



CITY OF MARINE CITY

Planning Commission Meeting Agenda

Marine City Fire Hall, 200 South Parker Street

Regular Meeting: Monday, June 11, 2018 7:00 PM

1. CALL TO ORDER

2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

3. ROLL CALL: Commissioners Graham Allan, William Beutell, Jacob Bryson, Keith Jenken, Joseph Moran, Brian Ross; City Commissioner William Klaassen; Building Official Susan Wilburn; City Manager Elaine Leven

4. COMMUNICATIONS

A. Marine City Parking Map

5. PUBLIC COMMENT *Anyone in attendance is welcome to address the Planning Commission. Please state name and address. Limit comments to five (5) minutes.*

6. APPROVE AGENDA

7. APPROVE MINUTES

A. May 14, 2018 Meeting Minutes

8. UNFINISHED BUSINESS

9. NEW BUSINESS

A. Public Hearing - Zoning Ordinance Text Amendments: Chapter 160

10. ADJOURNMENT



**City of Marine City
Planning Commission Meeting
May 14, 2018**

A regular meeting of the Marine City Planning Commission was held on Monday, May 14, 2018, in the Fire Hall, 200 South Parker Street, Marine City, Michigan, and was called to order by Chairperson Moran at 7:00pm.

After observing a moment of silence, the Pledge of Allegiance was led by Chairperson Moran.

Present: Chairperson Joseph Moran; Commissioners William Beutell, Keith Jenken, Brian Ross; City Commissioner William Klaassen; Building Official Susan Wilburn; City Manager Elaine Leven; Deputy Clerk Elizabeth McDonald

Absent: Commissioners Graham Allan & Jacob Bryson

Also in Attendance: Adam Young, Wade Trim

Motion by Commissioner Ross, seconded by Commissioner Jenken, to excuse Commissioners Allan and Bryson from the meeting. All Ayes. Motion Carried.

Communications

None.

Public Comment

No residents addressed the Board.

Approve Agenda

Motion by Commissioner Beutell, seconded by City Commissioner Klaassen, to approve the agenda, as presented. All Ayes. Motion Carried.

Approve Minutes

Motion by Commissioner Jenken, seconded by City Commissioner Klaassen, to approve the April 9, 2018 meeting minutes of the Planning Commission, as presented. All Ayes. Motion Carried.

Unfinished Business

Discussion – Zoning Ordinance Text Amendments: Chapter 160

Adam Young, of Wade Trim, stated that he had been working with City Manager Leven and Building Official Wilburn for approximately a year on amendments to the City Zoning Code and City Code. In order to amend the Zoning Code, the Planning Commission needed to conduct a Public Hearing and recommend the changes to the City Commission for approval. Mr. Young went through all the proposed amendments with the Board and discussed the following:

Commercial Use of Sidewalks/Outdoor Sales and Cafes (Sections 160.082, 160.234 and 160.235)

- Wade Trim suggested removing the requirement of Special Land Use approval and conducting a Public Hearing in order to have outdoor merchandise.
- Added section 160.234 which allows outdoor displays intended for retail sale or rental within the B-1, B-2, and W-M Districts, as long as the provisions within the Code were followed.
- Added section 160.235 which allows outdoor café service subject to the outlined conditions being met, one of which, was a minimum of five (5) feet of unobstructed pedestrian access on the sidewalk be maintained.

Jim Turner, 361 N. Main Street, questioned whether the outdoor café service section included businesses utilizing wait staff outdoors. He also asked about the overnight storage of outdoor materials and how to obtain approval to have an outdoor café.

Mr. Young responded that businesses could have outdoor service or just outdoor seating, but Health Department regulations needed to be met and Building Official Wilburn had the final approval on any proposed sketch plan. The storage of outdoor materials was at the discretion of the owner.

The Board said that they would like regulations on decorations on the sidewalk addressed within the Code.

Todd May, The Sweet Tooth of Marine City, asked if there was an Ordinance regarding the use of tattered, unkempt flags and signs.

Mr. Young stated that a business could have up to three (3) flags according to the City Sign Ordinance and if they were not maintained, the City had the authority to send a letter to the owner.

Zoning Map Amendments (Sections 160.020, 160.021 and 160.175)

- Added the Nautical Mile District within the Ordinance and made it an overlay
- Removed reference to the DDA

Sign Amendments – Content Neutrality (Reed v. Gilbert) (Section 160.220)

- The current Ordinance was outdated
- The amendments focused on content neutrality
- Definitions changed
- Added exempt sign section

The Board discussed clear vision regulations and indecent content regarding to signage. It was suggested by business owners present that having a “can and can’t” sign guide would be beneficial.

Zoning Enabling Act Amendments (Sections 160.005, 160.036, 160.037, 160.052, 160.081, 160.175, 160.236, 160.274, 160.298, 160.301, 160.306, 160.315, 160.317, 160.318 and 160.322)

- Updated Code to be consistent with the Zoning Enabling Act
- Added definitions
- Added the allowance of adult foster and family daycare homes
- Changed requirements for churches and schools from Special Land Use to Permitted Use
- Added planned development regulations
- Planning Commission had more flexibility with mixed uses
- Changed Public Hearing notification procedures
- Added conditional rezoning procedures
- Included standards to obtain a Variance Request

The Board stated that it should be clarified that applicants applying for a Variance Request needed to demonstrate all five points:

1. The strict enforcement of the provisions of the Zoning Ordinance would cause difficulties and deprive the owner of the property of rights enjoyed by other owners within the same zoning district
2. The conditions and circumstances are unique to the property which are not similarly applicable to other properties in the same zoning district
3. The conditions and circumstances unique to the property were not created by the owner within the effective date of the provisions alleged to adversely affect such property.

4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district
5. Why the requested variance will not be contrary to the spirit and intent of this Zoning Ordinance

Permits for Accessory Buildings and Fences (Sections 160.213 and 160.221)

- Revised, to state that accessory buildings did not need Zoning Board of Appeals approval as long as they met the requirements
- Needed to change Item H to reference the State of Michigan Building Code
- Added permit requirements for the erection of an obscuring wall or fence

Site Plan Review Procedures (Section 160.300)

- Established administrative Site Plan Review process for certain projects
- The Planning Commission could waive the required Site Plan information when the information was determined to be not pertinent to the proposed development

Process to Allow Unspecified Uses (New Section 160.024)

- Added unspecified uses chapters

Home Occupations (Sections 160.005 and 160.037, New Section 160.234)

- Removed the Special Use request and made it an administrative review process
- Added Use standards

The Board reviewed the City Code amendments and the following were discussed:

Commercial Use of Sidewalks/Outdoor Sales and Cafes (Section 90.016)

- Provided exemption of what was allowed

Parking and Storage of Commercial Vehicles (New Sections 70.080, 70.081 and 70.082)

- Defined what was allowed

Todd May, The Sweet Tooth of Marine City, requested that the City employees not park along South Water Street as it took away parking spaces from business customers.

Cutting of Grass (Section 95.46; Section 158.147)

- Changed the maximum height allowable for vegetation from twelve inches to eight inches.

Rental Housing Inspections (Sections 15.055 – 155.060)

- Updated the Rental Housing Inspection regulations

Motion by Commissioner Beutell, seconded by Commissioner Jenken, to set the Public Hearing date for the proposed Zoning Code amendments for Monday, June 11, 2018 at 7:00pm in the Fire Hall (200 S. Parker) and send the recommendations to the City Commission at their Thursday, June 21, 2018 meeting for adoption. All Ayes. Motion Carried.

Update – Downtown Signage

Chairperson Moran updated the Board on the status of the downtown signage that went before the City Commission. The City Commission made the following suggestions:

- Recommended changing the name to Business Loop instead of Downtown Loop
- Added additional signage at the intersection of M-29 and Chartier for the plaza
- Parking signs were to have the City logo on them to make them stand out from other regulatory signage

He said the Sub-Committee was currently seeking bids for the signage and possible funding options. They were hoping to have a recommendation for the Thursday, June 7, 2018 City Commission meeting.

No action was taken by the Board at this time.

New Business

None

Adjournment

Motion by Commissioner Jenken, seconded by Commissioner Beutell, to adjourn at 8:57 pm. All Ayes. Motion Carried.

Respectfully submitted,

Elizabeth McDonald
Deputy Clerk

Kristen Baxter
City Clerk

PUBLIC NOTICE**CITY OF MARINE CITY
ZONING ORDINANCE TEXT AMENDMENT**

The Planning Commission will conduct a Public Hearing on June 11, 2018 at 7:00 pm as part of the regular meeting agenda, in the Marine City Fire Hall, located at 200 S. Parker Street, Marine City, MI, 48039, to consider amendments to the Marine City Zoning Ordinance (Chapter 160 of the Code of Ordinances). The proposed amendments are as follows: Sections 160.082, 160.234 & 160.235 (Commercial Use of Sidewalks/Outdoor Sales and Cafes); Sections 160.020, 160.021 & 160.175 (Zoning Map Amendments); Section 160.220 (Sign Amendments – Content Neutrality ~ Reed v. Gilbert); Sections 160.005, 160.036, 160.037, 160.052, 160.081, 160.175, 160.236, 160.274, 160.298, 160.301, 160.306, 160.315, 160.317, 160.318 & 160.322 (Zoning Enabling Act Amendments); Sections 160.213 & 160.221 (Permits for Accessory Buildings and Fences); Sections 160.300 (Site Plan Review Procedures); Section 160.024 (Process to Allow Unspecified Uses); Sections 160.005, 160.037, & 160.234 (Home Occupations); Section 160.195 (W-M District Side Setback Discrepancy); Sections 160.081 & 160.082 (Residential Units within the Central Business District).

The full text of the proposed amendments is available for review at the City Offices located at 303 S. Water Street, Marine City, MI, 48039, during normal business hours.

Persons wishing to comment on the matter are encouraged to attend the Public Hearing or to address written comments to the City Clerk, located at the City Office address cited above, prior to the date of the Public Hearing. Persons needing special accommodations to attend should contact the City Clerk.

Kristen Baxter
City Clerk

Posted: May 23, 2018

Proposed Marine City Zoning Code Amendments

Prepared by Wade Trim Associates, Inc.
May 23, 2018 – DRAFT

For Planning Commission Review

(PC Public Hearing Required for Zoning Change, followed by City Commission Adoption)

Key:

~~Text proposed to be deleted~~

Text proposed to be added

Wade Trim Commentary explaining selected amendments

Commercial Use of Sidewalks / Outdoor Sales and Cafes Chapter 160 – Zoning Code (Sections 160.082, 160.234 and 160.235)

160.082 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS (B-1 DISTRICT).

Under such conditions as the Planning Commission, after hearing, finds the use as not being injurious to the B-1 District and environs and not contrary to the spirit and purpose of this chapter and subject further to the conditions hereinafter imposed for each use, the following uses may be permitted:

(A) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations with service yards, but without storage yards; water and sewage pumping stations;

(B) Business schools or private schools operated for profit including, but not limited to: dance studios, music and voice schools and art schools;

(C) Residential units, provided they are an integral part of the structure containing a permitted use, and the residential use is subordinate to the other permitted use;

~~—(D) Outside display of merchandise when adjacent to and in connection with an established structure used primarily for retail sales when the Planning Commission finds:~~

~~—(1) That the outside display will not interfere with the free and unobstructed flow of pedestrian and/or vehicular traffic;~~

~~—(2) That the outside display is secondary and in direct support of an established retail business permanently established in the community;~~

~~—(3) That the location of the display, the area to be utilized for the display and the nature of goods to be displayed will not be detrimental to the health and welfare of the community; and~~

~~—(4) Upon presentment to the City Clerk of the Planning Commission findings, together with a diagram of the display area, approved by the Commission, the Clerk shall issue a permit for a period not to exceed 1 year.~~

~~(E)~~ **(D)** Arcades, as defined and as licensed pursuant to this code of ordinances, provided that, so as to prevent an undue concentration of such facilities, another licensed arcade is not located within 350 feet. Curfew requirements for persons under 16 years of age, as set forth in this code of ordinances, shall apply to the operation of any arcade approved under this section.

Wade Trim Commentary: With regard to outdoor display, our recommended approach is to allow outdoor display within specified commercial districts, with restrictions, and after approval by the Zoning Administrator (not a special land use). Within the B-1 District only, outdoor display could occur on a public sidewalk.

With regard to outdoor cafés, our recommended approach is to allow outdoor cafes within specified commercial districts, with restrictions, and after approval by the Zoning Administrator. Within the B-1 District only, outdoor cafes could occur on a public sidewalk.

160.234 OUTDOOR DISPLAYS OF MATERIALS INTENDED FOR RETAIL SALE OR RENTAL

The outdoor display of products or materials intended for retail sale or rental may be permitted only in the B-1, Central Business District, B-2, General Business District, W-M, Waterfront Recreation and Marina District, and NMD, Nautical Mile District, subject to the following conditions. Outdoor display shall not include any signage in addition to that permitted with the permitted use:

(A) General Standards

- (1) An outdoor display shall be considered as an accessory use to the principal use conducted on the premises.**
- (2) The exterior of the premises shall be kept clean, orderly and maintained.**
- (3) The City shall not be held liable or responsible for any type of damage, theft or personal injury that may occur as a result of an outdoor display.**
- (4) An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this Zoning Ordinance.**
- (5) An outdoor display shall comply with the corner clearance requirements of § 160.223**
- (6) Approval for the outdoor display is to be reviewed and completed administratively by the Zoning Administrator.**
- (7) In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval**

where, in the sole discretion of the Zoning Administrator, the site conditions may create difficulty in adherence to the standards contained herein.

(B) Standards within the B-1, W-M and Nautical Mile Districts

- (1) An outdoor display may be located in front or adjacent to the principal use establishment. An outdoor display that extends beyond the property lines of the principal use property shall require the written permission of the affected property owners.**
- (2) If an outdoor display is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained at all times. Sufficient room shall also be provided to allow car doors to open along the curbside. An outdoor display on a public sidewalk shall be confined to normal business hours. Fences, barricades or similar enclosures which may damage the public sidewalk are prohibited.**

(C) Standards within the B-2 Districts

- (1) An outdoor display may be located within any required yard but shall not be located within any public road right-of-way.**

(D) Building Materials, Nursery Stock and Garden Supplies

- (1) Outdoor sales areas shall not be located within the required front setback, except for sales of living nursery stock. Ornamental displays associated with the sale of nursery stock shall be permitted; however, in no case shall the outdoor storage or sale of bulk materials, such as topsoil, mulch or gravel, whether packaged or not, be permitted within the front yard setback.**
- (2) Outdoor sale and display areas that abut residentially zoned or used property shall be screened in accordance with § 160.219,(I) and § 160.221.**

160.235 OUTDOOR CAFÉ SERVICE

An outdoor cafe service operated by an eating or drinking establishment which sells food or drink for immediate consumption may be permitted in the B-1, Central Business District, B-2, General Business District, W-M, Waterfront Recreation and Marina District, and NMD, Nautical Mile District, subject to the following conditions:

- (A) A sketch plan depicting the location and layout of the cafe facility shall be required. Approval for the use is to be reviewed and completed administratively by the Zoning Administrator. A permit shall remain in effect, unless there is a change in ownership, a material change in the sketch plan, or the operation of the cafe fails to meet the standards contained herein.**
- (B) An outdoor cafe may be located in the front yard of or adjacent to the principal use establishment. An outdoor cafe that extends beyond the property lines of the principal use property shall require the written permission of the affected property owners.**

- (C) **Within the B-1, W-M and NMD Districts, an outdoor cafe may be located on a public sidewalk, provided a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Adequate space shall be provided for vehicle entry between on-street parking spaces and the sidewalk café. Fences, barricades or similar enclosures which may damage the public sidewalk are prohibited.**
- (D) **An outdoor cafe shall comply with the corner clearance requirements of § 160.223**
- (E) **An outdoor cafe shall be allowed only during normal operating hours of the principal use establishment.**
- (F) **The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside of the premises of the principal use establishment. There shall be no food cooking or preparation within the designated outdoor café space.**
- (G) **The City shall not be liable or responsible for any type of damage, theft or personal injury, which may occur as a result of a public sidewalk cafe operation.**
- (H) **All outdoor cafes shall comply with applicable regulations of the County Health Department and the State, including the Michigan Liquor Control Commission where any form of alcohol service is proposed.**
- (I) **Any outdoor café operation shall be disclosed to the insurance carrier for the principal use establishment and shall be insured accordingly. The Zoning Administrator reserves the right to confirm insurance coverage for the café.**

Zoning Map Amendments

Chapter 160 – Zoning Code (Sections 160.020, 160.021 and 160.175)

160.020 DISTRICTS

For the purposes of this chapter, the city is hereby divided into the following districts:

- (A) R-1A—One-Family Residential District;
- (B) R-1B—One-Family Residential District;
- (C) R-M—Multiple-Family Residential District;
- (D) MHP—Mobile Home Park District;
- (E) B-1—Central Business District;
- (F) B-2—General Business District;
- (G) W-M—Waterfront Recreation and Marina District;

- (H) I-1—Light Industrial District;
- (I) I-2—Heavy Industrial District; and
- (J) P-1—Vehicular Parking District.

(K) NMD—Nautical Mile District Overlay.

Wade Trim Commentary: The Nautical Mile District was established previously. The purpose of this amendment is simply to include the District in the listing of Districts.

160.021 BOUNDARIES

The boundaries of these districts are hereby established as shown on the Zoning Map which accompanies this Zoning Ordinance and which map with all notations, references and other information shown thereon shall be as much a part of this chapter as if fully described herein:

Wade Trim Commentary: Please refer to the Draft Marine City Zoning Map, dated November 3, 2017, for recommended changes to the Zoning Map in support of these amendments.

160.175 INTENT (NAUTICAL MILE DISTRICT **OVERLAY**)

(A) The nautical mile is of special public interest because of its unique location along the St. Clair River as a focal point of community redevelopment activities. The Nautical Mile District (NMD) is intended to encourage the redevelopment of the Nautical Mile in a compatible mixture of housing, recreation, entertainment, commercial, office, cultural, public and hotel uses through the flexible application of land regulatory standards. Such uses may be located in various combinations of mixed-use and single-use development. It is also the intent of the District to encourage a high quality of private development with reasonable public amenities to improve the overall living, working, shopping and recreational environment of the Nautical Mile. The Nautical Mile encompasses property ~~within the DDA District and~~ as designated by the City's Zoning Map. Special district objectives. The City-Village Zoning Act, Public Act 207 of 1921, as amended, allows for the creation of special land development regulations to address problems and needs in specific areas. Accordingly, the Nautical Mile was established to address the special land management and redevelopment needs of the Nautical Mile.

Wade Trim Commentary: Please refer to the Draft Marine City Zoning Map, dated November 3, 2017, for recommended changes to the Zoning Map in support of these amendments.

Sign Amendments – Content Neutrality (Reed v. Gilbert)
Chapter 160 – Zoning Code (Section 160.220)

160.220 SIGNS.

(A) The primary function of signage as it relates to this chapter is to identify a particular use of a parcel of property. It is not the intent of this chapter to have the open spaces and lines of vision created by public rights of way be used for unrestricted advertising through the use of signage. Signs will be allowed in such a manner as to provide those similar uses in similar zones the opportunity for identification exposure regardless of parcel size although the location and size of buildings will influence the amount of signage permitted. This consistent approach is necessary to remove the need for the types of signs which compete for attention of the motorist, thereby creating traffic hazards as well as creating visual blight within the city. **This section regulates signs in Marine City that are on lands open to the public, visible from public road rights-of-way, private roads, public facilities, trails open to the public, and navigable waterways. It is a basic tenet of this article that unrestricted signing does not benefit either private enterprise or the community-at-large. Depending on their size, numbers, and character, signs may attract or repel visitors, affect the visual quality enjoyed by daily residents, affect the safety of vehicular traffic, and define the character of the area. Thus aesthetic considerations impact economic values as well as public health, safety, and welfare. Therefore this article of the ordinance sets standards for the following purposes:**

- (a) Maintain and enhance the visual quality of the community.**
- (b) Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and directional or warning signs.**
- (c) Support and complement the land use objectives of the City Master Plan and this ordinance.**
- (d) Protect and enhance economic viability by assuring that the City will be a visually pleasant place to visit or live.**
- (e) Protect property values and private/public investments in property.**
- (f) Protect views of the natural landscape and sky.**
- (g) Avoid personal injury and property damage from structurally unsafe signs.**
- (h) Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.**
- (i) Reflect the primary purpose of signing as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.**
- (j) Avoid excessive signing in order to give each business or use optimum visibility to passer-by traffic and if possible, prevent clutter, and to prevent one sign from blocking the view of another sign.**

(k) Achieve some uniformity and balance in the size, number and placement of signs.

(l) Accommodate special circumstances or events that may create a need for temporary signs for a limited and reasonable time period.

Wade Trim Commentary: This expanded intent statement provides a more comprehensive justification of the sign regulations.

(B) It is, therefore, within the health, safety and welfare responsibility of the City that this section is promulgated.

(1) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SIGN. Any announcement, declaration, display, billboard, illustration and insignia when designed and placed so as to attract general public attention. **SIGN** shall include any banner, bulbs or other lighting devices, streamer, pennant, inflated or deflated membrane device, propeller, flag (~~other than the official flag of any nation or state~~) and any similar device of any type or kind whether bearing lettering or not.

~~1. **DECORATIVE DISPLAY.** A decorative, temporary display designed for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.~~

~~2. **FREESTANDING SIGN.** A sign other than a ground sign or portable sign, which is not attached to a building and is capable of being moved from 1 location to another on the site on which it is located.~~

Wade Trim Commentary: We are not aware of the intent/purpose of the freestanding sign definition or distinction with portable signs. We are proposing to delete the freestanding sign definition and all regulations pertaining to freestanding signs.

1. *AWNING SIGN.* Any sign that is part of, or attached to, a canopy, awning or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area and which does not extend vertically or horizontally beyond the limits of the canopy. For the purposes of this definition, a canopy shall be defined as a shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework.

2. *BALLOON SIGN.* A temporary sign that is lighter-than-air or gas-filled attached by means of a rope or tether or other device to a definite or fixed location.

3. *BANNER SIGN.* A temporary sign of lightweight fabric or similar material that is attached to a building or other structure.

~~3. 4. *GROUND SIGN.*~~ A permanent display sign supported by 1 or more columns, uprights or braces or mounted directly in and upon the ground surface and having a height not in excess of 6 feet.

~~4. 5. *MARQUEE SIGN.*~~ A sign on or attached to a permanent overhanging shelter that projects from the face of the building and is supported entirely by the building.

6. *MURAL.* A work of art or architectural detail, generally directly painted on a portion of a permanent structure.

7. PERMANENT SIGN. A sign intended to be used indefinitely, or used indefinitely without change, in the same state or place.

Wade Trim Commentary: This new definition is important to provide a distinction between permanent signs and non-permanent signs, such as temporary signs.

~~5- 8. PORTABLE SIGN.~~ A sign and sign structure which is designed to facilitate the movement of the sign from 1 zoning lot to another **or from 1 location to another on the site on which it is located.** The sign may or may not have wheels, changeable lettering and/or hitches for towing. **Portable signs shall include signs designed in an A-frame fashion, having back-to-back sign faces, or similar signs which are located outside of a business on a daily basis and which are not permanently attached to the ground.** ~~A sign shall be considered PORTABLE only if the sign is manifestly designed to be portable to facilitate its movement from 1 zoning lot to another. Signs utilized to be movable, other than from 1 zoning lot to another, shall be considered freestanding signs under this chapter.~~

Wade Trim Commentary: We are not aware of the intent/purpose of the distinction between portable and freestanding signs. We are proposing to delete the freestanding sign definition and instead keep only the portable sign definition.

~~6- 9. PROJECTING SIGN.~~ A sign which is affixed to any building or structure, other than a marquee, and any part of which extends beyond the building wall or structure more than 15 inches.

~~7- 10. POLE SIGN.~~ A display sign supported by 1 or more columns, uprights or braces in the ground surface and having a height in excess of 6 feet.

11. TEAR DROP FLAG. A temporary sign with or without characters, letters, illustrations, or ornamentalions applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. Tear drop flags are generally a single sign attached to a support post and typically having a dimensional ratio of at least 4 high to 1 wide. Such signs are also known as feather flags, windfeather flags, or bow flags.

~~8- 12. TEMPORARY SIGN.~~ A display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material (including pennants, streamers, and flags other than the official flag of any nation, state or organization respectfully displayed), inflated devices with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public events. **A sign, display or other informational device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, which is intended for a limited period of display.**

~~9- 13. WALL SIGN.~~ A display sign which is painted on or attached directly to the building wall.

SIGN, ACCESSORY. A sign which pertains to the principal use of the premises.

SIGN, NONACCESSORY. A sign which does not pertain to the principal use of the premises.

Wade Trim Commentary: Although the *Reed v. Gilbert* Supreme Court decision did not specifically address accessory (on-premise) and nonaccessory (off-premise) signage, a concurring opinion of Justice Alito, joined by Justice Kennedy and Justice Sotomayer, indicated that the distinction between on-premise signs and off-premise signs would be considered content neutral. Therefore, we recommend no changes to the City's current definitions or regulations pertaining to accessory and nonaccessory signage (billboards).

SIGN ALTERATION. The changing, enlarging or relocating of any sign, excluding the changing of movable parts of an approved sign that is designed for such changes or the repainting or reposting of original display matter, shall be deemed an alteration.

ERECT. To build, construct, attach, hang, place, suspend, affix or paint.

(2) General requirements for all signs. The following conditions shall also apply to all signs erected or located in any use district:

(a) All signs shall conform to all codes and ordinances of the city and, where required, shall be approved by the Building Inspector and a permit issued.

(b) No sign, except those established and maintained by the city, county, state or federal governments, shall be erected, located or placed in, project into or overhang a public right-of-way or dedicated public easement. The owner of any sign which has been removed by the city from the right-of-way because it is in violation of this provision shall pay to the city the actual costs of removal and storage or charges of \$5 per day, whichever is greater. If the sign is not claimed within 5 days, it shall be destroyed.

~~(e) All directional signs required for the purpose of orientation, when established by the city, county, state or federal government, and directional signs for churches and public service organizations shall be permitted in all use districts.~~

~~(d)~~ (c) No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located and provided further that no freestanding sign, where permitted, shall exceed 3 feet in height.

Wade Trim Commentary: We are not aware of the intent/purpose of the freestanding sign definition or distinction with portable signs. We are proposing to delete the freestanding sign definition and all regulations pertaining to freestanding signs.

(e) (d) No sign above a height of 2 feet shall be located within, project into or overhang the triangular area formed at the intersection of street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(f) (e) Accessory signs shall be permitted in any use district and may be located in the required front yard except as otherwise provided herein.

(g) (f) Nonaccessory signs shall be permitted only in I districts, ~~except that nonaccessory signs pertaining to real estate development located within the city and designed to promote the sale of lots or homes within a subdivision located within the city may be permitted on a temporary basis in any use district but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale and shall be subject to the requirements and conditions of all codes and ordinances of the city.~~

~~(h)~~ **(g)** Illumination of signs shall be directed or shaded downward so as not to interfere with driver visibility, become hazardous to traffic or the vision of persons on adjacent streets or property. Flashing or intermittent type signs shall not be permitted.

~~(i)~~ **(j)** ~~Signs used for advertising land or buildings for rent, lease and/or for sale shall be permitted on the land or building intended to be rented, leased and/or sold.~~

~~(j)~~ **(h)** Any sign, including framing, now or hereafter existing, which no longer advertises a bona fide business conducted or a product or entertainment, service or commodity offered or sold on the lot, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign shall be found within 30 days after written notice from the Building Inspector. Notice shall be sent to the property owner of record, as indicated in city tax rolls, by certified mail. The owner may petition the Zoning Board of Appeals for temporary approval to install blank sign faces when it can be demonstrated that the sign structure is likely to be reused by a future business and the sign framework is in sound structural condition.

~~(k)~~ **(i)** Connections to an energy source for lighting shall be in accord with all codes of the city and shall not be exposed in any way that may constitute a safety hazard to the public.

(3) Exempt signs.

(a) Signs not exceeding four (4) square feet in area and four (4) feet in height, measured from grade, when located along the edge of a driveway and intended to be visible from a public road. Only one such sign may be allowed at each driveway access to a public road and no such sign shall be allowed within the public right-of-way.

(b) Signs not exceeding two (2) square feet in area and six (6) feet in height, measured from grade, when located along the edge of, and intended to be visible from, an internal access driveway, internal pedestrian walkway, or off-street parking space.

(c) Non-illuminated wall signs, not exceeding two (2) square feet in display surface area and not exceeding one (1) per street frontage.

(d) Memorial signs or tablets which are either cut into the face of a masonry surface or constructed of bronze or other noncombustible material when located flat on the face of a building.

(e) Traffic, or other municipal signs, also private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.

(f) Signs located on properties registered as a National or State Historic Site, when in compliance with the Michigan State Historic Preservation Office's standards for National or State Historic Site plaques.

(g) Signs located on properties owned or controlled by essential service providers and generally required by federal or state laws or for public safety purposes.

(h) Signs required to be erected to meet federal or state laws when in compliance with the sign design and placement specifications of such federal or state laws.

(i) **Non illuminated window signs, each not exceeding six (6) square feet in display area. Illuminated window signs, not exceeding two (2) square feet in display area and not more than two (2) such signs per frontage, may also be allowed. The total area of all window signs in a single window shall not cover more than twenty-five (25) percent of the area of such window.**

Wade Trim Commentary: The City's current sign regulations do not address window signs. This is a recommended provision that would allow reasonably sized window signs without needing to obtain sign permits.

(j) **Flags, provided no more than three (3) flags are allowed per property and no single flag shall exceed fifteen (15) square feet in area. Flags may either be attached to ground-mounted flag poles anchored in concrete or affixed to a building. The height of the flag pole shall not exceed the height restriction of the zoning district in which it is located. Flags, whether ground-mounted or wall-mounted, shall be grouped in a single area of the site or building.**

Wade Trim Commentary: Providing an exemption only for "governmental" flags violates the content neutrality principle. The above is a content-neutral alternative.

(k) **Decorative holiday displays.**

(l) **Public artwork or murals with no commercial message.**

~~(3)~~ (4) **Permitted signs by zoning district.**

(a) **R-I A, R-1B, R-M and MHP district sign types allowed.**

~~1. For each dwelling unit, 1 nameplate not exceeding 2 square feet in area, indicating the name of the occupant.~~

~~2. 1. For structures other than dwelling units, 1 identification sign not exceeding 10 square feet, except a church bulletin board not exceeding 18 square feet. One (1) wall and one (1) ground sign, or combination thereof, may be permitted for any permitted non-residential use or lawful nonconforming use within a residential district. Such sign shall not exceed twenty (20) square feet in surface area and six (6) feet in height.~~

~~3. 2. For rental and/or management offices in a multiple housing development, an identification sign not exceeding 6 square feet. One (1) sign per street frontage may be permitted by Zoning Administrator approval to be placed flat against a building within an apartment complex provided that it shall not exceed twelve (12) square feet in surface display area. Such a sign may be illuminated provided that the source of the light is not visible beyond the property lines of the parcel upon which it is located.~~

3. A permanent ground sign may be permitted by Zoning Administrator approval for each separate street frontage occupied by a subdivision, apartment, multi-family development or condominium complex or for each means of entrance to the subdivision, apartment, multi-family development or condominium complex from a public road, provided that the sign and structure shall be harmonious and appropriate in appearance with the existing and intended character of the general vicinity. No such sign shall exceed twenty (20) square feet in area and six (6) feet in height.

(b) B-1, B-2, W-M and P-I district sign types allowed. ~~Ground, portable, pole, temporary and wall signs as defined in this section and subject to the following conditions:~~

1. Ground sign.

a. One ground sign shall be permitted per lot. However, if a lot fronts on 2 or more collector or arterial streets, a ground sign may be permitted for each such frontage, provided that such signs are separated by a minimum distance of 150 feet at any point on the sign.

b. Except as permitted above, not more than 1 ground sign may be erected accessory to any one development, regardless of the number of buildings, separate parties, tenants or uses contained therein.

c. For any frontage where a ground sign is permitted, such ground sign may be used in lieu of a pole sign, but not in addition to a pole sign.

d. Except as provided below, a ground sign shall have a sign area of not more than 1 square foot of sign area (per sign face) for each 3 lineal feet of street frontage up to a maximum of 50 square feet for a single face and 100 square feet for a total of all sign faces.

e. A ground sign shall not exceed 6 feet in height above the average grade of the immediately adjacent land upon which it is located.

f. The distance measured between the principal sign faces of any ground sign shall not exceed 18 inches at any point.

g. A ground sign shall be at least 10 feet from a building wall.

h. The minimum required setback for a ground sign from the property line separating the lot from the street shall be as follows:

Height of ground sign	Setback
Less than 2 feet	3 feet
At least 2 feet but less than 3 feet	6 feet
At least 3 feet but less than 4 feet	9 feet
At least 4 feet but less than 5 feet	12 feet
At least 5 feet but less than 6 feet	15 feet

i. A ground sign shall be setback at least 3 feet from all other property lines, except that when abutting a residential district or residential use, it shall be setback a distance not less than its height.

j. Ground signs may be substituted for an equal number of pole signs. In such cases, ground signs may be increased in area by up to 20% from that permitted above.

~~k. Ground signs shall be utilized only for identification of the uses allowed in the zoning district and shall not be utilized to advertise products for sale.~~

~~k.~~ k. Ground signs may be illuminated as required by division (B)(2)(k)(i).

~~2. Portable sign. There shall be no more than 1 portable sign, and such portable sign shall be licensed as temporary signs for periods not to exceed 7 days in a 30 consecutive day period on any 1 zoning lot and not to exceed 28 days in any 1 year. The sign shall not exceed 15 square feet in area for each face of such and shall not exceed 6 feet in height. In so instance shall such sign be located so as to obstruct parking spaces or automobile or pedestrian traffic lanes. The signs shall not flash or be located so as to obstruct traffic vision, and lightning shall be of a type so as to not be confused with traffic controls and not to cause distraction to vehicle drivers.~~

Wade Trim Commentary: Portable signs are to be covered under the revised temporary and portable sign provisions (see subsection (6) later in this report).

2. Awning and marquee signs.

a. Such signs may not project more than six feet into the public right-of-way nor be erected closer than three feet to any street curbline.

b. Any text, logos or other graphic representation qualifying as a sign which is placed on a canopy or marquee shall be included within the calculation of total permissible wall sign area.

c. A minimum clearance of eight (8) feet for canopies and ten (10) feet for marquees shall be maintained from ground level.

d. Canopies and marquees shall be permitted to be backlit only on those sides of the building which contain a public entryway or those having a pedestrian sidewalk immediately adjacent to the building.

e. Letters on a canopy or marquee sign shall not exceed twelve (12) inches in height.

f. The entire canopy shall be considered a wall sign when a translucent fabric canopy with signage is internally illuminated.

Wade Trim Commentary: The current ordinance does not define and regulate canopy signs. Also, the current ordinance prohibits marquee signs. This new provision has been added to allow and regulate canopy and marquee signs.

3. Pole sign.

a. Not more than 1 pole sign may be erected accessory to any 1 development regardless of the number of buildings, separate parties, tenants or uses contained therein.

b. It shall be unlawful to erect any pole sign to a height greater than 30 feet above the level of the street upon which the sign faces. The distance from the ground to the bottom shall be not less than 8 feet, and the sign shall be so erected as not to obstruct traffic vision.

c. Pole signs may be illuminated as required by division (B)(2)(k)(i).

~~**d. Time and temperature signs shall be permitted.**~~

~~e.~~ **d.** All pole signs shall be securely built, constructed and erected upon posts and standards at least 42 inches below the material surface of the ground and shall be embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment.

~~f.~~ **e.** All letters, figures, characters, items or representations in cutout or irregular form maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure. Loose or missing letters, figures, characters or items shall constitute a maintenance violation.

~~g.~~ **f.** The distance measured between the principal faces of any pole sign shall not exceed 18 inches.

~~h.~~ **g.** Sign height, setback and size for pole signs.

<i>Maximum Height (feet)</i>	<i>Minimum Setback Required (feet)</i>	<i>Maximum Area* of Single Sign Face (in square feet)</i>
13	13	50
14	18	56
15	20	62
16	22	68
17	24	74
18	26	80
19	28	86
20	30	92
21	32	98
22	34	104
23	36	110
24	38	116
25	40	122
26	42	128
27	44	134

~~4. Temporary signs:~~

~~a. For sale or rental of individual units, there shall be no more than 1 such sign, except that on a corner lot 2 signs, 1 facing each street, shall be permitted. No such sign shall exceed 6 square feet in area for each side of the sign. All such signs shall be removed within 1 week after a lease or sale contract has been signed.~~

~~b. Signs advertising buildings under construction may be erected for the period of construction and shall not exceed a face area of 32 square feet for each side of the sign. The signs shall be erected on the~~

~~building or lot where the construction is being carried on and shall advertise only the architect, contractor, subcontractor, building or materials and equipment used. There shall be no more than 1 such sign.~~

~~e. One temporary sign may be displayed for any new business or owner for a period of time not to exceed 28 consecutive days, except as otherwise permitted by the City Commission.~~

~~d. No temporary sign may have a single face area greater than 32 square feet nor be of greater height than the top of the wall to which it is attached. If the temporary sign is not attached to a wall, the sign shall be attached so the bottom edge of such sign is not less than 7 feet 6 inches above grade and shall not exceed 12 feet in overall height~~

~~e. No temporary sign shall be strung across any public right of way, nor shall any temporary sign project beyond the property line except as authorized by the City Commission.~~

~~f. Temporary signs shall be removed promptly at the end of the display period provided for above.~~

~~g. Temporary signs found by the Building Inspector to be in a torn or damaged condition must be removed by the owner within 3 days after receipt of notice to do so from the Building Inspector. Temporary signs found to be unsafe shall be removed immediately upon receipt of notice from the Building Inspector.~~

Wade Trim Commentary: A new temporary signs section is proposed later as division (B),(6).

5. 4. Wall signs.

a. Wall signs may be provided on all street sides, front sides or parking lot sides of a building, and the total surface area of all wall signs shall not exceed 10% of the area of the front elevation (including doors and windows) of the principal building or 3 square feet for each lineal foot of building frontage, or 100 square feet, whichever is less. Where a single principal building is devoted to 2 or more commercial uses, the operator of each such use may install a front wall sign. The maximum area of each such sign shall be determined by determining the proportionate share of the front face (including doors and windows) of the principal building occupied by each such use and applying the proportion of the total sign area permitted from the front wall of the building; or the per cent agreed to by the occupants, total not to exceed the above area limitations. It is the responsibility of the applicant to provide the required information when applying for a sign permit.

b. The sign may be illuminated as required by ~~subsection 2.k~~ **division (B)(2)(i).**

~~e. Time and temperature signs shall be permitted.~~

~~d. c.~~ All wall signs of a greater area than 50 square feet shall have a have a surface or facing of noncombustible material.

~~e. d.~~ Limitation on placement. No wall sign shall cover wholly or partially any wall opening nor project beyond the ends or top of the wall which attached.

~~f. e.~~ No wall sign shall have a greater thickness than 12 inches measured from the wall to which it is attached to the outermost surface. Wall signs may project over the public right-of-way not to exceed 12 inches, provided clearance of not less than 7 feet 6 inches is maintained below the sign if the sign projects more than 4 inches. The sign shall not project above the roof line.

~~g. f.~~ All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails. The method of attachment shall be stated on the permit application. All plans for the erection of signs shall be submitted to the Building Inspector for review and approval and shall be further subject to all codes and ordinances of the city.

5. Mural Signs. Mural signs which contain commercial messages, or images or messages which are associated with or related to a business, may be allowed after review and approval by the Planning Commission and are further subject to the following:

a. Only one wall of a building or structure may be used for the mural. The portion of the wall occupied by the mural shall not be greater than twenty-five percent (25%) of the total wall area.

b. Murals shall only be permitted on the side or rear walls of buildings.

c. Murals shall be allowed only on building walls that do not contain wall signs on the same wall as occupants of the building.

d. Murals depicting offensive or obscene materials, or partially nude or seminude persons, shall be prohibited.

e. Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained.

f. The unauthorized inscribing, spraying of paint, or making symbols using chalk, dye, ink, paint, spray paint or similar materials on public or private places, structures, or other surfaces shall not be permitted.

Wade Trim Commentary: This is new language which would allow and regulate mural signs containing commercial messages within the B-1, B-2, W-M and P-I districts.

(c) *I-1 and I-2 District sign types allowed.* All sign types allowed and as controlled for business districts, plus the following: nonaccessory signs shall be permitted but shall not be located closer than 200 feet to any public right-of-way line or district zoned for residential use and provided further that there shall be not less than 1,000 feet between signs located on the same side of a right-of-way. In any I-1 District nonaccessory signs shall not exceed 150 square feet in size on any one face, nor likewise, 350 square feet in any I-2 District. The height of any sign shall not exceed 30 feet.

(d) *NM-Nautical Mile District.* In addition to the requirements of this section, for uses located in the Nautical Mile overlay district, signs shall also conform to the provisions set forth herein.

~~(e) *Accessory signs.* Permitted signs accessory to churches, schools or nonprofit institutions; sign types allowed (all use districts). Churches, colleges, schools, buildings housing governmental functions and utilities of the city, county or state or any subdivision thereof are permitted to erect signs. The signs, when of a permanent nature, shall meet all the requirements of this chapter and other ordinances of the city except as provided hereafter and may include ground, portable, real estate and temporary signs as defined in this chapter. During periods of special events, temporary signs advertising such events may be allowed for periods not to exceed 2 weeks.~~

***Wade Trim Commentary:** This language is no longer necessary. If located within a residential district, they would be allowed signage as a permitted non-residential use (see division (B), (4), (a), 1 above). If located within a commercial district, they would be allowed the same signage that a commercial use would be allowed.*

~~(4)~~ **(5) Prohibited signs.** The following signs are prohibited within the city:

- (a) String lights used in connection with business premises ~~for commercial purposes~~, other than holiday decorations;
- (b) Any sign unlawfully installed, erected or maintained;
- (c) ~~Business~~ Signs erected on any post tree, utility pole, public right-of-way or dedicated public easement or other object within any area, whether public or private;
- (d) Any sign or banner erected upon or across any public right-of-way or dedicated public easement except by permission of the City Commission;
- (e) Signs which incorporate in any manner any flashing lights;
- (f) Any sign or other advertising structure upon which is displayed any obscene, indecent or immoral matter;
- (g) Rotating signs;
- (h) Signs on park-type benches;
- ~~(i) Freestanding signs;~~

***Wade Trim Commentary:** We are not aware of the intent/purpose of the freestanding sign definition or distinction with portable signs. We are proposing to delete the freestanding sign definition and all regulations pertaining to freestanding signs.*

~~(j)~~ **(i)** Any sign on the roof of any building;

~~(k) Marquee signs;~~

***Wade Trim Commentary:** Marquee signs are now proposed to be allowed.*

~~(j)~~ **(j)** Projecting signs, except as permitted in the NMD-Nautical Mile District;

~~(m)~~ **(k)** Vehicles used as signs: Any sign on a motor vehicle or trailer which is parked in front of or at a business, or in such a manner that is visible from a public street or from a residential zoning district, ~~which is used primarily for the purpose of advertising a business, product or service is prohibited~~; and

~~(n)~~ **(l)** Any sign type that is not defined within this chapter shall be subject to review and approval by the city.

(6) Temporary and portable signs.

(a) Temporary signs, as defined herein, may be allowed within the R-IA, R-1B, R-M and MHP Districts, provided the following requirements are met. Portable signs, as defined herein, are not allowed within the R-IA, R-1B, R-M and MHP Districts.

1. No more than one (1) temporary sign may be allowed per street frontage. Additional temporary signs are allowed during certain time periods, as follows:

a. During the time period starting when an election ballot has been certified by the County Clerk and extending seven (7) days after an election, up to three (3) additional signs may be allowed.

b. During the time period noted on a building permit issued by Marine City allowing for construction activities to occur on the site, one (1) additional temporary sign per street frontage is allowed.

c. During the time period where the property is actively listed for sale, one (1) additional temporary sign per street frontage is allowed.

2. Temporary signs shall not exceed six (6) square feet of display area and four (4) feet in height.

3. Temporary signs must be safely affixed, properly maintained and not allowed to become unsightly through disrepair or action of the elements.

4. The location of any sign permitted by this section shall not interfere with pedestrian traffic, driver safety, or handicap access.

(b) Temporary signs, as defined herein, may be allowed within the B-1, B-2, W-M, P-1, I-1 and I-2 Districts, provided the following requirements are met:

1. No more than one (1) temporary sign may be allowed per street frontage. Additional temporary signs are allowed during certain time periods, as follows:

a. During the time period starting when an election ballot has been certified by the County Clerk and extending seven (7) days after an election, up to three (3) additional temporary signs may be allowed.

b. During the time period noted on a building permit issued by Marine City allowing for construction activities to occur on the site, one (1) additional temporary sign per street frontage is allowed.

c. During the time period where the property is actively listed for sale, one (1) additional temporary sign per street frontage is allowed.

2. Temporary signs shall not exceed nine (9) square feet of display area and four (4) feet in height.

3. Temporary signs must be safely affixed, properly maintained and not allowed to become unsightly through disrepair or action of the elements.

4. The location of any sign permitted by this section shall not interfere with pedestrian traffic, driver safety, or handicap access.

5. Additional requirements for specific temporary sign types: The following specific sign types shall require permit approval by the Zoning Administrator for specified time periods which, in total, do not exceed (60) days in any one calendar year:

a. Banners, provided they are affixed to a building wall, over a permanent sign, or by other means necessary so long as the banner is stationary and safely supported. In no case shall more than one (1) banner sign be allowed per street frontage.

b. Balloon Signs, provided no more than one (1) balloon sign shall be allowed per street frontage.

c. Tear Drop Flags, provided they do not exceed twelve (12) feet in height measured from grade. In no case shall more than one (1) tear drop flag be allowed per street frontage.

d. At any given time, no more than one (1) of the above temporary sign types is allowed on a single premises.

(c) Portable signs, as defined herein, may be allowed within the B-1, B-2, W-M, P-1, I-1 and I-2 Districts, provided the following requirements are met:

1. Such signs may be located outside for display only during regular business hours.

2. No more than one (1) portable sign may be allowed per street frontage.

3. Portable signs shall not exceed nine (9) square feet of display area and four (4) feet in height.

4. Portable signs must be properly maintained and not allowed to become unsightly through disrepair or action of the elements.

5. The location of portable signs shall not interfere with pedestrian traffic, driver safety, or handicap access.

~~(5)~~ (7) Nonconforming signs.

(a) All existing signs that do not conform to the provisions of this chapter shall be permitted to continue as nonconforming signs until such time as they are removed or until any changes are necessary, at which time they shall conform to the provisions of this chapter. The provisions of this division shall not apply to electrical maintenance and repainting.

(b) A nonconforming use shall not be permitted to add additional signs to the building or premises other than those existing. Signs on nonconforming uses shall be maintained in good repair or be removed, and such removal shall be conditional to divisions ~~(B)(7) and (8)~~ **(B)(9) and (10)** hereof.

(c) No permits for the installation, erection or placement of any new signs shall be issued while a nonconforming sign or an unlawful sign remains in use upon the same premises.

~~(6)~~ **(8)** *Enforcement.* This section shall be enforced by the Building Inspector or any employee designated by the City Commission.

~~(7)~~ **(9)** *Unsafe, damaged and unlawful signs.* Signs shall be subject to inspections, and when the condition of a sign is questionable, the owner or occupant shall obtain a professional engineer's report, certifying the condition of the sign. Failure to submit the report and make any specified corrections is a direct violation which will result in court action and order for the sign removal.

~~(8)~~ **(10)** *Sign maintenance.* The Building Inspector may forward to the prosecutor a violation report seeking a court order for the maintenance of the sign.

(a) *Maintenance.* All signs, including those for which a permit is not required, together with all their supports, braces, guys and anchors, shall be maintained in good working order and when not galvanized or constructed of approved corrosion resistant, noncombustible materials shall be painted when necessary to prevent corrosion. The exteriors of all signs, supporting members, painted surfaces, advertising materials and lettering shall be kept painted and in good repair so as to present a neat and orderly appearance and so as not to create visual blight within the city. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign, must be well and in good repair. Loose or missing letters, figures, characters or items shall constitute a maintenance violation. Signs which lack maintenance shall be removed.

(b) *Housekeeping.* It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a clean, sanitary and healthful condition.

~~(9)~~ **(11)** *Sign permits required.* It shall be unlawful for any person to erect, repair, paint, alter or relocate any sign within the city, as defined in this section, without first obtaining a permit from the Building Inspector, with the exception of the following:

(a) *Signs for which a permit is not required.*

1. **Exempt signs listed in division (B),(3)** ~~Wall signs, which are used as nameplates; not exceeding 2 square feet in area; occupational signs denoting only the name and profession of the occupant in a commercial, public or other institutional building and not exceeding 2 square feet in area;~~

2. **Temporary signs as regulated by division (B),(6), unless otherwise specified therein** ~~Bulletin boards not over 20 square feet in area for governmental, educational and religious institutions when the same are located on the premises of the institutions, provided, however, if the signs are electrically illuminated an electrical permit must be obtained;~~

3. ~~Memorial signs or tablets, names of buildings and date of erection when cut in to any masonry surface or when constructed of bronze or aluminum;~~

4. ~~Traffic or other municipal signs, legal notices, danger and such temporary emergency or nonadvertising signs as may be approved by the city;~~

5. ~~Signs advertising the rental, sale, lease or open house of the property upon which they are located;~~

6. ~~Flags of recognized federal, state, county or city governments; and~~

~~7. Decorative displays, provided any such display that occupies a public right of way shall be subject to City Commission approval.~~

(b) *Application for sign permit.* Applications for permits shall be made upon forms provided by the Building Inspector and shall contain or have attached thereto the following information.

1. Name, address and telephone number of the applicant;
2. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;
3. Position and location of the sign or other advertising structure in relation to nearby buildings or structures;
4. Two blueprints or drawings of the plans and specifications and methods of construction and attachment to the building or in the ground;
5. Name of person, firm, corporation or association erecting the structure and as required by division (B)(2)(a) above;
6. Written consent of the owner where the sign is to be erected on vacant land;
7. In all cases where wiring is to be used in connection with the structure, it shall comply with the city's Electrical Code. The Electrical Inspector shall approve and affix his or her signature to the permit if it is deemed necessary by the Electrical Inspector;
8. Insurance policy or bond as required by division (B)(2)(a) of this section; and
9. Such other information as the Building Inspector shall require to show full compliance with this section and all other ordinances of the city.

(c) *Sign permit fee.* It shall be unlawful for any person to erect or alter any sign, except those signs specifically exempted herein, unless a permit shall first have been obtained from the Building Inspector for such erection or alteration and a permit fee paid to the city according to the schedule as shall be established from time to time by resolution of the City Commission.

(d) *Sign permit revocable at any time.* All rights and privileges accrued under the provisions of this section or any amendment thereto are mere licenses and may be revoked upon the violation of any of the conditions contained herein. If the work authorized under an erection permit has not been completed within 6 months after the date of issuance the permit shall become null and void and a new permit shall be necessary to continue the project. Partially completed signs, if abandoned, shall be removed by the erector upon notice from the Building Inspector.

(e) *Permit number.* Every sign hereafter erected shall have placed in a conspicuous place thereon, in letters not less than 1/2 inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(12) Substitution Clause. The owner of any sign which is otherwise allowed under this section may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech,

or favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a lot or allow the substitution of an off-site commercial message in place of an on-site commercial message.

Wade Trim Commentary: This new section is a "catch-all" section to help ensure content neutrality throughout the chapter.

(13) Severability Clause. If any part, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this section is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the section.

Wade Trim Commentary: This new section will ensure that if one portion of the ordinance is invalidated by a court of law, the other sections will remain valid.

Zoning Enabling Act Amendments

Chapter 160 – Zoning Code

(Sections 160.005, 160.036, 160.037, 160.052, 160.081, 160.175, 160.236, 160.274, 160.298, 160.301, 160.306, 160.315, 160.317, 160.318 and 160.322)

160.005 DEFINITIONS.

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

ADULT FOSTER CARE. As defined by the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979, as amended): a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis, but who do not require continuous nursing care.

- (a) **ADULT FOSTER CARE HOME, FAMILY.** A private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week for 2 or more consecutive weeks. The licensee shall be a member of the household and an occupant of the residence.
- (b) **ADULT FOSTER CARE HOME, SMALL GROUP.** An adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care for 5 or more days a week for 2 or more consecutive weeks.
- (c) **ADULT FOSTER CARE HOME, LARGE GROUP.** An adult foster care facility with the approved capacity to receive at least 13, but not more than 20 adults to be provided with foster care for 5 or more days a week for 2 or more consecutive weeks.

- (d) ADULT FOSTER CARE CONGREGATE FACILITY.** An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

~~**AGRICULTURE.** Farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, farm forestry and other similar enterprises, or uses, but no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of 1 year immediately prior thereto and for the use and consumption of persons residing on the premises.~~

AGRICULTURAL LAND. Substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

CHILD CARE ORGANIZATION. As defined by the Child Care Organizations Act (Public Act 116 of 1973, as amended): a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding that educational instruction may be given. Child care organizations include organizations, agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, day care group homes, or day care family homes.

- (a) DAY CARE HOME, FAMILY.** A private home in which 1 to 6 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A *FAMILY DAY-CARE HOME* includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.
- (b) DAY CARE HOME, GROUP.** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A *GROUP DAYCARE HOME* includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.
- (c) CHILD CARE CENTER.** A facility, other than a private residence, receiving 1 or more preschool or school-age children for periods of less than 24 hours a day, and where parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. May also be referred to as a day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

CHURCH. A building, the primary use of which is assembly of persons for religious worship or services together with reasonably closely related activities or uses. Such definition may include temples, synagogues, mosques or other similar places of worship.

DWELLING UNIT. A building, or a portion thereof, ~~designed for occupancy by 1 family for residential purposes and having cooking facilities.~~ **which is used exclusively as a residence and provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.**

DWELLING, MULTIPLE-FAMILY. A building, or portion thereof, ~~designed for occupancy by 3 or more families living independently of each other.~~ **consisting of three or more dwelling units.**

DWELLING, TWO-FAMILY. A building ~~designed exclusively for occupancy by 2 families, independent of each other~~ **consisting of two dwelling units** such as duplex dwelling unit.

IMPROVEMENTS. Those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of the City of Marine City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

INTENSITY OF DEVELOPMENT. The height, bulk, area, density, setback, use, and other similar characteristics of development.

SITE PLAN. Includes the documents and drawings required by this chapter to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

STATE LICENSED RESIDENTIAL FACILITY. A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979 or the Child Care Organizations Act, Public Act 116 of 1973, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

Wade Trim Commentary: These are new or amended definitions, based on definitions that are included in the Zoning Enabling Act.

As it relates to the "Dwelling" definitions... The former City or Village Zoning Act (PA 207 of 1921) specifically allowed for cities and villages to "limit and restrict the maximum number of families which may be housed in dwellings." Interestingly, comparable language was not found in the Township Zoning Act (PA 184 of 1943). The new Zoning Enabling Act also does not include such a statement, indicating that such authority was intentionally retracted from cities and villages by the legislature. Therefore, we suggest several amendments to remove the family restrictions found in the definitions of dwelling unit, one-family dwelling unit, two-family dwelling unit and multiple-family dwelling unit.

160.036 PRINCIPAL USES PERMITTED (R-1A and R-1B)

In a One-Family Residential District (R-1A and R-1B), no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (A) One-family detached dwellings;

- (B) Agriculture on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than 5 acres, all subject to the health and sanitation provisions of the City of Marine City;
- (C) Publicly owned and operated libraries, parks, parkways and recreational facilities;
- (D) Cemeteries which lawfully occupied land at the time of adoption of this chapter;
- (E) Adult foster care family home.**
- (F) Family day care home.**
- (G) Public, parochial and other private elementary, intermediate schools and/or high schools offering courses in general education, not operated for profit. All structures on the site shall be setback from abutting properties zoned for residential use not less than 25 feet.**
- (H) Churches and other facilities normally incidental thereto on the same property, including secular counseling services, such as family and individual counseling (not including dormitory use), whether provided directly or under lease with other charitable or governmental organizations. All structures on the site shall be set back from abutting properties zoned for residential use not less than 25 feet. Buildings of greater than the maximum height allowed herein, may be allowed provided front, side and rear yards are increased above the 25 feet minimum requirements by 1 foot for each foot of building that exceeds the maximum height allowed.**
- ~~(E)~~ **(I)** Temporary buildings and uses for construction purposes for a period not to exceed 1 year;
- ~~(F)~~ **(J)** Accessory buildings, provided that they shall be located as required herein;
- ~~(G)~~ **(K)** Name plates and signs as provided herein; and
- ~~(H)~~ **(L)** Automobile parking space to be provided as required herein.

160.037 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS (R-1A and R-1B)

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission:

- ~~(A) Churches and other facilities normally incidental thereto on the same property, including secular counseling services, such as family and individual counseling (not including dormitory use), whether provided directly or under lease with other charitable or governmental organizations.~~
 - ~~(1) All structures on the site shall be set back from abutting properties zoned for residential use not less than 25 feet. Buildings of greater than the maximum height allowed herein, may be allowed provided front, side and rear yards are increased above the 25 feet minimum requirements by 1 foot for each foot of building that exceeds the maximum height allowed.~~
 - ~~(2) Wherever the off street parking lot is adjacent to land zoned for residential purposes, a continuous and obscuring masonry wall 4 feet 6 inches in height or a heavily planted~~

~~greenbelt 10 feet in width, shall be provided along the sides of the parking area adjacent to the residentially zoned land. The wall or greenbelt shall be further subject to the provisions hereof.~~

~~(B) — Public, parochial and other private elementary, intermediate schools and/or high schools offering courses in general education, not operated for profit. All structures on the site shall be setback from abutting properties zoned for residential use not less than 25 feet.~~

(A) Adult foster care small group homes.

(1) Adult foster care small group homes shall be constructed, maintained, and operated in conformance with applicable local, state, and federal laws.

~~(C) (B) Utility and public service buildings...~~

~~(D) (C) Nursery schools, day nurseries and child care centers...~~

~~(E) (D) Private commercial recreational areas...~~

~~(F) (E) Golf courses...~~

~~(G) (F) Colleges, universities...~~

~~(H) (G) Public riding and/or boarding stables...~~

~~(I) (H) Private stable...~~

~~(J) (I) Plant material nurseries...~~

~~(K) (J) Home occupation...~~

~~(L) (K) Bed and breakfast...~~

~~(M) — State licensed family day care homes, subject to the following:~~

~~(1) — The licensee shall occupy the dwelling as a residence.~~

~~(2) — The licensee shall register with the City Clerk.~~

~~(3) — The hours of operation shall be limited to the period between 6:00 a.m. and 10:00 p.m.~~

~~(4) — No sign accessory to the home shall be permitted.~~

~~(5) — The zoning lot occupied by the family day care home shall not be located within 500 feet of another zoning lot used as a day care home.~~

~~(6) — Each licensed family day care home shall have a minimum of 600 square feet of suitable outdoor play area.~~

~~(N) (L) State-licensed group day-care homes, subject to the following:~~

- (1) ~~Conditions of division (M) above applicable to family day-care homes.~~
- (2) ~~Before a group day-care home shall be permitted under the provisions of this chapter, the Planning Commission shall hold a public hearing on the request with a notice to interested parties to be given in the manner prescribed hereby. At the hearing, the applicant shall provide a written proposal for procedures to be followed for dropping off and picking up children from the group day-care home. The Planning Commission shall approve or deny the application upon a finding that the proposed use as a group day-care home will not or will be detrimental to the public welfare or materially injurious to the property or improvements of the area.~~
- (1) **The hours of operation shall be limited to the period between 6:00 a.m. and 10:00 p.m.**
- (2) **No sign accessory to the home shall be permitted.**
- (3) Not less than 1,200 square feet of outdoor play area suitable for play activity shall be provided and maintained on the premises of the group day-care home.
- (4) The rear yard of the group day-care home shall be fenced to a height of not less than 4 feet nor more than 6 feet.
- (5) There shall be 1 off-street parking space for each nonresident care-giver, and there shall be 2 additional off-street or on-street parking spaces available for ingress and egress.
- (6) **The zoning lot occupied by the group day-care home shall not be located within 1,500 feet of any of the following:**
- (a) **Another licensed group child care home.**
 - (b) **An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Public Act 218 of 1979, as amended.**
 - (c) **A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, Public Act 368 of 1978, as amended.**
 - (d) **A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.**

(Θ) (M) Adaptive reuse...

Wade Trim Commentary: The Zoning Enabling Act includes standards for the regulation of adult foster care facilities and child care facilities. For example, the Zoning Enabling Act requires that adult foster care family homes (which provide care for six or less adults) be required "by right" in residential districts and requires that Townships (but not cities) must permit child care family homes (which provide care for six or less children) "by right" in residential districts.

At present, the Marine City Zoning Code does not define or allow any uses related to adult foster care. Therefore, we have added definitions for these uses and have inserted them into the various use districts, where appropriate. The City Zoning Code does allow for child care facilities, but utilizes requirements that are somewhat inconsistent with the Zoning Enabling Act. For example, although Cities are not required to allow child care family homes "by right" in residential districts, we do not feel that such uses should be held to stringent special approval standards given the increasing nation-wide demand for child care, the generally unobtrusive character of family day care homes, and regulation of such homes provided by the State Department of Human Services.

At present, churches are allowed as a special approval use in the R-1A and R-1B districts. Increasingly, the practice of subjecting churches to special approval standards has been challenged and struck down under the authority of the RLUIPA (the Federal Religious Land Use and Institutionalized Persons Act). Additionally, RLUIPA is clear that zoning codes may not exclude religious assemblies in places where they permit theaters, meeting halls, and other places where people might assemble for secular purposes. Currently, Marine City allows places of assembly in the commercial districts but does not allow churches in commercial districts. Consistent with the RLUIPA, the proposed amendments would allow churches "by right" in the residential and commercial districts.

Public school buildings are identified as special approval uses in the R-1A and R-1B districts. In a recent court case (*Northville v. Northville Public Schools*, Michigan Court of Appeals, 2001), it was concluded that the State superintendent of schools (not local zoning) has complete control over the review and approval of site plans for school buildings. For consistency with the court determination, amendments are proposed that would permit public schools "by right" in the R-1A and R-1B districts.

160.052 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS (R-M)

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission:

- (B) Housing for the elderly, **adult foster care large group homes and adult foster care congregate facilities**, not to exceed a height of 2 stories, when the following conditions are met:
 - (1) All housing for the elderly shall be provided as a planned development consisting of at least 5 acres and may provide for the following:
 - (a) Cottage type dwellings and/or apartment type dwelling units.
 - (b) Common services containing, but not limited to: Central dining rooms, recreational rooms, central lounge, and workshops.

- (2) All dwellings shall consist of at least 350 square feet of floor area per unit (not including kitchen and sanitary facilities).
- (3) Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25% of the total site exclusive of any dedicated public right-of-way.
- (4) **Housing for the elderly, adult foster care large group homes and adult foster care congregate facilities shall be constructed, maintained, and operated in conformance with applicable local, state, and federal laws.**

160.081 PRINCIPAL USES PERMITTED (B-1)

- (I) **Churches and other facilities normally incidental thereto on the same property, including secular counseling services, such as family and individual counseling (not including dormitory use), whether provided directly or under lease with other charitable or governmental organizations. Buildings of greater than the maximum height allowed herein, may be allowed.**

~~(J)~~ (J) Other uses similar...

~~(K)~~ (K) Public or private parking lots...

~~(L)~~ (L) Accessory structures...

160.175 INTENT

- (A) The nautical mile is of special public interest because of its unique location along the St. Clair River as a focal point of community redevelopment activities. The Nautical Mile District (NMD) is intended to encourage the redevelopment of the Nautical Mile in a compatible mixture of housing, recreation, entertainment, commercial, office, cultural, public and hotel uses through the flexible application of land regulatory standards. Such uses may be located in various combinations of mixed-use and single-use development. It is also the intent of the District to encourage a high quality of private development with reasonable public amenities to improve the overall living, working, shopping and recreational environment of the Nautical Mile. The Nautical Mile encompasses property within the DDA District and as designated by the City's Zoning Map. Special district objectives. ~~The City Village Zoning Act, Public Act 207 of 1921~~ **Zoning Enabling Act, Public Act 110 of 2006**, as amended, allows for the creation of special land development regulations to address problems and needs in specific areas. Accordingly, the Nautical Mile was established to address the special land management and redevelopment needs of the Nautical Mile.

160.236 PLANNED DEVELOPMENT

- (A) **Purpose.** The purpose of this Section is to permit flexibility in the regulation of land development; encourage innovation in land use and variety of design, layout and type of structures constructed; achieve efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better

housing, employment, and shopping opportunities particularly suited to the needs of residents in the City in accordance with § 503 of Public Act 110 of 2006, as amended.

- (B) **Authority.** The City Commission shall have the authority to approve, deny, or approve with conditions applications for a Planned Development Project (PDP).
- (C) **Amendment Required.** The approval of a PDP shall require an amendment to the Zoning Ordinance to revise the official Zoning Map to designate the subject property as a PDP. Approval granted under this Section (including the development agreement, all aspects of the final plan, and any conditions imposed on it) shall constitute an inseparable part of the zoning amendment.
- (D) **Qualifying Conditions.** In order to qualify for Planned Development Project (PDP) consideration, the following conditions shall be met to the satisfaction of the City Commission.
 - (1) **Recognizable Benefits.** The PDP shall result in recognizable and substantial benefits to the ultimate users of the project and to the community, where such benefits would otherwise be unlikely to be achieved under the regulations of the underlying zoning districts. The following benefits shall accrue from the PUD:
 - (a) The permanent protection and preservation of open space, valuable natural resources, and wildlife habitat.
 - (b) Efficient use of land and natural resources.
 - (c) The efficient arrangement of utilities and design of traffic circulation systems including limitations on the number of vehicular access points along the existing road network, thus minimizing traffic conflicts while satisfying emergency needs.
 - (d) Structures are sited so as to preserve important visual, ecological, recreational, cultural and historic resources.
 - (e) Residential amenities to serve residents of the PDP, such as playground areas, hiking trails, tennis courts and other outdoor recreational facilities.
 - (2) **Site Area and Control.** The minimum site area necessary to be considered for a PDP shall be 5 acres. If the PDP consists of multiple parcels, they must be contiguous. The existence of a public road dividing parcels or lots included in the proposed development shall not be a basis for the disqualification of contiguity. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Ordinance and the specifications of the PDP approval.
 - (3) **Mixed Use.** The PDP shall consist of at least two land uses authorized in this Ordinance. Two or more different types of housing, including, but not limited to, single-family dwellings and multiple family dwellings, may qualify as a PDP.
- (E) **Project Design Standards.**

- (1) Applicable Base Regulations.** Unless otherwise waived or modified as part of an approval in accordance with Subsection (E),(2) below, all yard and bulk, parking, loading, landscaping, lighting, and other standards for the districts listed below shall be applicable for uses proposed in a PDP:

 - (a) Single family residential uses shall comply with the regulations applicable in the R-1B District.**
 - (b) Multiple family residential uses shall comply with the regulations applicable in the R-M District.**
 - (c) Retail commercial uses and office uses shall comply with the regulations applicable in the B-2 District.**
 - (d) Industrial uses shall comply with the regulations in the I-1 District.**
 - (e) Mixed uses shall comply with the regulations applicable for each individual use.**
- (2) Regulatory Flexibility.** The City Commission may consider and permit flexibility in the regulation of land development to: encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, available infrastructure, natural resources, energy, and the provision of public services and utilities while continuing to meet goals and objectives of the City's Master Plan; encourage useful open space; provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the City; and/or respond to market conditions provided any variation granted would also result in the overall design being compatible with neighboring development and zoning. In such instances, building and/or site improvement requirements and standards need not be uniform with regard to each type of land use provided. Such variation(s) shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.
- (3) Residential Density.** Increases in the density of residential development may be permitted by the City Commission upon determination that the desired density will not adversely impact water and sewer services, storm water drainage, road capacity, traffic flow, parks and recreation services, fire and police services, schools, character of the area, and any planned public or private improvements in the area. Such increased density may be interspersed throughout the development. To qualify for density increases, the applicant must present and describe examples of benefits to the residents of the development and/or the citizens of the City. By way of example, such benefits may include one or more that:

 - (a) Augment the recognizable benefit standards required by the City Commission as outlined in Subsection (E),(1),(a)-(e) above.**
 - (b) Provide economic, environmental, or social benefits apart from those required by this Ordinance.**
 - (c) Enhance new or ongoing cultural activities.**

- (d) **Provide opportunities for the enhancement of public education.**
 - (e) **Implement the Leadership in Energy and Environmental Design (LEED) green building principles in the design, construction, and operation of structures.**
- (4) **Open Space Requirements.** Planned development projects containing a residential component shall provide and maintain usable open space as shown on the approved PDP plan. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the PDP plan and never changed to another use. Such conveyance shall:
- (a) **Provide for maintenance of the privately owned open space by private property owners with an interest in the open space.**
 - (b) **Provide maintenance standards and a schedule.**
 - (c) **Provide for assessment of the private property owners by the City for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.**
- (5) **Compatibility with the Master Plan.** The proposed PDP shall be consistent with the City's Master Plan.
- (6) **Availability and Capacity of Public Services.** The proposed type and density of use shall not exceed the capacity of existing public services, facilities and utilities.
- (7) **Pedestrian and Vehicular Circulation.** A pedestrian circulation system shall be provided throughout the project that is insulated from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing streets, sidewalks, and bicycle pathways in the vicinity of the site.
- (8) **Privacy for Dwelling Units.** The design of a PDP shall provide visual and sound privacy for any and all dwelling units within and surrounding the development. Fences, walls, and landscaping shall be used in the site design to protect the privacy of dwelling units.
- (9) **Utilities.** All new utilities serving a planned development, including electric, telephone, and cable television lines, shall be placed underground.
- (10) **Emergency Access.** The configuration of buildings, driveways, and other improvements shall allow convenient and direct emergency vehicle access.
- (11) **Design Integration.** Signage, lighting and building materials shall reflect an integrated development.
- (12) **Phasing.** Where a project is proposed for construction in phases, it shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the

necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PDP and residents of the surrounding area.

(F) ***Application Procedure.*** Application shall be made to the City for rezoning as a Planned Development Project. Applications for planned development zoning shall include applicable data required for site plan review as specified in § 160.300, and the following:

- (4) A written statement explaining in detail the full intent of the applicant indicating the specifics of the site plan as it relates to the type of dwelling units contemplated and resultant population; the extent of nonresidential development and the resultant traffic generated and parking demands created; and providing supporting documentation such as but not limited to: market studies supporting the land use request, traffic studies, and the intended scheduling of development, as may be appropriate for the specific project submitted.
- (1) **Overall PDP plan.** The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, square footage or acreage allocated to each use, approximate locations of each principal structure and use in the development, setbacks, and typical layouts and elevations for each type of use. The overall plan shall clearly delineate each type of residential use; office, commercial, and other non-residential use; each type of open space; community facilities and public areas; and other types of land uses.
- (2) **Traffic data and information concerning traffic generated by the proposed PDP.** Sufficient information shall be provided to allow the City to evaluate the impact of the proposed development on adjoining roads. The following traffic related information shall be provided:
 - (a) Estimates of the volume of traffic generated by each use.
 - (b) The peak hour volume of traffic expected to be generated by the proposed development.
 - (c) A schematic drawing indicating vehicular movement through the site, including anticipated turning movements.
 - (d) Measures being proposed to alleviate the impact of the development on the circulation system.
- (3) **Fiscal Impact.** Analysis of the fiscal impact of the proposed planned development on the City of Marine City and the school district.
- (4) **Market Study.** Evidence of market need for the proposed use(s) and the feasibility of completing the project in its entirety. This requirement may be waived by the City Commission upon making the determination, based on existing evidence and knowledge about the local economy, that market support does exist for the proposed uses.
- (5) **Legal Documentation of Single Ownership or Control.** The documentation shall be in the form of agreements, contracts, covenants, and deed restriction which indicate that the development can be completed as shown on the plans, and further, that all

portions of the development that are not to be maintained at public expense will continue to be operated and maintained by the developers or their successors.

- (6) **Schedule.** A schedule of the development and construction details, including specific phasing dates and timing of all proposed improvements.
- (7) **Documents.** A draft of ownership and governance documents is required. These documents shall include the following:
 - (a) **Deeds**
 - (b) **Warranties guaranteeing ownership conveyed and described in the deeds.**
 - (c) **A list of covenants, conditions, and restrictions that are conditions of ownership upon the purchasers and owners in the planned development.**
 - (d) **Association bylaws (for example, condominium association by-laws) that describe how the association is organized; the duties of the association to operate, manage, and maintain common elements of the planned development; and, the duties of individual shareholders to manage and maintain their own units.**
 - (e) **A draft PDP agreement.**
- (G) ***Preliminary Review Procedure.*** The following procedures and requirements provide for preliminary review of PDP proposals by City officials.
 - (1) **Submission of a completed plan.** The planned development application materials, required fees, and sufficient copies of the completed plan, prepared in the manner specified in this Section, shall be submitted to the City for review.
 - (2) **Review by City officials.** The Zoning Administrator and other appropriate City officials and review committees shall review the site plan and application materials pursuant to the project design standards outlined in this Section, and shall prepare a written review, which shall specify any deficiencies in the site plan and make recommendations as appropriate.
 - (3) **Submission of a revised plan and planned development application.** The applicant shall revise the plan and application materials, based on the recommendations set forth in the City's review. The applicant shall then submit sufficient copies of the revised plan for further review by staff and the Planning Commission at the same time.
- (H) ***Planning Commission Review and Recommendation to the City Commission.*** The following procedures and requirements provide for detailed review of PDP proposals by the Planning Commission.
 - (1) **Acceptance for Processing.** After all application materials have been received and review fees paid, the Zoning Administrator shall forward copies to the Planning Commission for review and action.

- (2) **Public Hearing.** The Planning Commission shall hold a public hearing with notice as provided in § 160.305 of this Zoning Ordinance.
- (3) **Review and Action.** Following the public hearing, the Planning Commission shall review the PDP application pursuant to the project design standards of this Section, requested modifications, and consistency with the purposes and intent of this Ordinance.
- (4) **Plan Revision.** If the Planning Commission determines that revisions are necessary to bring the PDP proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised plan. Following submission of a revised plan, the planned development proposal shall be placed on the agenda of the next available scheduled meeting of the Planning Commission for further review and possible recommendation to the City Commission.
- (5) **Planning Commission recommendation.** The Planning Commission shall review the application for a PDP, together with the public hearing findings and reports and recommendations from the City officials and other appropriate reviewing bodies. The Planning Commission shall then make a recommendation to the City Commission. The Planning Commission may recommend approval, approval with conditions, or denial as follows:
 - (a) **Approval.** Upon determination by the Planning Commission that the final plan for planned development is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning Commission may recommend approval to the City Commission.
 - (b) **Approval with conditions.** The Planning Commission may recommend that the City Commission impose reasonable conditions with the approval of a PDP proposal, to the extent authorized by law, for the following purposes:
 - 1. To ensure that public services and facilities affected by the proposed development will be capable of accommodating increased service loads caused by the development.
 - 2. To protect the natural environment and conserve natural resources and energy.
 - 3. To ensure compatibility with adjacent uses of land.
 - 4. To promote the use of land in a socially and economically desirable manner.
 - 5. To protect the public health, safety, and welfare of the individuals in the development and those immediately adjacent, and the community as a whole.
 - 6. To achieve the purpose and intent of this Ordinance.

In the event that the planned development is approved subject to conditions, such conditions shall become a part of the record of approval, and shall be modified only as provided herein.

- (c) **Denial.** Upon determination by the Planning Commission that a PDP proposal does not comply with the standards and regulations set forth in this Ordinance, fails to comply with the purpose and intent of this Section, or otherwise could be injurious to the public health, safety, welfare, and orderly development of the City, the Planning Commission shall recommend denial.

The Planning Commission shall prepare and transmit a recommendation to the City Commission stating its conclusions and findings, the basis for a recommendation regarding the creation of a PDP zone, and any recommended conditions relating to an affirmative decision.

- (I) **Preparation of Final Development Agreement.** Upon the approval recommendation of a PDP plan by the Planning Commission, the applicant shall prepare a written agreement setting forth any and all conditions upon which approval was based. The Zoning Administrator shall review the agreement, with assistance from the City Attorney and other advisors. After approval of the ordinance granting the zoning map amendment and development agreement by the City Commission, the agreement shall be recorded in the Office of the St Clair County Register of Deeds at the expense of the applicant. The agreement shall, at a minimum:

- (1) Incorporate by reference the final approved site plan.
- (2) If open space or common areas are indicated in the project for use by the residents, the open space or common areas shall be conveyed in fee or otherwise committed by dedication to the residents, and the use shall be irrevocably dedicated for use as open space for park, recreation or other common uses.
- (3) Detail a program and related financing mechanisms for maintaining common areas, amenities and features, such as walkways, signs, lighting and landscaping.
- (4) Assure that any natural features will be preserved as shown on the site plan.
- (5) Assure the financing for the construction and maintenance of all roadways and necessary utilities (including public water, waste water collection and treatment) through a performance bond or other means, for any and all phases of the project. In the case of phased project, this requirement shall be reviewed for compliance at the time of construction plan approval for each phase of the project.
- (6) Address any other concerns or conditions placed on the approval by the Planning Commission or the City Commission.

- (J) **Final Action by City Commission.** The following procedures and requirements provide for final action on PDP proposals by the City Commission.

- (1) After the Planning Commission makes its recommendation, the applicant shall make any required revisions and submit sufficient copies of the revised site plan and supporting materials for City Commission review.

- (2) **Public Hearing.** Upon receipt of the PDP plan and Planning Commission recommendation, the City Commission, solely at their option, may schedule an additional public hearing
 - (3) **City Commission Determination.** The City Commission shall make a determination based on review of the final plan together with the findings of the Planning Commission, and the reports and recommendation from the City officials and other appropriate reviewing bodies. Following completion of its review, the City Commission shall approve, approve with conditions, or deny a PDP proposal along with its related map change and development agreement in accordance with the guidelines described for the Planning Commission in Subsection (H),(5) above.
 - (4) **Upon approval by the City Commission of the Ordinance amendment, the PDP plan shall become an integral part of the zoning amendment, and for purposes of City record keeping, shall be referred to as "Planned Development Project No. _____," which number shall correspond to the number of the amending ordinance.**
 - (5) **All approved plans and records shall be filed with the City Clerk.**
- (K) ***Required Conditions.*** Planned Development Projects shall be subject to the following required conditions:
- (1) **Approval of a PDP shall constitute an amendment to the Zoning Ordinance. All improvements and land uses of the site shall be in conformity with the planned development project plan, any conditions imposed, and the approved development agreement. Changes to the approved PDP that are not considered minor by the Zoning Administrator shall be reviewed in accordance with the procedure for the original application.**
 - (2) **Approval of a principal use, and building and/or site improvement plans as part of the rezoning, shall be effective for a period of 12 months, except that the Planning Commission may, at its discretion and upon application by the land owner and/or his representative and for cause shown, grant an extension for an additional 12 months. At the end of the 24 month period, if the development is not completed, the Planning Commission shall review the progress to date and make a recommendation to the City Commission as to action relative to permitting continuation under the original approval for an additional time period. In the event an extension is not granted by the City Commission past the 24 month period, the approval and allowances, including the PDP development agreement, site plan, zoning designation, and any conditions imposed pursuant to this Section shall become null and void and of no further force and effect. In the event that an approved planned development plan becomes null and void, the City Planning Commission shall initiate proceedings to amend the zoning classification of the site.**
 - (3) **Plans for building and/or site improvements of the proposed PDP shall be in accordance with all other requirements of this Ordinance.**
- (L) ***Minor Changes.***
- (1) **Minor changes may be approved by the Zoning Administrator, subject to a finding that:**

- (a) The proposed changes will not affect the basis upon which approval was granted.
 - (b) The proposed minor changes will not adversely affect the overall planned development in light of the purpose and intent of this Section.
 - (c) The proposed changes will not affect the character nor the intensity of use, the general configuration of a buildings and uses on the site, vehicular or pedestrian circulation, drainage patterns, or the demand for public services.
- (2) Examples of minor changes include, but shall not be limited to additions or alteration to the landscape plan or landscape materials; alterations to the internal layout of an off-street parking lot, provided that the total number of spaces does not change; relocation of a trash receptacle changes in locations or tree types on an approved landscape plan, or location of designated parking spaces; or an increase in floor area of less than twenty percent (20%) of the initial total floor area, up to 5,000 square feet maximum.
- (M) *Performance Guarantee.* The City Commission may require the applicant to deposit a performance guarantee in accordance with § 90.162 of the Marine City Code.
- (N) *Fees.* Fees for legal, engineering, and planning review of plans shall be established for resolution of the City Commission in an amount sufficient to cover the actual costs incurred by the City.
- (O) *Zoning Board of Appeals Authority.* The ZBA shall have no authority to consider any appeal of a decision by the City Commission concerning a PDP application.

Wade Trim Commentary: The Zoning Enabling Act authorizes the use of "planned unit development" as a means to land development. Planned unit development (or planned development) is a zoning technique intended to encourage innovative and responsive design in developments that often include a mix of both residential and nonresidential uses. Planned development zoning offers flexibility in the development of land and helps create unique and cohesive communities within the built environment. We recommend that the City of Marine City embrace such authority and have developed new language to be included in the Code that outlines the procedures and requirements for the submittal, review, and approval of planned development projects.

160.274 PUBLIC HEARINGS AND NOTICES.

- (A) Upon receipt of an application for a special land use which requires a decision on discretionary grounds, **a public hearing shall be held thereon by the Planning Commission with notice as provided in §160.305 of this Zoning Ordinance.** ~~1 notice that a request for special land use approval has been received shall be published in a newspaper which circulates in the city, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than 5 nor more than 15 days before the date the application will be considered. If the name of the~~

occupants is not known, the term "occupant" may be used in making notification. 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 individuals, partnerships, businesses, or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(B) — The notice shall:

- (1) — Describe the nature of the special land use request;
- (2) — Indicate the property which is the subject of the special land use request;
- (3) — State when and where the special land use request will be considered;
- (4) — Indicate when and where written comments will be received concerning the request; and
- (5) — Indicate the date, time and place where the public hearing on the special land use will be held.

Wade Trim Commentary: Section 160.305 has the correct notice procedures per the Zoning Enabling Act. Therefore, we recommend that Section 160.274 simply refer to Section 160.305.

160.298 ZONING COMMISSION.

The City Planning Commission is hereby designated as the Commission specified in § 4 of Act 207 of the Public Acts of 1921 [M.C.L.A. § 125.584] **§ 301 of Act 110 of the Public Acts of 2006**, and shall perform the duties of the Commission as provided in the statute in connection with the amendment of this chapter.

160.301 CHANGES AND AMENDMENTS

- (A) The City Commission may, from time to time, change the district boundaries or the regulations herein provided, however, that before any amendment shall become effective, 1 public hearing shall be held thereon by the Planning Commission with notice as provided in § 160.305 of this Zoning Ordinance. The City Commission shall require a report from the Planning Commission on any proposed amendment before taking final action thereon. The Planning Commission shall submit its final report, which shall include a summary of comments submitted at the public hearing. The City Commission may hold additional public hearings if it considers it necessary.
- (1) **The City Commission shall grant a public hearing on a proposed amendment to an interested property owner who requests a hearing by certified mail, addressed to the City Clerk. A public hearing under this subsection is not subject to the requirements as provided in § 160.305, except that notice of the hearing shall be given to the interested property owner as specified in the Zoning Enabling Act, Public Act 110 of 2006.**

Wade Trim Commentary: The Zoning Enabling Act states that the City Commission must hold an additional public hearing if requested, in writing, by an interested property owner in the event of a proposed zoning amendment. We have included an amendment that specifies this.

160.306 CONDITIONAL REZONING

- (A) ***Intent.*** It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of § 405 of Public Act 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- (B) ***Application and Offer of Conditions.***
- (1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - (2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
 - (3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - (4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
 - (5) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
 - (6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Board of Appeals in accordance with the provisions of this Ordinance.
 - (7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
 - (8) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to

final rezoning action of the City Commission provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

- (C) ***Planning Commission Review.*** The Planning Commission, after public hearing and consideration of the standards for approval set forth in Subsection (E), may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- (D) ***City Commission Review.*** After receipt of the Planning Commission's recommendation, the City Commission shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Commission's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in Subsection (E). Should the City Commission consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Commission shall, in accordance with Public Act 110 of 2006, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Commission and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.
- (E) ***Factors.*** In reviewing an application for the rezoning of land where there is an offer of conditions, factors that should be considered by the Planning Commission and the City Commission shall include the following:
 - (1) Whether the proposed rezoning is consistent with the goals, policies and Future Land Use Map of the City of Marine City Master Plan;
 - (2) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values;
 - (3) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning. Consideration of impact on drains and roads is specifically required; and,
 - (4) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- (F) ***Approval.***
 - (1) If the City Commission finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Commission to accomplish the requested rezoning.

- (2) **The Statement of Conditions shall:**
- (a) **Be in a form recordable with the Register of Deeds of St Clair County or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Commission.**
 - (b) **Contain a legal description of the land to which it pertains.**
 - (c) **Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.**
 - (d) **Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.**
 - (e) **Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded with the Register of Deeds of St Clair County by the owner with a copy of the recorded document provided to the City within forty-five (45) days of its recording.**
 - (f) **Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.**
- (3) **Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.**
- (4) **The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of St Clair County. The owner shall provide a copy of the recorded document to the City within forty-five (45) days of the date of its recording. The City Commission shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.**
- (5) **Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.**
- (G) ***Compliance with Conditions.***
- (1) **Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement**

of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

- (2) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.
- (H) *Time Period for Establishing Development or Use.* Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Commission if: (1), it is demonstrated to the City Commission's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and (2), the City Commission finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and (3) the written request shall be made to the City Commission requesting the extension within 6 months of the end of the 36 month period.
- (I) *Reversion of Zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection (H) above, then the land shall revert to its former zoning classification as set forth in Public Act 110 of 2006, as amended. The reversion process shall be initiated by the City Commission requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
- (J) *Subsequent Rezoning of Land.* When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection (I) above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of St Clair County a notice that the Statement of Conditions is no longer in effect.
- (K) *Amendment of Conditions.*
 - (1) During the time period for commencement of an approved development or use specified pursuant to Subsection (H) above or during any extension thereof granted by the City Commission, the City shall not add to or alter the conditions in the Statement of Conditions.
 - (2) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- (L) *City Right to Rezone.* Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and Public Act 110 of 2006, as amended.

- (M) **Failure to Offer Conditions.** The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Wade Trim Commentary: The Zoning Enabling Act specifically authorizes the practice of "conditional rezoning." Essentially, it provides that an owner of land may voluntarily offer, in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map. We recommend that the City of Marine City embrace such authority and have developed new language to be included in the Code that outlines procedures and requirements for the submittal, review and approval of conditional rezoning requests.

160.315 CREATION AND MEMBERSHIP

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act of 2006 (M.C.L.A. §§ 125.3101 to 125.3702) and in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done. The Board shall consist of 5 members appointed by the City Commission, one of whom ~~shall~~ **may** be a member of the City Commission and one of whom ~~shall~~ **may** be a member of the Planning Commission. The Terms of office for members appointed to the Zoning Board of Appeals shall be for 3 years except for members serving because of their membership on the City Commission or Planning Commission, whose terms shall be limited to the time they are members of those bodies. Each member of the Board of Appeals shall be a resident of the city and shall be a qualified and registered elector on the date of appointment and throughout his or her tenure of office. A member of the Board of Appeals may be removed from such office as provided for in the Zoning Enabling Act. Any appointive vacancies shall be filled by the City Commission for the remainder of the unexpired term. The Board of Appeals shall annually elect its own Chairperson, Vice-Chairperson and Secretary, however, the City Commission member of the Board may not serve as Chairperson. The compensation of the appointed members of the Board of Appeals shall be fixed by the City Commission. The City Commission may appoint alternate members as provided in the Zoning Enabling Act. **A member of the Zoning Board of Appeals who is also a member of the Planning Commission or City Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or City Commission. However, the member may consider and vote on other unrelated matters involving the same property.**

160.317 APPEAL

- (A) An appeal may be taken to the Board of Appeals by any person, firm or corporation, or by any office, department, board or bureau ~~affected~~ **aggrieved** by a decision of the Building Inspector. The appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Building Inspector and the Board of Appeals a notice of appeal, specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

160.318 JURISDICTION

- (D) To hear and decide variance requests as set forth in section M.C.L.A. § 125.3604 of the Zoning Enabling Act. **However, this shall not include the authority to grant use variances.**
- (G) **To obtain a variance from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, off-street parking and loading space regulations, sign regulations and other similar requirements as specified in this Ordinance, the applicant must submit an affidavit indicating that a “practical difficulty” exists by demonstrating all of the following:**
 - (1) **That the strict enforcement of the provisions of the Zoning Ordinance would cause practical difficulties and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district or render conformity with such restrictions unnecessarily burdensome.**
 - (2) **That the conditions and circumstances are unique to the property and are not similarly applicable to other properties in the same zoning district.**
 - (3) **That the conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.**
 - (4) **That the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.**
 - (5) **That the requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.**

160.322 APPEAL TO CIRCUIT COURT

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court. An appeal from a decision of the Zoning Board of Appeals shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals.

Wade Trim Commentary: Several changes were implemented in the Zoning Enabling Act pertaining to the composition, procedural rules, and authority of the Board of Appeals. We have proposed several amendments to the applicable board of appeals sections for consistency with the Act.

Permits for Accessory Buildings and Fences
Chapter 160 – Zoning Code (Sections 160.213 and 160.221)

160.213 ACCESSORY BUILDINGS AND STRUCTURES

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

(A) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.

(B) Accessory buildings shall not be erected in any required yard, except a rear yard.

(C) An accessory building not exceeding 1 story or 14 feet in height may occupy not more than 25% of a required rear yard, plus 40% of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.

(D) No detached accessory building shall be located closer than 10 feet to any main building nor shall it be located closer than 3 feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than 2 feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

(E) No detached accessory building in an R-1A, R-1B, R-M, B-1 or P-1 District shall exceed 1 story or 14 feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts, ~~subject to Board of Appeals review and approval.~~

(F) (1) When an accessory building is located on a corner lot, the exterior side lot line of which is substantially a continuation of the front lot line of the lot to its rear, or is adjacent to a front lot line across a common separating street, the building shall not project beyond the front yard line required on the lot in rear of the corner lot.

(2) An accessory building shall in no case be located nearer than 10 feet to a street right-of-way.

(G) When an accessory building in any Residential or Business District is intended for other than the storage of private motor vehicles, the construction will conform to existing conventional construction of other buildings on the property and in the immediate area.

(H) A building permit shall be obtained prior to the erection of any accessory building, unless it is exempted from permit requirements per the Building Code, in which case such accessory building shall only require a zoning compliance permit.

~~(H)~~ (I) Satellite receiving dish installations.

(1) A SATELLITE RECEIVING DISH is defined as being any dish-shaped antenna designed to receive direct satellite signals.

(2) A building permit shall be obtained for the installation of a satellite receiving dish.

(3) Location of a satellite receiving dish shall be subject to all setback requirements of this chapter and shall in no instance be installed closer to a side or rear lot line than a distance equal to its height as measured from the ground to its highest vertical extension.

(4) The receiving dish shall be securely mounted and anchored in accordance with the requirements of the manufacturer and the Marine City Building Code.

(5) A satellite receiving dish shall not be mounted in any front or side yard.

160.221 OBSCURING WALLS AND FENCES

(A) For those Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring masonry wall as set out below:

[no proposed changes to table]

(B) Required walls and fences shall be located on the lot line except where utilities interfere and except in instances where this chapter requires conformance with front yard setbacks. Required walls may, upon approval of the Board of Appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Board of Appeals in reviewing the request.

(C) (1) The walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except the openings as may be approved by the Building Inspector. All walls herein required shall be constructed of materials approved by the Building Inspector, to be durable, weather resistant, rust proof and easily maintained and wood or wood products shall be specifically excluded.

(2) Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below a grade approved by the Building Inspector and shall be not less than 4 inches wider than the wall to be erected.

(3) Masonry walls may be constructed with openings above 32 inches above grade provided such openings are not larger than 64 square inches and do not comprise more than 1/3 of the total area of that part of the wall located more than 32 inches above grade.

(D) (1) The Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than 4 feet in height.

(2) In consideration of requests to waive wall requirements between nonresidential and residential districts, the Board shall refer the request to the Planning Commission for a determination.

(3) In such cases as the Planning Commission determines the residential district to be a future nonresidential area, the Board may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determination as hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the Board.

(E) A permit shall be required prior to the erection of an obscuring wall or fence in accordance with § 156.20 of this code.

Wade Trim Commentary: The purpose of this amendment is to clarify that permits are required for accessory buildings (zoning/building permit, depending on the size) and walls/fences.

Site Plan Review Procedures

Chapter 160 – Zoning Code (Section 160.300)

160.300 SITE PLAN REVIEW REQUIRED IN SPECIFIC DISTRICTS

(A) Site plan review and approval of all developmental proposals within specific zoning districts is required by the following provisions. The intent of this section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effect upon the surrounding land uses.

(B) Through the application of the following provisions, the attainment of the Master Plan will be assured and the city will develop in an orderly fashion.

(1) Site plan review required. A site plan shall be submitted to the Planning Commission for review and approval for the following:

(a) Any uses (except for single- **or two**-family dwellings, buildings and uses accessory to single- **or two**-family dwellings, and farm buildings) within the following districts: RM - Multiple-Family Residential, WM - Waterfront Recreation and Marina, MHP - Mobile Home Park, B-1 - Central Business, B-2 - General Business, I-1 - Light Industrial, I-2 - Heavy Industrial, P-1 - Vehicular Parking District.

(b) All special uses in single-family districts such as, but not limited to, churches, schools and public facilities.

(c) All site condominium or condominium projects.

(d) Any use or development for which the submission of a site plan is required by any provisions of this chapter.

(e) Any change and/or conversion of use as permitted and regulated by this chapter within the same zoning district.

(f) Any addition to an existing principal or accessory building within districts listed above and subject to the following provisions:

1. Wherein the proposed addition constitutes an increase of ~~1,000~~ **500** square feet or 10% or more as compared to the existing building or use whichever is less.

2. Wherein the proposed addition or expansion would require a variance from the provisions of this chapter no matter what size the addition or expansion.

(2) Site plan review criteria. The site plan shall be reviewed and approved by the Planning Commission upon finding that the following conditions are met:

- (a) The proposed use will not be injurious to the surrounding neighborhood.
- (b) There is a proper relationship between thoroughfares and proposed service drives, driveways, and parking areas.
- (c) The location of buildings, outside storage receptacles, parking areas, screen walls, and utility areas is such that the adverse effects of such uses will be minimized for the occupants of that use and the occupants of surrounding areas.
- (d) It provides for proper development of roads, easements, and public utilities and protects the general health, safety, welfare and character of the city.
- (e) It meets city requirements and standards for grading and surface drainage and for the design and construction of storm sewers, storm water holding facilities, water mains, sanitary sewers, and driveway approaches.
- (f) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- (g) Natural resources are preserved by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, and woodlands.
- (h) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, or nearby water bodies.
- (i) The location of buildings, parking, drives, landscaping and other improvements on the site is appropriate for the lot size and configuration.
- (j) Landscaping, including trees, shrubs and other vegetative material, is provided to maintain and improve the aesthetic quality of the site and the area.
- (k) The proposed use is in compliance with all city ordinances and any other applicable laws.

(3) Information required on site plan.

(a) Plans submitted for site plan approval shall contain all of the following data prior to approval of such plans by the Planning Commission. Final construction plans must be submitted to the Building Department and such construction plans must be reviewed and approved prior to obtaining a building permit.

(b) Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" by 36" with plan view drawn to a minimum scale of 1".20' if the subject property is less than 3 acres and 1"1=50' if 3 acres or more. Included on the site plan will be all dimensions and the following:

- (a) General information.

1. Proprietors name, address, and telephone number;
2. Date (month, day, year), including revisions;
3. Title block;
4. Scale;
5. North point;
6. Location map drawn at a scale of 1"=2,000' with north point indicated;
7. Architect, engineer, surveyor, landscape architect, or planner's seal;
8. Existing lot lines, building lines, structures, parking areas and the like on the parcel, and within 100 feet of the site;
9. Proposed lot lines, property lines and all structures, parking areas and the like within the site, and within 100 feet of the site;
10. Centerline and existing and proposed right-of-way lines;
11. Zoning classification of petitioner's parcel and all abutting parcels;
12. Gross acreage figure; and
13. Proximity to major thoroughfare and/or section corners.

(b) Physical features.

1. Proposed locations of access drives, street intersections, driveway locations, sidewalks, signs, curbing, and acceleration, deceleration, and passing lanes;
2. Location of existing and proposed service facilities above and below ground, including: storage, loading and disposal areas for chemicals, hazardous substances, salt, and fuels water main, hydrants, pump houses, standpipes, and building services and sizes; sanitary sewers and pumping stations; stormwater control facilities and structures including storm sewers, swales, retention and detention basins, drainageways, and other facilities, including calculations for sizes; location of all easements;
3. All buildings with dimensioned floor plans, setback and yard dimensions, and typical elevation views of proposed structures;
4. Dimensioned parking spaces and calculations, drives and method of surfacing;
5. Exterior lighting locations and illumination patterns;
6. Location and description of all existing and proposed landscaping, berms, fencing and walls;
7. Sidewalks and bike paths;
8. Trash receptacle pad location and method of screening;

9. Transformer pad location and method of screening;
10. Dedicated road or service drive locations;
11. Entrance details including sign locations and size;
12. Designation of fire lanes; and
13. Any other pertinent physical features.

(c) Natural features.

1. Existing topography with a maximum contour interval of 2 feet indicated. Topography on the site and beyond the site for a distance of 100 feet in all directions shall be indicated;
2. A grading plan showing finished contours at a maximum interval of 2 feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading;
3. Location of existing drainage courses, lakes, ponds, wetlands, rivers and streams, including their water surface elevation, floodplain elevation, and ordinary high water mark; and
4. Location of other natural resource features, including woodlands.

(d) Additional requirements for Multiple-Family, and PUD Developments.

1. Density calculations by type of unit by bedroom count;
2. Designation of units by type of unit in each building;
3. Carport locations and details where proposed;
4. Specific amount of space and locations;
5. Type of recreation facilities to be provided in recreation space; and
6. If proposed, details of community building and fencing of swimming pool.

(e) Additional requirements for commercial and industrial developments.

1. Loading/unloading areas;
2. Gross and useable floor area; and
3. Number of employees in peak usage.

(f) The Planning Commission may waive any of the above required site plan information, when such information is determined to be not pertinent to the proposed development.

(4) Application procedure. An application for site plan review shall be processed in the following manner.

(a) All site plans shall be submitted to the Zoning Administrator at least 21 days prior to the next regularly scheduled meeting of the Planning Commission and must contain the following to be accepted:

1. A signed and complete application;
2. Ten copies of the site plan;
3. All items as required hereby shown on the site plan; and
4. Required fees.

(b) Upon acceptance of the site plan, the Zoning Administrator shall:

1. Forward a copy of the site plan and application to the City Planner or Engineer for review;
2. Place review of the site plan on the next Planning Commission agenda; and
3. Forward a copy of the site plan and application to each Commission member.

~~(5) City review. Upon receipt of the site plan from the Zoning Administrator, the Planning Commission shall review the plan at their next regular meeting and thereafter approve or deny the site plan within a reasonable time.~~

~~(a) Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other regulations, it will be so indicated on the site plan.~~

~~(b) Upon the determination of the Planning Commission that a site plan is in compliance except with minor revisions, the Planning Commission may grant conditional approval. All revisions must be clearly delineated on copies required to be filed with the city.~~

~~(c) If extensive revision to the site plan is necessary to meet the ordinance and regulation requirements, the site plan shall be denied and the applicant requested to prepare an alternate site plan. In this case, "Denied" shall be written on the plan and reasons for denial indicated in the Planning Commission's resolution.~~

~~(d) When a site plan has been reviewed by the Planning Commission and all steps completed, 5 copies of the application and plans will be marked approved or denied for the following distribution:~~

- ~~1. One copy forwarded to the City Clerk for permanent record;~~
- ~~2. Two copies forwarded to the Zoning Administrator;~~
- ~~3. One copy forwarded to the City Planner or Planning Consultant; and~~
- ~~4. One copy forwarded to the applicant.~~

(5) Planning Commission review. The Planning Commission shall approve, approve with conditions, or deny the site plan within ninety (90) days of the date of the Planning Commission meeting at which the site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest

and/or require modifications in the proposed final site plan as are needed to gain approval.

(6) Administrative sketch plan review. The intent of this section is to permit the submittal of a sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this ordinance. The intent is to also provide for an administrative review by city staff of Planning Commission approved site plans for compliance with conditions as imposed by the Planning Commission.

(a) In lieu of a complete site plan prepared in accordance with subsection (3), a sketch plan may be submitted for the uses or activities identified below.

1. Accessory uses incidental to a conforming existing use where said use does not require any variance or further site modifications.

2. Expansion and/or addition of one thousand five hundred (1,500) square feet or less to an existing conforming structure or use.

3. Alterations to off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or ADA requirements.

4. Improvements or installation of walls, fences, lighting or trash containers/enclosures.

5. Approval for establishment of a home occupation.

6. Change of use to a permitted use in any zoning district, limited to a use not exceeding two thousand five hundred (2,500) square feet.

(b) Procedure.

1. The procedure for administrative approval of a sketch plan shall involve the submittal of a sketch plan meeting the requirements of this subsection. Additionally, the required application form and fee shall be submitted. The Zoning Administrator shall review the sketch plan in accordance with the standards of subsection (2). The Zoning Administrator shall make a report of administrative sketch plan reviews to the Planning Commission.

2. The Zoning Administrator retains the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a complete site plan is required, the Zoning Administrator shall inform the applicant to submit a set of plans in accordance with this article within 14 days of receipt of the application. The Zoning Administrator shall also have authority to refer any site plan eligible for administrative review to any consultants employed by the City for the purposes of site plan review.

(c) Sketch plan information required.

1. Details of the propose changes to the use or structure in question.

2. Proprietors', applicants', and owners' names, addressed and telephone numbers.

3. Location map with north point indicated.

4. Locations of existing landscaping, lighting, parking, if applicable, including the proposed method of refuse collection.

5. Gross acreage and building figures.

6. Zoning classification of petitioners' parcel and all abutting parcels.

7. Estimated cost of proposed site improvements including roadways, lighting, utilities, sidewalks, drainage, fences, walls, and landscaping.

~~(6)~~ (7) Effect of approval. When an applicant receives final site approval, he or she must develop the site in complete conformity with the approved site plan. The site plan approval shall be valid for a period of 1 year. If the project is not under construction with a building permit at the expiration of the approval time, the site plan approval becomes null and void and the developer shall make a new application for approval. Time extension to site plan approval may be granted by the Planning Commission.

(8) Amendment of approved site plan. The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing (s) be submitted showing such minor changes, for purposes of record.

(9) Modification of plan during construction. All improvements shall conform to the final site plan. Any changes, which result in a material alteration of the site plan approved by the Planning Commission, shall require resubmittal to the Planning Commission. The Planning Commission, or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

Wade Trim Commentary: This proposed amendment establishes an administrative review and sketch plan submittal process for small projects that typically do not justify the preparation of a fully detailed site plan or review by the Planning Commission. The proposed amendment also outlines procedures for amendments to approved site plans and changes during construction.

Process to Allow Unspecified Uses Chapter 160 – Zoning Code (New Section 160.024)

ZONING DISTRICTS AND MAP

160.024 APPLICATION OF DISTRICT REGULATIONS

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, building, structure, or uses throughout each district.

No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this Ordinance. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.

(A) Uses in Districts.

(1) **Permitted Uses.** Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning district or are similar, as determined by the Planning Commission, to such listed uses.

(2) **Accessory Uses and Buildings.** Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.

(3) **Special Uses.** Special uses are permitted as listed or if similar, as determined by the Planning Commission, to the listed special uses.

Wade Trim Commentary: Presently, the ordinance does not allow flexibility to permit a use which is not specifically listed in the ordinance. This amendment would provide such flexibility, with authority for determination given to either the Zoning Administrator or the Planning Commission.

Home Occupations

Chapter 160 – Zoning Code (Sections 160.005 and 160.037; Add New Section 160.237)

160.005 DEFINITIONS

HOME OCCUPATION. ~~An occupation carried on within the walls of a dwelling unit and not visible or noticeable in any manner or form from outside the walls of the dwelling.~~ **An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.**

R-1A AND R-1B, ONE-FAMILY RESIDENTIAL DISTRICTS

160.037 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

~~(K) Home occupation:~~

~~(1) A home occupation is any use for gain or support conducted only by members of a family residing in a dwelling and which is clearly incidental and secondary to the residential use of the premises; provided, that such use does not change the character of the dwelling, on, or within the walls of a dwelling unit, or any accessory building and is not visible or noticeable in any manner or form from the outside. Provided further,~~

that no article or service is sold or offered for sale on the premises, except such as is produced by such occupation; that such occupation shall not permit external alterations or construction feature, outdoor storage, outdoor display, or signs not customary in residential areas.

(2) A home occupation shall occupy not more than 25% of the total floor area of the dwelling, but in no event more than 500 square feet of floor area.

(3) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in the required front yard.

(4) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

GENERAL PROVISIONS

160.237 HOME OCCUPATIONS

(A) Permitted Home Occupations. The following uses shall be permitted as home occupations within any zoning district, subject to compliance with the requirements of this section:

(1) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, realtors, accountants, computer programmers, writers, salespersons and similar occupations.

(2) Personal services, including barber shops, beauty parlors, manicure and pedicure shops, grooming, catering, and chauffeuring services.

(3) Music, dance, art and craft classes, tutoring, and studios for artists, sculptors, musicians and photographers.

(4) Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, model making, cabinetry, and wood-working.

(5) Repair services, limited to watches and clocks, small appliances, instruments, computers, electronic devices, and similar small devices.

(6) Telephone answering or telemarketing.

(7) Any other use determined by the Zoning Administrator to be similar to, and compatible with, the above listed uses.

(B) Prohibited Home Occupations. The following uses are expressly prohibited as a home occupation:

(1) Automobile truck, recreation vehicle, boat, motorcycle or small engine repair, bump and

paint shops, salvage or storage yards.

- (2) Kennels or veterinary clinics.**
- (3) Medical or dental clinics.**
- (4) Retail sales of merchandise.**
- (5) Eating and/or drinking establishments.**
- (6) Undertaking and funeral homes.**
- (7) Adult uses and sexually-oriented businesses.**

(C) Use Standards.

(1) A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes. No more than twenty-five (25%) percent of the floor area of the dwelling and twenty-five (25%) of the floor area of any accessory structure shall be devoted to a home occupation.

(2) A home occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.

(3) A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such Home Occupation.

(4) A home occupation shall not generate sewage or water use in excess of what is normally generated from a single family dwelling in a residential area.

(5) No employees shall be permitted other than members of the immediate family resident in the dwelling unit.

(6) All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a home occupation.

(7) No signage beyond that which is allowed for single-family dwellings within the zoning district shall be permitted.

(8) No vehicular traffic shall be permitted for the home occupation, other than that which is normally generated for a single dwelling unit in a residential area, both as to volume and type of vehicles.

(9) Exterior storage of equipment, accessory items or outdoor display of any kind are prohibited in connection with a home occupation.

(10) The establishment of a home occupation shall not necessitate exterior modification, except as may be required to accommodate physically handicapped persons, or as may be required

by the building code.

(11) Customer or client visits, and deliveries associated with the home occupation shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.

(D) Permits.

(1) A permit must be obtained to lawfully operate a home occupation. Application shall be made to the Zoning Administrator, who shall approve such requests which demonstrate compliance with the requirements of this Section. In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

(2) Should a lawfully established home occupation no longer meet the conditions outlined above or other conditions stipulated for approval, a violation shall be cited against the operator of the home occupation. The operator of the home occupation shall have ten (10) working days to correct the referenced violations. If the violations are not corrected within that time, the permit to operate the home occupation shall be revoked and all related activities must cease.

(3) Home occupation permits shall be limited to the applicant who legally resides in the residence.

Wade Trim Commentary: Home occupations are presently only allowed as a special land use within residential districts, subject to Planning Commission approval after a public hearing. This is an overly burdensome review process and likely is a deterrent for prospective home occupations to gain approval from the city (they may simply proceed with establishment of the home occupation and hope that the city does not find out). This amendment provides a much more streamlined process for the approval of home occupations. The amendment also outlines appropriate home occupation use standards.

**W-M District Side Setback Discrepancy
Chapter 160 – Zoning Code (Section 160.195)**

160.195 SCHEDULE LIMITING HEIGHT, BULK DENSITY AND AREA BY ZONING DISTRICT

[Amend table by deleting footnote (h) from the W-M District applicable to side yard setback.]

160.196 NOTES TO SCHEDULE

(H) (1) No side yards are required along the interior side lot lines of the District, except as otherwise specified in the Building Code, provided that if walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than 10 feet shall be provided.

(2) On a corner lot which borders on a residential district there shall be provided a setback of 20 feet on the side or residential street. On an exterior side yard abutting a residential district there shall be provided a setback of 10 feet in width.

(M) Side yard: 10 feet. Every lot on which a structure is erected shall be provided with a side yard on each side of the lot. Each side yard shall be increased by 1 foot for each 10 feet, or part thereof, by which width of the structure exceeds 50 feet in overall dimension facing the street lot line. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than 50 feet on the side abutting the residential district.

***Wade Trim Commentary:** Presently, both footnote (h) and (m) apply to the side yard setback for the W-M District. These two footnotes contradict each other. After review, we believe that footnote (h) was mistakenly added, and only footnote (m) was intended to apply.*

Residential Units within the Central Business District Sections 160.081 and 160.082

160.081 PRINCIPAL USES PERMITTED (B-1, CENTRAL BUSINESS DISTRICT)

(K) Residential units, provided they are an integral part of the structure containing a permitted use, and the residential use is subordinate to the other permitted use;

[amend the lettering for all subsequent uses accordingly]

160.082 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS (B-1, CENTRAL BUSINESS DISTRICT)

~~**(C) Residential units, provided they are an integral part of the structure containing a permitted use, and the residential use is subordinate to the other permitted use;**~~

[amend the lettering for all subsequent uses accordingly]