet wide by 40 feet long, with 15 foot height clearance. The minimum required loading and unloading spaces shall conform to the following schedule:

Gross Floor Area	Loading/Unloading Spaces
0 - 1,900 sf	0
2,000 - 19,999 sf	1
20,000 - 99,999 sf	1, plus 1 for every 20,000 sf in excess of 20,000 sf
over 100,000 sf	5, plus 1 for every 40,000 sf in excess of 100,000 sf

ARTICLE XXIII
SIGNS
(Amended by Ordinance 07-01 Effective May 24, 2007)

15-23-1 PURPOSE

The purpose of this Article is to provide a framework within which the identification and informational needs of business and industry can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained in this Article to give recognition to the legitimate needs of business, industry, and other activities in attaining their identification and informational objectives. It is a basic tenet of this Article that unrestricted signage does not benefit either the private sector or the community at large.

15-23-2 DEFINITIONS

In addition to the definitions set forth in Article III, the following words shall have the meanings as set forth below.

(A) Banner: A piece of cloth, plastic, or similar material used as a symbol, standard, signal, or emblem exclusively for attracting attention to a business, generally of a long rectangular shape affixed at both ends.

(B) Billboard: A sign that is affixed to or erected upon a freestanding framework designed or intended to be used for posting information not pertaining directly to the use of the premises on which it is located.

(C) Commercial Sign: Any device which directs attention to a business, profession, commodity, service, or entertainment sold or offered.

(1) On Premises: A commercial sign whose message relates to activities lawfully conducted on the same premises.
(2) Off Premises: A commercial sign whose message relates to activities lawfully conducted on premises other than that upon which the sign is located.

(D) Election Campaign Sign: A sign advertising candidates or soliciting votes for any proposition or issue at any election.

(E) Flag: A piece of cloth or bunting used as a symbol, standard, signal, or emblem generally of a square or short rectangular shape affixed at one end.

(1) Standard: A flag bearing the official design of a nation, state, municipality, nonprofit institution, nonprofit organization, business log, or business emblem.

(2) Commercial: A flag bearing copy or design, such as the words "Open" or Welcome", intended to attract attention towards a business.

(F) Free Standing Sign: A sign which is not attached to any other structure erected for the purpose of advertising a business or activity.

(G) Identification Sign: Any device that identifies the business, owner, resident, or street address which sets forth no advertisement.

(H) Illuminated Sign: Those that provide artificial light directly or through any transparent or translucent material from a source of light connected with such sign or illuminated by a light shielded that no direct rays are visible from any public rights of way of from the abutting property.

(I) Institutional Bulletin Board: A sign containing a surface area upon which is displayed the name of an institution and the announcement of its services or activities conducted on premise.

(J) Marquee Sign: An identification device attached to a marquee, canopy, or awning projecting from and supported by a building, above sidewalk level. Such signs shall not project above the cornice or roof line.

(K) Portable Sign: A free standing structure not permanently anchored or secured to either a building or the ground, capable of being moved from place to place.

(L) Projecting Sign: A structure which extends from and is secured to a building.

(M) Real Estate Sign: A non-illuminated, on premise device advertising the sale, rent, or lease of land or buildings, including buildings under construction.

(N) Surface Display Area: The section of any sign within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems, or other figures including any material or color forming an integral part of the array used to differentiate the sign from the background against which it is placed. Structural members bearing no sign copy shall not be included. Both sides and all faces shall be included in calculating surface display area.

(O) Temporary: For display periods not to exceed 90 days.

(P) Wall Sign: A sign attached directly to or painted upon a building parallel to the building wall.

(Q) Window Sign: Copy or emblems that are painted or otherwise attached to the window surface.

15-23-3 SIGNS PERMITTED IN ALL DISTRICTS

The following permanent signs shall be permitted in all districts without requiring a building or sign permit, subject to the requirements stated below.

(A) House numbers legible from the street. On premise nameplates identifying the occupant or address and not having commercial connotations.

(B) On premise memorial signs or tablets affixed to a building such as those containing the building name and construction dates.

(C) Standard Flags. Not to exceed 24 sq. ft. each. Prohibit more than two flag poles per residential use or dwelling with no more than two flags per pole and three flag poles per commercial/industrial use with no more than two flags per pole. Additional flag poles may be approved by the Zoning Administrator for commercial lots larger than 20,000 square feet or industrial lots larger than 40,000 square feet.

(D) Traffic or other municipal signs and notices. Private traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.

(E) On premise institutional bulletin boards not exceeding 50 square feet in surface display area.

(F) Park, playground, and other governmental signs.

(G) Sponsorship and championship signs and banners for the benefit of non-profit organizations are allowed without permit to be displayed at recreational facilities as approved by the property owner. (Amended by Ordinance 11-06, Effective 5/25/11)

(H) Tourist-oriented directional signs the location of which shall be set by the City of Whitehall Planning Commission or its designee. The city may permit TODS as defined by MCL 247.402 within its jurisdictional

boundaries as provided by and pursuant to MCL 247.403(7). (Amended by Ordinance 14-01, Effective 4/30/14)

15-23-4 The following temporary signs shall be permitted in all districts without requiring a building or sign permit as long as they do not exceed 32 square feet in surface display area and are displayed no longer than 45 days or 5 days after the event, whichever comes later. No temporary sign shall be located within any public right of way or be a hindrance to vehicular or pedestrian traffic. Temporary signs on wheels are prohibited.

(A) Commercial Flags
- (1) One on premise flag per store entrance.
- (2) Such flags shall not be displayed while the business is closed to the general public. When displayed, such flags shall be affixed to a building or placed in the ground in a permanent mounting.
- (3) Commercial flags shall be located in a manner that does not interfere with the safe use and operation of motor vehicles or in pedestrian use of public areas, nor create a nuisance to the general public in any way.

(B) Banners: One temporary on premise banner per business.

(C) Election signs

(D) For sale signs attached to a vehicle that is for sale.

(E) One on premise real estate sign per parcel.

(F) Temporary on premise construction signs subject to the following.
- (1) Placement shall be wholly within the property boundaries to which the sign pertains.
- (2) Such signs shall not be erected prior to the issuance of a building permit for the proposed construction and shall be removed immediately upon the completion of construction.

(G) One on site temporary free standing or banner signs advertising special nonprofit community, religious, or civic events located on the premises of the event.

In addition, three (3) off-site directional signs, on the days of the event, may be erected within the street right-of-ways of the City, providing the size and locations do not interfere with vehicle or pedestrian traffic clear vision areas and all other requirements in 15-23-11 are met. All off-site

directional signs must be removed on or before the day following the event.

(H) One on premise subdivision sign per development advertising the sale of lots or homes which shall be removed upon the sale of 90% of the development.

15-23-5 SIGNS IN RESIDENTIAL DISTRICTS

Any sign not expressly permitted, is prohibited.

(A) Signs in the R1 and R2 Districts shall be permitted subject to the following.
  (1) One non-illuminated, on premise wall sign identifying a home occupation not exceeding 12 square feet in surface display area.
  (2) One permanent development entry sign limited to the name of the development and developer approved by the Planning Commission, providing the sign is harmonious in appearance with the existing and intended character of the general vicinity and within the community as a whole.

(B) Signs in the R3 Districts shall be permitted subject to the following.
  (1) One identification wall sign placed on the main building of an apartment development. Such sign shall not exceed 12 square feet in surface display area and may be illuminated.

15-23-6 SIGNS IN THE RESTRICTED COMMERCIAL DISTRICT

Signs in the RC1 District shall be permitted subject to the following limitations. Any sign not expressly permitted is prohibited.

(A) Free standing signs
  (1) One on premise non temporary sign per parcel, not exceeding 70 square feet in surface display area of services or activities conducted on premise.
  (2) Such signs shall be located in the front yard with the leading edge of the sign at least 10 feet back of the right of way line.
  (3) The top of such signs shall be no higher than 20 feet from ground level.

(B) Wall signs
  (1) On-premise wall signs for each building face shall not exceed 15% of the building which it is attached but not to exceed 100 square feet in surface display area. Such signs shall not extend more than

fifteen (15) inches from the building surface and shall not extend above the cornice or roof line.

(2) Wall signs shall be placed only upon the main building and may only face public streets or parking areas which are on the same premises.

(C) Any free standing or wall sign may be illuminated subject to the provisions of 15-23-10.

(D) Signs shall not project above the cornice or roof.

15-23-7 SIGNS IN THE BUSINESS AND LAKEFRONT RECREATION DISTRICT

Signs in the B1, B2, and LR Districts shall be permitted subject to the following limitations. Any sign not expressly permitted is prohibited.

(A) Free standing signs

(1) One on premise non temporary sign per parcel, not exceeding 70 square feet in surface display area services or activities conducted on premise.

(2) Such signs shall be located in the front yard with the leading edge of the sign at least 10 feet back of the right of way line.

(3) The top of such signs shall be no higher than 20 feet from ground level.

(B) Wall signs

(1) On-premise wall signs for each building face shall not exceed 15% of the building face to which it is attached but not to exceed 100 square feet in surface display area. Such signs shall not extend more than fifteen (15) inches from the building surface and shall not extend above the cornice or roof line.

(2) Wall signs shall be placed only upon the main building and may only face public streets or parking areas which are on the same premises.

(3) The total surface area of any one sign shall not exceed 100 square feet.

(C) Marquee signs: One on premise marquee sign per marquee not exceeding 15% of the marquee surface to which it is attached but not to exceed 100 square feet in surface display area.

(D) Projecting signs

(1) One on premise projecting sign per building with the surface display area not exceeding 1.5 square feet for each lineal foot of

building frontage up to a maximum of 64 square feet in surface display area.

(2) Projecting signs shall be attached directly to a building by means of building mounts or from a mast arm. Decorative structures may be included. External bracing such as guy wires and metal framework shall be prohibited.

(3) Projecting signs must project at a 90 degree angle to the building surface to which it is attached and shall not project above the cornice or roof line.

(4) The lowest point of a projecting sign shall not be less than nine feet above the ground level. Projecting signs shall not extend beyond the minimum required setback line or into and over a public right of way.

(5) (Repealed by Ordinance 08-02 Effective September 24, 2008)

(E) Window signs

(1) On premise window copy shall be limited to 10% of the total window surface of the window involved but not to exceed 100 square feet in display area.

(2) Window signs are permitted on first floor windows only.

(3) The above provisions shall not restrict the reasonable application upon a window surface giving address, business hours, entrance and exit, professional or security information, credit cards, or other similar information. The overall computation of allowable signage shall not include the above or the display of merchandise not affixed to the window surface.

(F) Illuminated signs

(1) Free standing, wall, marquee and projecting signs may be illuminated subject to the provisions of 15-23-10.

(2) Neon signs shall be permitted.

(G) Parking lot signs

(1) One directional sign at each point of ingress or egress shall be permitted which may bear the owner's advertisement, name, or trademark, the enterprise it is intended to serve and directions of movement.

(2) Surface display area, per sign, shall not exceed six square feet.

(H) Temporary free standing or banner signs advertising such special events that are approved by the City Council prior to erection. Such signs shall not exceed 100 square feet in surface display area and shall be displayed no longer than 30 days. Temporary signs on wheels are prohibited.

15-23-8 SIGNS IN THE INDUSTRIAL DISTRICTS

Signs in the M1 and M2 Districts shall be permitted subject to the following limitations. Any sign not expressly permitted is prohibited.

(A) Free standing signs

(1) One on premise non temporary sign per parcel, not exceeding 100 square feet in surface display area services or activities conducted on premise.

(2) Such signs shall be located in the front yard with the leading edge of the sign at least 10 feet back of the right of way line.

(3) Any sign higher than six (6) feet, shall be subject to approval by the Planning Commission prior to a sign permit being issued.

(B) Wall signs

(1) One on premise wall sign per building face, not exceeding four per building, with the surface display area not exceeding 15% of the building face to which it is attached but not exceeding 100 square feet in surface display area. Such signs shall not extend more than six inches from the building surface and shall not extend above the cornice or roof line.

(2) Wall signs shall be placed only upon the main building and may only face public streets or parking areas which are on the same premises.

(C) Marquee signs: One on premise marquee sign per marquee not exceeding 15% of the marquee surface to which it is attached but not exceeding 100 square feet.

(D) Illuminated signs

(1) Free standing, wall, and marquee signs may be illuminated subject to the 15-23-10.

(2) Neon signs shall be permitted.

(E) Parking lot signs

(1) One directional sign at each point of ingress or egress shall be permitted which may bear the owner's advertisement, name, or trademark, the enterprise it is intended to serve and directions of movement.

(2) Surface display area, per sign, shall not exceed twelve square feet.

(F) One free standing sign identifying the development near the entrance to an industrial complex. Such signs shall not exceed 100 square feet in surface display area. The height of development entry signs shall be reviewed and approved by the Planning Commission and shall be a minimum of 25 feet from any street right-of-way.

15-23-9 SIGNS FOR NEIGHBORHOOD OR COMMUNITY SHOPPING CENTERS

(A) Free standing signs shall conform to the requirements of 15-23-7(A).

(B) Each business within the shopping center may provide one on premise wall sign conforming to the requirements of 15-23-7(B).

(C) Where the roof structure of a building containing more than one business is extended over a walkway along the outer edge of the building, one marquee sign or underhanging sign may be permitted for each business provided:
(1) All signs shall be of identical size and shape.
(2) Underhanging signs shall contain the name of the business only.

15-23-10 ILLUMINATED SIGNS

Signs may be illuminated by a direct or indirect source of light provided the light source is shielded in a manner so that no direct rays or glare emanating from the light source are visible from any public right of way or from the abutting property. Signs which incorporate any flashing or intermittent lights are prohibited, with the exception for time and temperature signs.

Illuminated signs shall be installed in such a manner as to allow the reduction of the amount of illumination after normal business hours.

15-23-11 SIGNS NOT TO CONSTITUTE A TRAFFIC HAZARD

No sign shall be erected on private or public property, or within the street right-of-way in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic. No sign shall be erected at any location whereby reason of position, shape, or color it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal, or device. No sign shall make use of the words "stop", "look", "danger", or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.

15-23-12 PORTABLE SIGNS

Any sign excluding those specifically provided for in this Article shall be prohibited.

Within the B2, Central Business District one portable sign is permitted on the public sidewalk or on private property of the business to which the sign refers, provided that its width is no greater than 30” and its collapsed height is no greater

than 50” and, if located on public sidewalk, a 48” walkway must be maintained. Such sign may be displayed when the business is open.

Within the B1, General Business District and the RC1, Restricted Commercial District one portable sign is permitted on private property referring to business conducted on that property provided that its width is no greater than 30” and its collapsed height is no greater than 50”. For businesses that do not have adequate private property to place such a sign, one portable sign may be placed on the adjoining public sidewalk providing a 48” walkway be maintained or within the right-of-way providing it is not a hindrance to vehicular or pedestrian traffic. Such signs may be displayed when the business is open. Portable Signs in the General Business District and Restricted Commercial District are permitted for one year from the effective date therefore this portion of the Ordinance will expire on November 24, 2011 unless otherwise acted upon. (Amended by Ordinance No. 10-05, Effective 11/24/2010)

15-23-13 VERTICAL FLAGS (Amended by Ordinance 11-05, Effective 5/25/11)

(A) Vertically hanging flags not exceeding 30 inches in width and 60 inches in height, including frames shall be allowed outside the premises of a business in any zone provided:
   (1) The flag contains no commercial lettering, words, logos, or symbols
   (2) The flag is free standing
   (3) The flag is placed only during business hours
   (4) The flag does not impede vehicular or pedestrian traffic and is not in the paved or traveled portion of the public right-of-way

B) All such flags shall be on the property of the business unless there is not room between the building and the right-of-way.

15-23-14 SIGN PERMITS

No sign, name plate, marquee, or other advertising structure shall be erected, replaced, altered, enlarged, illuminated, changed in purpose, or relocated without first obtaining a sign permit pursuant to the following. Permits will not be required for those exempted by Section 15-23-3, 15-23-4, changeable letter signs, or where noted in this Article.

All freestanding signs, signs requiring electricity, and any sign exceeding 32 square feet in surface display area shall require a building permit prior to erection. An electrical permit shall be required for any sign utilizing electricity. Such signs shall conform to the applicable building and electrical codes.

(A) An application for a sign permit shall be made through the City Clerk by submission of a form provided for this purpose. Said application can be made by the owner of the property on which the sign is proposed to be located or by any other interested party with the owner's written consent. The application shall contain applicant's name, address, and telephone number; address where the sign is to be located; sign plan indicating type, design, size, dimensions, lighting method, and copy; scaled site plan showing property lines and indicating sign and building(s) location; and building or electrical plans per code.

(B) The Zoning Administrator shall review all properly filed sign permit applications and issue permits only for those applications fully meeting ordinance requirements. The Zoning Administrator shall, absent extenuating circumstances, render a decision within three full working days of receipt of a completed application submittal.

ARTICLE XXIV
SPECIAL USE PERMITS

15-24-1 PURPOSE

The regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. The functions and characteristics of an increasing number of new land uses combined with conclusive experience regarding some of the older, more familiar uses call for a flexible and equitable procedure for properly accommodating these activities within the community.

The forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations, and the availability of land. It is important to provide controllable and reasonable flexibility in requirements for certain uses that will allow practical latitude for the investor, at the same time maintaining adequate provisions for the security of the health, safety, convenience, and general welfare of the community.

In order to accomplish such a dual objective, provisions are made in this Ordinance for a detailed consideration of certain specified activities as each may relate to location, design, size, operation, intensity of use, traffic, population, equipment, public facilities and services, together with other possible factors. Land and structure uses possessing these particular unique characteristics are designed as SPECIAL USES and may be authorized by the issuance of a SPECIAL USE PERMIT with conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections, together with references in other Articles, designate what uses require a Special Use Permit. With any exception noted, the procedures for obtaining such a permit apply to all special uses indicated.

15-24-2 APPLICATION PROCEDURES

(A) Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this Ordinance within the zoning district in which the land is situated.

(B) Applications shall be submitted through the City Clerk to the Planning Commission. Each application shall be accompanied by the payment of a fee to cover the costs of processing the application. No part of any fee shall be refundable.

(C) Every application shall be accompanied by the following:

(1) Special Use Permit Application as supplied by the City Clerk.
(2) Signed surveyed site plan, drawn to scale, of the property involved showing the location of all abutting rights of way, all existing and proposed structures, types of buildings and their uses.
(3) Preliminary plans and specifications including but not limited to parking areas, driveways, internal roadways, sidewalks, exterior lighting, signs, and storm drainage systems of the proposed development.
(4) A statement with evidence regarding the required findings specified in 15-24-4.

15-24-3 REVIEW AND FINDINGS

(A) The City Clerk shall review the application and set a date for a public hearing for the first scheduled Planning Commission meeting that meets the requirements of Article XXV – Public Notices. The City Clerk shall cause public notice to be given pursuant to Section 15-26-6. (Amended by Ordinance 06-06 – Effective 12/28/2006)

(B) Upon conclusion of hearing procedures, the Planning Commission shall issue its decision including its findings. If it approves a Special Use, the City Clerk shall be authorized to issue a Special Use Permit, subject to site plan approval and other conditions as have been placed on the permit by the Planning Commission. (Amended by Ordinance 06-06 – Effective 12/28/2006)

15-24-4 GENERAL STANDARDS FOR MAKING DETERMINATIONS

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

(A) Will be harmonious and in accordance with the purpose and objectives of the City of Whitehall Comprehensive Master Plan.

(B) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.

(C) Will not be hazardous or disturbing to existing or future neighboring uses.

(D) Will be a substantial improvement to the property in the immediate vicinity and to the community as a whole.

(E) Will be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such services.

(F) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

(G) Will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of producing excessive traffic, noise, smoke, fumes, glare, or odors.

(H) Will be consistent with the intent and purposes of this Ordinance.

15-24-5 CONDITIONS AND SAFEGUARDS

(A) Prior to granting any Special Use Permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use necessary for the protection of the public interest. Conditions imposed shall be designed to protect natural resources, the health, safety, welfare, social, and economic well being of those who will utilize the special use, adjacent residents and landowners, and the community as a whole. Conditions imposed shall be consistent with the general standards under 15-24-4(A) through (H).

(B) Conditions and requirements stated as part of an approved Special Use Permit shall be a continuing obligation of Special Use Permit holders. The Zoning Administrator or Building Inspector shall make periodic investigations to determine compliance with all requirements.

(C) Special Use Permits may be issued for time periods as determined by the Planning Commission, renewable in the same manner as originally applied for.

(D) The Planning Commission may required a financial guarantee be furnished by the applicant, in a form acceptable to the City, equal to 100% of the total cost of all improvements to be completed as a part of the Special Use Permit to insure compliance with such requirements as drives, walks, utilities, parking, landscaping, etc. The financial guarantee shall be deposited with the City Clerk upon issuance of the permit. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

(E) Continuance of a Special Use Permit by the Planning Commission shall be withheld only upon a determination by the Zoning Administrator or Building Inspector that:

(1) The issuance of the original permit included the requirement that the use be discontinued after a specified time period.

(2) Violations of conditions pertaining to the approved permit continue to exist 30 days after an order to correct has been issued.

(F) All plans, specifications, and statements submitted with the Special Use Permit application and any changes ordered by the Planning Commission shall become a part of the conditions of any approved Special Use Permit.

(G) A Special Use Permit application which has been denied wholly or in part by the Planning Commission shall not be resubmitted until the expiration of one year from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the Planning Commission.

(H) The foregoing general standards are basic to all special uses. The specific requirements in the following sections relating to particular uses are in addition to and shall be required in all applicable situations.

15-24-6 APPEALS

Any person considering themselves aggrieved by a decision of the Planning Commission on a Special Use Permit shall have the right to appeal to the Zoning Board of Appeals. A letter, specifying with particularity the reason(s) for the appeal, shall be filed with the City Clerk within 10 days of the decision of the Planning Commission. The appeal shall be limited to those issues stated within said letter. The appeal shall be based and considered solely on the record, including the appellant's letter of appeal, the minutes of public hearings, and site plans and other documentation presented to the Planning Commission prior to its decision.

15-24-7 NONRESIDENTIAL USES & STRUCTURES IN RESIDENTIAL DISTRICTS

(A) The following uses of land and structures are permitted in all residential districts.

(1) Religious institutions such as churches, convents, and parsonages.

(2) Educational and social institutions such as public or private elementary and secondary schools, institutions for higher education, auditoriums, centers for social activities, public libraries, museums, art galleries, pre-schools and group day care homes and child care centers.

(3) Recreational facilities such as parks, playgrounds, community centers, parkways, and golf courses.

(4) Public and service installations such as municipal administrative or service buildings, utility facilities excluding storage yards.

(5) Institutions for human care such as hospitals, clinics, nursing or convalescent homes, homes for the aged, and charitable institutions.

(6) Bed and Breakfast operations.

(B) Nonresidential uses permitted in residential districts may have an adverse affect on residential properties if not properly located and designed. The following general standards must be met.

(1) Hazardous areas must be adequately fenced to avoid accidents.

(2) Permitted nonresidential structures should be located at the edge of residential districts abutting open space, commercial, or industrial districts.

(3) Permitted nonresidential uses should front on a major street, minor arterial, or collector.

(4) Motor vehicle access should be made on a major street to avoid the impact of traffic generated by the nonresidential use.

(5) Site locations should be chosen which offer natural or man made barriers that lessen the intrusion of a nonresidential use.

(6) Nonresidential uses should not require costly public improvements.

(7) Permitted nonresidential uses shall conform to existing standards for signs as contained in Article XXIII, Signs, unless the construction or placement of same has been approved by the Planning Commission as a Special Use.

(C) Specific standards

(1) Public utility structures shall be limited to the maximum height permitted in the district in which it is located. Planting materials shall be required to screen such facilities.

(2) Pre-school and group day care homes and child care centers shall provide a fenced outdoor play area of a size meeting the requirements of the current State of Michigan regulations.

(3) Golf course development features, including principal and accessory structures, shall be located to minimize any adverse affects upon adjacent property. All buildings shall be a minimum of 200 feet from any abutting residential property line. Where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify the 200 foot requirement.

(4) In some zoning districts a Bed and Breakfast operation requires Special Use approval. In all permitted districts, Bed and Breakfast operations are subject to the provisions of 15-20-22.

15-24-8 PLANNED NEIGHBORHOOD CONVENIENCE SHOPPING CENTERS

(A) The intent of this section is to provide for the establishment of planned neighborhood convenience shopping centers which can efficiently serve day to day shopping needs. Consolidation of convenience shopping facilities into planned neighborhood centers is encouraged to avoid strip commercial development, lessen traffic conflicts, improve the safety and convenience of the customers, and to economically provide for appropriate landscape buffers needed to protect adjacent property values.

The regulations and conditions contained in this section are designed to insure that planned neighborhood convenience shopping centers will be developed at locations which will efficiently serve the convenience shopping needs of the community.

(B) Site location standards

(1) Located in accordance with the Comprehensive Community Plan.

(2) Motor vehicle access shall be limited to a major street, minor arterial, or collector.

(3) A landscaping plan conforming to the standards set forth in 15-24-9 intended to enhance the beauty of the development and preserve existing trees shall be submitted.

15-24-9 AUTOMOBILE SERVICE STATIONS AND COMMERCIAL GARAGES

(A) The intent of this section is to provide standards for automobile service stations and commercial garages. Automobile service stations shall be located adjacent to arterial or collector streets and intended to serve residential neighborhoods. Commercial garages shall be located near high volume arterial highways.

(B) Permitted uses

(1) The following uses may be permitted in conjunction with automobile service stations. Any use not expressly allowed is prohibited.

(a) Retail sales of gasoline, oil, and similar fuels.

(b) Automobile washing.

(c) Automobile maintenance.

(d) Retail sales of convenience food, beverage, and miscellaneous goods.

(2) The following uses may be permitted in conjunction with commercial garages. Uses not expressly allowed are prohibited.

(a) Automobile body repairs.

(b) Outside storage of vehicles waiting for repair, for no more than 90 days.

(c) Total vehicles parked outside, including those stored outside waiting for repair and employees' vehicles, are limited to one (1) vehicle for each marked parking space of

sufficient width to accommodate a medium size vehicle within that space, or one (1) vehicle for each 300 square feet of available parking space of the outside parking lot.

(C) Site development standards

(1) The Planning Commission shall only issue special use permits for automobile service stations and commercial garages which comply with the following site development standards.

(a) The minimum lot size shall be 15,000 square feet and the following.

(i) Gasoline service stations shall have 500 square feet of additional area for each fuel pump over four and 1,000 square feet of additional area for each inoperable vehicle stored on site.

(b) The minimum lot width shall be 130 feet.

(c) Motor vehicle access points shall be a minimum of 30 feet from the intersection of the right of way lines for those streets on which it fronts and shall be a minimum of 20 feet from any adjacent property line. The minimum driveway width at the curb line shall be 22 feet, the maximum width shall be 30 feet. The minimum width of access drives shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees unless acceleration and deceleration lanes are provided.

(d) Automobile service stations and commercial garages shall develop a buffer strip not less than 20 feet wide adjacent to all property lines. Said buffer strips shall be graded with a continuous berm 3 feet high, be sufficiently gradual to prevent erosion, and developed along 30% of the buffer strip adjacent to streets. The berm shall be designed and located so as not to interfere with the safety of persons or vehicles.

(e) All equipment shall be entirely enclosed within a building. Any portion of a building containing body repair or washing areas shall be constructed of solid masonry wall, or an equivalent approved by the building inspector, with openings only for required access and ventilation. There shall be no outdoor storage of merchandise. Properly enclosed outdoor trash storage may be provided.

(f) All activities, except those required to be performed at a fuel or air pump, shall be carried on inside a building. The entire vehicle upon which work is performed shall be located within a building.

(g) There shall be no above ground storage tanks for fuels or other inflammable materials.

(h) Automobile service stations and commercial garages shall provide parking as required by Article XXII. Automobile service stations selling convenience retail goods shall provide additional parking as required under Article XXII.

15-24-10 DRIVE-IN RESTAURANTS

(A) The intent of this section is to provide development regulations for drive in restaurants which present particular problems in their relationship to adjacent uses and traffic patterns.

(B) Site development standards

(1) The Planning Commission shall only issue special use permits for drive in restaurants which comply with the following.

(a) The minimum lot size shall be 20,000 square feet.

(b) The minimum lot width shall be 125 feet.

(c) Motor vehicle access points shall be a minimum of 30 feet from the intersection of the right of way lines for those streets on which it fronts and a minimum of 10 feet from any adjacent property line. The minimum driveway width at the curb line shall be 30 feet. A maximum of two driveways shall be permitted on any street frontage.

(d) The outdoor space used for parking and vehicle stacking, shall be hard surfaced and adequately drained.

(e) The storage of trash and rubbish shall be properly screened.

(f) Adequate trash and litter containers shall be provided. The parking lot and shoulders of adjacent roadways shall be completely cleared of accumulated debris.

15-24-11 COMMERCIAL COMMUNICATIONS, PUBLIC MICROWAVE, AND WIND POWER GENERATION TOWERS

(A) The intent of this section is to provide regulations controlling the placement of commercial communications, public microwave, wind power generation, and similar towers and attendant facilities.

(B) Site development standards

(1) The Planning Commission shall only issue special use permits for towers which comply with the following.

(a) Towers shall be located centrally on a continuous parcel of not less than one and one half times the height of the tower measured from the base to all points on each property line.

15-24-12 MOBILE HOME PARKS

(A) The intent of this section is to provide for the establishment of well designed mobile home parks in residential districts of comparable density. The regulations and conditions contained in this section are to ensure that mobile home parks will provide a comfortable and pleasing environment for persons seeking mobile home residence and intended to ensure that mobile home park developments will be served adequately by essential public facilities and services.

The Planning Commission may, by issuing a special use permit, authorize the establishment of a mobile home park within an R3 Multiple Family Residential District. Such authorization shall be granted only when all the applicable procedures and requirements are complied with.

(B) General requirements, restrictions, and standards.

(1) The minimum project area for a mobile home park development shall be 30 acres with a maximum size not to exceed 40 acres.

(2) Mobile home parks may be located only in an R3 Multiple Family Residential District upon approval of the Planning Commission and in accordance with the following.

(a) The site shall be adjacent to and serviced by a collector or arterial street.

(b) The site shall be serviced by existing or proposed essential public facilities and services.

(3) The following land or building uses may be permitted under the provisions of this section. Any use not expressly allowed is prohibited.

(a) Mobile homes as defined in this Ordinance.

(b) One office building exclusively for conducting the business operations of the mobile home park.

(c) Utility buildings for laundry and auxiliary storage for mobile home tenants.

(d) Recreation areas, community buildings, playgrounds, and open spaces for use by mobile home tenants.

(e) Signs pertaining exclusively to the mobile home park.

(f) Accessory buildings and uses that are customarily incidental to mobile home park developments. This shall not include the sale of mobile home units other than by the individual resident owners or the servicing of mobile home units except the normal maintenance and servicing by the individual resident owner or contractor.

(4) The design and development of mobile home parks shall be subject to all current provisions of the Mobile Home Commission General Rules as adopted by the Michigan Mobile Home Commission, which are incorporated by reference as part of this Ordinance.

(5) Operating Standards

(a) The operating and business practices of mobile home parks shall be subject to all current provisions of the Mobile Home Commission General Rules as adopted by the Michigan Mobile Home Commission, which are incorporated by reference as part of this Ordinance.

(b) Nonresidential uses are prohibited in any part of a mobile home park, except such uses that are required for the direct

servicing, management, maintenance, and well being of park and its residents.

(c) Home occupations shall be prohibited from mobile home parks.

(C) Procedures

(1) Applications shall be submitted through the City Clerk to the Planning Commission.

(2) Preliminary review for special use permit

(a) In addition to the requirements of 15-24-2 the following must be submitted.

(i) A development plan of the total project property showing location within the City and relationship to adjacent properties.

(ii) A site plan indicating the proposed location of mobile home units and the density associated with each type as well as for the entire park.

(iii) A site plan indicating the location and purpose of all nonresidential structures, vehicular and pedestrian circulation, and parking areas.

(iv) A site plan showing acreage, nature, and location of common open spaces. Evidence of the means by which the continuity and maintenance of the common open spaces are guaranteed.

(b) Following receipt and review of the application, the Planning Commission shall hold a legally advertised public hearing. Upon conclusion of the public hearing, the Planning Commission will approve or deny the plan.

(c) If approved by the Planning Commission, the preliminary review of the project will be submitted to the City Council for review. If approved by the Council, the project continues under secondary review. If denied, the City Council shall notify the applicant and Planning Commission.

(3) Secondary review for special use permit

(a) The developer shall submit the following for Planning Commission review:

(i) A site plan indicating engineering recommendations for water, sanitary sewer, storm drainage, gas, electric, telephone, and other utility systems.

(ii) A site plan indicating road alignments, with provisions for topography and soil conditions.

(iii) A site plan indicating existing and proposed topography.

(iv) A detailed landscaping plan.

(v) A specific schedule of the intended development and construction details, including phasing or timing as they relate to open spaces, recreational features, utilities, screening, and common use areas.

(b) The Planning Commission will make a final decision based upon the final detailed information specified above.

(4) Construction for an approved mobile home park shall commence within one year following recording of the approved final plat or special use permit. Failure to do so, will invalidate the permit. The applicant may request an extension from the Planning Commission for not more than one year, providing such request is received prior to the expiration of the original permit.

15-24-13 TWO FAMILY DWELLINGS

(A) The intent of this section is to provide regulations guiding the conversion or construction of two family dwellings in R1 Single Family Residential Districts. Two family units fill a need in the community for sound, affordable housing. Such housing extends the effective life of certain single family structures, which may border on obsolescence when confronted with energy and maintenance costs. The design provisions are intended to be the minimum necessary to achieve the objectives of this section, based upon the appropriate use of sound, harmonious, and proportional materials on the structure, especially in relation to surrounding uses and structures.

(B) Site and location development standards

(1) General location criteria

(a) Where a single family structure is to be converted to a two family dwelling, such residences shall be situated in older, established neighborhoods. These neighborhoods are the areas of the City north of Alice Street and west of Elizabeth Street.

(b) In other situations, two family dwellings shall serve a transitional function located at entrances to subdivisions abutting streets with high traffic volumes or adjacent to high density residential or nonresidential uses.

(2) All requirements of Articles XXIV and XXV shall be met.

(3) New two family dwellings shall require the submission of elevation drawings for Planning Commission approval. Two family structures in the R1 District shall be of the scale, design, and character of a single family structure.

(4) Adequate off street parking shall be provided in accordance with Article XXII.

(5) Adequate landscaping shall be provided in accordance with plans approved by the Planning Commission as part of the site plan review.

(6) Proposed two family units shall meet the guidelines of Comprehensive Master Plan.

15-24-14 FUNCTIONAL FAMILIES

(A) The intent of this section is to recognize and provide for alternative living arrangements which vary from those of the traditional, biological family, to avoid overcrowding, conserve property values, to preserve traditional family values, and to protect the public health, safety, and welfare.

(B) General development standards

(1) A dwelling unit occupied by a functional family shall contain a minimum of 125 square feet of living space per person, excluding garages, unenclosed porches, and unfinished basements.

(2) Property occupied by a functional family shall have a minimum of one off street parking space for every vehicle regularly parked on the premises. At no time shall more than six vehicles be regularly parked on such property.

(3) Maximum occupancy

(a) No more than six persons shall reside in a dwelling as a functional family.

(b) Only one group of two or more persons related by blood, marriage, or adoption shall be considered as one person.

15-24-15 RECREATIONAL VEHICLE PARKS/CAMPGROUNDS

These standards are intended to permit the establishment of recreational vehicle parks and campgrounds that are consistent with the purpose of the Lakefront Recreational LR Zoning District, and that accommodate the transient lodging needs of the traveling public in a manner compatible with other tourism oriented service establishments permitted in the District. These standards do not annul the requirements or regulations administered by the Michigan Department of Public Health promulgated by P.A. 368 of 1978, as amended.

These standards are not intended to authorize the placement, rental or use of recreational vehicles for occupancy as places of residence similar to tourist cabins, tourist homes, apartments, or residence hotels or motels, nor to authorize the provision of living accommodations on a permanent or semi-permanent basis in a manner similar to a seasonal mobile home park or campground.

Recreational vehicle parks and campgrounds may be permitted as a special use in the LR Zoning District, subject to the general standards provided under Section 15-24-4, and subject to the following use and site development standards:

(A) Not less than 10 sites shall be provided.

(B) Electric and water service shall be provided at each site. Telephone service can be provided at the discretion of the park owner.

(C) The use of auxiliary electric power generators shall be prohibited.

(D) An on-site manager's or owner's office shall be provided and shall be staffed not less than 24 hours a day. If a manager or owner is available to the public on an on-call basis 24 hours a day, the on-site office may be staffed less than 24 hours a day.

(E) The owner shall provide either sanitary sewer hookups at each site, or a sanitary dump station. Such hookups or dump station shall be connected to the municipal sanitary sewer system.

(F) At least one restroom facility for use by occupants of the park shall be provided. Shower facilities for exclusive use by occupants of the park may be provided at the discretion of the owner. Restroom and shower facilities shall comply with applicable Michigan Department of Public Health Standards and Regulations.

(G) Game rooms, park convenience stores, or other similar commercial or amusement facilities shall not be permitted.

(H) A single facility for refuse disposal shall be provided on-site. Such facility shall be visually screened from view from adjacent roadways and property. The method of screening shall be determined at the discretion of the Planning Commission.

(I) The recreational vehicle park or campground shall not be used for the purpose of renting permanently placed, non-transient recreational vehicles. Recreational vehicles shall not be rented or used for occupancy as places of residence similar to tourist cabins, tourist homes, apartments or residence hotels or motels, nor to provide living accommodations on a permanent or semi-permanent basis in a manner similar to a seasonal mobile home park or private campground.

(J) All recreational vehicles shall bear current year license plates, and shall be legally operable on the highways of the State of Michigan.

(K) Short and long-term storage of recreational vehicles and other goods or property is prohibited.

(L) A six foot tall landscaped visual screen shall be provided along any property line that adjoins a residential use or residential zoning district.

(M) The length of stay shall not exceed twenty-one (21) consecutive days. Moreover, a recreational vehicle removed from the park, regardless of the length of stay, shall not be returned to the park until a period of three (3) consecutive days has expired from the date of removal.

Unlike RV units which are towed by a motor vehicle, certain units are designed and constructed to function in the dual capacity of a self-propelled motor vehicle and lodging facility. Accordingly, self-propelled RV's may leave and re-enter the park throughout the day provided the owner or user of said vehicle possesses an overnight lodging space at said park for which a normal lodging charge will be made. Failure to possess an overnight lodging space shall be interpreted to mean that the self-propelled recreational vehicle has been removed from the park and may not return for lodging purposes until a period of three (3) consecutive days has expired.

(N) Each site shall provide adequate space and for the parking including one visitor's vehicle.

ARTICLE XXV
SITE PLAN REVIEW

15-25-1 PURPOSE

The purpose of this section is to require site plan review and approval for certain buildings, structures, and uses that can have a significant impact on natural resources, traffic patterns, adjacent parcels, and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the City; safe and convenient traffic movement; stability of land values, and investments; harmonious relationships of buildings, structures, and uses; and the conservation of natural amenities and resources.

15-25-2 APPROVAL REQUIRED

(A) Site plan review and approval shall be required prior to the issuance of a building permit for the construction, reconstruction, erection or expansion of any building or structure in any zoning district and prior to the initiation or expansion of any special land use in any district. Review and approval by the Planning Commission is required except for the following, which shall be reviewed and approved by the Zoning Administrator.

(1) Single family detached dwellings and accessory structures thereto.

(2) Expansion on existing buildings or structures or construction of new buildings or structures of 200 square feet or less on a parcel occupied by a building or structure of 10,000 square feet or more in the RC1, B1, B2, M1 or M2 Districts.

(3) Expansion on existing buildings or structures or construction of new buildings or structures of 500 square feet or less on a parcel occupied by a building or structure of 50,000 square feet or more in the RC1, B1, B2, M1 or M2 Districts.

Unless specifically waived by the Zoning Administrator, each of the above exceptions must include all components of a completed site plan as specified in 15-25-3(B)(2). The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

(B) An approved site plan shall be valid for one year from the date of approval. Site plan approval shall be deemed expired and no longer valid if construction has not commenced within one year.

(C) The original approving authority may grant one extension of the approved site plan for a period of one year upon written request of the applicant prior to expiration of the initial one year period. Such extension shall be

granted only upon determination that construction has been delayed by factors beyond the reasonable control of the applicant and that construction is likely to proceed within the next year. The Planning Commission or as permitted under this ordinance, the Zoning Administrator, shall have the right to modify the original site plan, including providing performance bonding or other security by the applicant to assure completion of the project in a timely manner.

(D) Any project which is not completed within two years from the date of site plan approval or extension thereof, the applicant shall provide to the Planning Commission a partial site plan detailing the status of the project and compliance with the original approved site plan

(E) Three copies of the approved site plan shall be signed by the Zoning Administrator. One copy shall be kept on file with the City, one forwarded to the building inspector, and one returned to the applicant.

15-25-3 PROCEDURES FOR SITE PLAN REVIEW

(A) Application for site plan review shall be submitted through the Zoning Administrator to the Planning Commission on a form provided by the City. Each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover the costs of processing the application. No part of any fee shall be refundable.

(B) Every application shall be accompanied by the following information and data:

(1) Special form supplied by the City Clerk filled out in full by the applicant.

(2) A site plan consisting of a survey signed by a Michigan licensed surveyor and additional documents drawn to a readable scale showing the following:

(a) property dimensions;
(b) size, shape, and location of existing and proposed buildings and structures;
(c) location of parking areas, spaces, and driveways;
(d) public rights of way and any easements;
(e) water courses, water bodies, and surface drainage ways;
(f) existing significant vegetation;
(g) a landscaping plan indicating proposed plantings, screening, fencing, signs, and advertising features;
(h) zoning classification of the parcel and abutting properties;
(i) elevation drawings depicting facade design;
(j) proposed connections to all public utilities; and
(k) topographical contours as requested by the City.

(3) The Planning Commission shall review the site plan to determine compliance with permitted land use, density of development, general circulation, and other provisions of this Ordinance. The Planning Commission shall respond to the applicant within 45 days of filing. If denied, the Planning Commission shall cite reasons for denial. If approved, the Zoning Administrator shall so note on the site plan and site plan application.

15-25-4 STANDARDS FOR SITE PLAN APPROVAL

(A) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

(B) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

(C) Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

(D) The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers, and landscaping shall be used for the protection and enhancement of property and for the privacy of its occupants.

(E) All buildings or groups of buildings shall be arranged to permit emergency vehicle access by as required by the local Fire Authority.

(F) Every structure or dwelling unit shall have access to a public street, walkway, or other area dedicated to common use.

(G) A pedestrian circulation system shall be provided which is insulated as completely as reasonably possible from vehicular circulation.

(H) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares except those thoroughfares within the Industrial Park, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.

(I) Exterior lighting shall be arranged to deflect light away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

15-25-5 ACTION BY PLANNING COMMISSION

The Planning Commission shall have the function, duty, and power to approve, disapprove, or approve subject to modifications or conditions as the Planning Commission may deem necessary to carry out the purpose of these regulations, the design and site plan of all proposed buildings or structures, or the development of the entire property, the specifications of all exits, entrances, streets, highways, or other means of ingress and egress, the proposed timing of construction, the proposed manner of dedication to the public or maintenance of same and the construction of appropriate screens or buffers.

15-25-6 MODIFICATION OF APPROVED SITE PLAN

(A) Once site plan approval has been granted by the Planning Commission, changes to the approved site plan shall require resubmission and payment of fees.

(B) Minor alterations to a site plan may be approved by the Zoning Administrator providing the updated plans comply with all other applicable requirements. The Zoning Administrator may approve a site plan without Planning Commission approval for a change in the location or type of landscaping; placement of a previously approved satellite dish antenna; canopy installation; parking lot modifications that do not reduce the number of approved spaces; sidewalk locations; refuse container location and construction; lighting; driveways and entrances; signage; or a decrease in the size of the building. The Zoning Administrator shall retain the right to refer any of the above changes to the Planning Commission for review.

15-25-7 FINANCIAL GUARANTEES

In approving a site plan or in granting an extension, the Planning Commission may require that a cash deposit, certified check, bond, or other financial guarantee acceptable to the City, of adequate security be furnished by the applicant to insure compliance. The financial guarantee shall be deposited with the City Clerk prior to the issuance of a building permit. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements. The financial guarantee shall be forfeited and used by the City for completion of the project if the project is not completed within one year, if an extension has not been granted, or if an annual update has not been submitted.

15-25-8 APPEALS AND QUESTIONS OF INTERPRETATION OF ORDINANCE

Any person considered aggrieved by the decision of the Planning Commission in granting or denying a site plan approval shall have the right to appeal said decision to the Zoning Board of Appeals. The appeal shall be exclusive and must

be filed with the City Clerk within ten days of the decision of the Planning Commission. Appeals of a Zoning Board of Appeals decision shall be taken to a court of competent jurisdiction.

15-25-9 LAND USE BUFFERS AND LANDSCAPING

The intent of this section is to set forth minimum standards for required landscape buffer strips. Buffer strips planted with trees and shrubs are intended to maintain or improve air quality, stabilize soils, increase groundwater infiltration, decrease wind velocity, reduce noise, and create zones of privacy.

(A) For each required landscape buffer strip with the maximum width of 20 feet, the following minimum landscape standards shall be observed:
   (1) Two trees plus one additional tree for each 25 feet in length of the buffer strip as measured along the outer periphery of the strip, shall be planted.
   (2) One shrub plus one additional shrub for each 20 feet in length of the buffer strip as measured along the outer periphery of the strip shall be planted.

(B) For each required landscape buffer with a width greater than 20 feet, the following minimum landscape standards shall be observed:
   (1) One tree for each 15 feet of required landscape buffer strip width plus one additional tree for each 50 feet in length of the buffer strip as measured along the outer periphery of the strip, shall be planted.
   (2) One shrub for each ten feet of required landscape buffer strip plus one additional shrub for each 25 feet in length of the buffer strip as measured along the outer periphery of the strip, shall be planted.

(C) For that land area which lies between the landscape buffer strip and the edge of the pavement of the public street, the following landscape standards shall be observed:
   (1) Grass or ground cover shall be maintained.
   (2) Trees, shrubs, and bushes shall not be planted within the public right of way without the prior written consent of the appropriate governmental agency.

(D) Necessary access ways from public rights of way through such landscaped areas shall be permitted. Such access ways shall not be subtracted from the lineal dimension used to determine the minimum amount of required landscaping.

(E) When a greenbelt is required, it shall be planted within six months from the date of issuance of a building permit. All plantings in the buffer strip shall be hardy plant materials maintained in a neat and orderly manner. Withered or dead plant materials shall be replaced within a reasonable period of time, but not to exceed one growing season. All trees used in a

buffer strip shall be not less than ten feet in height or of a minimum caliper of 1 and 3/4 inches.

(F) The following plant material spacing shall be observed:

(1) Plant materials shall not be placed closer than four feet from any fence or property lines.

(2) Where plant materials are planted in two or more rows, plantings shall be staggered in rows.

(3) Evergreen trees shall be planted not more than 30 feet on centers.

(4) Narrow evergreens shall be planted not more than three feet on centers.

(5) Deciduous trees shall be planted not more than thirty feet on centers.

(6) Tree like shrubs shall be planted not more than ten feet on centers.

(7) Large deciduous shrubs shall be planted not more than four feet on centers.

ARTICLE XXVI
PUBLIC NOTICE
(Adoption by Ordinance 06-06 – Effective 12/28/2006)

15-26-1 PUBLIC NOTIFICATION

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 and the other provisions of this Section with regard to public notification.

(A) Responsibility: When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the City Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City of Whitehall and mailed or delivered as provided in this Section.

(B) Content: All mail, personal and newspaper notices for public hearings shall:

(1) Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

(2) Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

(3) When and where the request will be considered: Indicate the date, time and place of the public hearing(s).

(4) Written comments: Include a statement describing when and where written comment will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by legal counsel.

(5) Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(C) Personal and Mailed Notice

(1) General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

(a) The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

(b) Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the City of Whitehall. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(c) All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to 15-26-2, Registration to Receive Notice by Mail.

(D) Timing of Notice: Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

(1) For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or any other public hearing

required by this Ordinance: not less than fifteen (15) days before the date the application will be considered for approval.

15-26-2 REGISTRATION TO RECEIVE NOTICE BY MAIL

(A) General: Any neighborhood organization, public utility company, railroad or any other person may register with the City Clerk to receive written notice of all applications for development approval pursuant to 15-26-1(C)1(c), Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district n which they are located. The City Clerk shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the City Council.

(B) Requirement: The requesting party must provide the City Clerk with information on an official form to ensure notification can be made. All registered persons must re-register biannually to continue to receive notification pursuant to this Section.

ARTICLE XXVII
ADMINISTRATION AND ENFORCEMENT

15-27-1 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Whitehall Planning Commission and the Whitehall City Council, in accordance with the Municipal Planning Commission Act, P.A. 285 of 1931, as amended, and the City or Village Zoning Act, P.A. 207 of 1921, as amended. The City Council shall employ or appoint a Zoning Administrator to effectuate administration of this Ordinance. The Zoning Administrator shall have the power of a public officer in the enforcement of this Ordinance.

15-27-2 DUTIES OF THE ZONING ADMINISTRATOR

(A) The Zoning Administrator or his/her authorized agent shall have the power to grant Certificates of Zoning Compliance and to make inspections of premises necessary to carry out the enforcement of this Ordinance.

(B) It shall be unlawful for the Zoning Administrator to approve plans or issue Certificates of Zoning Compliance for any construction or use until he/she inspects such plans and finds the proposed construction and use to be to be in conformity with this Ordinance.

(C) The Zoning Administrator shall not vary, change, or grant exceptions to any terms of this Ordinance, or to any person making application under the requirements of this Ordinance.

(D) The Zoning Administrator shall issue a Certificate of Zoning Compliance when the conditions of this Ordinance are complied with by an applicant, regardless of the effect of such a permit on contracts, such as deed covenants or private agreements.

(E) The Zoning Administrator shall provide written notice of violation of any provisions of this Ordinance and an order to correct to the persons responsible for such violations. The Zoning Administrator shall order discontinuation of illegal uses, removal of illegal work, or shall take any other action authorized to ensure compliance with or prevent violation of this Ordinance.

(F) The Zoning Administrator shall maintain a record of all approved preliminary and final site plans and Certificates of Zoning Compliance.

(G) The Zoning Administrator is hereby designated as an authorized city official to issue municipal civil infraction citations directing alleged violators to appear at the City of Whitehall Municipal Ordinance

Violations Bureau as provided by the Code of Ordinances of the City of Whitehall.

15-27-3 CERTIFICATE OF ZONING COMPLIANCE

(A) A building permit for erection, alteration or moving of any building shall not be issued until a Certificate of Zoning Compliance has been issued. Issuance of such a Certificate shall indicate that the use and plans for which the permit is requested comply with the Zoning Ordinance. A signed site plan application may serve as the Certificate of Zoning Compliance.

(B) It shall be unlawful to use, occupy, or permit the use or occupancy of any building, premises, or part thereof created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance has been issued by the Zoning Administrator. The Certificate shall state that the building, structure, and lot, and use thereof, conform to the requirements of this Ordinance. A signed site plan application may serve as the Certificate of Zoning Compliance.

(C) A nonconformity, existing on the effective date of this Ordinance, shall not be required to obtain a Certificate of Zoning Compliance in order to maintain its legal nonconforming status. A nonconforming building or structure shall not be renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator. The Certificate shall state specifically where the nonconforming building, structure or use differs from the provisions of this Ordinance.

(D) Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Ordinance.

15-27-4 BUILDING PERMITS

(A) A building permit for which a site plan is required under 15-24-2 shall not be issued until an approved site plan has been issued.

(B) A building or other structure shall not be erected, moved, added to, altered or repaired without a building permit issued by the Building Inspector.

(C) A building permit shall not be issued by the Building Inspector if there is non-conformity with this Ordinance, unless a notification from the Zoning Board of Appeals or Zoning Administrator, as provided by this Ordinance, has been issued.

(D) Plans submitted in application for a building permit shall contain information necessary for determining conformity with this Ordinance, including a copy of the Certificate of Zoning Compliance.

15-27-5 CERTIFICATE OF OCCUPANCY

(A) A building, structure, or lot for which a zoning compliance certificate has been issued, shall not be used or occupied until the Building Inspector has, after final inspection, issued a Certificate of Occupancy indicating compliance has been made with all provisions of this Ordinance. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provision of this Ordinance.

(B) Buildings accessory to dwellings shall not require separate Certificates of Occupancy but may be included in the Certificate of Occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

(C) Certificates of Occupancy as required by the Building Code for new buildings, structures, or parts thereof, or for alterations or changes to use shall also constitute Certificates of Occupancy as required by this Ordinance.

(D) A record of all certificates issued shall be kept on file in the office of the Building Inspector and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

ARTICLE XXVIII
ZONING BOARD OF APPEALS

15-28-1 CREATION AND MEMBERSHIP

There is hereby established a Zoning Board of Appeals (hereafter referred to in this Article as Board) which shall perform duties and exercise powers as provided in P.A. 110 of 2006 as amended in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of seven members appointed by the City Council. One member shall be from the City Planning Commission and one member shall be from the City Council. If a City Council member is appointed, this person shall not be the chair of the Zoning Board of Appeals. The other appointments will be for three years. All members shall be electors residing in the City of Whitehall. An employee or contractor of the City may not serve as a member of the zoning board of appeals. Membership of the Board shall be representative of the population distribution and of the various interests present within the City.

The terms of office for members and shall be for three years, except for members serving because of their membership on the Planning Commission or City Council, whose terms shall be limited to the time they are members of those bodies. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term. (Amended by Ordinance 06-06 – Effective 12/28/2006) (Amended by Ordinance 16-02 – Effective 07/13/2016)

15-28-2 POWERS AND DUTIES OF ZONING BOARD OF APPEALS

(A) The Board shall perform duties and exercise powers as provided in Act 110 of Public Acts of 2006 as amended. (Amended by Ordinance 06-06 – Effective 12/28/2006)

(B) The Board shall hear and decide only those matters which it is specifically authorized to hear by Public Act and this Ordinance and decide as provided herein.

(C) The Board shall not alter or change the zoning district classification of any property, shall not make any change in the terms of the Ordinance, and shall not take any action which results in making legislative changes.

(D) Decisions of the Board shall become effective immediately upon the final hearing and ruling of the Board. The Board shall decide all applications and appeals within 30 days after completion of its final hearing.

15-28-3 PROCEDURES

(A) The Board shall elect from its membership a chairperson, vice chairperson, and any other officers it deems necessary. The Chairperson or, in his or her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. Rules and regulations, in accordance with this Ordinance and applicable state law, prescribing procedures for the performance of its authorized powers and duties shall be adopted by the Board.

(B) Except for use variances, the concurring vote of a majority of the members of the Board shall be necessary to revise any order, requirements, decision of the Zoning Administrator, or to decide in favor of an applicant any matter which they are required to pass under this Ordinance or to effect any variance in this Ordinance.

(C) Meetings of the Board shall be held at the call of the zoning administrator or chairperson and at such other times as the Board may specify. The Board shall not conduct business unless a majority of the regular members of the Board are present.

(D) Minutes shall be kept of each meeting. The Board shall record into the minutes all findings, conditions, facts, and other relevant factors, the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and all official actions.

(E) All meetings and records shall be open to the public. All minutes shall be filed in the office of the City Clerk. The City Clerk or his/her authorized agent shall act as recording secretary to the Board, including recording the minutes, legal notices, and property notices.

(F) The Board may adjourn any meeting held for purpose of reviewing an application or hearing an appeal in order to obtain additional information or to cause such further notice as it deems necessary to be served upon other property owners as it decides may logically be concerned with said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so directs.

(G) The Board may call on any City departments for assistance in the performance of its duties. It shall be the responsibility of such departments to render assistance as may reasonably be required.
(Amended by Ordinance 06-06 – Effective 12/28/2006)

15-28-4 HEARINGS

(A) The Zoning Administrator shall fix a reasonable time and date for a public hearing, not to exceed 45 days from the date of filing any application with the City Clerk.

(B) The City Clerk shall cause public notice to be given pursuant to Section 15-26-6. (Amended by Ordinance 06-06 – Effective 12/28/2006)

15-28-5 ADMINISTRATIVE REVIEW

(A) The Board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or determination made by the Zoning Administrator in enforcing provisions of this Ordinance.

(B) The Board shall interpret zoning district boundaries according to the provisions of this Ordinance.

(C) The Board shall classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use in accordance with the purpose and intent of each district.

(D) The Board shall determine the off street parking and loading space requirements of any use not specifically mentioned in Article XXI either by classifying it with one of the groups listed in that Article or by analysis of the specific need.

15-28-6 VARIANCES

(A) Upon appeal, the Board may authorize specific variances. An application for a variance shall contain, at a minimum, the following: name and address of applicant and property owner; location of property; site plan with sufficient accuracy, clarity, and detail to understand the nature of the request, potential impact on surrounding property, and relationship to Ordinance standards; descriptive text indicating the nature of the request; applicants signature.

(B) Standards for Variance Decisions
The Board shall base its decision on variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured and substantial justice done based on the following standards:

(1) For Dimensional Variances: A dimensional variance may be granted by the Board only in cases where the applicant

demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

(a) That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.

(b) That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

(c) That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

(d) That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

(e) That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

(2) For Use Variances: A use variance may be granted by the Board only in cases where the applicant demonstrates in the official record of the public hearing that undue hardship exists by showing all of the following;

(a) The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.

(b) That the need for the requested variance is due to unique circumstances or physical condition of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

(c) That the proposed use will not alter the essential character of the neighborhood.

(d) That the need for the requested variance is not the result of the actions of the property owner or previous property owners (self-created).

(3) If the demand for appeal is for a variance the Board shall grant, grant with conditions, or deny the application. The Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit. A majority vote of the Board is necessary to

grant a dimensional variance and rule on an interpretation of the ordinance. A 2/3 majority vote of the Board is necessary to grant a use variance. The decision shall be in writing and reflect the reasons for the decision.

(a) At a minimum the record of the decision shall include:

(*i*) Formal determination of the facts,

(*ii*) The conclusions derived from the facts (reasons for the decision)

(*iii*) The decision

(b) Within eight days of the decision the record of the decision shall be certified and a copy delivered by first class mail to the person demanding the appeal, the Zoning administrator and other interested parties.

(4) Each variance granted under the provisions of this Ordinance shall become null and void unless the construction or occupancy authorized by such variance or permit has been commenced within one hundred eighty (180) days after the granting of such variance and pursued diligently to completion.

(5) Any person having an interest affected by such decision shall have a right to appeal to Circuit Court within 30 days of the certified decision of the Board, as provided by law.
(Amended by Ordinance 06-06 – Effective 12/28/2006)

15-28-7 APPEALS

(A) Appeals concerning interpretation and administration of this Ordinance shall be made by filing a notice of appeal specifying the grounds thereof with the City Clerk within 30 days from the occurrence of the contested action. If the notice of appeal is not complete the Clerk will return the application to the applicant with a letter that specifies the additional materials required. If the notice of appeal is complete, the Clerk shall transmit to the Board copies of all papers constituting the record upon which the action appealed from was taken and the Zoning Administrator and the Chairman of the Board shall establish a date to hold a hearing on the appeal.

(B) Any party or parties may appear at the hearing in person, by agent, or attorney. The Board shall decide upon all matters within the required time limit. The decision of the Board shall be in the form of a motion, with recorded minutes containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant and the Board.

(C) Appeals may be filed by any person or agency felt to be aggrieved.

(D) An appeal shall stay all proceedings in furtherance of the action appealed unless the body or officer from whom the appeals is taken certifies to the Board after the notice of appeals is filed that, by reason of facts stated in the certificate, a stay would, in the opinion of the body or officer cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order issued by the Zoning Board of Appeals or a circuit court. (Amended by Ordinance 06-06 – Effective 12/28/2006)

15-28-8 DUTIES ON MATTERS OF APPEAL

All questions concerning application of the provisions of this Ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Board of Zoning Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals is to the Circuit Court of Muskegon County, as provided by law.

15-28-9 MISFEASANCE, MALFEASANCE AND NONFEASANCE

The City Council shall provide for the removal of a member of the Zoning Board of Appeals for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A Member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. (Adopted by Ordinance 06-06 – Effective 12/28/2006)

ARTICLE XXIX
CITY PLANNING COMMISSION - PLANNING AND ZONING AUTHORITY

15-29-1 DESIGNATION

The Whitehall City Planning Commission is hereby designated the Commission specified in Section 3, Article 285 of the Public Acts of Michigan, 1931, as amended, and in Section 4, Act 207 of the Public Acts of Michigan, 1921, and shall perform the duties of said Commission as provided in these Acts together with such powers and duties as are given to said Commission by City Charter and this Ordinance.

15-29-2 RULES OF PROCEDURE

The following rules of procedure of the Whitehall City Planning Commission are adopted to facilitate the performance of its duties and in compliance with Act 285, P.A. of 1931, as amended, which stipulates that a Planning Commission shall adopt rules for the transaction of business and shall keep a record of resolutions, transactions, findings, and determinations, which record shall be a public record.

(A) Officers

(1) At the regular meeting in January of each year, the Commission shall select from its membership a Chairperson and Chairperson Pro Tem. All officers are eligible for re-election. The Zoning Administrator shall serve as the Secretary to the Commission. (Amended by Ordinance 11-01, Effective 1/26/11)

(2) Selection of the Chairperson shall precede the selection of the Chairperson Pro Tem. The Chairperson and Chairperson Pro Tem shall be selected under the following guidelines.

(a) Nominations received from the Commission.

(b) If one nomination, the presiding officer will ask for a motion to close the nominations and request a vote for the candidate as Chairperson. Roll call vote, five affirmative votes required.

(c) If two nominations, the presiding officer will ask for a motion to close the nominations and instruct the Commissioners to vote affirmatively for one candidate only. Roll call vote, five affirmative votes required.

(d) If three or more nominations, the presiding officer will ask for a motion to close the nominations and instruct the Commissioners to vote affirmatively for one candidate only. Roll call vote, if any candidate receives five or more affirmative votes they will be declared Chairperson. In the alternative, the two candidates with the highest votes will be voted on again. Roll call vote, five affirmative votes required.

(3) The Chairperson and Chair Pro Tem shall take office upon selection and shall hold office for a term of one year or until their successors are selected and assume office.

(4) The Chairperson shall preside at all meetings, appoint committees, authorize calls for special meetings, and perform such other duties as may be ordered by the Commission. The Chairperson Pro Tem shall act in the capacity as Chairperson in the absence of the Chairperson. If the office of Chairperson becomes vacant, the Chairperson Pro Tem shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Chairperson Pro Tem for that unexpired term. The Secretary shall execute documents in the name of the Commission, perform duties listed below, and perform such other duties as the Commission may determine.

(B) Duties of the Secretary

(1) The Secretary shall be responsible for having the minutes of each meeting recorded and maintained. The minutes shall show the vote upon every motion and summaries of the testimony of those appearing before the Commission with names and addresses of those providing such information.

(2) All communications, petitions, and reports shall be forwarded to the Commission and entered into the minutes. Communications and petitions in reference to a specific request shall be read into the record.

(3) The Secretary shall be responsible for sending a written notice to each Commissioner of any special meetings.

(4) The Secretary shall prepare an agenda of items to be considered at each meeting of the Planning Commission. Absent extenuating circumstances, items to be considered by the Commission for official action shall be submitted to the Secretary no later than five business days prior to the scheduled meeting.

(C) Meetings

(1) Meetings of the Planning Commission, to be held within the City Hall Council Chambers, will be determined annually at the first meeting in January. When a regular meeting date falls on a legal holiday or conflicts with another event, the Commission shall select a suitable alternate date.

(2) Special meetings shall be called at the request of the Chairperson or by two members of the Commission upon written notification to all members of the Planning Commission.

(3) Work sessions may be scheduled by the Chairperson for the informal discussion of planning issues. Official decisions, issues, or proposals shall not be made.

(4) All regular and special meetings, hearings, work sessions, records, and accounts shall be open to the public and shall be publicized in accordance with Act 276, P.A. of 1976.

(5) Five Commissioners shall constitute a quorum for the transaction of business and the taking of official action for all matters except the adoption of a general development plan, or any part thereof. Whenever a quorum is not present, those present may adjourn the meeting to another date or hold the meeting for the purpose of considering agenda matters. No action taken at any such meeting shall be final or official unless and until ratified and confirmed by approval of the minutes of that meeting at a subsequent meeting at which a quorum is present.

(6) The secretary shall prepare an agenda for each meeting with the order of business as follows:

(a) Call to Order
(b) Approval of the Agenda
(c) Public Hearings (if required)
(d) Approval of Minutes
(e) Communications
(f) Public Comment
(g) Unfinished Business
(h) New Business
(i) Adjournment

(7) The Chairperson shall restate or summarize motions as to the meaning of a yea or nay vote before a vote is taken. The name of the originator of a motion and its second shall be recorded. Motions shall be in the form of findings of fact and shall state the major reasons for the recommended action.

(8) Voting shall be by voice and shall be recorded by yeas and nays. Roll call votes will be recorded when requested by a member of the Commission.

(9) Any Commissioner who has a financial or other private interest in a matter before the Commission shall abstain from voting and shall not participate in any hearing or discussion at which said matter is under consideration. Such action shall be noted in the minutes and approved by a majority vote of the remaining Commissioners. The mere fact of a Commissioners residence near or in the area affected by a proposal shall not constitute a conflict of interest.

(10) Action by the Planning Commission on any matter on which a hearing is held, shall not be taken until the hearing has been concluded.

(11) Parliamentary procedure during Commission meetings shall be governed by Roberts Rules of Order.

(12) A commissioners term of office shall be considered vacant when the Commissioner dies, files a resignation, is removed from office, moves from the City, is convicted of a felony or of misconduct in office, or is legally declared mentally incompetent. Should a

Commissioner be absent from three meetings in a calendar year, the Commission shall notify the appointing authority for consideration of replacement.

(13) The Chairperson may take action to amend the rules to allow public comment during deliberation.

(D) Hearings

(1) Before the adoption of any part of the Master Plan as defined in Act 285, P.A. of 1931, as amended, or any amendment to the Master Plan, or before recommending approval of an amendment to the Zoning Ordinance, the Planning Commission shall hold a public hearing.

(2) Prior to the adoption of the Master Plan or any such part, amendment, extension, or addition, the Commission shall hold at least one public hearing. The City Clerk shall cause public notice of this hearing to be given pursuant to Section 15-26-6**.** (Amended by Ordinance 06-06 – Effective 12/28/2006)

(3) Zoning Amendment Hearings shall be governed by the regulations set forth within Article XXX.

(4) Special Use Permit Hearings shall be governed by the regulations set forth within Article XXIV.

(5) Informational hearings may be scheduled by the Planning Commission for the following reasons upon following notification procedures adopted for special use permits unless other procedures are specified at the time of scheduling.

(a) There was insufficient time at a scheduled hearing to give all interested parties an adequate chance to present evidence or because of the complexity of the proposal, more time is required.

(b) Major changes over those presented at the hearing are proposed as a result of the Planning Commissions recommendations or as concessions to the request of the public on the part of the petitioners.

(c) New evidence, external to changes in the plans, is discovered which was not available at the time of the hearing.

(d) For the purpose of informal communications on any appropriate matter when citizen input is desired.

(6) A written notice containing the decision of the Planning Commission shall be sent to the petitioner or originator of a request.

(E) The following development matters shall be suitable subjects for consideration at meetings of the Planning Commission.

(1) Petitions and administrative proposals for changes in the zoning ordinance.

(2) All preliminary plans and reports for the physical development of the City, such as land use planning; location, character, and extent of streets, roads, highways, railroads, bridges, waterways, and waterfront developments; flood prevention and drainage programs; sanitary sewers and water supply systems; pollution prevention works; and all public utilities and structures.

(3) The removal, relocation, widening, narrowing, vacating, abandoning, change of use, or extension, of any public way, grounds, open spaces, buildings, utilities, or other facilities.

(4) The general character, extent, and layout for the redevelopment or rehabilitation of blighted districts and slum areas.

(5) Subdivision plats.

(6) All planning reports and plans prior to publication.

(7) Capital improvement programs for the City.

(8) Planning Commission budget requirements and requests for the fiscal year.

(9) Selection of consultants and determination of basis for compensation.

(F) Following the adoption of the Master Plan or any part thereof by the Planning Commission, copies of the Plan shall be transmitted to the City Council.

(G) The City Council, rather than accepting or rejecting a recommendation of the Planning Commission, may refer a matter back for reconsideration. Such matter may be assigned to a subcommittee by the Chairperson with instructions to report its evaluation to the full Commission within 30 days. The Commission shall then act on the matter as referred.

(H) After its last monthly meeting in December, the Planning Commission shall make an annual report to the City Council concerning its operations and the status of various planning activities.

ARTICLE XXX
CHANGES AND AMENDMENTS

15-30-1 INTENT

For the purpose of establishing and maintaining sound, stable, and desirable development within the territorial limits of the City of Whitehall, this Ordinance shall not be amended except to correct an error in the Ordinance, when responding to changes in State of Michigan or Federal Law, or because of changed or changing conditions in a particular area of the City resulting in a need to rezone an area, extend the boundary of an existing district or to change the regulations and restrictions thereof. (Amended by Ordinance 06-06-12/28/2006)

15-30-2 AMENDMENT INITIATION

Subject to the limitations of the foregoing statement of intent, an amendment to this Ordinance text or map may be initiated by the City Council on its own motion, by the Planning Commission, or by petition of any person or persons desiring an amendment or change.

15-30-3 REFERRAL OF AMENDMENT PETITION TO PLANNING COMMISSION

Upon receipt of a petition to amend this Ordinance, the City Clerk shall refer same to the Planning Commission for study and report to the City Council.

15-30-4 ACTION OF PLANNING COMMISSION

(A) The Planning Commission shall make a complete study of the petition. The Commission, after the public hearing, shall recommend to City Council such action as the Commission deems proper.

(B) A public hearing shall be held by the Planning Commission before adoption of any proposed amendment to this Ordinance. The City Clerk shall cause public notice of the hearing to be given pursuant to Section 15-26-6. (Amended by Ordinance 06-06 – Effective 12/28/2006)

(C) In reviewing a petition for amendment, the Commission shall identify and evaluate all relevant factors. Facts to be considered by the Commission shall include, but not be limited to, the following.

(1) Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.

(2) The precedents and the possible effects of such precedents which might result from approval or denial of the petition.

(3) The capability of the City or other government agencies to provide any services, facilities, or programs that might be required if the petition were approved.

(4) Effect of approval of the petition on the condition or value of property in the City or in adjacent civil divisions.

(5) Effect of approval of the petition on adopted development policies of the City of Whitehall and other government units.

(6) Factual information provided by the public during the public hearing process. (Amended 1/6/96 by Ord. No. 95-53.04)

All findings of fact shall be made a part of the public record. An amendment shall not be approved unless these and other identified facts be affirmatively resolved in terms of the general health, safety, and welfare of the citizens of the City of Whitehall, or of other civil divisions where applicable.

15-30-5 ACTION OF CITY COUNCIL

(A) Upon receipt of the report of the Planning Commission, the City Council shall make its determination at any one of its regular or special meetings.

(B) In case a protest against any amendment to this Ordinance be presented in writing to the City Clerk and forwarded to the City Council, such amendment shall not be passed except by a two-thirds vote of the City Council. Any such protest shall be signed by Owners of at least 20% of the area of land included in the proposed change or by owners of at least twenty 20% of the area of land included in an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, excluding publicly owned land in calculating the 20% requirement. Protest shall be filed with the City Clerk no later than 5:00 p.m. on the day the amendment is to be considered by the City Council.

15-30-6 CONTENTS OF PETITION FOR AMENDMENT

All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain at least the following.

(A) The Petitioners name, address, and interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition.

(B) The nature and effect of the proposed amendment.

(C) If the proposed amendment requires a change in the Zoning Map - (1) a fully dimensioned map showing the land which would be affected by the proposed amendment, (2) the legal description of such land, (3) the present zoning classification of the land, (4) the zoning classification of all abutting districts, (5) all public and private rights of way and easements bounding and intersecting the land under consideration.

(D) If the proposed amendment requires a change in the Zoning Map, the names and addresses of the owners of all land within the area to be changed by the proposed amendment.

(E) The alleged error in this Ordinance, if any which would be corrected by the proposed amendment together with a detailed explanation of such alleged error in the Ordinance and detailed reasons as to how the proposed amendment will correct the same.

(F) The changed or changing conditions, if any, in the area or in the municipality generally, which make the proposed amendment reasonably necessary.

(G) All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.

15-30-7 COMPREHENSIVE REVIEW OF ORDINANCE

The Planning Commission, at intervals of not less than three years, shall examine the provisions of this Ordinance and shall submit a report to City Council recommending changes, if any, deemed desirable in the interests of public health, safety and welfare.

ARTICLE XXXI
INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL, PENALTIES AND EFFECTIVE DATE

15-31-1 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity, and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with the existing and unrepealed provision of laws, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws relating to the use of building or land. However, where this Ordinance imposes a greater restriction upon the use of buildings, structures, or land or upon open spaces than are imposed or required by such existing provisions of laws, ordinances, rules, regulations, or permits the provisions of this Ordinance shall control.

15-31-2 SEVERABILITY

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

15-31-3 REPEAL

All ordinances and amendments enacted or adopted by the City of Whitehall or the City Council by virtue of Act 110 of 2006 as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.), and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed, or right accruing, accrued, acquired or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted. (Amended by Ordinance 06-06 – Effective 12/28/2006)

15-31-4 VESTED RIGHT

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

15-31-5 VIOLATIONS, PENALTIES OR NUISANCE

(A) Whenever by the provisions of this Ordinance the performance of any act is required, the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on the use of or upon any land, or on the erection or alteration, or the use or change of occupancy of structure, or the uses within such structure, a failure to comply with such provisions of this Ordinance shall constitute a violation of this Ordinance.

Any violation of any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Building Inspector, Zoning Administrator or Board of Appeals issued in pursuance of this Ordinance shall be a municipal civil infraction. A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Ordinance and any omission or failure to act where the act is required by this Ordinance.

Every day on which a violation exists shall constitute a separate violation and a separate offense.

(B) Unless a violation of this Ordinance of the City is specifically designated in the Ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(C) The penalty for a misdemeanor violation shall be a fine not exceeding $500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Ordinance.

(D) The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine in the amount as provided by this Ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act. No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Ordinance, the civil fine for a violation shall be not less than $50.00, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Code or any Ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 24 month period (unless some other period is

specifically provided by this Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(a) The fine for an offense which is a first repeat offense, shall be no less than $250.00 plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than $500.00, plus costs.

(3) A Schedule of Fines for admissions of responsibility for civil violations of the Zoning Ordinance is established and attached hereto. Copies of the Schedule of Fines, as amended from time to time, shall be posted at the Violations Bureau.

(E) Any building or structure which is erected, altered, or converted or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se and, in addition to any remedies available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Ordinance.

(F) In addition to the Zoning Administrator, the Building Inspector, the City Manager or his designee, together with the police officers of the City, are the City officials authorized to issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this Ordinance.

15-31-6 EFFECTIVE DATE

This Ordinance shall take effect following adoption and publication of a notice of adoption, published in a newspaper of general circulation within 15 days after adoption.

Zoning Ordinance Violations	Article No.	1st Offense	2nd Offense	3rd Offense
R1 District - Single Family Residential	15-5	$ 50.00	$100.00	$200.00
R2 District - Moderate Density Residential	15-6	50.00	100.00	200.00
R3 District - Multiple Family Residential	15-7	50.00	100.00	200.00
Planned Unit Residential Developments	15-9	50.00	100.00	200.00
RC1 District - Restricted Commercial	15-10	50.00	100.00	200.00
B1 District - General Business	15-11	100.00	200.00	400.00
B2 District - Central Business	15-12	100.00	200.00	400.00
M1 District - Limited Industrial	15-13	100.00	200.00	400.00
M2 District - General Industrial	15-14	100.00	200.00	400.00
LR District - Lakefront Recreation	15-15	100.00	200.00	400.00
AG District - Agricultural Enterprise	15-16	50.00	100.00	200.00
OS District - Open Space Cons. & Rec.	15-17	50.00	100.00	200.00
Special Provisions:				
One Bldg. per lot	15-20-2	50.00	100.00	200.00
Access to Street	15-20-3	50.00	100.00	200.00
Building Grades	15-20-4	50.00	100.00	200.00
Water/Sanitary Sewer	15-20-5	100.00	200.00	400.00
Moving Buildings	15-20-6	100.00	200.00	400.00
Prior Bldg. Permits	15-20-7	15.00	30.00	60.00
Fences Walls, Screens	15-20-8	15.00	30.00	60.00
Accessory Buildings	15-20-9	15.00	30.00	60.00
Front Setback Reductions	15-20-13	50.00	100.00	200.00
Rear Setback Reductions	15-20-14	50.00	100.00	200.00
Lake Frontage Lots	15-20-15	50.00	100.00	200.00
Double Frontage Lots	15-20-16	50.00	100.00	200.00
Temporary Bldgs. & Structures	15-20-19	100.00	200.00	400.00
Flood Hazard Areas	15-20-20	100.00	200.00	400.00
Bed & Breakfast Operations	15-20-22	100.00	200.00	400.00
Satellite Dish Antennas	15-20-24	15.00	30.00	60.00
Dwellings	15-20-26	50.00	100.00	200.00

Zoning Ordinance Violations	Article No.	1st Offense	2nd Offense	3rd Offense
Nonconforming Uses & Structures:				
Nonconforming Uses of Land	15-21-4	100.00	200.00	400.00
Nonconforming Structures	15-21-4	100.00	200.00	400.00
Nonconforming Structures & Land	15-21-4	100.00	200.00	400.00
Repairs & Maintenance	15-21-4	100.00	200.00	400.00
Off Street Parking & Loading Requirements:				
Off Street Parking General Prov.	15-22-2	100.00	200.00	400.00
Schedule of Requirements	15-22-3	15.00	30.00	60.00
Parking Development Standards	15-22-4	50.00	100.00	200.00
Loading & Unloading	15-22-5	50.00	100.00	200.00
Signs:				
All Districts	15-23-3	15.00	30.00	60.00
Residential Districts	15-23-4	15.00	30.00	60.00
Restricted Commercial District	15-23-5	50.00	100.00	200.00
Business & Lakefront Recreation	15-23-6	50.00	100.00	200.00
Industrial Districts	15-23-7	50.00	100.00	200.00
Neighborhood or Comm. Shopping	15-23-8	50.00	100.00	200.00
Illuminated Signs	15-23-9	50.00	100.00	200.00
Not to Constitute Hazard	15-23-10	50.00	100.00	200.00
Portable or Movable Signs	15-23-11	50.00	100.00	200.00
Outdoor Advertising Structures	15-23-12	50.00	100.00	200.00
Sign Permits	15-23-13	50.00	100.00	200.00
Special Use Permits	15-24	100.00	200.00	400.00
Site Plan Review	15-25	100.00	200.00	400.00
Administration & Enforcement:				
Certificate of Zoning Compliance	15-27-3	100.00	200.00	400.00
Building Permits	15-27-4	100.00	200.00	400.00
Certificate of Occupancy	15-27-5	100.00	200.00	400.00
Zoning Board of Appeals - Variances	15-27-6	100.00	200.00	400.00