

**CITY OF WHITEHALL ZONING ORDINANCE  
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## ARTICLE 1- PURPOSE

Pursuant to the authority conferred by the Michigan Zoning Enabling Act (P.A. 110 of 2006 as amended) and the Michigan Planning Enabling Act (P.A. 33 of 2008 as amended), this Ordinance has been established for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City; protecting the character and stability of the open space, residential, and commercial areas and promoting the orderly and beneficial development of such areas; providing adequate light, air, privacy, and reasonable access to property; 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; lessening and avoiding congestion of the public highways and streets; promoting healthful surroundings for family life in residential areas; protecting the public and adjacent uses from fire, explosion, fumes, odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards; 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; enhancing social and economic stability; enhancing the aesthetic desirability of the environment; conserving the expenditures of funds for public improvements, energy, and other services to conform with the most advantageous uses of land; and implementing the recommendations and desires of the Comprehensive Master Plan.

## ARTICLE 2 - DEFINITIONS

### §15-2-1 CONSTRUCTION OF LANGUAGE

- 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 that 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 the conjunction "and" indicates that all the connected items, conditions, provisions, or events shall apply; "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination; "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. When 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.

**§15-2-2 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:

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

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

**ADULT FOSTER CARE FACILITY.** A facility licensed under Public Act 218 of 1979, as amended, that provides personal care, supervision, and protection in addition to room and board to twenty or fewer unrelated persons who are aged, mentally ill, developmentally disabled, or physically disabled, for 24 hours a day, five or more days a week, for two or more consecutive weeks for compensation.

**FAMILY HOME.** A private residence adult foster care facility with the approved capacity to receive six or fewer adults. The licensee shall be a member of the household and an occupant of the residence.

**SMALL GROUP HOME.** An adult foster care facility with the approved capacity to receive twelve or fewer adults.

**LARGE GROUP HOME.** An adult foster care facility with the approved capacity to receive at least thirteen but not more than twenty adults.

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

**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.

**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 as "altered" or "reconstructed".

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

**ASSISTED LIVING.** A dwelling unit where the furnishing of medical care, nursing, housekeeping, personal care, and meals are available to the occupants.

**AUTOMOBILE SERVICES.** A business providing for repair, rebuilding, or reconditioning of motor vehicles; collision services; painting; sale of accessories such as tires, oil, and batteries; installation or service of accessories; sale of fuel; and retail convenience products.

**BANNER.** A piece of cloth, plastic, or similar material used as a symbol, standard, signal, or emblem for attracting attention to a business.

**BASEMENT.** That portion of a building where a majority of the vertical distance of a story is below grade. A basement shall not be counted as a story.

**BED AND BREAKFAST.** An accessory use to a single family detached dwelling in which transient guests are provided a sleeping room or food for payment. Air bed and breakfast operations shall be treated the same as bed and breakfast operations regardless of whether food is provided or not.

**BERM.** A man-made earth mound used for sound absorption, obscuring purposes, or to provide a transition between uses of differing intensity.

**BILLBOARD.** A structure 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.

**BLOCK.** An area enclosed by streets, railroad rights of way, bodies of water, or other manmade and natural features intended for divided properties and/or buildings.

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

**BUILDING.** A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or property.

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

**CAMPGROUND.** A parcel or tract of land on which five or more campsites are located and offered for use by the public.

**CARPORT.** A partially open structure, intended to shelter one or more vehicles which shall comply with all requirements applicable to garages.

**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.

**CHILD CARE CENTER.** A commercial facility where child care is provided for one or more children.

**CHILD CARE HOME.** A private residence that the child care provider lives in and cares for up to six children whose parents are not immediately available.

**CHILD CARE GROUP HOME.** A private residence that the child care provider lives in and cares for up to twelve children whose parents are not immediately available.

**CHURCH.** A building where 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.

**CLINIC.** A building for the care, diagnosis, and treatment of sick or injured persons, and those in need of medical or minor surgical attention which may incorporate laboratories and pharmacies incidental or necessary to the operation of the clinic or service to the patients.

**CLUB.** An organization of persons for special purposes such as the promulgation of sports, arts, science, literary, political, or social activities, not operated for profit.

**COMMERCIAL KENNEL.** A lot or building used for the commercial maintenance of dogs, cats, or other domestic pets.

**COMMERCIAL SIGN.** A structure which directs attention to a business, profession, commodity, service, or entertainment sold or offered.

**COMPREHENSIVE MASTER PLAN.** The City of Whitehall Comprehensive Master Plan prepared and adopted under the authority of the Michigan Planning Enabling Act (P.A. 33 of 2008 as amended).

**CONDOMINIUM.** Individual ownership of a unit in a multiunit building along with rights to common areas within the development.

**CORNER LOT.** A lot having at least two contiguous sides abutting upon a street.

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

**DUPLEX -** A building designed for or used exclusively as a residence for two families with the units being side by side.

**DWELLING UNIT.** One or more rooms connected together with kitchen and bathroom facilities designed 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.

**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.

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

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

**ESSENTIAL SERVICES.** Underground, surface, or overhead facilities such as gas, communication, telephone, or electrical 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.

**ESTABLISHED GRADE.** The average grade of a proposed structure prior to any excavation taking place. In the case of a walkout, the front wall of the structure shall control.

**ESTABLISHED SETBACK.** The average setback of existing principal buildings on the same side of the street and on the same block within 200 feet of a proposed principal building. The Zoning Administrator shall establish the required minimum front setback based on the established average.

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

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

**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. A standard flag bears the official design of a nation, state, municipality, nonprofit institution, nonprofit organization, business log, or business emblem. A commercial flag is one bearing copy or design, such as the words "Open" or "Welcome", intended to attract attention towards a business.

**FREE STANDING SIGN.** A structure which is not attached to any other structure erected for the purpose of advertising a business or activity.

**GARAGE.** An accessory building designed or used for the storage of motor vehicles, boats, and similar items or equipment

**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.

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

**GROSS FLOOR AREA.** 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.

HOME FOR THE AGED. A facility licensed under Public Act 368 of 1978, as amended, providing room and board and supervised personal care to 21 or more unrelated people who are 55 years of age or older; or if operated as a distinct part of a licensed nursing home, can be provided to fewer than 21 residents.

HOME OCCUPATION. A profession conducted entirely within a dwelling and carried on by the inhabitants 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.

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

IDENTIFICATION SIGN. Any structure that identifies the business, owner, resident, or street address which sets forth no advertisement.

ILLUMINATED SIGN. Signs supplied or brightened with artificial light.

INSTITUTIONAL BULLETIN BOARD. A structure containing a surface area upon which is displayed the name of an institution and the announcement of its services or activities conducted on premise.

INTERIOR LOT. A parcel that has only one property line abutting a street.

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.

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

LOT AREA. The total horizontal area within the boundary lines of a parcel.

LOT DEPTH. 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.

LOT LINE. The boundary line of a parcel of land.

FRONT. 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.



**REAR.** 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.

**SIDE.** Any lot lines other than the front or rear lot lines.

**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.

**LOT WIDTH.** The straight-line horizontal distance between the side lot lines measured at the two points where the building line intersects the side lot lines.

**MAJOR STREET.** An arterial road intended to serve large volumes of traffic for the immediate area and the region beyond as designated on the City's "Act 51" Map.

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

**MARQUEE SIGN.** An identification sign attached to a marquee, canopy, or awning projecting from and supported by a building, above sidewalk level.

**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.

**MOTEL.** A building in which lodging is offered to the public for compensation as transient guests and which the rooms are usually accessible from an outdoor parking area.

**MOTOR HOME.** A self-propelled vehicle built on a motor vehicle chassis, designed and constructed to provide temporary living quarters for recreation, camping or travel use.

**MULTIPLE FAMILY DWELLING.** A building designed or used as a home, residence, or sleeping place for three or more families living independently of each other.

**NONCONFORMING BUILDING.** A building or structure lawfully existing at the time of adoption of this Ordinance or any amendments that subsequently does not conform to the new requirements or restrictions of the zoning district in which it is located such as setbacks, height, and designed standards.

**NONCONFORMING LOT.** A lot or parcel that lawfully existed at the time of adoption of this Ordinance or any amendments that subsequently does not conform to the new requirements or restrictions of the underlying zone district in which it is located such as area, width, coverage, or street access.

**NONCONFORMING USE** - A building or land that lawfully existed at the time of adoption of this Ordinance or any amendments that subsequently prohibits the use.

**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.

**ON PREMISE SIGN.** A display whose message relates to activities conducted on the same lot.

**OFF PREMISE SIGN.** A display whose message relates to activities conducted on a lot other than that upon which the sign is located.

**PLANNED UNIT DEVELOPMENT.** A designed grouping of varied and compatible land uses, such as housing, recreation, commercial centers, and industrial parks, all within one contained development or subdivision.

**PLANNING COMMISSION.** The appointed body empowered to administer, review and make recommendations for changes to the zoning ordinance; develop and adopt a long-range comprehensive master plan; review and adopt a capital improvement plan.

**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. Portable signs include election campaign signs advertising candidates or soliciting votes for any proposition or issue at any election and real estate signs advertising the sale, rent, or lease of land or buildings.

**PROJECTING SIGN.** A structure which extends from and is secured to a building.

**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.

**RECREATIONAL VEHICLE.** A motorized or non-motorized vehicle designed and used as temporary living quarters for recreational, camping, or travel use. A recreational vehicle is not a dwelling for the purpose of this Ordinance.

**RENEWABLE ENERGY.** Power generated from natural resources such as sunlight, wind, rain, tides, and geothermal heat which are naturally replenished.

**RENEWABLE ENERGY APPLICATIONS – COMMERCIAL.** Sources, equipment, and facilities that primarily provide energy to a commercial power grid.

**RENEWABLE ENERGY APPLICATIONS – PRIVATE.** Sources, equipment, and facilities that primarily provide on-site energy needs but can be connected to a commercial

power grid.

**RESTAURANT.** A building whose principal business is the sale of food or beverages in a ready to consume state.

**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.

**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.

**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.

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

**SETBACK.** The distance of a building from the lot line or any other building.

**FRONT.** The required minimum unoccupied distance extending the full lot width between the front lot line and any buildings.

**REAR.** The required minimum unoccupied distance extending the full lot width between the lot line opposite the front lot line and any buildings.

**SIDE.** The required minimum unoccupied distance extending the full lot length between the side lot lines and any buildings.

**SEXUALLY ORIENTED BUSINESS.** A business that is primarily engaged in the offering or selling of erotic performances, products, or services.

**SHOPPING CENTER.** A group of retail stores and service establishments designed to serve a community or neighborhood.

**SIGN.** A display used to identify or advertise a place, business, or product.

**SINGLE FAMILY DETACHED DWELLING.** A building designed for or used exclusively as a home, residence, or sleeping place exclusively by one family.

**SITE CONDOMINIUM.** Individual ownership of a building and the land it is located on along with rights to common areas within the development.

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

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

**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.

**SPECIAL USE PERMIT.** Permission granted to conduct activities with unique characteristics not allowed by right within the specific zoning district after meeting additional conditions following public notice and hearing.

**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 when more than 50% is above the height level of the adjoining ground.

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

**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.

**SUBDIVISION.** The division of a parcel of land into five or more lots for sale or development, excluding the dividing of land into parcels exceeding ten acres.

**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.

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

**THROUGH LOT.** A lot having two noncontiguous sides abutting a street right of way.

**TRAVEL TRAILER.** A transportable, non-motorized vehicle which is mounted on wheels and drawn upon a highway by a motorized vehicle.

**TRUCK CAMPER.** A portable structure designed and constructed to be loaded onto, or affixed to, the bed or chassis of a truck or other motor vehicle.

**TWO FAMILY DWELLING -** A building designed for or used exclusively as a home, residence, or sleeping place by two families living independently of each other.

**USABLE FLOOR AREA.** Area 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.

VARIANCE. A modification to the literal provisions of the Zoning Ordinance.

WALL SIGN. A structure attached directly to or painted upon a building parallel to the building wall.

WINDOW SIGN. Copy or emblems painted or attached to the window surface.

YARD. The ground immediately surrounding a building

FRONT. An open space extending the full width of the lot lying between the front lot line and the nearest principal building.

REAR. An open space extending the full width of the lot lying between the rear lot line and the nearest principal building.

SIDE. An open space extending from the front yard to the rear yard between the side lot lines and the nearest principal building.

ZONING ADMINISTRATOR. The official or an authorized representative charged with the responsibility of administering this Ordinance.

ZONING BOARD OF APPEALS. The appointed body empowered to review and approve or deny relief from the requirements of the zoning ordinance.

## ARTICLE 3 - ZONING DISTRICTS AND MAP

### §15-3-1 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.

R1	Single Family Residential
R2	Moderate Density Residential
R3	Multiple Family Residential
RC1	Restricted Commercial
B1	General Business
B2	Central Business
M1	Limited Industrial
M2	General Industrial
MC1	Limited Industrial Commercial
LR	Lakefront Recreation
AG	Agricultural Enterprise
OS	Open Space Conservation/Recreation

### §15-3-2 ZONING DISTRICT MAP

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

### §15-3-3 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 the 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 lines, the lines shall be construed as the boundary lines.
- C. For property not subdivided or where a district boundary divides a lot, the

location of the 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 the shoreline. 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 the centerline.
- G. A boundary indicated as parallel to or an extension of any feature indicated in (A) through (F) above, 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 (A) through (G) above, then the Board of Zoning Appeals shall interpret the district boundaries.

#### **§15-3-4 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, the 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.

#### **§15-3-5 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.

#### **§15-3-6 SCOPE OF PROVISIONS**

- A. Except as otherwise 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, and size as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

**§15-3-7            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.

**§15-3-8            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 three months after the annexation.



Insert Zoning Map

## ARTICLE 4 - SINGLE FAMILY RESIDENTIAL DISTRICT

### §15-4-1 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 Single-Family Residential Districts (R1) 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.

### §15-4-2 USES PERMITTED BY RIGHT

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 family home and small group home.
- C. Home occupations incidental to the primary residential use. Home occupations may not use more than 50% of the floor area of the building in which it is located; all activities shall be carried on indoors; no outdoor activities or storage shall be permitted; 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 non-illuminated sign; traffic generated by the home occupation shall not be in greater volumes than would normally be expected in a residential neighborhood; and parking shall be met off street and other than in a required front yard. Garage sales, rummage sales, yard sales and similar activities are not considered a home occupation.

### §15-4-3 PERMITTED ACCESSORY USES

- A. Accessory structures normally associated with single family dwellings, such as garages, sheds, playhouses, and boathouses.
- B. Swimming pools.
- C. Pens or enclosures for household pets.
- D. Private renewable energy applications subject to approval by the Zoning Administrator. Equipment and facilities shall not be artificially lighted, except to

the extent required by applicable local, state, or federal regulations nor display advertising other than brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

#### **§15-4-4 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. Nonresidential uses in residential districts may have an adverse effect on residential properties if not properly located and designed. Hazardous areas must be adequately fenced to avoid accidents. Motor vehicle access should be made on a major street to avoid the impact of traffic generated by the nonresidential use. Site locations should be chosen which offer natural or man-made barriers that lessen the intrusion of a nonresidential use. Public utilities shall be limited to the maximum height permitted in the district.

- A. Religious institutions such as churches, convents, and parsonages.
- B. 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, group day care homes and child care centers. Pre-schools, group day care homes and child care centers shall provide a fenced outdoor play area.
- C. Recreational facilities such as parks, playgrounds, community centers, parkways, and golf courses. Golf course development features, including principal and accessory structures, shall be located to minimize any adverse effects upon adjacent property with all buildings a minimum of 200 feet from any abutting residential property line. This may be modified by the Planning Commission if topographic conditions would screen buildings from view.
- D. Public and utility facilities excluding storage yards. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.
- E. Two family dwellings.
- F. Bed and Breakfast operations providing a site plan is reviewed and approved by the Planning Commission prior to the commencement of operations; the dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner; the structure shall remain a residential structure; and adequate parking is provided.
- G. Adult foster care large group home.

**§15-4-5**

**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 be subdivided, providing less than 6,000 square feet of lot area.
- B. The minimum lot width shall be 60 feet.
- C. The maximum lot coverage by all buildings including accessory buildings shall not exceed 35%.
- D. Minimum Yard and Setback Requirements
  - 1. The front yard setback shall not be less than 30 feet or equal to the established setback.
  - 2. A proposed principal building shall not be constructed where the front of the building is located in the established rear yard or where the rear of the building is located in the established front yard of existing principal buildings on the abutting lot(s). This does not apply to 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 lot(s) is 150 feet or greater.
  - 3. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  - 4. The side yard setback shall not be less than 8 feet. A corner lot side yard setback shall not be less than 30 feet.
  - 5. The rear yard setback shall not be less than 30 feet.
- E. Residential structures shall not exceed 35 feet in height as measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.
- F. Every single-family dwelling shall have a minimum gross living space of not less than 800 square feet exclusive of basements, garages, porches, and breezeways.

**§15-4-6 ONE BUILDING PER LOT**

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

**§15-4-7 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 10 feet wide, provided by an easement or other right of way.

**§15-4-8 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.

**§15-4-9 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-4-10 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.

- C. An accessory building or structure shall not exceed 20 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.

**§15-4-11 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.

**§15-4-12 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.

**§15-4-13 DWELLINGS**

In addition to the appropriate building codes, fire codes, and specific requirements of the zoning district, all dwellings outside a mobile home park or apartment complex shall comply with the following standards.

- A. The minimum width across any front, side, or rear elevation shall be no less than 20 feet of exterior wall.
- B. 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. 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 within 300 feet of the subject dwelling. Compatibility 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.

## **§15-4-14 OFF-STREET PARKING**

### **A. General Provisions**

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. This provision shall not apply to any existing single family residential structures that are enlarged or increased in capacity. Off-street parking for non-residential uses shall be 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.

### **B. Schedule of Requirements**

Single- and two-family dwellings shall provide no less than two off-street parking spaces per dwelling unit. There are no other provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

### **C. Development Standards**

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

### **D. Non-Residential Development Standards**

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.

2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

**§15-4-15 SIGNS**

A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than two flag poles per parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

B. Permitted Signs



One free standing subdivision sign per development not to exceed 70 square feet in surface display area shall be allowed upon issuance of a sign permit.

C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-4-16 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning

Commission. Site plan approval shall be in conformity with the requirements of this Article and Article 21.

## ARTICLE 5 - MODERATE DENSITY RESIDENTIAL DISTRICT

### §15-5-1 PURPOSE

The purpose of the Moderate Density Residential District (R2) 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 by permitting two family dwellings. There is no intent to promote, by these requirements, a residential district of lower quality than the R1 District.

### §15-5-2 USES PERMITTED BY RIGHT

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.
- C. Adult foster care family home and small group home.
- D. Home occupations incidental to the primary residential use. Home occupations may not use more than 50% of the floor area of the building in which it is located; all activities shall be carried on indoors; no outdoor activities or storage shall be permitted; 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 non-illuminated sign; traffic generated by the home occupation shall not be in greater volumes than would normally be expected in a residential neighborhood; and parking shall be met off street and other than in a required front yard. Garage sales, rummage sales, yard sales and similar activities are not considered a home occupation.

### §15-5-3 PERMITTED ACCESSORY USES

- A. Accessory structures normally associated with single family dwellings, such as garages, sheds, playhouses, and boathouses.
- B. Swimming pools.
- C. Automobile parking.
- D. Pens or enclosures for household pets.
- E. Private renewable energy applications subject to approval by the Zoning Administrator. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed

underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

#### **§15-5-4 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. Hazardous areas must be adequately fenced to avoid accidents. Motor vehicle access should be made on a major street to avoid the impact of traffic generated by the nonresidential use. Site locations should be chosen which offer natural or man-made barriers that lessen the intrusion of a nonresidential use. Public utility structures shall be limited to the maximum height permitted in the district.

- A. Religious institutions such as churches, convents, and parsonages.
- B. 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. Pre-schools, group day care homes and child care centers shall provide a fenced outdoor play area.
- C. Recreational facilities such as parks, playgrounds, community centers, parkways, and golf courses. Golf course development features, including principal and accessory structures, shall be located to minimize any adverse effects upon adjacent property with all buildings a minimum of 200 feet from any abutting residential property line. This may be modified by the Planning Commission if topographic conditions would screen buildings from view.
- D. Public and utility facilities excluding storage yards. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.
- E. Two-family dwellings.
- F. Bed and Breakfast operations providing a site plan is reviewed and approved by the Planning Commission prior to the commencement of operations; the dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner; the structure shall remain a residential structure; and adequate parking is provided.
- G. Adult foster care large group home.
- H. Institutions for human care such as skilled nursing and assisted living facilities. All institutions shall be licensed in accordance with Michigan laws.

- I. Adult foster care large group homes.

**§15-5-5 SITE DEVELOPMENTS STANDARDS**

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

- A. No single-family structure shall be established on any parcel providing less than 6,000 square feet of lot area. Newly constructed two-family dwellings shall require a minimum parcel size of not less than 7,200 square feet.
- B. The minimum lot width shall be 60 feet.
- C. Minimum Yard and Setback Requirements
  - 1. The front yard setback shall not be less than 30 feet or equal to the established setback line.
  - 2. A proposed principal building shall not be constructed where the front of the building is located in the established rear yard or where the rear of the building is located in the established front yard of existing principal buildings on the abutting lot(s). This does not apply to 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 lot(s) is 150 feet or greater.
  - 3. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  - 4. The side yard setback shall not be less than 8 feet. A corner side yard setback shall not be less than 30 feet.
  - 5. The rear yard setback shall not be less than 30 feet.
- D. Residential structures shall not exceed 35 feet in height, measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.
- E. Every single-family dwelling and each unit of a two-family dwelling shall have a minimum gross living space of not less than 800 square feet exclusive of basements, garages, porches, and breezeways.

**§15-5-6 ONE BUILDING PER LOT**

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

**§15-5-7 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 10 feet wide, provided by an easement or other right of way.

**§15-5-8 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.

**§15-5-9 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.

**§15-5-10 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-5-11 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 20 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.

**§15-5-12 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.

**§15-5-13 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.

**§15-5-14 DWELLINGS**

In addition to the appropriate building codes, fire codes, and specific requirements of the zoning district in which a dwelling is located, all dwellings outside a mobile home park or apartment complex shall comply with the following standards.

- A. The minimum width across any front, side, or rear elevation shall be no less than

20 feet of exterior wall.

- B. 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. 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 within 300 feet of the subject dwelling. Compatibility 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.

**§15-5-15 OFF-STREET PARKING**

A. General Provisions

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. This provision shall not apply to any existing single family residential structures that are enlarged or increased in capacity. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

B. Schedule of Requirements

Single- and two-family dwellings shall provide no less than two off-street parking spaces per dwelling unit. There are no other provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

C. Development Standards

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate



of occupancy by the Building Official.

5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

#### D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

#### E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

### **§15-5-16 SIGNS**

#### A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area.
3. Flags not to exceed 24 square feet in surface display area. No more than two flag poles per residential parcel with no more than two flags per pole.

4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing subdivision sign per development not to exceed 70 square feet in surface display area

C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-5-17 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 6 - MULTIPLE FAMILY RESIDENTIAL DISTRICT

### §15-6-1 PURPOSE

The purpose of the Multiple Family Residential District (R3) 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.

### §15-6-2 USES PERMITTED BY RIGHT

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 attached dwellings, such as townhouses.
- B. Two family dwellings, such as duplexes.
- C. Multiple family dwellings such as apartments of 35 feet or less in height.
- D. Home occupations incidental to the primary residential use. Home occupations may not use more than 50% of the floor area of the building in which it is located; all activities shall be carried on indoors; no outdoor activities or storage shall be permitted; 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 non-illuminated sign; traffic generated by the home occupation shall not be in greater volumes than would normally be expected in a residential neighborhood; and parking shall be met off street and other than in a required front yard. Garage sales, rummage sales, yard sales and similar activities are not considered a home occupation.

### §15-6-3 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.
- C. Private renewable energy applications subject to approval by the Zoning Administrator. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or

manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

#### **§15-6-4 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. Hazardous areas must be adequately fenced to avoid accidents. Motor vehicle access should be made on a major street to avoid the impact of traffic generated by the nonresidential use. Site locations should be chosen which offer natural or man-made barriers that lessen the intrusion of a nonresidential use. Public utility structures shall be limited to the maximum height permitted in the district.

- A. Religious institutions such as churches, convents, and parsonages.
- B. 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. Pre-schools, group day care homes and child care centers shall provide a fenced outdoor play area.
- C. Recreational facilities such as parks, playgrounds, community centers, parkways, and golf courses. Golf course development features, including principal and accessory structures, shall be located to minimize any adverse effects upon adjacent property with all buildings a minimum of 200 feet from any abutting residential property line. This may be modified by the Planning Commission if topographic conditions would screen buildings from view.
- D. Public and utility facilities excluding storage yards. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.
- E. Two family dwellings.
- F. Bed and Breakfast operations providing a site plan is reviewed and approved by the Planning Commission prior to the commencement of operations; the dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner; the structure shall remain a residential structure; and adequate parking is provided.
- G. Multiple family dwellings in structures of three or more stories.
- H. Adult foster care large group home.

- I. Mobile home parks providing they comply with the following specific standards - the minimum project area shall be 30 acres with a maximum not to exceed 40 acres; the site shall be adjacent to a major street; 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; and home occupations are prohibited. The following land or building uses may be permitted – mobile homes; one office building exclusively for conducting the business operations of the mobile home park; utility buildings for laundry and auxiliary storage for the residents; and recreation areas, community buildings, playgrounds, and open spaces for use by the residents

**§15-6-5 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 be subdivided, providing less than 7,200 square feet of lot area.
- B. The minimum lot width shall be 100 feet.
- C. Minimum Yard and Setback requirements
  1. The front yard setback shall not be less than 30 feet or equal to the established setback line.
  2. A proposed principal building shall not be constructed where the front of the building is located in the established rear yard or where the rear of the building is located in the established front yard of existing principal buildings on the abutting lot(s). This does not apply to 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 lot(s) is 150 feet or greater.
  3. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  4. The side yard setback for two family dwellings shall not be less than 10 feet. The side yard setback for buildings with three to ten units shall not be less than 15 feet. The side yard setback for buildings with more than ten units shall not be less than 25 feet.
  5. The rear yard setback shall not be less than 40 feet.
- D. Other Requirements
  1. 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 districts.
  2. All buildings shall be so arranged as to permit emergency vehicle access to all sides.
  3. Grouped buildings shall be separated by a minimum of 25 feet.
  4. No entrance to a multiple family structure shall be located closer to any

street, access road, driveway or parking area than 25 feet.

5. Residential structures shall not exceed 75 feet in height, measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.

- E. Every dwelling unit shall have a minimum gross living space of not less than 800 square feet exclusive of basements, garages, porches, and breezeways.

**§15-6-6 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-6-7 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.

**§15-6-8 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.

**§15-6-9 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.

- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-6-10 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 20 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-6-11 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.

**§15-6-12 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.

**§15-6-13 DWELLINGS**

In addition to the appropriate building codes, fire codes, and specific requirements of the zoning district in which a dwelling is located, all dwellings outside a mobile home park or apartment complex shall comply with the following standards.

- A. The minimum width across any front, side, or rear elevation shall be no less than 20 feet of exterior wall.
- B. 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. 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 within 300 feet of the subject dwelling. Compatibility 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.

**§15-6-14 OFF-STREET PARKING**

A. General Provisions

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. This provision shall not apply to any existing single family residential structures that are enlarged or increased in capacity. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

B. Schedule of Requirements

Single- and two-family dwellings shall provide no less than two off-street parking spaces per dwelling unit. There are no other provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall

consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

#### C. Development Standards

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

#### D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

#### E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

## **§15-6-15 SIGNS**

### **A. Allowable Signs**

The following signs shall be allowed in all districts without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than two flag poles per residential parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

### **B. Permitted Signs**

The following signs shall be allowed upon issuance of a sign permit.

1. One wall sign placed on the main building of an apartment development not to exceed 12 square feet in surface display area.
2. One free standing sign not to exceed 70 square feet in surface display area located in the front yard with the leading edge of the sign at least ten feet back of the right of way line and the top of such signs shall be no higher than ten feet from ground level.

### **C. Illuminated Signs**

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

### **D. Traffic Hazard**

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic.

No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-6-16 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 7 – RESTRICTED COMMERCIAL DISTRICT

### §15-7-1 PURPOSE

The purpose of the Restricted Commercial District (RC) is 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.

### §15-7-2 USES PERMITTED BY RIGHT

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.
- C. Adult foster care family home and small group home.
- D. Home occupations incidental to the primary residential use. Home occupations may not use more than 50% of the floor area of the building in which it is located; all activities shall be carried on indoors; no outdoor activities or storage shall be permitted; 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 non-illuminated sign; traffic generated by the home occupation shall not be in greater volumes than would normally be expected in a residential neighborhood; and parking shall be met off street and other than in a required front yard. Garage sales, rummage sales, yard sales and similar activities are not considered a home occupation.
- E. 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.
- F. Professional service establishments providing human health care on an outpatient basis.

- G. Miscellaneous business services such as consumer credit reporting agencies, mailing and stenographic services, business management consulting services, and duplicating services.
- H. 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.
- I. Governmental offices.
- J. Churches and related facilities.
- K. Offices of nonprofit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations, or political organizations.
- L. Mortuaries and funeral homes subject to the following,
  - 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 any required off-street parking.
  - 2. Loading and unloading areas used by ambulances, hearses, or other similar service vehicles shall be obscured from view with an opaque fence or wall not less than six feet in height.
- M. Fraternal lodges or similar civic social clubs.
- N. Establishments operated for the sale of antiques, collectibles, and similar merchandise.
- O. Bed and breakfast operations providing a site plan is reviewed and approved by the Planning Commission prior to the commencement of operations; the dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner; the structure shall remain a residential structure; and adequate parking is provided.
- P. Educational institutions and other places for assembly; centers for fine arts education, activities and development; libraries, museums and fine art studios; and dance studios.

**§15-7-3 PERMITTED ACCESSORY USES**

- A. Any use customarily incidental to the permitted principal use.
- B. Private renewable energy applications subject to approval by the Zoning Administrator. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or

federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

**§15-7-4 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.

- 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. Recreational facilities such as parks, playgrounds, and community centers.
- C. Eating establishments which may provide for outside facilities for eating.
- D. Barber and beauty shops.

**§15-7-5 SITE DEVELOPMENT STANDARDS – RESIDENTIAL USES**

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

- A. No single-family structure shall be established on any parcel providing less than 6,000 square feet of lot area. Newly constructed two-family dwellings shall require a minimum parcel size of not less than 7,200 square feet.
- B. The minimum lot width shall be 60 feet.
- C. Minimum Yard and Setback Requirements
  - 1. The front yard setback shall not be less than 30 feet or equal to the established setback line.
  - 2. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  - 3. A proposed principal building shall not be constructed where the front of the building is located in the established rear yard or where the rear of the building is located in the established front yard of existing principal buildings on the abutting lot(s). This does not apply to 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 lot(s) is 150 feet or greater.

4. The side yard setback shall not be less than 8 feet. A corner side yard setback shall not be less than 30 feet.
  5. The rear yard setback shall not be less than 30 feet.
- D. Residential structures shall not exceed 35 feet in height, measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.
- E. Every single-family dwelling and each unit of a two-family dwelling shall have a minimum gross living space of not less than 800 square feet exclusive of basements, garages, porches, and breezeways.

**§15-7-6 SITE DEVELOPMENT STANDARDS – COMMERCIAL USES**

The following standards shall apply to all commercial uses and structures in the RC 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. Minimum Yard and Setback Requirements
  1. The front yard setback shall not be less than 20 feet, The front yard setback shall not be less than 30 feet, or equal to the established setback line. A front setback may be reduced below the minimum only when the average front setback of existing principal buildings on the same side of the street and on the same block within 200 feet of a proposed principal building is less than the minimum required. The Zoning Administrator shall establish the required minimum front setback based on the established average.
  2. The side and rear yard setback shall not be less than 10 feet. A corner side yard setback shall not be less than 20 feet.
  3. All structures shall be no less than 20 feet from any residential district boundary line.
- D. Structures shall not exceed 35 feet in height, measured from the average existing grade at the front setback line.



E. Other Requirements

1. Landscaping shall be maintained in all yards in accordance with plans approved by the Planning Commission.
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 and 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 Commission.
6. All commercial structures shall be constructed with a residential facade and be of a residential scale and character. Elevation drawings shall be submitted for Planning Commission approval.

**§15-7-7 ONE BUILDING PER LOT**

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

**§15-7-8 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 10 feet wide, provided by an easement or other right of way.

**§15-7-9 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.

**§15-7-10 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.

**§15-7-11 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-7-12      ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 20 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-7-13      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.

**§15-7-14 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.

**§15-7-15 DWELLINGS**

In addition to the appropriate building codes, fire codes, and specific requirements of the zoning district in which a dwelling is located, all dwellings outside a mobile home park or apartment complex shall comply with the following standards.

- A. The minimum width across any front, side, or rear elevation shall be no less than 20 feet of exterior wall.
- B. 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. 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 within 300 feet of the subject dwelling. Compatibility 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.

**§15-7-16 OFF-STREET PARKING**

- A. General Provisions

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. This provision shall not apply to any existing single family residential structures that are enlarged or increased in capacity. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except

that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

#### B. Schedule of Requirements

Single- and two-family dwellings shall provide no less than two off-street parking spaces per dwelling unit. There are no other provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

#### C. Development Standards

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

#### D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.

7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

**§15-7-17 SIGNS**

A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than two flag poles per residential parcel and three flag poles per commercial parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel, not exceeding 70 square feet in surface display area; located in the front yard with the leading edge of the sign at least ten feet back of the right of way line; and the top shall be no higher than 20 feet from ground level.
2. Wall signs shall not exceed 15% of the square footage of the building face to which they are attached; shall not extend more than six inches from the building surface; and shall not extend above the cornice or roof line. Signs painted directly onto the surface of a building may not exceed 50% of the building face.
3. 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; contains no commercial lettering, words, logos, or symbols; free standing;

displayed only during business hours; does not impede vehicular or pedestrian traffic; not located in the paved or traveled portion of the public right-of-way; and shall be on the property of the business unless there is not room between the building and the right-of-way.

C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-7-18 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding

5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Commission.

## ARTICLE 8 - GENERAL BUSINESS DISTRICT

### §15-8-1 PURPOSE

It is the purpose of the General Business District (B1) 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 are intended to ensure that development in the B1 District will relate harmoniously to surrounding land uses.

### §15-8-2 USES PERMITTED BY RIGHT

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 any 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 providing a site plan is reviewed and approved by the Planning Commission prior to the commencement of operations; the dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner; the structure shall remain a residential structure; and adequate parking is provided.
- 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. Indoor Theaters.
- N. Amusement enterprises such as billiard or pool hall, bowling alley, dance hall, night club, and skating rink all 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.

**§15-8-3 PERMITTED ACCESSORY USES**

- A. Any use customarily incidental to the permitted principal use.
- B. Private renewable energy applications subject to Planning Commission approval. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

**§15-8-4**

**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.

- A. Planned neighborhood convenience shopping center.
- B. Automobile services which shall comply with the following specific standards - be located adjacent to a major street; the outside storage of vehicles waiting for repair shall be limited to 90 days; minimum lot size of 15,000 square feet; minimum lot width of 130 feet; a buffer strip not less than 20 feet wide adjacent to all property lines, graded with a continuous berm 3 feet high, sufficiently gradual to prevent erosion, and developed along 30% of the buffer strip adjacent to streets; all equipment shall be entirely enclosed within a building; no outdoor storage of merchandise other than the outdoor display of merchandise for sale; outdoor trash storage shall enclosed on all sides; 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; and there shall be no above ground storage tanks for fuels or other inflammable materials.
- C. Automatic and self-service car wash establishments.
- D. Motor vehicle, boat, motor home, and camper sales, rental, repair, and outdoor display, provided the outdoor display area is paved and properly drained, and provided no dismantled or inoperative vehicles are stored outside a wholly enclosed building.
- E. Any retail, service, or restaurant use with drive through windows or other means of providing service to patrons inside their vehicles. These uses shall comply with the following specific standards - the minimum lot size shall be 20,000 square feet; the minimum lot width shall be 125 feet; motor vehicle access points shall be no less than 30 feet from intersections and no less than ten feet from adjacent property lines; driveways shall be no less 30 feet wide; no more than two driveways shall be permitted; space used for parking and vehicle stacking shall be hard surfaced and adequately drained; storage of trash dumpsters shall be properly screened; and adequate trash and litter containers shall be provided for customer use.
- F. Open air businesses such as retail sales of nursery stock, lawn furniture, playground equipment and garden supplies, and rental yards, provided the sales and storage area is fenced or otherwise enclosed.
- G. Retail lumber yard, and building material sales yard.
- H. Temporary outdoor uses or sales incidental to the business conducted on the premises.
- I. Public and utility facilities excluding storage yards. Towers shall be located

centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.

- J. Outdoor or drive in theaters.
- K. Educational, artistic and social institutions, museums and art galleries, libraries, auditoriums, community centers, dance studios and other places for assembly.
- L. Marijuana provisioning centers provided they are no closer than 500 feet from any school or church and no closer than 1,000 feet from any other established marijuana provisioning center as determined by property lines.

**§15-8-5 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.
  - 2. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  - 3. 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 20 feet.
  - 4. All structures shall be no less than 20 feet from any residential district boundary.
- D. Structures shall not exceed 35 feet in height measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.
- E. Other Requirements
  - 1. Landscaping shall be maintained in all required yards in accordance with plans approved by the Planning Commission.

2. Lighting shall be done so 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. 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.

**§15-8-6 ONE BUILDING PER LOT**

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

**§15-8-7 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-8-8 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.

**§15-8-9 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.

**§15-8-10 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.

- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

#### **§15-8-11 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 35 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

#### **§15-8-12 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.

**§15-8-13 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.

**§15-8-14 OFF-STREET PARKING**

A. General Provisions

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

B. Schedule of Requirements

There are no provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

C. Development Standards

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

**§15-8-15 SIGNS**

A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than three flag poles per commercial parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.

8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

#### B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel; not exceeding 70 square feet in surface display area; shall be located in the front yard with the leading edge of the sign at least ten feet back of the right of way line; the top shall be no higher than 20 feet from ground level.
2. Wall signs shall not exceed 15% of the square footage of the building face to which they are attached; shall not extend more than six inches from the building surface; and shall not extend above the cornice or roof line. Signs painted directly to the surface of a building may not exceed 50% of the building face.
3. One sign per marquee not exceeding 15% of the front facing square footage of the marquee to which it is attached.
4. One projecting sign per building with the surface display area not exceeding 24 square feet in surface display area; attached directly to the building; shall not project above the cornice or roof line; the lowest point shall not be less than nine feet above the ground level; and shall not extend beyond the minimum required setback line or into and over a public right of way. External bracing guy wires are prohibited.
5. Window copy shall be limited to 10% of the total window surface; permitted on first floor windows only. The overall computation of allowable signage shall not include the address, business hours, entrance and exit, professional or security information, credit cards, or other similar information.
6. One parking lot 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. The surface display area, per sign, shall not exceed six square feet.
7. Temporary free standing or banner signs advertising special events that are approved by the City Council prior to placement; shall not exceed 100 square feet in surface display area; and shall be displayed for no longer than 30 consecutive days. Temporary signs on wheels are prohibited.
8. 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 provided the flag contains no commercial lettering, words, logos, or symbols; is free standing; is placed only during business hours; does not impede vehicular or pedestrian traffic; and is not in the paved or traveled portion of the public right-of-way. All such flags shall be on the property of the business unless there is not room between the building and the right-of-way.

#### C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-8-16 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission shall be required prior to any building or structure in any zoning district and prior to the initiation or expansion of any special land use in any district. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 9 - CENTRAL BUSINESS DISTRICT

### §15-9-1 PURPOSE

It is the purpose of the Central Business District (B2) 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.

### §15-9-2 USES PERMITTED BY RIGHT

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 such as administrative, business, professional, governmental, and nonprofit organizational. These uses may not be located on a first floor.
- B. Chiropractic, dental, medical, and optometric offices and clinics.
- C. Miscellaneous business services such as mailing and stenographic, photocopying, and similar uses. These uses may not be located on a first floor.
- 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 providing a site plan is reviewed and approved by the Planning Commission prior to the commencement of operations; the

dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner; the structure shall remain a residential structure; and adequate parking is provided.

- K. Hotels and motels.
- L. Establishments 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. Indoor 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. Dwellings provided they are not located on the first floor.
- R. Home occupations incidental to the primary residential use. Home occupations may not use more than 50% of the floor area of the building in which it is located; all activities shall be carried on indoors; no outdoor activities or storage shall be permitted; 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 non-illuminated sign; traffic generated by the home occupation shall not be in greater volumes than would normally be expected in a residential neighborhood; and parking shall be met off street and other than in a required front yard. Garage sales, rummage sales, yard sales and similar activities are not considered a home occupation.

### **§15-9-3 PERMITTED ACCESSORY USES**

- A. Any use customarily incidental to the permitted principal use.
- B. Private renewable energy applications subject to Planning Commission approval. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed

braking systems.

**§15-9-4 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.

- A. Public and utility facilities excluding storage yards. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.
- B. Temporary outdoor uses or sales, incidental to the business conducted on the premises.
- C. Artistic and social institutions, museums and art galleries, libraries, auditoriums, community centers, dance studios and other places for assembly.

**§15-9-5 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. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  - 3. 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.
  - 4. All structures shall be no less than 20 feet from any residential district boundary.
- D. No structure shall exceed 40 feet in height as measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these

do not extend more than five feet above the height limitations and have no window openings; and public utility structures.

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. 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 Plan

**§15-9-6 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-9-7 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.

**§15-9-8 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.

**§15-9-9 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.

- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-9-10 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 20 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-9-11 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.

**§15-9-12 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.

**§15-9-13 OFF-STREET PARKING**

Uses in the Central Business District are not required to provide private off-street parking if the property is adequately served by adjacent public parking as determined in the sole discretion of the Planning Commission. Where off-street parking is required or desired by the property owner, then the following provisions shall be complied with.

A. General Provisions

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. Off-street parking shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

B. Schedule of Requirements

There are no provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

C. Development Standards

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate

of occupancy by the Building Official.

5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

#### D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

#### E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

### **§15-9-14 SIGNS**

#### A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than three flag poles per commercial parcel with no more than two flags per pole.



4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel; not exceeding 70 square feet in surface display area; located in the front yard with the leading edge of the sign at least ten feet back of the right of way line; the top shall be no higher than 20 feet from ground level.
2. Wall signs shall not exceed 15% of the square footage of the building face to which they are attached; shall not extend more than six inches from the building surface; and shall not extend above the cornice or roof line. Signs painted directly to the surface of a building may not exceed 50% of the building face.
3. One sign per marquee not exceeding 15% of the front facing square footage of the marquee to which it is attached.
4. One projecting sign per building with the surface display area not exceeding 24 square feet in surface display area; attached directly to the building; shall not project above the cornice or roof line; the lowest point shall not be less than nine feet above the ground level; shall not extend beyond the minimum required setback line or into and over a public right of way. External bracing guy wires are prohibited.
5. Window copy shall be limited to 10% of the total window surface; permitted on first floor windows only. The overall computation of allowable signage shall not include the address, business hours, entrance and exit, professional or security information, credit cards, or other similar information.
6. One parking lot 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. The surface display area, per sign, shall not exceed six square feet.
7. Temporary free standing or banner signs advertising special events that are approved by the City Council prior to placement. These signs shall not exceed 100 square feet in surface display area and shall be displayed for no longer than 30 consecutive days. Temporary signs on wheels are prohibited.
8. 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 provided the flag contains no commercial lettering, words, logos, or symbols; is free standing; displayed only during business hours; does not impede

vehicular or pedestrian traffic and is not in the paved or traveled portion of the public right-of-way; and shall be on the property of the business unless there is not room between the building and the right-of-way.

C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-9-15 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The

Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 10 – INDUSTRIAL DISTRICT

### §15-10-1 PURPOSE

The purpose of the Industrial District (M1) 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. 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.

### §15-10-2 USES PERMITTED BY RIGHT

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. Research and development establishments with limited production of prototype products.
- B. The sale at wholesale or warehousing, storage or transfer buildings; commercial laundries or cleaning establishments; and frozen food lockers.
- C. Industrial establishments such as assembly, fabrication, compounding, packaging, manufacture, or treatment.
- D. Contractors and trades such as plumbers, electricians, builders, printers, carpenters, sign makers, masons, and roofers along with limited retail sales.
- E. Communication facilities with buildings, public utility buildings and services, electric transformer stations and substations, and gas regulator stations.
- F. Credit unions that primarily serve employees and their families of a business located in an M1 District.
- G. Office of a professional engineer, surveyor, geologist, architect, planner, or similar professional.
- H. Offices related to any use allowed in the M1 district.
- I. Packaging, mailing, and delivery services.
- J. Retail and wholesale of office supplies, drafting equipment, computer equipment, and similar supplies and equipment.
- K. Customer service centers

**§15-10-3 PERMITTED ACCESSORY USES**

- A. Any use customarily incidental to the permitted principal use.
- B. Dispensaries and clinics.
- C. Restaurant or cafeteria facilities for employees.
- D. Private renewable energy applications subject to Planning Commission approval. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

**§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.

- A. The exterior storage of semi-trucks, semi-trailers, mobile homes, campers, buses, and recreational vehicles.
- B. The storage of used materials including rags, wastepaper, waste products or similar materials, all open storage and salvage yards.
- C. Breweries and distilleries.
- D. Sexually oriented businesses provided no building, parking area, or sign is located within 300 feet from any residential district and from any existing dwelling, 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.
- E. Commercial renewable energy applications on parcels no less than 20 acres in size. The special use application shall include a narrative describing the proposed renewable energy source; generating capacity; and the number, types, size, and height of any equipment or facilities. Under no circumstance shall any equipment or facility exceed 200 feet in height. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and

facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

- F. Marijuana growing, processing, safety, and transportation facilities provided they are no closer than 500 feet from any school or church as determined by property lines.

#### **§15-10-5 SITE DEVELOPMENT STANDARDS**

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

- 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. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  3. The required side and rear yard setbacks shall not be less than 20 feet. In the case of a corner lot, the side yard shall not be less than 50 feet.
  4. All structures shall be located no less than 50 feet from any residential boundary line.
- D. No structure shall exceed 30 feet in height 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. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.
- E. Other requirements
  1. Unless specifically approved, 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. The 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.
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.

#### **§15-10-6 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.

- A. All machinery shall be so mounted and operated as to prevent transmission of ground vibration the property line.
- B. The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines or produce a public nuisance or hazard beyond lot lines is prohibited.
- C. The escape or emission of any gas which is injurious or destructive or explosive.
- D. 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.
- E. Exterior lighting shall be so installed as far as practical to reflect light away from any residential use.
- F. Discharge into the atmosphere from any single source of emission any air contaminant of such opacity as to obscure an observer's view for prolonged periods of time except when the emission consists only of water vapor.
- G. The drifting or airborne transmission to areas beyond the lot line of dust, particles, or debris from any open stock pile.
- H. No industrial sewage wastes shall be discharged into sewers that will cause any chemical reaction which may impair the strength or durability of sewer

structures, destroy or damage the sewer structures, restrict the hydraulic capacity, place unusual demands on the sewage treatment equipment or process, limit the effectiveness of the sewage treatment process, danger public health and safety, or cause obnoxious conditions harmful to the public interest.

**§15-10-7 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-10-8 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.

**§15-10-9 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.

**§15-10-10 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-10-11 ACCESSORY BUILDINGS and STRUCTURES**



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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 30 feet in height unless each required yard setback is increased by one foot for every foot of height above 30 feet.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-10-12 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.

**§15-10-13 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.

## **§15-10-14 OFF-STREET PARKING**

### **A. General Provisions**

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. Off-street parking shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any parking area except that which is specifically permitted. Two or more industrial buildings or uses may collectively provide for off-street parking.

### **B. Schedule of Requirements**

There are no provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

### **C. Development Standards**

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

### **D. Non-Residential Development Standards**

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.

5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

**§15-10-15 SIGNS**

A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than three flag poles per industrial parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel; not exceeding 100 square feet in surface display area; located in the front yard with the leading edge of the sign at least ten feet back of the right of way line; the top shall be no higher than 20 feet from ground level.

2. Wall signs per building face with the surface display area not exceeding 15% of the building face to which it is attached; shall not extend more than six inches from the building surface; shall not extend above the cornice or roof line.
3. One sign per marquee not exceeding 15% of the facing square footage of the marquee to which it is attached.
4. One parking lot 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. The surface display area, per sign, shall not exceed twelve square feet.
5. One free standing sign identifying the development near the entrance to an industrial complex; shall not exceed 100 square feet in surface display area.
6. 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 provided the flag contains no commercial lettering, words, logos, or symbols; the flag is free standing; is displayed only during business hours; the flag does not impede vehicular or pedestrian traffic and is not in the paved or traveled portion of the public right-of-way. All flags shall be on the property of the business unless there is not room between the building and the right-of-way.

#### C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

#### D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

#### E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.

2. 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.

**§15-10-16 APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 11 - LAKEFRONT RECREATION DISTRICT

### §15-11-1 PURPOSE

It is the purpose of the Lakefront Recreation District (LR) 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.

### §15-11-2 USES PERMITTED BY RIGHT

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, parks, and recreation areas
- C. 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.

### §15-11-3 PERMITTED ACCESSORY USES

- A. Any use customarily incidental to the permitted principal use.
- B. Private renewable energy applications subject to Planning Commission approval. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

### §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.

- A. Public and utility facilities excluding storage yards. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height

of the tower measured from the base to all points on each property line.

- B. Fraternal lodges or similar civic or social clubs.
- C. Hotels and motels.
- D. Boat storage facilities including exterior boat storage.
- E. Bowling alleys.
- F. Eating and drinking establishments, except those with drive-in characteristics.
- G. Recreational vehicle parks and campgrounds providing they comply with the following specific standards - no less than 10 sites shall be provided; electric and water service shall be provided at each site; auxiliary electric power generators are prohibited; an on-site office shall be provided with staff available in the office or on an on-call basis 24 hours a day; sanitary sewer hookups shall be provided at each site or a community sanitary dump station provided both of which shall be connected to the municipal sanitary sewer system; at least one restroom facility shall be provided; game rooms, park convenience stores, or other similar commercial or amusement facilities are prohibited; a single facility for refuse disposal shall be provided and visually screened from view from adjacent roadways and property; a six foot tall landscaped visual screen shall be provided along any property line that adjoins a residential use or residential zoning district; and each site shall provide adequate space for campers and for the parking including one visitor's vehicle.

**§15-11-5 SITE DEVELOPMENT STANDARDS**

The following standards shall apply to all uses and structures in the LR 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 as needed for the use.
  2. In the case of double frontage lots both sides adjacent to streets shall be considered frontage and front yard setbacks shall be provided.
  3. The required side and rear yard setback shall be as needed for the use.
  4. All structures shall be no less than 20 feet from any residential district boundary line.
- D. No structure shall exceed 30 feet in height as measured from the existing average finished grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys,

elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.

- E. The maximum lot coverage by all buildings, including accessory buildings, shall not exceed 30%.
- F. Other Requirements
  - 1. Landscaping shall be maintained in all yards in accordance with plans approved by the Planning Commission.
  - 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, 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.

**§15-11-6 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-11-7 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.

**§15-11-8 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.

**§15-11-9 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 42 inches in the front yard. No fence, wall, or screen other than



plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.

- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-11-10 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall not exceed 30 feet in height.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-11-11 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, 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 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.

#### **§15-11-12 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.

#### **§15-11-13 OFF-STREET PARKING**

##### **A. General Provisions**

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

##### **B. Schedule of Requirements**

There are no provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

##### **C. Development Standards**

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light

away from adjoining properties and public rights of way.

D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

**§15-11-14 SIGNS**

A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area.
3. Flags not to exceed 24 square feet in surface display area. No more than three flag poles per commercial parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.

5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel; not exceeding 70 square feet in surface display area; located in the front yard with the leading edge of the sign at least 10 feet back of the right of way line; the top of these signs shall be no higher than 20 feet from ground level.
2. Wall signs shall not exceed 15% of the square footage of the building face to which they are attached; shall not extend more than six inches from the building surface; and shall not extend above the cornice or roof line. Signs painted directly to the surface of a building may not exceed 50% of the building face.
3. One sign per marquee not exceeding 15% of the front facing square footage of the marquee to which it is attached.
4. One projecting sign per building with the surface display area not exceeding 24 square feet in surface display area; shall be attached directly to the building; shall not project above the cornice or roof line; the lowest point of a projecting sign shall not be less than nine feet above the ground level; and shall not extend beyond the minimum required setback line or into and over a public right of way. External bracing guy wires are prohibited.
5. Window copy shall be limited to 10% of the total window surface; permitted on first floor windows only. The overall computation of allowable signage shall not include the address, business hours, entrance and exit, professional or security information, credit cards, or other similar information.
6. One parking lot 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. The surface display area, per sign, shall not exceed six square feet.
7. Temporary free standing or banner signs advertising special events that are approved by the City Council prior to placement. These signs shall not exceed 100 square feet in surface display area and shall be displayed for no longer than 30 consecutive days. Temporary signs on wheels are prohibited.
8. 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 provided the flag contains no commercial lettering, words, logos, or symbols; is free standing; placed only during business hours; does not impede vehicular or pedestrian traffic and is not in the paved or traveled portion of the public right-of-way; and shall be on the property of the business unless there is not room between the building and the right-of-way.

C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. The Zoning Administrator shall review all properly filed sign permit applications and issue permits only for those fully meeting requirements. The Zoning Administrator shall, absent extenuating circumstances, render a decision within three full working days of receipt of a completed application.

**§15-11-15 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The Zoning Administrator may review and approve a single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Commission.

## ARTICLE 12 – AGRICULTURAL DISTRICT

### §15-12-1 PURPOSE

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

### §15-12-2 USES PERMITTED BY RIGHT

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.

### §15-12-3 PERMITTED ACCESSORY USES

- A. Accessory uses or structures clearly incidental to the operation of a principal permitted agricultural use or other principal permitted use.
- B. Private renewable energy applications subject to Commission approval. Equipment and facilities shall not be artificially light except to the extent required by local, state, or federal regulations nor display advertising except brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar communications. Wind turbines shall be equipped with over speed braking systems.

### §15-12-4 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.

- A. Public and utility facilities excluding storage yards and providing the facilities

do not detract from the natural appearance of the area or have a potential for causing erosion. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.

- B. Private docks or boat lifts of a seasonal nature.
- C. Single family detached dwellings.
- D. Home occupations incidental to the primary residential use. Home occupations may not use more than 50% of the floor area of the building in which it is located; all activities shall be carried on indoors; no outdoor activities or storage shall be permitted; 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 non-illuminated sign; traffic generated by the home occupation shall not be in greater volumes than would normally be expected in a residential neighborhood; and parking shall be met off street and other than in a required front yard. Garage sales, rummage sales, yard sales and similar activities are not considered a home occupation.

#### **§15-12-5 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 one 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. The required front, side, and rear yard setbacks shall be as needed to preserve existing rural character and environmental features.
- E. Residential structures shall not exceed 35 feet in height as measured from the average existing grade at the front setback line. The following are exempted from height limit requirements, provided no portion of the excepted structure is used for human occupancy - ornamental appurtenances such as church spires, cupolas, and flagpoles; mechanical or structural appurtenances such as chimneys, elevator and stairwell penthouses, ventilators, radio towers, and cooling towers providing these do not occupy more than 25% of the area of the lot and shall be located no less than 25 feet from all lot lines; structural extensions necessary for appropriate building design such as cornices or parapet walls providing these do not extend more than five feet above the height limitations and have no window openings; and public utility structures.

**§15-12-6 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-12-7 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.

**§15-12-8 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.

**§15-12-9 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or rear yard, except for tennis court enclosures located completely in a rear yard.
- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-12-10 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.



- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. Residential accessory buildings and structures shall not exceed a height of 20 feet. The maximum height of agricultural accessory buildings or structures, such as silos and barns, shall be as necessary to accommodate the use as approved by the Planning Commission.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-12-11 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.

**§15-12-12 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.

**§15-12-13 OFF-STREET PARKING**

#### A. General Provisions

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. This provision shall not apply to any existing single family residential structures that are enlarged or increased in capacity. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more buildings or uses may collectively provide for off-street parking.

#### B. Schedule of Requirements

Single family dwellings shall provide no less than two off-street parking spaces per dwelling unit. There are no other provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

#### C. Development Standards

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.
5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

#### D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.

5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

**§15-12-14 SIGNS**

A. Allowable Signs

The following signs shall be allowed without requiring a sign permit.

1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
3. Flags not to exceed 24 square feet in surface display area. No more than two flag poles per residential parcel and three flag poles per commercial parcel with no more than two flags per pole.
4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
5. Park, playground, and other governmental signs.
6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

## B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel; not exceeding 70 square feet in surface display area; located in the front yard with the leading edge of the sign at least 10 feet back of the right of way line; the top shall be no higher than 20 feet from ground level.
2. Wall signs shall not exceed 15% of the square footage of the building face to which they are attached; shall not extend more than six inches from the building surface; and shall not extend above the cornice or roof line. Signs painted directly to the surface of a building may not exceed 50% of the building face.
3. One sign per marquee not exceeding 15% of the front facing square footage of the marquee to which it is attached.
4. One projecting sign per building with the surface display area not exceeding 24 square feet in surface display area; shall be attached directly to the building; shall not project above the cornice or roof line; the lowest point of a projecting sign shall not be less than nine feet above the ground level; and shall not extend beyond the minimum required setback line or into and over a public right of way. External bracing guy wires are prohibited
5. Window copy shall be limited to 10% of the total window surface; permitted on first floor windows only. The overall computation of allowable signage shall not include the address, business hours, entrance and exit, professional or security information, credit cards, or other similar information.
6. One parking lot 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. The surface display area, per sign, shall not exceed six square feet.
7. Temporary free standing or banner signs advertising special events that are approved by the City Council prior to placement; shall not exceed 100 square feet in surface display area; and shall be displayed for no longer than 30 consecutive days. Temporary signs on wheels are prohibited.
8. 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 provided the flag contains no commercial lettering, words, logos, or symbols; the flag is free standing; placed only during business hours; and does not impede vehicular or pedestrian traffic and is not in the paved or traveled portion of the public right-of-way. All flags shall be on the property of the business unless there is not room between the building and the right-of-way.

## C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-12-15 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 13 - OPEN SPACE, CONSERVATION, RECREATION DISTRICT

### **§15-13-1 PURPOSE**

The Open Space, Conservation, Recreation District (OS) 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.

### **§15-13-2 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.

### **§15-13-3 PERMITTED ACCESSORY USES**

- A. Accessory uses or structures clearly incidental to the operation of a principal permitted agricultural use or other principal permitted use.
- B. Private renewable energy applications subject to Planning Commission approval. Renewable energy equipment and facilities shall not be artificially lighted, except to the extent required by applicable local, state, or federal regulations nor display advertising except for the brand or manufacturers name. All transmission and power lines shall be placed underground. Renewable energy equipment and facilities shall be set back from property lines a distance not less than 1.1 times the height of the of the equipment as measured from the base to the tallest point. Shadow flicker, and vibration shall not be detectable off site to such an extent as to cause a nuisance. Reasonable efforts shall be made to avoid signal interference, disruption, or loss of radio, telephone, television or similar signals. Wind turbines shall be equipped with over speed braking systems.

**§15-13-4 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.

- A. Public and utility facilities excluding storage yards and providing the facilities do not detract from the natural appearance of the area or have a potential for causing erosion. Towers shall be located centrally on a continuous parcel not less than one- and one-half times the height of the tower measured from the base to all points on each property line.

**§15-13-5 SITE DEVELOPMENT STANDARDS**

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

- A. The maximum building height shall be as necessary to accommodate the use as approved by the Planning Commission.
- B. The required front, side, and rear yard setbacks shall be as necessary to accommodate the use as approved by the Planning Commission.

**§15-13-6 ACCESS TO A STREET**

Buildings shall not be occupied nor lots used without access to a street, no less than 20 feet wide, provided by an easement or other right of way.

**§15-13-7 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.

**§15-13-8 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.

**§15-13-9 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 42 inches in the front yard. No fence, wall, or screen other than plant material shall be erected to a height greater than 8 feet in any side or

rear yard, except for tennis court enclosures located completely in a rear yard.

- 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.
- C. 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.
- D. All fences, walls, and screens shall be constructed within the boundaries of the property owner that is constructing the fence, unless the adjacent property owner has provided written approval to the Zoning Administrator that the fence, wall or screen may be constructed on the property line.

**§15-13-10 ACCESSORY BUILDINGS and STRUCTURES**

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

- A. An accessory building or structure shall be at least ten feet from any other structure on the lot and three feet to any interior side or rear lot line.
- B. Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building.
- C. An accessory building or structure shall be as necessary to accommodate the use as approved by the Planning Commission.
- D. Accessory buildings and 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.
- E. Accessory buildings and structures may not be used as living quarters.
- F. 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.

**§15-13-11 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.

**§15-13-12 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.

**§15-13-13 OFF-STREET PARKING**

**A. General Provisions**

Plans and specifications showing off-street parking spaces, including ingress/egress and interior circulation shall be submitted for approval prior to construction or establishment of a use. Off-street parking for non-residential uses shall be 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. No repair work, servicing, or selling of any kind shall be conducted in any commercial parking area except that which is specifically permitted. Two or more commercial buildings or uses may collectively provide for off-street parking.

**B. Schedule of Requirements**

There are no provisions that establish a minimum number of off-street parking spaces. Off-street parking plans shall consider the number of residents, employees, and customers as well as the anticipated hourly flow of customers. The Planning Commission retains sole discretion to approve, approve with modifications, or reject any off-street parking plans.

**C. Development Standards**

The following standards shall apply to all off-street parking.

1. Off-street parking spaces shall be no less than 20 feet long and nine feet wide.
2. All off-street parking shall be drained to eliminate surface water and prevent runoff onto abutting properties.
3. The surface of the off-street parking, including drives and aisles shall be constructed of material that provides a dust and mud free hard surface.
4. Off-street parking shall be completed prior to the issuance of a certificate of occupancy by the Building Official.

5. Lighting fixtures used to illuminate off-street parking shall reflect the light away from adjoining properties and public rights of way.

#### D. Non-Residential Development Standards

The following standards shall apply to all commercial, industrial, institutional, and multi-family uses.

1. Each off-street parking space shall be clearly marked and reserved for parking purposes.
2. There shall be an access drive no less than 20 feet wide.
3. Turning radii shall be of an arc that reasonably allows an unobstructed flow of vehicles.
4. Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces.
5. Parking spaces shall be maintained free of snow, debris, construction equipment and materials, or any other objects or materials preventing the reasonable use of a space for vehicular parking.
6. When off-street parking is adjacent to property zoned residential or a public street, a minimum ten-foot-wide buffer shall be provided along the adjacent property line. This buffer shall consist of a solid vertical screen of structural or plant materials no less than five feet in height. No more than two driveways may break this buffer from a major street, no more than one driveway from a local street.
7. Parking facilities for ten or more vehicles shall provide no less than 200 square feet of landscaped area for every ten parking spaces.

#### E. 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 interference with public use of the streets, alleys, or required access aisles for parking areas.

### **§15-13-14 SIGNS**

- A. The following signs shall be allowed without requiring a sign permit.
  1. House numbers, nameplates, and home occupation signs affixed flat to the principal building not to exceed three square feet in surface display area.
  2. Memorial signs affixed to a building containing the building name and construction dates not to exceed three square feet in surface display area
  3. Flags not to exceed 24 square feet in surface display area. No more than three flag poles per parcel with no more than two flags per pole.
  4. Traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
  5. Park, playground, and other governmental signs.

6. Sponsorship and championship signs for the benefit of non-profit organizations not to exceed 100 square feet in surface display area.
7. One temporary on-premise banner per business.
8. One temporary yard sign per twelve feet of road frontage not to exceed a combined 20 square feet in surface display area.

#### B. Permitted Signs

The following signs shall be allowed upon issuance of a sign permit.

1. One free standing sign per parcel; not exceeding 70 square feet in surface display area; located in the front yard with the leading edge of the sign at least ten feet back of the right of way line; the top of these signs shall be no higher than 20 feet from ground level.
2. Wall signs shall not exceed 15% of the square footage of the building face to which they are attached; shall not extend more than six inches from the building surface; and shall not extend above the cornice or roof line. Signs painted directly to the surface of a building may not exceed 50% of the building face.
3. One sign per marquee not exceeding 15% of the front facing square footage of the marquee to which it is attached.
4. One projecting sign per building with the surface display area not exceeding 24 square feet in surface display area; attached directly to the building; shall not project above the cornice or roof line; the lowest point of a projecting sign shall not be less than nine feet above the ground level; and shall not extend beyond the minimum required setback line or into and over a public right of way. External bracing guy wires are prohibited
5. Window copy shall be limited to 10% of the total window surface. Window signs are permitted on first floor windows only. The overall computation of allowable signage shall not include the address, business hours, entrance and exit, professional or security information, credit cards, or other similar information.
6. One parking lot 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. The surface display area, per sign, shall not exceed six square feet.
7. Temporary free standing or banner signs advertising special events that are approved by the City Council prior to placement; shall not exceed 100 square feet in surface display area; and shall be displayed for no longer than 30 consecutive. Temporary signs on wheels are prohibited.
8. 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 provided the flag contains no commercial lettering, words, logos, or symbols; is free standing; displayed only during business hours; does not impede vehicular or pedestrian traffic and is not in the paved or traveled portion of the public right-of-way; and shall be on the property of the business unless there is not room between the building and the right-of-way.

C. Illuminated Signs

Signs may be illuminated 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 may incorporate flashing or intermittent lights providing such lights do not exceed more than one change every eight seconds nor constitute a traffic hazard.

D. Traffic Hazard

No sign shall be erected in such a manner as to obstruct free and clear vision of vehicular and pedestrian traffic or interfere with, mislead, or confuse traffic. No sign shall be located within or extend over any public right of way.

E. Sign Permits

No permitted sign shall be erected, replaced, altered, enlarged, illuminated, or relocated without first obtaining a sign permit.

1. 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.
2. 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.

**§15-13-15 SITE PLAN APPROVAL REQUIRED**

Site plan review and approval by the Planning Commission 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. The following may be reviewed and approved by the Zoning Administrator - single family detached dwellings and accessory structures; the expansion of commercial, industrial, or multi-family buildings or structures that do not exceed 5% of the original square footage of the building or structure; and construction of new buildings or structures not exceeding 5% of the square footage of all existing building and structure on the parcel. The Zoning Administrator may refer any site plan review and approval to the Planning Commission.

## ARTICLE 14 - WELLHEAD PROTECTION OVERLAY DISTRICT

### §15-14-1 PURPOSE

The intent of the 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.

### §15-14-2 DEFINITIONS

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

**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.

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

**CITY.** The City of Whitehall.

**DRY WELL.** A 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.

**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.

**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.

**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.

**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.

**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.

**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.

**ORDINANCE.** The City of Whitehall Wellhead Protection Overlay District Ordinance.

**PERMANENT.** A period of more than 90 consecutive days.

**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, nematocides, or other substances used for the control of pests.

**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."

**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.

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

**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.

**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.

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

**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:

- Any substance that the Michigan Department of Environment, Great Lakes, and Energy (EGLE) 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;
- 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
- 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.

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

**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.

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:

- 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;
- 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;
- 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;
- 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;
- Any discharge of a petroleum substance in a quantity less than 25 gallons unless such petroleum discharge enters a dry well, storm sewer, or surface water body;
- 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 25 pounds within a 24-hour period in the one-year time-of-travel zone or less than 100 pounds within a 24-hour period in the ten-year time-of-travel zone; or
- 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 BMPs 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.

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.

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.

**SPILL CONTINGENCY PLAN.** A written site-specific plan documenting general site operation; 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.

**TEMPORARY.** A period of 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 considered temporary storage.

**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 EGLE. 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.

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

**WELLHEAD.** An individual well for supplying water.

**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- and ten-year time-of-travel capture zones.

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

**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.

**§15-14-3 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.

**§15-14-4 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.

**§15-14-5 EXTENT and DESIGNATIONS**

Certain areas are established for the protection of the System and shall be collectively referred to as the Wellhead Protection Overlay Zones. These zones are shown on a 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 EGLE as part of the City’s Wellhead Protection Program.

**§15-14-6 USE REGULATIONS**

The requirements of this Ordinance are 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 the 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.

**§15-14-7 TEN-YEAR TIME OF TRAVEL CAPTURE ZONE**

- A. The ten-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. 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 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 55 gallons aggregate for liquid materials or 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 55 gallons aggregate for liquid materials or 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 55 gallons aggregate for liquid materials or 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.

**§15-14-8 ONE-YEAR TIME OF TRAVEL CAPTURE ZONE**

- A. 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 established in those areas of the City as illustrated on the Wellhead Protection Overlay Zone Map.
- B. 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 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 55 gallons aggregate for liquid materials or 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.

#### **§15-14-9 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 one year and ten-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 as provided elsewhere in this Article.
- 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 Map.

#### **§15-14-10 CONFORMING NEW FACILITIES AND LAND USES**

Proposed new facilities and land uses allowed within the Overlay Zone and required to have a site plan approved must meet 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.

**§15-14-11 CONFORMING EXISTING FACILITIES AND LAND USES**

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

**§15-14-12 CONTINUATION OF NON-CONFORMING FACILITIES AND LAND USES**

Nonconforming facilities and land uses will only be allowed within a designated Wellhead Protection Overlay District if reviewed and approved in accordance with zoning regulations for 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.

**§15-14-13 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 zoning regulations for a special use permit. 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.

**§15-14-14 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 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, that person shall take all reasonable and necessary steps to discover, contain, and cleanup such release, including, if necessary, contacting emergency response agencies. They shall also notify the Director of the discharge as soon as possible the same day of the discharge.
- C. Regulated Substance Release Report. All spill notifications provided to the Director shall be documented in writing and mailed to the Department within ten business days of the incident. Initial release notification shall include, at a minimum, information related to the following - location of the release;

responsible party's name, address, and phone; name and telephone number of the person making the report; emergency contact and phone; description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released; 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; all measures taken to clean up the release; and 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.

#### **§15-14-15 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 City Manager. The appeal must be in writing and must be received by the City Manager 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 1 to 45 days.

#### **§15-14-16 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 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 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. A 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.

#### **§15-14-17 EXEMPTIONS**

The following activities, substances, or storage units are exempt from regulation under §15-19-7 through 11 of this Article 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 500 gallons aggregate for liquid materials or 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 storm water 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 24 hours.

**§15-14-18 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 - performance of monitoring, analyses, and reporting activities; elimination of the threat to groundwater; cease and desist discharges, practices, and/or operations in violations of this Article; abatement and/or remediation of groundwater pollution or contamination hazards and the restoration of any affected property; abatement and correction of any degradation of groundwater supplies caused by the failure to design, install, operate, and/or maintain BMPs; reimbursement to the City for all reasonable administrative and remediation costs; and 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.



**§15-14-19 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 to affirm, reject, or modify 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 Article to provide relief, in whole or in part from the action being appealed, but only upon finding that the following requirements are satisfied - the application of the Article provisions being appealed will present or cause unreasonable difficulties for a Facility; and 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.

**§15-14-20 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 cannot 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 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 lien on the property.

**§15-14-21 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.

**§15-14-22 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.

**§15-14-23 CRIMINAL PROSECUTION**

Any person who violates this Article 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.

**§15-14-24 REMEDIES NOT EXCLUSIVE**

The remedies listed in this Article 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 15 - SITE CONDOMINIUM PROJECTS

### §15-15-1 PURPOSE

The purpose of this Article is to regulate and control site condominiums within the City 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; and to provide logical procedures for the achievement of these 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.

### §15-15-2 DEFINITIONS

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

**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 fully describes the condominium project as completed.

**CONTRACTIBLE CONDOMINIUM.** A 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 Michigan Public Act 59 of 1978, as amended, to be referred to as the Condominium Act.

**CONVERSION CONDOMINIUM.** A project containing condominium units, some or all of which were occupied before the establishment of the project.

**DOCUMENTS.** The master deed, recorded pursuant to the Condominium Act and any other instrument referred to in the master deed or bylaws which affect the rights and obligations of a co-owner of the condominium.

**EXPANDABLE CONDOMINIUM.** A 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.

**GENERAL COMMON ELEMENTS.** Elements for the use by all condominium owners.

**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.

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

MASTER DEED. The document recording the project as approved by the City Council to which are attached as exhibits and incorporated by reference the approved bylaws, the approved condominium subdivision plan, and all other information required by the Condominium Act.

PROJECT. The equivalent to "Subdivision" as used in this Ordinance and City of Whitehall Subdivision Regulations.

SETBACKS. The required yard areas as described and measured as follow:

- A. Front Yard - the distance between the front of the building and the street right-of-way.
- B. Side Yard - the distance between the side of the building and the condominium unit site, the location equivalent to a side lot line, or the distance between the sides of any two adjacent buildings.
- C. Rear Yard - the distance between the rear of the building and the condominium unit site, the location equivalent to a rear lot line, or the distance between the rear of any two adjacent buildings.

SITE CONDOMINIUM. A development containing residential, commercial, office, industrial or other structures or improvements for uses permitted in the zoning district in which it is located, and where each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, defined as a condominium unit, as described in the master deed.

SUBDIVISION PLAN. The site, survey, and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location on the land. The plan shall follow and show all project and site plan elements as required under this Ordinance and Michigan Public Act 59 of 1978, as amended.

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.

UNIT SITE. The area designating the perimeter within which the condominium unit must be built.

### **§15-15-3 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 design and construction standards as established by the City.

- 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" 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 the easement, and excavating and refilling ditches and trenches necessary for the location of the 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 as established by the City.
- H. Approval of a site condominium project by the City does not relieve the applicant from compliance with applicable county, state and federal regulations.
- 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 other city staff and consultants for review and comment.
- J. Processing of a preliminary and final site plan shall not be completed concurrently.

**§15-15-4 REQUIRED APPLICATION AND SITE PLAN INFORMATION**

The following information shall be required for the preliminary and final site condominium project application and site plan.

- A. The name, address, and contact information of all persons, firms, corporations and other entities with an ownership interest in the land on which the project will be located; all engineers, attorneys, architects, registered land surveys and other design professionals associated with the project; and the developer of the

condominium project.

- B. The legal description of the land on which the condominium project will be developed together with appropriate 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 in acres and square feet of the land on which the condominium project will be developed.
- E. The proposed use of the project in terms of residential, commercial, industrial, etc.
- F. The number of condominium units to be developed.
- G. For residential projects, specify the proposed site density and type of dwelling units.
- H. Delineation of wetlands and other natural features. A wetland and tree survey may be required by the Planning Commission or City Council.
- I. The size, location, area, and vertical boundaries for each unit. 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 similar public infrastructure elements.
- L. The type, size and location of the proposed street system including the proposed rights-of-way, pavement width, points 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 relevant information requested by the Planning Commission or City Council or required by the City's site plan ordinance or the Condominium Act.

**§15-15-5 PLAN APPROVAL**

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. The City may require the applicant to provide detailed project information as part of the preliminary review process.

- A. Preliminary Approval - Developers shall submit an application and site plan for preliminary review and approval.
- B. The Planning Commission shall review the application and site plan in accordance with the standards and requirements of this Ordinance and shall recommend to the City Council approval of the plan, approval with conditions, or denial of the preliminary plan. 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. If the site plan fails to conform in any respect to applicable laws, ordinances and design standards, as required by this Ordinance, preliminary approval shall either be denied or granted with conditions.
- C. 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 to the City Council. The City Council shall review the plan in accordance with the standards and requirements of this Ordinance. 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. If the site plan fails to conform in any respect to applicable laws, ordinances and design standards, as required by this Ordinance, preliminary approval shall either be denied or granted with conditions.
- D. The final 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.
- E. Following preliminary approval, the applicant shall submit a final site plan and condominium documents to the City Zoning Administrator who may forward copies of the plan and documents to City Staff and consultants for review and comment. Information submitted for final plan review shall be of sufficient detail to permit the City to determine compliance with local building, safety, and engineering codes. The final plan and associated documents shall contain detailed information regarding fire suppression system and hydrant locations; street identification and traffic control signs; exterior elevations; detailed description of the proposed long term maintenance programs for the private streets, drainage facilities, street and pedestrian lighting, and other site features; the use and occupancy restrictions and maintenance provisions for all

general and limited common elements that will be included in the master deed; any restrictive covenants; conditions attached as part of preliminary plan approval; and any other information required by this Ordinance or the Condominium Act.

- F. Following staff and consultant review of the final plan and supporting documentation, the Zoning Administrator shall forward copies of the plan, supporting documentation, and summary of any comments to the City Council.
- G. The City Council shall review the plan in accordance with the standards and requirements of this Ordinance. 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. If the site plan fails to conform in any respect to applicable laws, ordinances and design standards, as required by this Ordinance, final approval shall be denied.

**§15-15-6 CONSTRUCTION COMPLIANCE**

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 a copy of the recorded Condominium Documents, including all exhibits, and evidence of completion of public improvements associated with the condominium project, including a copy of an "as-built" survey prepared, signed, and sealed by a licensed engineer or surveyor registered in the State of Michigan.

**§15-15-7 LAPSE OF APPROVAL**

An approved preliminary site plan shall be valid for one year from the date of approval and shall be deemed expired and no longer valid if an application for a final site plan has not been submitted within that year. An approved final site plan shall be valid for one year from the date of approval and shall be deemed expired and no longer valid if construction has not started within that year. The original approving authority may grant one extension of the approved preliminary or final site plan for a period of one year upon written request of the applicant submitted prior to the expiration of the approval.

**§15-15-8 EXPANDABLE OR CONVERTIBLE 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.

**§15-15-9 REVISIONS**

Any proposed changes to an approved final site condominium project plan shall be



reviewed by the Planning Commission and City Council as provided for the original review and approval of preliminary and final plans.

**§15-15-10 INCORPORATION OF APPROVED PROVISIONS**

All provisions of a final site condominium project plan which are approved by the City Council 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 shall be provided to the City within ten days after filing with the County.

**§15-15-11 EXEMPTION OF EXISTING PROJECTS**

This Article shall not apply to a site condominium project which is determined by the City Council to have met both of 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 master deed was recorded.

The exemption provided here 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 16 - PLANNED UNIT DEVELOPMENT

### §15-16-1 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. 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 Article 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.

### §15-16-2 QUALIFYING CONDITIONS

- A. 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 in an R1, R2, R3, M1, or M2 district shall be 10 acres; for a PUD in an RC1, B1, B2, or LR district two acres. A parcel not meeting the minimum 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. All PUDs shall be served by public water and sanitary sewer facilities.
- C. The tract of land for which a PUD application is received must be in single ownership or the subject of an application filed jointly by the owners of all properties.
- D. The proposed uses of the PUD must be consistent with the City of Whitehall Master Plan for the subject property.

### §15-16-3 MODIFICATION OF UNDERLYING ZONING DISTRICT

- A. Any principal or accessory land uses permitted in any zoning district, either as a use by right or special use, or any combination of such uses, may be considered within the PUD provided that the Planning Commission and the City Council reach a finding that all proposed uses and the impacts they may generate on one another and on the surrounding community shall be generally compatible and harmonious with one another.

- B. Reduction of the minimum required lot size and building setbacks shall not exceed 20%. Where a PUD abuts a single-family district, the normal underlying building setbacks shall apply along that portion abutting the single-family district.
- C. The Planning Commission, subject to City Council approval, may authorize greater reduction in the dimensional standards provided the 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 where the applicant demonstrates the innovative aspects of the PUD design and shall specifically detail the ways in which the design is beneficial to adjacent residents, surrounding properties, and the City; the receipt of public comment during the public hearing for the PUD demonstrates general support for the proposed PUD plan; 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; and all of the PUD approval standards are met.

**§15-16-4 PRE-APPLICATION CONFERENCE**

- A. 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 Planning Commission members, the Zoning Administrator, and the City Manager.
- B. 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 five copies of a conceptual plan which shows the property location, boundaries and size; significant natural features; existing and proposed vehicular and pedestrian circulation; and the existing and proposed land use (development) for the entire site.
- C. The Committee shall advise the applicant of the general conformance of the PUD concept with the intent and objectives of the PUD provisions of this Ordinance; whether or not the PUD qualifies under the minimum requirements; and whether or not the general PUD concept is consistent with the City's Master Plan. In no case shall any representations made by the 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 or City Council in any way.

**§15-16-5 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. The application shall include:

- A. A completed application form, supplied by the City Clerk.
- B. Payment of a PUD processing fee, as established by City Council.
- C. A narrative statement describing the objectives of the PUD and how they relate to the Intent of the PUD District; the relationship of the PUD to the Master Plan; the anticipated start and completion of construction; if the project is to be phased, provide detail and phases of development and approximate time frame for each phase; all proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD; and the location, type, size, and use of areas to be dedicated for common open space. 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.
- D. The applicant shall provide ten copies of a preliminary development plan. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the name, address, and legal description of development; applicant's name, address and contact information; name, address and contact information of firm or individual who prepared the plan; scale, date and north arrow; site location map; location and dimensions of all property lines; size of the PUD parcel and individual phases in acres and square feet; existing zoning of the PUD site and all abutting property; existing natural features including water, drainage ways, flood plains, wetlands, slopes in excess of 7%, trees, and similar natural features; existing buildings including size, height, setbacks, and use; proposed buildings including size, height, setbacks, and use; right-of-way, pavement edges, and names of existing streets abutting the PUD; location, surface type, and dimensions of proposed access drives, streets, and aisles; proposed method of providing water and sanitary sewer including main location and sizing; proposed method of providing surface water detention and retention; layout and dimensions of proposed lots; residential density including detail on unit sizes; area to be retained as open space; location, size, and function of existing and proposed easements; location, surface type, and dimensions of parking areas including number of spaces and space size; location and size of signs, exterior lighting, fences, dumpsters, and dumpster screening; pedestrian circulation with detail on location, size and material; landscape plan; location, number and size of boat slips including detail on vehicular/trailer access and parking; and any other information requested by the City. Information which is not applicable to the PUD may be waived by the Zoning Administrator.

**§15-16-6 NOTICE AND PUBLIC HEARING**

Upon receipt of an application for PUD approval, the City Clerk shall cause public notice to be given. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the

application.

**§15-16-7 PLANNING COMMISSION RECOMMENDATION**

Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the Standards for Approval. The Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the application. In its recommendation to the Council, the Commission shall include reasons for the recommendation specifically citing appropriate findings of fact based on the Standards for Approval and shall specify conditions, if any, it considers necessary to achieve compliance with the Standards.

**§15-16-8 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 45 days of receipt of the 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 application. Approval shall be based on the Standards for Approval.
- B. An approval with conditions, changes, or modifications shall not be considered final until the applicant submits a written acceptance of the conditions, changes, or 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, 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.

**§15-16-9 FINAL DEVELOPMENT PLAN**

The applicant shall submit a request for approval of a final PUD development plan within three months of the City Council's approval of a preliminary development plan which is subject to conditions, modification, or change. Application shall include a narrative explanation of all changes made to the preliminary development plan in response to the Council's required conditions, changes, or modifications and a revised PUD site plan containing all of the information contained on the preliminary development plan and the additional conditions, changes, or modifications required by the City Council.

**§15-16-10 FINAL DEVELOPMENT PLAN REVIEW**

- A. The City Council shall review the final development plan in relation to its

conformance with the approved preliminary development plan and conditions, changes, or modifications the conditions.

- 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, then the Council shall approve the final development plan for purposes of establishing a PUD. If not, it shall be denied.
- C. A preliminary development plan serving as a final development plan shall be signed and dated by the Zoning Administrator and applicant.

**§15-16-11 STANDARDS FOR APPROVAL**

PUDs shall be approved based on compliance with the following standards.

- A. The proposed PUD complies with all Qualifying Conditions of §15-8-2.
- 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 that would be injurious to the public health, safety or welfare of the community.
- E. Improvements shall be coordinated with other existing or planned streets, utility systems, sidewalks and pathways, and other such infrastructure elements. All utilities shall be placed underground.
- F. The proposed PUD shall incorporate, as feasible, public spaces and features including common open space areas, pedestrian plazas, pathways, and other similar 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 PUD is consistent with the spirit and intent of the PUD District as described in §15-8-1 and represents a development opportunity for the community that could not be achieved through conventional zoning.

**§15-16-12 CHANGES TO AN APPROVED PUD**

- A. 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 may be approved by the Zoning Administrator upon determining that the proposed revisions will not alter the basic design and character of the PUD nor any specified conditions imposed as part of the original approval.
- C. Major changes, those determined by the Zoning Administrator not 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.

**§15-16-13 PHASING**

For developments which are to be constructed in phases, a plan shall be submitted for all phases of the PUD along with an anticipated timeline for each phase.

**§15-16-14 TIME LIMIT**

Each development shall be under construction within one year after the date of approval of the PUD's final development plan. The City Council may grant one extension of up to one additional year if the applicant applies for an extension prior to the date of expiration and provided that the applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant and the PUD requirements and standards, including those of the Zoning Ordinance and Master Plan, that are reasonably related to the development, have not changed. Should construction not commence within a year or prior to the expiration of an extension, the PUD becomes null and void.

**§15-16-15 APPEALS**

The decisions of the Planning Commission or City Council shall not be appealable to the Zoning Board of Appeals.

## ARTICLE 17 - 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.

### **§15-17-1 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.

### **§15-17-2 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 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 these requirements.

### **§15-17-3 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.

### **§15-17-4 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 width are less than those required for the district in which the lot is located. Yard dimensions and other requirements of the district shall be met.

### **§15-17-5 TEMPORARY BUILDINGS AND STRUCTURES**

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

- A. During renovation, repair, or construction of an existing or new building. The temporary building or structure must be removed within 15 days after the completion of the renovation, repair, or construction.
- B. Temporary buildings and structures incidental to a church or school subject to approval by the Planning Commission.
- C. Temporary buildings and structures as part of a seasonal business subject to



approval by the Planning Commission. These temporary buildings and structures can be approved for no more than six consecutive months and must be removed no later than seven days from the expiration of the approved duration.

D. Temporary buildings and structures may not be used for living quarters.

**§15-17-6 ESSENTIAL SERVICES**

The erection, construction, alteration, or maintenance of essential services shall be permitted as authorized and regulated by law and other ordinances of the City and upon filing of an application for administrative review of the proposed activity with the Zoning Administrator. While the erection, construction, alteration or maintenance of essential services are exempt from the application of other provisions as contained in this ordinance, such exemption does not extend to utility office buildings, substations, microwave or wind generation towers, structures which are enclosures or shelters for service equipment, or maintenance depots.

**§15-17-7 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.

## ARTICLE 18 - FLOOD HAZARD AREAS

### §15-18-1 PURPOSE

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.

### §15-18-2 FLOODPLAIN MANAGEMENT

- A. 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.
- B. 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.
- C. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "The Flood Insurance Study for Muskegon County, All Jurisdictions" and dated October 7, 2021 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26121CIND0B, 21621C0036E, 26121C0037E, 26121C0038E, effective October 7, 2021 and 26121C0039D 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.

### §15-18-3 DEFINITIONS

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; or mudflows; or 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 from the overflow of inland or tidal waters.

FLOOD INSURANCE RATE MAP (FIRM). The official map of a community, as may have been issued by FEMA, where the boundaries of flood, mudslide, or related erosion areas have been designated as special hazards designated as Zone A, M, or E.

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.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN MANAGEMENT. 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.

FLOODPLAIN MANAGEMENT REGULATIONS. 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.

SPECIAL FLOOD HAZARD AREA. Land which is subject to a 1% or greater chance of flooding in any given year.

STRUCTURE. A walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

#### **§15-18-4 DEVELOPMENT STANDARDS**

- A. All new nonresidential construction shall have the lowest floor, including basement, elevated to or above the base flood level or be constructed such that below base flood level, together with 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.

- B. All new residential construction shall have the lowest floor, including basements, elevated to or above the base flood level. 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.
- C. Prior to the issuance of a zoning 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.
- D. 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, any officer or employee, for any flood damage that results from reliance on these provisions or any lawfully made administrative decision.

## ARTICLE 19 - NONCONFORMING USES AND STRUCTURES

### §15-19-1 PURPOSE

There are lots, buildings and structures and uses which were lawful before the enactment or amendment of this Ordinance which are now prohibited, restricted or otherwise regulated under the provisions of this Ordinance, or may be prohibited, restricted or otherwise regulated under future amendments. It is the intent of this Article 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.

### §15-19-2 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. 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 prior to rebuilding shall be deemed as construction. Work shall be diligently carried on until completion of the building or structure involved provided the period of completion shall not exceed two years from the date the zoning permit was issued.

### §15-19-3 NONCONFORMING USES

- A. Nonconforming use may be enlarged, increased, extended, or modified to occupy a greater area of land; moved, in whole or in part, to any other portion of the lot occupied by the use; or changed to another nonconforming use only upon approval of the Planning Commission. The Commission shall determine that the proposed change will not result in a greater negative impact on neighboring properties. Impacts to be considered 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. The Commission may attach reasonable conditions to their approval.
- B. If a nonconforming use is abandoned for a period of more than twelve consecutive months, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one 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 - utilities such as water, gas and electricity to the property have been discontinued; the property, buildings, and grounds have fallen into disrepair; signs or other indications of the existence of the nonconforming use have been removed; removal of equipment or fixtures which are necessary for the operation of the nonconforming use; and 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.

**§15-19-4 NONCONFORMING BUILDINGS and STRUCTURES**

Where a lawful building or structure exist at the time of the effective date of this Ordinance or subsequent amendments that no longer complies with the requirements of this Ordinance, the building or structure may be continued so long as it otherwise remains lawful.

- A. Structural alterations which do not increase or extend the nonconformity of the building or structure are allowed.
- B. Normal repairs and maintenance may be done on any nonconforming building or structure, or building or structure devoted to a nonconforming use.

**§15-19-5 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.

## ARTICLE 20 - SPECIAL USE PERMITS

### **§15-20-1 PURPOSE**

The regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more zoning 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.

### **§15-20-2 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.
- B. Applications shall be submitted through the Zoning Administrator 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 a form supplied by the City; a signed surveyed site plan, drawn to scale, showing the location of all abutting rights of way, existing and proposed structures, and types of buildings and their uses; 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; and a statement addressing the General Standards.

**§15-20-3 REVIEW AND FINDINGS**

- A. The Zoning Administrator shall review the application and set a date for a public hearing for the first scheduled Planning Commission meeting that meets the requirements of Public Notices. The City Clerk shall cause public notice to be given.
- B. Upon conclusion of the hearing, the Planning Commission shall issue its decision including its findings. If it approves a Special Use, the Zoning Administrator shall be authorized to issue a Special Use Permit subject to site plan approval and other conditions as may have been placed on the permit by the Planning Commission.

**§15-20-4 GENERAL STANDARDS**

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 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 special use shall be able to adequately provide 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.

**§15-20-5 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.

- B. Conditions and requirements stated as part of an approved Special Use Permit shall be a continuing obligation of Special Use Permit holder(s). The Zoning Administrator may 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. A Special Use Permit may be revoked by the Planning Commission upon a determination that a conditional time period has expired or violations of conditions continue to exist 30 days after an order to correct has been issued.
- E. 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.
- F. 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.

## ARTICLE 21 - SITE PLAN REVIEW

### §15-21-1 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. These regulations 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.

### §15-21-2 APPROVAL

- A. 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.
- B. The original approving authority may grant one extension of an approved site plan for a period of one year upon written request by the applicant prior to expiration of the initial one-year period.
- C. 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 for any project not completed within two years from the date of site plan approval or the extension.
- D. 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.

### §15-21-3 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. Applicants shall submit a site plan to a readable scale showing the property dimensions; size, shape, and location of existing and proposed buildings and structures; location of parking areas, spaces, and driveways; public rights of way and any easements; water courses, water bodies, and surface drainage ways; existing significant vegetation; a landscaping plan indicating proposed plantings, screening, fencing, signs, and advertising features; elevation drawings depicting the exterior facade design; proposed connections to all public utilities; and topographical contours if requested by the City. Site plans consisting of a survey by a Michigan licensed surveyor shall be required for all

vacant land or when requested by the Planning Commission or Zoning Administrator.

- C. 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. If denied, the Planning Commission shall cite reasons for denial.

**§15-21-4 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 properties, 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. Fences, walls, barriers, and landscaping shall be used for the protection and enhancement of the 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 streets except those 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 shall not impede the vision of traffic along adjacent streets.

**§15-21-5 ACTION BY PLANNING COMMISSION**

The Planning Commission shall have the function, duty, and power to approve, deny, or approve subject to modifications or conditions any site plan as the Commission deems necessary.

**§15-21-6 MODIFICATION OF APPROVED SITE PLAN**

- A. Once site plan approval has been granted, changes that result in a substantially different development shall require resubmission and payment of fees.
- B. Changes that do not result in a substantially different development may be approved by the Zoning Administrator providing the changed plans comply with all other applicable requirements. The Zoning Administrator shall retain the right to refer any changes to the Planning Commission for review.

## ARTICLE 22 - PUBLIC NOTICE

### §15-22-1 PUBLIC NOTIFICATION

- A. In accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, the Commission shall publish notice of any public hearings in a newspaper of general circulation in the City not less than 15 days before the date of the hearing.
- B. Notice shall be given to the owners of the property that is the subject of the hearing and to all property owners and occupants of structures within 300 feet of the property regardless of whether the property or structure is located in the City. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, 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. Notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- D. A notice under this section shall describe the nature of the request; indicate the property that is the subject of the request; state when and where the request will be considered; and indicate when and where written comments will be received concerning the request.

## ARTICLE 23 - ADMINISTRATION

### §15-23-1 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Whitehall Planning Commission and the Whitehall City Council, in accordance with the Zoning Enabling Act P.A. 110 of 2006, as amended, and the Planning Enabling Act, P.A. 33 of 2008, as amended. The City Council shall employ or appoint a Zoning Administrator to administer this Ordinance. The Zoning Administrator shall have the power of a public officer in the enforcement of this Ordinance.

### §15-23-2 DUTIES OF THE ZONING ADMINISTRATOR

- A. The Zoning Administrator 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 the plans have been reviewed and found 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 site plans and Certificates of Zoning Compliance.
- G. The City of Whitehall Police Department is authorized to issue municipal civil infraction citations.

### §15-23-3 CERTIFICATE OF ZONING COMPLIANCE

It shall be unlawful to use, occupy, or permit the use or occupancy of any building, premise, or part of any building or premise 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.

**§15-23-4 BUILDING PERMITS**

A building permit for which a site plan is required shall not be issued until an approved site plan has been issued.

## ARTICLE 24 - ZONING BOARD OF APPEALS

### §15-24-1 CREATION AND MEMBERSHIP

- A. A Zoning Board of Appeals is established to perform duties and exercise powers as provided in Public Act 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 upon a recommendation from the Mayor. Six members shall be appointed at large and one from the City Council. The Council representative shall not serve as the chair of Board. All members shall be registered voters in the City of Whitehall. An employee or contractor of the City may not serve as a member of the Board. Membership shall be representative of the population distribution and of the various interests present within the City.
- B. The terms of office shall be for three years, except for the City Council representative whose terms shall coincide with their term on City Council. 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.
- C. The City Council may remove of a member of the Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.
- D. Members shall disqualify themselves from a vote in which the member has a conflict of interest.

### §15-24-2 POWERS AND DUTIES

The Board shall hear questions that arise in the administration of this ordinance, including the interpretation of the zoning map, and may adopt rules to govern its procedures. The Board shall also hear and decide on matters referred to the Board or upon which the Board is required to pass under this ordinance. It shall hear and decide appeals from and review any administrative order, requirement, or determination made by the administrative official.

### §15-24-3 BYLAWS

- A. The Board shall elect from its membership a chairperson and vice-chairperson.
- B. The concurring vote of a majority of the members of the Board is necessary to reverse or affirm, in whole or in part, or modify an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the Board is required to pass under this ordinance, or to grant a variance in the ordinance. A vote of 2/3 of the members of the Board is required to approve a use variance.



- C. Meetings of the Board shall be held at the call of the Zoning Administrator, Chairperson or at other times as the Board may specify. The Board shall not conduct business unless a majority of the members 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 indicate if absent or failing to vote, and all official actions. All minutes shall be filed in the office of the City Clerk. The Zoning Administrator shall act as recording secretary to the Board.
- E. All meetings and records shall be open to the public.
- F. The Board may adjourn any meeting in order to obtain additional information or to cause further public notice as it deems necessary to be served upon other property owners. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of the hearing unless the Board so directs.
- G. The Board may call on any City department for assistance in the performance of its duties. It shall be the responsibility of those departments to render assistance as may reasonably be required.
- H. Parliamentary procedure during Board meetings shall be guided by Roberts Rules of Order.

**§15-24-4 HEARINGS**

- A. The Board shall fix a reasonable time and date for a public hearing, not to exceed 45 days from the date of filing an appeal with the City Clerk.
- B. The Clerk shall publish notice of the hearing in a newspaper of general circulation within the City not less than 15 days before the date of the hearing.
- C. Notice of the hearing shall be given to the owners of the property that is subject of the appeal, to all other property owners within 300 feet of the property that is subject of the appeal, and to at least one occupant of all structures and dwelling units within 300 feet regardless of whether the property, structure, or dwelling unit is in the City. Notice is considered given when personally delivered or deposited during normal business hours with the United States Postal Service or any other public or private delivery service. If an appeal does not involve a specific parcel of property, notice only needs to be published in a newspaper of general circulation.
- D. Notice shall describe the nature of the appeal, indicate the property that is subject of the appeal, state when and where the appeal will be considered, and indicate when and where written comments will be received concerning the appeal.
- E. Any party or parties may appear at the hearing in person, by agent, or

attorney.

**§15-24-5 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 use in accordance with the purpose and intent of each district.

**§15-24-6 DIMENSIONAL VARIANCES**

- A. If there are practical difficulties in carrying out the strict letter of the zoning ordinance, the Board shall have the authority to grant variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinances or to any other nonuse-related standard so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done.
- B. A dimensional variance may be granted by the Board only in cases where the applicant demonstrates all of the following:
  - 1. the plight is due to unique circumstances or physical conditions of the property and is not shared by neighboring properties;
  - 2. the need for the requested variance is not the result of actions of the property owner or previous property owners;
  - 3. strict compliance will unreasonably prevent the property owner from using the property for a permitted use or will render conformity with those regulations unnecessarily burdensome;
  - 4. the requested variance will provide substantial justice to the applicant as well as to other property owners in the district; and
  - 5. 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.

**§15-24-7 USE VARIANCES**

- A. If there are practical difficulties in carrying out the strict letter of the zoning ordinance, the Board shall have the authority to grant variances from uses of land so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done.
- B. A use variance may be granted by the Board only in cases where the applicant demonstrates all of the following;

1. 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;
2. the plight is due to unique circumstances or physical conditions of the property and is not shared by neighboring properties;
3. the proposed use will not alter the essential character of the neighborhood; and
4. the need for the requested variance is not the result of the actions of the property owner or previous property owners.

**§15-24-8 APPEALS**

- A. Appeals concerning the interpretation and administration of this Ordinance shall be made in writing and filed with the City Clerk within 30 days from the occurrence of the contested action. The appeal shall specify the grounds for the appeal. The Clerk shall transmit to the Board copies of all papers constituting the record upon which the action appealed from was taken.
- B. An application for a variance shall contain, at a minimum, the name and address of the applicant and property owner; location of property; site plan with sufficient accuracy, clarity, and detail to understand the nature of the request; any potential impact on surrounding property; the specific standards subject of the appeal; descriptive text indicating the nature of the request; and the applicant's signature.
- C. 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.
- D. An appeal to the Board may be taken by a person aggrieved or by an officer, department, board, or bureau of the State or the local unit of government.
- E. A variance may be applied for and granted under the Uniform Condemnation Procedures Act, Public Act 87 of 1980, as amended. If the acquisition of a portion of a parcel of property actually needed by an agency would leave the remainder of the parcel in nonconformity with this ordinance, the agency, before or after acquisition, may apply for a variance for the remainder of the parcel. In determining whether to grant the variance, the Board shall consider the potential benefits of the public use for which the property would be acquired, in addition to those criteria applicable under the relevant zoning statute, ordinance, or regulation. The agency must actually acquire the portion of the parcel of the property for the proposed public use for the variance to become effective for the remainder. If the variance is granted, the property shall be considered in conformity for all future uses with respect to the nonconformity for which the variance was granted. If the property was also nonconforming for other reasons, the grant of that variance has no effect on

those preexisting nonconformities. An owner shall not increase the nonconformity for which a variance has been granted under this section without consent of the governmental agency. An agency has the same right to appeal action on a zoning variance as would a property owner.

- F. An appeal shall stay all proceedings in furtherance of the action appealed unless the body or officer from whom the appeal 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, proceedings may be stayed, only by a restraining order issued by the Board or a circuit court.
- G. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction or occupancy authorized by the variance has been commenced within 180 days after the granting of the variance and pursued diligently to completion.
- H. Decisions of the Board shall be final. A party aggrieved by a decision may appeal to circuit court. An appeal to circuit court shall be filed within 30 days after the Board issues its decision in writing signed by the chairperson or 21 days after the Board approved the minutes of its decision, whichever comes first.

## ARTICLE 25 - PLANNING COMMISSION

### §15-25-1 CREATION AND MEMBERSHIP

- A. The City of Whitehall established a Planning Commission under former Public Act 285 of 1931 to perform the duties as provided in that Act together with such powers and duties given to the Commission by City Charter and this Ordinance. Public Act 33 of 2008 allows previously established planning commissions to continue in effect under PA 33.
- B. The mayor shall appoint members to the Commission subject to approval by a majority vote of the City Council. The Commission shall consist of nine members - six at large, the city manager or a person designated by the city manager, the mayor, and one member of the city council. At large members shall be appointed for three-year terms with staggered terms so that the terms of one third of the at large members expire each year. Except as provided in this section, an elected officer or employee of the City is not eligible to be a member. The terms of the mayor and city manager shall expire with the term of the mayor. The term of the member of council shall expire with their term on council. Members shall hold office until a successor is appointed.
- C. A vacancy on the Commission occurs when a 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 unexcused meetings in a calendar year, the Commission shall notify the appointing authority for consideration of replacement. Vacancies shall be filled for the unexpired term in the same manner as provided for an original appointment.
- D. The membership of the Commission shall be representative of important segments of the community such as economic, governmental, educational, and social development in accordance with the major interests as they exist in the City such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce.
- E. Members shall be registered voters in the City of Whitehall except that no more than two members may be registered voters in another local unit of government.
- F. The City Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

### §15-25-2 BYLAWS

The Commission shall adopt rules for the transaction of business and shall keep a public record of resolutions, transactions, findings, and determinations.

- A. Officers - At the first meeting of each year, the Commission shall elect from its membership a chairperson and secretary for one-year terms. The mayor, city council member, and city manager are not eligible to serve as the chairperson. All officers are eligible for reelection. Commissioners may nominate members for chairperson and secretary by motion with support. Once nominations have been closed, each member shall vote affirmatively for one candidate. The candidate receiving the highest number of votes, shall be elected to that office. The chairperson shall preside at all meetings, appoint committees, authorize calls for special meetings, and perform other duties as may be ordered by the Commission. The secretary shall act in the capacity as chairperson in the absence of the chairperson. If the office of chairperson becomes vacant, the secretary shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of secretary for that unexpired term.
  
- B. Duties of the Zoning Administrator - The zoning administrator 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. 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. The zoning administrator shall be responsible for sending a written notice to each Commissioner of any special meetings. The zoning administrator shall prepare an agenda of items to be considered at each meeting of the Commission. Absent extenuating circumstances, items to be considered by the Commission for official action shall be submitted to the zoning administrator no later than five business days prior to the scheduled meeting.
  
- C. Meetings - The Commission shall hold not less than two regular meetings each year and by resolution shall determine the time and place of the meetings. When a regular meeting date falls on a legal holiday or conflicts with another event, the Commission shall select a suitable alternate date. Special meetings may be called at the request of the Chairperson or by two other members upon written request to the zoning administrator. The zoning administrator shall send written notice of a special meeting to Commission members not less than 48 hours before the meeting. Work sessions may be scheduled by the chairperson for the informal discussion of planning issues. Official decisions, issues, or proposals shall not be made. All regular and special meetings, hearings, work sessions, records, and accounts shall be open to the public and shall be publicized in accordance with the Open Meetings Act, Public Act 276 of 1976. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official action shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976. Five Commissioners shall constitute a quorum for the transaction of business and the taking of official action. Parliamentary procedure during Commission meetings shall be guided by Roberts Rules of Order.
  
- D. Conflicts of Interest - 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. This shall be noted in the minutes and approved by a majority vote of the remaining Commissioners. The mere fact that a Commissioner works or resides near or in the area affected by a proposal shall not constitute a conflict of interest.

- E. The following development matters along with other items deemed worthy shall be deemed suitable subjects for consideration at meetings of the Commission – petitions and administrative proposals to changes in the zoning ordinances; preliminary plans and reports for the development of the City; the removal, relocation, widening, narrowing, vacating, abandoning, change of use, or extension of any public way, grounds, open spaces, buildings, utilities, or other facilities; the general character, extent, and layout for redevelopment or rehabilitation of blighted areas; subdivision plats; planning reports and plans prior to publication; capital improvement programs for the City; planning commission budget requirements and requests; and the selection of consultants.
- F. The City Council, rather than accepting or rejecting a recommendation from the Commission, may refer the matter back for reconsideration with specific guidance.
- G. Annual Report - The Commission shall make an annual written report to the City Council concerning its operations and the status of planning activities including recommendations regarding actions by the Council related to planning and development.

**§15-25-3 POWERS AND DUTIES**

**A. Master Plan**

The Commission shall make and approve a master plan as a guide for development within the City in accordance with Article III, Public Act 33 of 2008, as amended. Following the adoption of the master plan or any part of the plan, copies shall be transmitted to the City Council.

**B. Capital Improvements Program**

To further the development of the City under the master plan, the Commission shall prepare a capital improvements program showing public structures and improvements, in general order of their priority that in the Commission's judgement will be needed or desirable and can be undertaken within the ensuing six years. Each department of the City shall furnish the Commission with lists, plans, and estimates of time and cost of those public structures and improvements. The Commission may recommend to the City Council programs for public structures and improvements and their financing.

## ARTICLE 26 - CHANGES AND AMENDMENTS

### **§15-26-1 PURPOSE**

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 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.

### **§15-26-2 AMENDMENT INITIATION**

Subject to the limitations of Section 1, an amendment to this Ordinance text or map may be initiated by the City Council, by the Planning Commission, or by petition of any person or persons desiring an amendment or change.

### **§15-26-3 ACTION BY PLANNING COMMISSION**

- A. Upon receipt of a request to amend this Ordinance, the zoning administrator shall refer the request to the Commission. The Commission shall make a complete study of the request and shall recommend to the City Council such action as the Commission deems proper.
- B. A public hearing shall be held by the Commission before adopting any proposed amendment to this Ordinance. The City Clerk shall cause public notice of the hearing.
- C. In reviewing a request for an amendment, the Commission shall identify and evaluate all relevant factors including, but not be limited to; whether or not the requested zoning change is justified by a change in conditions or by an error in the original ordinance; the precedents and the possible effects which might result from approval or denial of the request; the capability of the City or other government agencies to provide services, facilities, or programs that might be required; the effect on the condition or value of property in the City or in adjacent governmental units; the effect on adopted development policies of the City and other government units; and factual information provided during the public hearing. 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 are affirmatively resolved in terms of the general health, safety, and welfare of the citizens of the City or of other governmental units.

### **§15-26-4 ACTION BY CITY COUNCIL**

Upon receipt of the report from the Commission, the City Council shall make its determination at any regular or special meetings.

### **§15-26-5 CONTENTS OF REQUESTS**



All requests 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 to the zoning map then the requests shall include a fully dimensioned map showing the land which would be affected by the proposed amendment, the legal description of the land, the present zoning classification, the zoning classification of all abutting districts, all public and private rights of way and easements bounding and intersecting the land under consideration, and the names and addresses of the owners of all land within the area to be changed by the proposed amendment.
- D. The alleged error in this Ordinance with a detailed explanation of how the proposed amendment will correct the error.
- E. The changed or changing conditions in the area or in the City generally, which make the proposed amendment reasonably necessary.
- F. All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.

**§15-26-6      COMPREHENSIVE REVIEW OF ORDINANCE**

The Planning Commission, at intervals of not less than five years, shall examine the provisions of this Ordinance and shall submit a report to the City Council recommending changes, if any, deemed desirable in the interests of public health, safety and welfare.

## ARTICLE 27 - ENFORCEMENT

### **§15-27-1 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 un-repealed provision of laws, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws relating to the use of building or land. 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 existing provisions of laws, ordinances, rules, regulations, or permits the provisions of this Ordinance shall control.

### **§15-27-2 SEVERABILITY**

The various parts, sections, and clauses of this Ordinance are 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.

### **§15-27-3 REPEAL**

All ordinances and amendments enacted or adopted by the City of Whitehall by virtue of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are 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.

### **§15-27-4 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 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.

### **§15-27-5 VIOLATIONS, PENALTIES OR NUISANCE**

- A. Unless specifically designated as a misdemeanor, violations of any provision of this Ordinance or any permit, license or exception granted, 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. The penalty for a misdemeanor violation shall be a fine not exceeding \$500 plus costs of prosecution, imprisonment not exceeding 90 days, or both unless a specific penalty is otherwise provided for the violation by this Ordinance.
- C. The penalty for a civil infraction violation shall be a fine in the amount \$50 for the first offense, \$100 for the second offense, and \$200 for the third and each subsequent offense plus any costs, damages, expenses, or other sanctions as may be authorized under Chapter 87 of Public Act. 236 of 1961, as amended, and other applicable laws.
- D. 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 is hereby declared to be a public nuisance 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.
- E. The zoning administrator, building inspector, city manager or their designee, and the police officers of the City are authorized to issue municipal civil infraction citations and municipal civil infraction violation notices.

**§15-27-6 EFFECTIVE DATE**

This Ordinance shall take effect 15 days following publication of a notice published in a newspaper of general circulation.

## ARTICLE 28 - SUBDIVISION REGULATIONS

### 15-28-1 PURPOSE

In compliance with Michigan Public Act 288 of 1967, as amended, the purpose of this Article is to regulate the division of land; to promote the public health, safety, and general welfare of the City; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements; to ensure adequate drainage; to provide for proper ingress and egress; to promote proper surveying and monumenting with accurate legal descriptions; to provide for obtaining required approvals; to allow for the establishment of special assessment districts; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplains; to provide for easements; to allow for the filing of amended plats; to provide for assessors plats; and to establish penalties for violating provisions of this Article.

### 15-28-2 DEFINITIONS

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

**ACCESSIBLE.** A parcel that has an area where a driveway or easement provides vehicle access to an existing street and meets all applicable location standards.

**ALLEY.** A public or private right of way which provides secondary access to a lot, block, or parcel of land.

**DEVELOPMENT SITE.** Any parcel or lot on which exists or is intended for building development other agricultural or forestry use.

**EXEMPT SPLIT.** The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in one or more parcels of less than 40 acres. For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of PA 188 and City ordinances.

**FLOODPLAIN.** An area of land adjoining a river, stream, water course, lake, or other similar body of water which can reasonably be expected to be inundated by a flood.

**FORTY ACRES.** 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

**GOVERNMENT SURVEY.** Land surveyed, subdivided, and monumented by the United States public land survey.

LOT. A measured portion of a parcel or tract described and fixed in a recorded plat.

OUT LOT. A lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved for private use.

PARCEL. A continuous area or acreage of land.

PARKING SPACE. An area of not less than 160 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or alleys, and to be usable for the storage or parking of self-propelled passenger automobiles.

PLAT. A map or chart of a subdivision of land.

PROPRIETOR. A natural person including heirs, executors, administrators, legal representatives, successors, or assigns, firm, association, partnership, corporation, or any combination that holds an ownership interest in land whether or not recorded.

PUBLIC UTILITY. Persons, firms, corporations, co-partnerships, municipality, or other public authority providing gas, electricity, water, steam, telephone, sewer, or other similar services.

SUBDIVISION (DIVISION or SUBDIVIDE). The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale or lease of more than one year or a building development that results in one or more parcels of less than 40 acres.

REPLAT. The process of changing the boundaries of all or part of a recorded subdivision.

TOPOGRAPHICAL MAP. A map showing existing physical characteristics with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

TRACT. Two or more parcels that share a common property line and under the same ownership.

### **15-28-3 RESTRICTION ON SALES**

No person shall sell or convey any lot in any plat until that plat has been duly recorded in the office of the County Register of Deeds. Every plat approved by the City shall be deemed to be an amendment of or an addition to or a detail of the City Plan.

### **15-28-4 METES AND BOUNDS PLATTING**

The description of any lot or parcel in a subdivision by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer is

a violation of these regulations.

**15-28-5 PUBLIC WATER AND SEWER SERVICES**

Public sewer or water service shall not be provided for any dwelling or other structure located on a plot subdivided or sold in violation of these regulations, excepting that such service may be installed in any structure when deemed necessary by the Health Department for the protection of the public health.

**15-28-6 PARTITIONING AND DIVIDING**

- A. No lot, out lot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with PA 288 and this Article.
- B. No lot, out lot or parcel of land shall be partitioned or divided which would result in any remaining parcel having less square footage or less frontage than allowed by this Article, a partitioned parcel may be utilized in conjunction with an adjoining parcel, with common ownership to satisfy square footage and frontage requirements.
- C. No lot, out lot or other parcel of land may be partitioned or divided into more than four parts.
- D. The city may require a map of survey prepared by a registered land surveyor prior to considering the application for approval of such partition or division of any lot, out lot or parcel of land.

**15-28-7 APPLICATION**

- A. An application in writing shall be submitted to the Planning Commission by the owner or authorized representative for approval of a preliminary plat of any proposed subdivision.
- B. Three copies of the preliminary plat at a scale of not more than 200 feet to the inch prepared by a licensed surveyor showing the title under which proposed subdivision is to be recorded, description of land to be platted, name and address of owner and technical author of the plan; location of existing property lines, streets, buildings, water courses, railroads, utilities and other physical features; location of the adjoining streets, utilities, buildings and other physical features which relate to the development of the subdivision; location, name and width of proposed streets, alleys, easements and public utilities, parks, lots and building lines on the property to be subdivided; any engineering data deemed necessary relative to the topography, street cross-section, sewer elevations, and water elevations; proposed use of the property; areas proposed to be

dedicated for public purposes; proposed grade elevations at street intersection or breaks of grades; and dated, north point and graphic scale.

**15-28-8 PRELIMINARY PLAT**

- A. Upon receipt of a completed application and payment of required fees, the Planning Commission shall hold a public hearing in accordance with Article 26.
- B. Preliminary plats shall be subject to the tentative approval of the Planning Commission, who shall take into consideration the city's requirements and the most appropriate use of the land. Particular attention will be given to the standards of design; the justification for the development of public improvements; and the subdivision's conformity to the existing street plan; the width, location and arrangements of streets; the dimensions of lots; and the location of utilities; and other features will be studied.
- C. If the preliminary plat is not approved, a list of the changes necessary to render the plan acceptable will be submitted in writing to the applicant.
- D. If the preliminary plat is approved, it shall be forwarded to the City Council. If the Council fails to approve the preliminary plat, a list of the changes necessary to render the plan acceptable will be submitted in writing to the Applicant. If the Council approves the preliminary plat, the applicant may proceed to obtain final approval.
- E. Three copies of the final subdivision plat shall be submitted to the Planning Commission within one year after approval of the preliminary plat, otherwise the approval of the preliminary plat shall become null and void unless an extension of time is applied for and granted by the Commission prior to the expiration of the one year.

**15-28-9 FINAL PLAT**

The final plat shall be prepared and presented in accordance with the provisions of PA 288 along with the following:

- A. Any private restrictions shall be shown or referenced on the plat and plats shall contain paper acknowledgements of the owner and mortgages accepting the platting restrictions.
- B. A statement from the applicant indicating the ownership of the property proposed to be subdivided as evidenced by an abstract of title certified to date, or, at the option of the proprietor, a policy of title insurance; improvements and utilities to be installed by the applicant; restrictions to be imposed upon the property after subdivision; streets, alleys, parks and easements as agreed upon with the Planning Commission, with a recital that same are dedicated to the use of the public; total area in acres of the tract to be subdivided; net area in lots;

total lot frontage in feet, classified as to residential frontage, business frontage and industrial frontage; area in streets; and area in parks.

- C. The Planning Commission shall examine the final plat for compliance with the preliminary plat, any required changes suggested upon tentative approval, and any additions, modifications or deletions made necessary by amended or new statutory requirements; approve, modify or disapprove the proposed final plat. Final plats shall not be approved by the City Council without the prior approval of the Planning Commission. No plat shall be transmitted to any county or state approving authority for official action until it has been approved by the City Council.

**15-28-10 CONFORMITY TO CITY PLAN**

Subdivisions shall be in harmony with the Comprehensive Master Plan.

**15-28-11 STREETS**

A. *Relation to adjoining street system.*

- 1. The arrangement of streets in a new subdivision shall make provision for the continuation of principal existing streets in adjoining or adjacent subdivisions, insofar as they may be necessary public requirements.
- 2. The streets shall extend to the boundary of the subdivision to provide the proper access to adjoining property, and provide for proper connection with the highway system for contiguous land.
- 3. Where the plat submitted covers only a part of the applicant's tract, a sketch of a proposed future street system of the part not submitted shall be considered in the light of adjustments and connections with the street system of the part not submitted.

B. *Access to property.* Each residential lot within a subdivision shall be provided with a satisfactory means of access. Building permits shall not be issued for the construction of buildings which do not have access on a public street.

C. *Large allotments.* Where the parcel is subdivided into larger tracts than for building lots, the platting shall not be such as to stop the opening of major streets and the extension of adjacent minor streets,

D. *Street Intersections.* Streets shall be required to intersect each other at as nearly right angles as practicable. Streets converging at one point shall be reduced to the least practicable number.



- E. *Streets in relation to railroads.* Whenever a subdivision is to be laid out adjacent to a railroad right-of-way, a street shall be placed parallel to the railroad. The intersection of the center-line of the parallel street with that of any street which crosses the railroad shall not be less than 300 feet from the line of the railroad right-of-way.
- F. *Dead-end streets.* Dead-end streets shall meet fire code regulations.
- G. *Street Widths.* The minimum width for major streets shall be 80 feet. The minimum width for minor streets shall be 60 feet, except in cases where the topography or special conditions make a street of less width more suitable, the Planning Commission may waive the above requirements.
- H. *Street grades.* Profiles may be required of all streets at the discretion of the Planning Commission. The minimum grade allowed shall be 0.5%.
- I. *Access to streets across ditches.* Applicants shall provide access to all proposed streets across water courses or ditches in a manner approved by the Planning Commission.
- J. *Street and subdivision names.* All proposed streets in alignment with another already existing and named street, must bear the same name. New street names shall not duplicate existing street names and all names must be approved by the Planning Commission.

**15-28-12 MONUMENTS**

Monuments shall conform to and shall be placed as required by PA 288.

**15-28-13 BLOCK**

Residential blocks shall not be less than 200 feet wide; they shall not be less than 660 feet long and not more than 1200 feet long. Where blocks are more than 800 feet long, a ten-foot crosswalk shall be provided near the center of the block. Business, commercial and industrial blocks shall not be less than 280 feet wide and they shall not be less than 280 feet long. Where blocks are more than 280 feet long a ten-foot crosswalk shall be provided near the center of the block.

**15-28-14 LOTS**

- A. *Size of lots.*
  - 1. No lot classified as residential shall be platted that is less than 60 feet in width and less than 6,000 square feet in area.
  - 2. No lot classified as business, commercial or industrial shall be platted that is less than 22 feet in width.

3. The applicant and Planning Commission shall consider the off-street parking provisions and make adequate allowance for off street parking when needed.
- B. *Lot Lines.* All side lot lines should be at right angles to straight street lines, or radial to curved street lines, other angles may be approved if they will provide a better street and lot plan.
- C. *Lots with double frontage.* Lots with double frontage shall be avoided, but if provided, the corner lots must have sufficient depth so that a reasonable front yard may be provided on both street frontages to protect similar frontages on adjacent lots in each direction.
- D. *Corner lots.* Corner lots shall have extra width sufficient to permit the maintenance of building lines on both front and side.

**15-28-15 OPEN SPACES; PARKS, SCHOOLS AND PLAYGROUND SITES**

Due consideration shall be given by the applicant and the Planning Commission to the dedication or reservation of suitable sites for future schools, parks, and playgrounds, the location of these features to conform as nearly possible to the Comprehensive Master Plan of the City.

**15-28-16 UTILITIES AND IMPROVEMENTS**

- A. *Street Trees.* Whenever the Planning Commission deems it desirable, street trees shall be planted in conformance with a plan approved by the Planning Commission.
- B. *Underground Utilities.* The applicant shall make arrangements for all lines for gas, telephone, electric, television and other similar services distributed by wire, pipe or cable to be placed underground entirely throughout a subdivision area. placed within private easements or dedicated public ways, overhead lines may be permitted upon written recommendation of the Public Works Director, and Planning Commission where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, plat design and character of the subdivision.