



**For Immediate Release**

**Contact:** Michael Burns, City Manager  
City of Lowell, 616.897.8457

## **City of Lowell will hold virtual Planning Commission Meeting on Monday February 8, 2021**

As a result of COVID -19 and the current social distancing practices being mandated statewide, the Planning Commission Meeting will be holding their monthly meeting via teleconferencing on Monday February 8, 2021 at 7:00 P.M.

The Planning Commission will meet via the Zoom Computer Teleconferencing System. The meeting will be held in compliance with Public Act 254 of 2020 pertaining to the ability to conduct public meetings remotely.

The Zoom application allows for interactive public participation. The meeting will be available to those via online and/or telephone. To participate in the meeting via Zoom here is the contact information below:

### **Join Zoom Meeting**

<https://us02web.zoom.us/j/9806911106>

**Meeting ID: 980 691 1106**

**One tap mobile**

**+13126266799,,9806911106# US (Chicago)**

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### **Dial by your location**

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**+1 669 900 9128 US (San Jose)**

**+1 253 215 8782 US (Tacoma)**

**Meeting ID: 980 691 1106**

You may also provide input or ask questions of the Board relating to any items of business that will come before them at the meeting by emailing the City Clerk at [sullery@ci.lowell.mi.us](mailto:sullery@ci.lowell.mi.us) who will forward them to the Lowell Planning Commission, or by mailing them via regular U.S. Postal service to c/o City Clerk, City of Lowell, 301 E. Main St, Lowell, MI 49331, or by calling 616-897-8457.

Persons with disabilities may attend and participate using any of the above described methods. If you require special accommodations, please email [mburns@ci.lowell.mi.us](mailto:mburns@ci.lowell.mi.us) and we will be happy to accommodate you. If you have any questions or need further assistance, please email [sullery@ci.lowell.mi.us](mailto:sullery@ci.lowell.mi.us). More meeting information, including the meeting agenda, will be available at our website [www.lowellmi.gov](http://www.lowellmi.gov).

**According to the Attorney General, interrupting a public meeting in Michigan with hate speech or profanity could result in criminal charges under several State statutes relating to Fraudulent Access to a Computer or Network (MCL 752.797) and/or Malicious Use of Electronics Communication (MCL 750.540). According to the US Attorney for Eastern Michigan, Federal charges may include disrupting a public meeting, computer intrusion, using a computer to commit a crime, hate crimes, fraud, or transmitting threatening communications. Public meetings are being monitored and violations of statutes will be prosecuted.**

**# # #**



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Lowell, Michigan 49331  
Phone (616) 897-8457  
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PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN

AGENDA  
FOR THE REGULAR MEETING OF  
MONDAY, FEBRUARY 8, 2021 AT 7:00 P.M.

Join Zoom Meeting

<https://us02web.zoom.us/j/9806911106>

Meeting ID: 980 691 1106

One tap mobile

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Meeting ID: 980 691 1106

Find your local number: <https://us02web.zoom.us/j/kca8BkcpR4>

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
  - a. January 11, 2020 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
  - a. Zoning Ordinance – Definitions
  - b. Training
    - Questions/Topics you wish to discuss for future meetings.
6. NEW BUSINESS
  - a. 225 S. Washington – Initial Discussion - Site Plan Review – (Rezone or Text Amendment)
8. STAFF REPORT
9. COMMISSIONERS REMARKS
10. ADJOURNMENT

**OFFICIAL PROCEEDINGS  
OF THE  
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN  
FOR THE REGULAR MEETING OF  
MONDAY, JANUARY 13, 2020 AT 7:00 P.M.**

**1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL.**

The Meeting was called to order at 7:00 p.m. by Chair Bruce Barker.

Present: Commissioners Tony Ellis, Colin Plank, Michael Gadula, Marty Chambers, Amanda Schrauben, Dave Cadwallader, and Chair Bruce Barker.

Absent: None.

Also Present: Andy Moore with William & Works, City Manager Michael Burns and Lowell City Clerk Sue Ullery.

**2. ELECTION OF OFFICERS.**

a. Chair.

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to nominate Bruce Barker as Chair of the Planning Commission.

YES: 7.                      NO: None.                      ABSENT: None.                      MOTION CARRIED.

b. Vice Chair.

IT WAS MOVED BY CHAMBERS and seconded by PLANK to nominate Dave Cadwallader as Vice Chair of the Planning Commission.

YES: 7.                      NO: None.                      ABSENT: None.                      MOTION CARRIED.

c. Review and Adopt Rules of Procedure.

IT WAS MOVED BY BARKER and seconded by CADWALLADER to accept the Rules of Procedure as written.

YES: 7.                      NO: None                      ABSENT: None.                      MOTION CARRIED.

d. Meeting dates.

IT WAS MOVED BY BARKER and seconded by SCHRAUBEN to accept the meeting dates for the Planning Commission to be the 2<sup>nd</sup> Monday of the month @ 7:00 p.m.

YES: 7.                      NO: None.                      ABSENT: None.                      MOTION CARRIED.

**3. APPROVAL OF AGENDA.**

IT WAS MOVED BY CADWALLADER and seconded by PLANK to approve the agenda as written.

YES: 7.                      NO: None.                      ABSENT: None.                      MOTION CARRIED.

**4. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING.**

IT WAS MOVED BY CADWALLADER and seconded by GADULA to approve the minutes of the December 14, 2020 Planning Commission regular meeting as written.

YES: 7.                      NO: None.                      ABSENT: None.                      MOTION CARRIED.

5. **PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.**

There were no comments.

6. **OLD BUSINESS.**

a. **River City Cannabis – Special Land Use – 2163 W. Main.**

Andy Moore with Williams & Works stated an odor control plan has been submitted to further detail measures for odor control related to the proposed marihuana microbusiness in a multiple-occupant establishment at 2163 W. Main. A brief overview and analysis of the proposed methods of odor control was provided.

Michael Matthews then presented his odor system and the process.

Moore reviewed the Special Land Review Standards A-F.

The Commissioners found that the Special Land Review Standards A-F are met.

IT WAS MOVED BY BARKER and seconded by CHAMBERS that the Special Land Review Standards A - F have been met.

YES: 7.

NO: 0.

ABSENT: 0.

MOTION CARRIED.

Moore went on and reviewed the Adult Use Marihuana Establishment Special Land Use Standards A through M stating item F and G could be addressed as a condition.

The Commissioners found that the Adult Use Marihuana Establishment Special Land Use Standards A – M are met.

IT WAS MOVED BY BARKER and seconded by CHAMBERS that the Adult Use Marihuana Special Land Use Standards A-M have been met.

Moore recommended the proposed site plan be approved subject to the following conditions:

1. Prior to issuance of any City permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.
2. The applicant shall comply with any requirements from the City's Department of Public Works, City Engineer, Lowell Area Fire Department, City Police Department, Lowell Light and Power, or other City officials.
3. The proposed special land use shall comply with all applicable federal, state, and local requirements, and copies of all applicable permits shall be submitted to the City.
4. The applicant shall continually comply with applicable ordinances, codes, and requirements of the City of Lowell.
5. Any additional exterior lighting shall comply with the lighting standards of Section 4.24 and 19.03 C of the Zoning Ordinance.
6. The applicant shall verify the location and availability of barrier-free ramps to the building and provide additional ramps as required. Barrier-free ramps shall be six feet long with a maximum slope of 1:12 and contain a non-slip surface.
7. Signage shall comply with Chapter 20 of the Zoning Ordinance and must be approved by the Zoning Enforcement Officer prior to installation.
8. The applicant shall receive licensing as a marihuana microbusiness through the State of Michigan and submit a copy of this license to the City.

9. The applicant shall submit a copy of a provisional license issued by the City of Lowell pursuant to Chapter 28 of the city of Lowell code of ordinances. The facility shall not open until appropriate operating licenses have been obtained from the City of Lowell and the State of Michigan.
10. The applicant shall receive approval from and comply with any stipulations of Lowell Light and Power regarding electricity demand at the marihuana microbusiness.
11. The security plan shall address the items outlined in our confidential memo dated November 5, 2020, and any other items identified by the City's law enforcement personnel.
12. The applicant shall maintain odors so any odor generated inside the establishment is not detected outside the building or elsewhere in the Lowell City Mall. Doors and windows shall remain closed, except for the minimum time necessary for ingress/egress from the building, and a negative air pressure shall be maintained at a ratio of 1:4.
13. The applicant shall maintain all air scrubbing and filtration systems in working order and they must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance. Because this is a multi-tenant building, the City may require additional odor control measures if odors are detectable at adjacent businesses.
14. All waste receptacles containing marihuana products shall be secure and locked at all times. The applicant shall indicate the locations of indoor on the building floor plan and outdoor waste receptacles on the site plan.
15. All rooms associated with the growing and processing of marihuana products shall be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes.
16. Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide, or other substance toxic to wildlife, children, or pets shall be stored in a secured and locked area, be in compliance with State pesticide laws and regulations, and be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes.
17. The marihuana establishment shall not also sell alcoholic beverages or tobacco products.
18. The marihuana establishment shall comply at all times and in all circumstances with the MRTMA and applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
19. The applicant shall maintain clear and adequate records demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. Upon request from the City, the applicant shall allow the City to examine, monitor, and audit such records and documentation.
20. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure which contains electrical wiring, lighting, and/or watering devices that support the cultivation growing or harvesting of marihuana.
21. In the event of any conflict, the terms of this ordinance are preempted and the controlling authority shall be the statutory regulations set forth by the MRTMA or the adopted Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
22. Negative air pressure shall be maintained at either a ratio of 1:4 between the air intake (CFM) and exhaust fan (CFM); a minimum negative pressure of 0.01" water column relative to the building exterior and adjacent spaces without product; or a minimum exhaust rate of 0.2 CFM per square foot of floor area.
23. Negative air pressure shall be maintained throughout the entire building where there is marihuana product.
24. All fans shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building divided by three. All carbon filters shall be rated for the applicable CFM.
25. Air scrubbing and filtration systems shall be maintained in working order and shall be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to approve the River City Cannabis Special Land Use subject to the 25 conditions above.

YES: Commissioners Cadwallader, Chambers, Ellis, Gaduala, Plank, Schrauben and Chair Barker  
NO: None. ABSENT: None. MOTION CARRIED.

7. **NEW BUSINESS.**

a. **Prepare Planning Commission Annual Report for Council.**

It was a general consensus that Commissioner Ellis will prepare the report. Andy Moore with Williams & Works will provide a template for Ellis to use. Chair Barker will present it to the City Council at the February meeting.

8. **STAFF REPORT.**

City Manager Michael Burns stated that while he was on vacation he saw that the City of Alpena is getting sued by a marihuana establishment applicant that was not approved and it is because of the City limiting the number of establishments allowed. Burns will follow the story and keep us informed as to what happens.

Andy Moore with William & Works stated there may be another possible site plan applicant for the next meeting, if not we will continue to work through the Zoning Ordinance chapters to approve and wrap up.

9. **COMMISSIONERS REMARKS.**

Commissioner Gadula hopes this is the last zoom meeting and we will be in person next month.

Commissioner Ellis asked what is the protocol in the City for feathered flags, are they allowed or not. Andy Moore will look at the Ordinance and the circumstances where they are being used.

10. **ADJOURNMENT.**

IT WAS MOVED BY CADWALLADER and seconded by CHAMBERS to adjourn at 7:44 p.m.

DATE:

APPROVED:

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Bruce Barker, Chair

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Susan Ullery, Lowell City Clerk

## CHAPTER 2. - DEFINITIONS

### SECTION 2.01. - CONSTRUCTION OF LANGUAGE.

The following rules apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
  - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. "Either..or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them. Defined terms are indicated in bold print in this ordinance.

(Ord. No. 95-06, § 1, 12-27-95)

### SECTION 2.02. - DEFINITIONS - A.

Abutting. The sharing of a lot line or boundary.

Accessory building. A subordinate building on the same premises with a main building or portion of a main building and occupied or devoted to an accessory use; for example, a private garage.

Accessory use, or accessory. A use of a zoning lot which is clearly incidental to the principal use of the lot and customarily found in connection with the principal use. When "accessory" is used in this text, it shall have the same meaning as accessory use.

Adjacent. Lying near, but not necessarily sharing a lot line or boundary.

Adult arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.



Adult bookstore or adult video store. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- B. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary or majority use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

Adult cabaret. A nightclub, bar, restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features one or more of the following:

- A. Persons who appear nude or in a state of nudity or semi-nudity;
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
- D. Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult entertainment. Any exhibition, display, or dance which involves exposure to view of specified anatomical areas or specified sexual activities.

Adult live entertainment theater. An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."

Adult motel. A hotel, motel, or similar commercial establishment which:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- B. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

Adult motion picture theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this ordinance, for observation by patrons therein.

Airport. An area of land designated, used, or intended for use, for the landing and take-off of aircraft, and any areas designated, set aside, used, or intended for use, for airport buildings or other airport facilities, rights-of-way, or approach zones, together with all airport buildings and facilities located thereon.

Alley. Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alterations. Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders.

Arterial. An arterial roadway as designated in the City of Lowell Comprehensive Plan.

Average grade. The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

Awning. A roof-like structure not requiring a foundation attached to a building that serves as a shelter, as over a storefront, window, door, deck or installed equipment.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 1, 11-17-97; Ord. No. 06-01, § 1, 2-21-06)

### **SECTION 2.03. - DEFINITIONS - B.**

Banks, credit unions, savings and loan associations. A financial institution that is generally open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and similar fiduciary activities.

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

Bed and breakfast establishment. A house, or portion thereof, containing the principal residence of the operator, where short-term lodging rooms and meals are provided as a commercial operation, but this definition does not include short-term rentals as defined by this ordinance.

Berm. A mound of earth graded, shaped, and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

Boarding house or lodging house. A dwelling having one (1) or more kitchens and primarily used for the purpose of providing meals or lodging or both meals and lodging for compensation of any kind.

Board of zoning appeals, or board, or zoning board of appeals. The Board of Zoning Appeals of the City of Lowell.

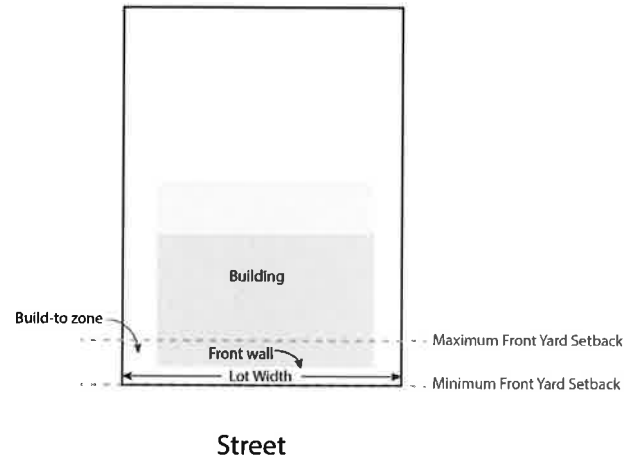
**Body shop.** Any building, premises, or land in which or upon which the primary use is: collision servicing, including body, frame and fender straightening or repair; vehicle painting; or provision of wrecker service with storage of vehicles included.

**Brewery/Winery.** A facility that engages in the production of beers, meads, wine, ciders, distilled spirits and similar beverages for off-premise consumption. A brewery/winery may include retail sale of beer, wine, spirits, and similar products made on-site and related items, but shall not include a restaurant.

**Buffer strip.** A strip of land required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

**Build-to zone.** The area located between the required minimum and maximum front yard setback as illustrated below.

**Building.** A structure erected on-site, pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.



**Building code.** The code or codes governing the erection and maintenance of buildings as currently adopted by the City of Lowell.

**Building frontage.** A percentage expressed as the width of that part of a building wall which faces the public street and occupies the build-to zone divided by the total lot width.

**Building line.** A line formed by the eaves of the building, or the most horizontal appendage of the building, and for the purposes of this ordinance, a minimum building line is the same as the front setback.

**Building inspector.** The person designated by the city council to administer the provisions of the adopted Building Codes for the City of Lowell.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-11, § 1, 12-20-99; Ord. No. 99-10, § 1, 12-20-99)

## SECTION 2.04. - DEFINITIONS - C.

**Campground.** An area that is occupied or intended for occupancy by transients using recreational vehicles, motor homes, or tents for temporary dwelling, lodging, and/or sleeping purposes. A manufactured housing community shall not be considered a campground.

**Canopy.** A protective roof-like covering not requiring a foundation mounted independently on a frame over a walkway, door, or installed equipment.

**Certificate of occupancy.** A document signed by an authorized city official as a condition precedent to the commencement of a use or the construction of a structure or building which acknowledges that such use, structure, or building complies with the provisions of the zoning ordinance.

**Child care center.** A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one (1) or more children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

Child care center does not include a Sunday school, a vacation Bible school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than four (4) hours, while persons responsible for the children are attending religious classes or services.

City. City of Lowell, Michigan.

City council, or council. The City Council of the City of Lowell.

~~City or Village Zoning Act. Act 207 of the Michigan Public Acts of 1921, as amended.~~

Club. An organization or persons for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Commercial ~~Greenhouse~~ greenhouse or ~~Nursery~~nursery. A retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing, or display or such plants and related landscape materials or products.

Commercial storage warehouse. A building or buildings used primarily as a commercial business for the storage of goods and materials.

Commercial wireless communication tower. A structure designed and constructed to support one (1) or more antennas used for licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public. The term commercial wireless communication tower does not include amateur radio antennas.

Community ~~Center~~center. A facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Comprehensive plan. The Comprehensive Community Plan currently adopted by the City of Lowell, including graphic and written proposals, indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan and any amendment to such plan.

Convalescent or nursing home. A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 2, 11-17-97; Ord. No. 00-4, § 1, 9-18-00; Ord. No. 06-01, § 2, 2-21-06)

## **SECTION 2.05. - DEFINITIONS - D.**

Drive-through. A business establishment so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

~~Dry cleaning and laundry establishment: A commercial establishment providing dry cleaning and laundry services on-site for businesses and residents.~~

~~Dwelling: A building or portion thereof that is used exclusively for human habitation and that provides complete living facilities, including permanent provisions for sleeping, eating, cooking and sanitation.~~

Dwelling, multiple-family. A dwelling, or a portion of a building, designed exclusively for occupancy by three (3) or more families living independently of each other.

Dwelling, single-family. A dwelling designed exclusively for and occupied exclusively by one (1) family.

Dwelling, two-family. A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

(Ord. No. 95-06, § 1, 12-27-95)

## **SECTION 2.06. - DEFINITIONS - E.**

Employee. For purposes of Chapter 17A hereof, means a person who works or performs in and/or for a sexually oriented business, including the manager, regardless of whether or not said person is paid a salary, wage or other compensation by the manager or owner of said business.

Entertainer. Any person who performs any entertainment, exhibition or dance of any type within an adult cabaret, whether or not such person or anyone else charges or accepts a fee for such entertainment, exhibition, or dance.

Erected. Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie, to privately perform a striptease for another person, or to otherwise display specified sexual activities or specified anatomical areas.

Escort agency. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Essential public services. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. Essential public services shall not include commercial wireless communications towers.

Excavation. Any breaking of ground, except common household gardening and ground care.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 3, 11-17-97; Ord. No. 00-4, § 2, 9-18-00)

## **SECTION 2.07. - DEFINITIONS - F.**

Family. ~~A single individual or individuals, domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students, or other individuals whose relationship is of a transitory or seasonal nature, or for anticipated limited duration of school terms, or other similar determinable period of time One person residing in a household; or two (2) or more persons related by blood, marriage, adoption or legal arrangement, including foster children and servants residing together; or unrelated persons residing together as one housekeeping unit in a dwelling unit.~~



**Family day care home.** A private residence in which the operator permanently resides as a member of the household, registered with the Michigan Department of Social Services, in which one (1) but less than seven (7) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**Farm.** A contiguous parcel of land of not less than ten (10) acres in area, directly farmed or used for commercial agriculture by the owner-operator, manager, or tenant farmer by his own labor or with assistance of members of his household or hired employees. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, products, or animals, or used for the operation of the farm. Farms may include greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, piggeries, commercial feedlots, apiaries, truck farms, and forestry operations. Fish hatcheries, stockyards, recreation parks, stone quarries, gravel, dirt or sand pits, keeping furbearing animals or game, kennels, stables, riding academies, or mineral extraction, are not considered farm uses.

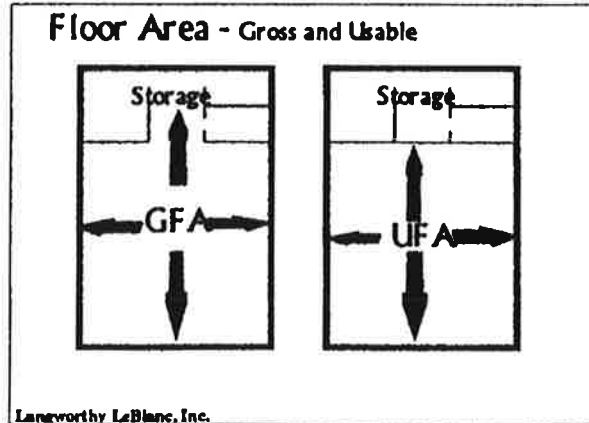
**Fence.** A barrier intended to prevent escape or intrusion or to mark a boundary. Such barriers are made typically of posts and wire or boards.

**Floor area, dwelling (DFA).** That area used for living, sleeping, eating or cooking as measured to the outside surfaces of the exterior walls. DFA does not include a garage, open porch, balcony, terrace, court, deck, storage space and other similar space not used for living, sleeping, eating or cooking.

**Foot candle.** A measure of illumination on a surface that is everywhere one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.

**Funeral home or Mortuary.** A building or part thereof used for human funeral services and related activities such as embalming and the performance of other services used in the preparation of the deceased for burial; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles; and facilities for cremation.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 03-5, § 1, 8-18-03; Ord. No. 04-1, § 1, 3-15-04; Ord. No. 11-01, § 1, 1-3-11)



## SECTION 2.08. - DEFINITIONS - G.

**Grade.** The gradient, the rate of incline or decline expressed as a percent. For example, a rise of twenty-five (25) feet in a horizontal distance of one hundred (100) feet would be expressed as a grade of twenty-five (25) percent.

**Greenbelt.** A strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this ordinance.

**Group day care home.** A private residence in which the operator permanently resides as a member of the household, licensed by the Michigan Department of Social Services, in which more

than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to unrelated minor children for more than four (4) weeks during a calendar year.

(Ord. No. 95-06, § 1, 12-27-95)

## SECTION 2.09. - DEFINITIONS - H.

**Height.** The vertical distance measured from the average grade to the highest point of a structure. In the case of a building, height shall be measured from the average grade to the highest point of the roof surface for a flat roof; to the deck line of mansard roofs; and to the midpoint between the eaves and ridge for gable, hip, and gambrel roofs.

**Home occupation.** An occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit. Without limiting the foregoing, a single-family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

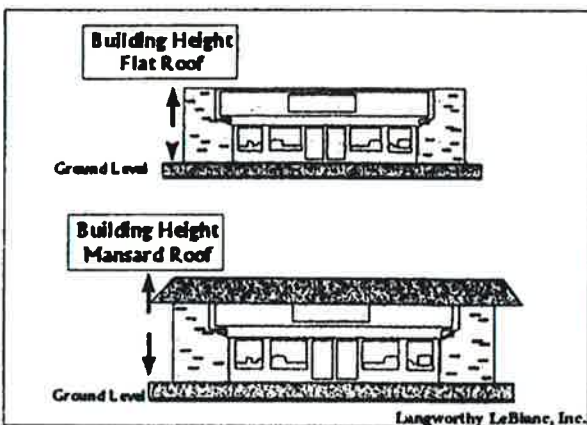
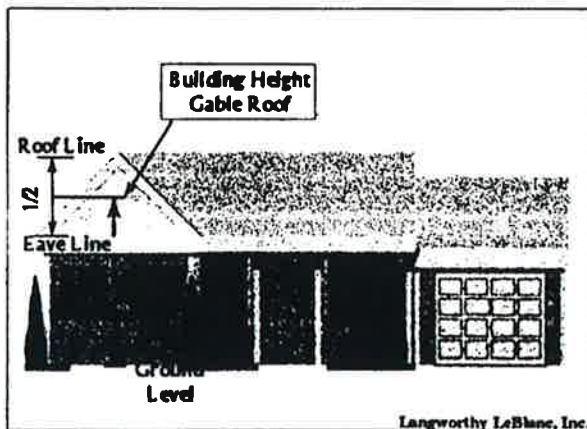
**Hotel/motel.** A facility offering lodging accommodations for automobile travelers on a daily rate to the general public and which may or may not provide additional services, such as restaurants, meeting rooms, and recreational facilities.

(Ord. No. 95-06, § 1, 12-27-95)

## SECTION 2.10. - DEFINITIONS - I.

**Indoor recreational facility.** An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual or organized sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized events, including health and fitness club facilities, a swimming pool, retail sales of related sports, health, or fitness items, and other similar support facilities.

**Industrial hemp.** A plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marijuana-infused product, or the combined percent of delta-9-



tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

Inoperable vehicle. A motor vehicle which can no longer propel itself.

(Ord. No. 95-06, § 1, 12-27-95)

## **SECTION 2.11. - DEFINITIONS - J.**

Junk. Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

Junkyard. An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

(Ord. No. 95-06, § 1, 12-27-95)

## **SECTION 2.12. - DEFINITIONS - K.**

Kennel, commercial. Any lot or premises on which three (3) or more dogs, cats, or other household pets, six (6) months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred or sold for commercial purposes.

(Ord. No. 95-06, § 1, 12-27-95)

## **SECTION 2.13. - DEFINITIONS - L.**

Landing or take-off areas for rotocraft. An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

Licensee. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license. It also means the general partners of a partnership, the partners of a limited liability partnership and the members of a limited liability company that is a licensee.

Loading space. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

Lot. A parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for the principal accessory use(s) together with yards and open spaces required under the provisions of this ordinance. A lot may or may not be specifically designated as such on public records. A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership and use.

Lot area. The total horizontal area within the lot lines.

Lot, corner. Any lot having at least two (2) contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135)



degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

Lot coverage. The percentage of the lot occupied by any building or structure, including accessory buildings.

Lot depth. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, interior. A lot other than a corner lot, flag lot, or through lot.

Lot lines. The lines bounding a lot as defined herein:

- A. Front lot lines. In the case of an interior lot, it is the line separating the lot from the street. In the case of a through lot, it is that line separating said lot from either street.

A corner lot shall have two (2) front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two (2) lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the zoning administrator shall determine the principal front lot line.

General provisions.

1. The secondary front lot setback shall be one-half (½) of the principal front lot setback.
2. The required front setback shall be measured from both the principal and secondary front lot lines. For a corner lot with three (3) front setbacks, the remaining setback shall be a rear setback.
3. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which in the case of a corner lot, shall be the lot line opposite the principal front lot line.
4. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

Lot of record. A parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by municipal or county officials, which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

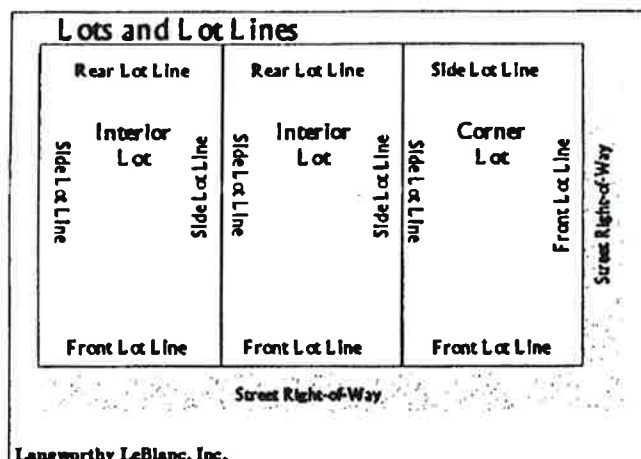
Lot, through. Any interior lot having frontage on two (2) parallel streets.

Lot width. The horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 4, 11-17-97; Ord. No. 02-1, § 1, 3-18-02)

## SECTION 2.14. - DEFINITIONS - M.

Machine shop. An establishment where lathes, presses, grinders, shapers, and



other wood- and metal-working machines are used such as welding and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

Main building. A building in which is conducted the principal use of the lot upon which it is situated.

Manager. An employee, other than the licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or who is otherwise responsible for the operation of, or in charge of, a licensed sexually oriented business.

Manufactured home. A transportable, factory-built home, designed to be used as a year-round residential dwelling.

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

Marihuana. All parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this ordinance, marihuana does not include:

- A. the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
- B. industrial hemp; or
- C. any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Marihuana accessories. Any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

Marihuana concentrate. The resin extracted from any part of the plant of the genus cannabis.

Marihuana establishment or adult use marihuana establishment. A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the city.

Marihuana grower. A person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana-infused product. A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

Marihuana licensee. A person holding a valid license for an adult use marihuana establishment issued by the State of Michigan.

Marihuana microbusiness. A person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who

are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

**Marihuana processor.** A person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

**Marihuana retailer.** a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

**Marihuana secure transporter.** A person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

**Marihuana safety compliance facility.** A person licensed to test marihuana, including certification for potency and the presence of contaminants.

**Massage parlor.** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
- C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,
- D. A current occupational license from another state.

**Mixed use development.** A development consisting of one or more buildings that contain a mix of commercial, office, retail, residential, recreational or similar land uses, or any combination of such uses.

## **SECTION 2.15. - DEFINITIONS - N.**

**Nonconforming building.** A building or portion thereof lawfully existing at the effective date of this ordinance or amendments thereto and not conforming to the provisions of the zoning ordinance in the district in which it is located.

**Nonconforming use.** A use or activity, which lawfully occupied a building or land at the effective date of this ordinance or amendments thereto and which does not conform to the use regulations of the district in which it is located.

**Nonresidential district.** The C-1, C-2, C-3, I, and PF Zone Districts.

**Nude model studio.** Any place where a person who appears nude or in a state of nudity or displays specified anatomical areas or specified sexual activities is provided for money or any form of

consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

Nudity or a state of nudity. The display of any specified anatomical areas.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 6, 11-17-97)

## **SECTION 2.16. - DEFINITIONS - O.**

Office building. A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

Off-street parking lot. A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three (3) vehicles.

Open air business. Retail sales establishments operated substantially in the open air, including, but not necessarily limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair or rental services.
- B. Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement parks or similar recreational uses (transient or permanent).

Operator. All persons who own, operate, direct, oversee, conduct, maintain, or effectively exert management control or authority over a sexually oriented business or its affairs, without regard to whether such person(s) owns the premises in which the sexually oriented business does business. An operator effectively exerts management control or authority when he or she actually does, or is in a position to, participate in the management, direction or oversight of a sexually oriented business or its affairs, whether or not such person's name appears on any public record filed with any government agency in connection with a sexually oriented business or any parent company or affiliate.

Outdoor display of merchandise. An accessory use of a retail store utilizing an area within or adjacent to space controlled by the store's operator for the display of merchandise sold by the retail store operating on the premises.

Outdoor furnace. Any device, appliance, facility, apparatus, or structure that is designed, intended and/or used to provide hot water heat and/or hot water to any associated structure, operates by burning solid fuel and is not located within the structure to be heated.

Owner. A person owning, directly or beneficially, any interest or part interest, however identified, in a sexually oriented business.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 7, 11-17-97; Ord. No. 11-05, § 1, 4-18-11)

## **SECTION 2.17. - DEFINITIONS - P.**

Parking facility. Any portion of a parking space, access drives, aisles, or any other land used for the purpose of parking a motor vehicle.

Parking space. An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and fully accessible for the parking of permitted motor vehicles.

Peep booth. A viewing room, other than a private room not authorized for admittance by patrons, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

Person. An individual, proprietorship, partnership, corporation, limited liability company, limited liability partnership, association or other legal entity.

Personal service establishment. A commercial business conducting services that are performed primarily on the premises.

Petroleum Storage. A building, structure, or facility used for the storage of fuels or other volatile products.

Planned unit development (PUD). A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages.

Planning commission, or commission. The City of Lowell Planning Commission.

Premises. All lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

Primary accessory building. That building which has as its main purpose the housing of the daily driven vehicles of the residents of a premises.

Principal use. The main use to which the premises are devoted.

Privacy screen. A structure designed to serve as a partial barrier to views of or from contact with others.

Private club, fraternal organization, or lodge hall: See "club."

Private room. A room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

Public utility. A person, firm, or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state, or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

*(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 8, 11-17-97; Ord. No. 04-1, § 2, 3-15-04)*

## **SECTION 2.18. - DEFINITIONS - R.**

Radio and television transmitting buildings or towers. A tower, pole, or similar structure and related buildings or structures that supports a radio and/or television antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structures.



Recreational vehicle or equipment. Vehicles or equipment used primarily for recreational purposes. For the purpose of this ordinance, recreational vehicle shall mean: 1) A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper; 2) Boats and trailers designed to transport boats; 3) Snowmobiles and trailers designed to transport snowmobiles; 4) Off-road vehicles and trailers designed to transport off-road vehicles; 5) Pop-up tent and camper trailers; 6) Other similar vehicles deemed by the zoning enforcement officer to be a recreational vehicle. This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources. The removal, loading, processing and/or transporting of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources on, to, or from a lot, and including the incidental maintenance of machinery or equipment used in connection with such removal and processing. Minor alterations of the grade elevation by cutting or filling earth for noncommercial purposes, such as preparing a lot for construction, shall not constitute removal and processing of mineral resources for the purposes of this Ordinance.

~~Retail building supplies. A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building and related products are stored and sold at retail. Retail building supplies may also process lumber by performing millwork, planing, cutting, and other customizing processes.~~

Residential district. The ~~RSSR~~, R-1, R-2, R-3, ~~MPHMHP~~, and PUD Districts.

Restaurant. A retail establishment selling food and drink primarily for consumption on the premises, and including establishments selling prepared foods and drinks for immediate on-site consumption or for take-out. A restaurant may also include a brewery/winery as an accessory use.

~~Retail building supplies. A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building and related products are stored and sold at retail. Retail building supplies may also process lumber by performing millwork, planing, cutting, and other customizing processes.~~

Retail store. ~~An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.~~

(Ord. No. 95-06, § 1, 12-27-95)

## **SECTION 2.19. - DEFINITIONS - S.**

Satellite dish antenna. An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

Semi-nudity. A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.

Sexual encounter center. A business or commercial establishment that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one or more of the persons is in a state of nudity or semi-nudity. This definition does not apply to any actions otherwise authorized by law or the

examination of another person for a bona fide medical purpose consistent with reasonable medical practices.

**Sexually oriented business.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult live entertainment theater, escort agency, nude model studio, or sexual encounter center and includes:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business;
- D. The relocation of any sexually oriented business;
- E. The substantial enlargement of an existing sexually oriented business; or
- F. The continuation of any sexually oriented business in existence on the effective date of this ordinance.

**Setback.** The distance required to obtain minimum front, side or rear yard open space provisions of this ordinance.

**Short-term rental.** The rental or subletting of any dwelling for a term of 30 days or less, but the definition does not include the use of campgrounds, hotel rooms, bed and breakfast establishments, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.

**Sign.** A lettered board, or other notice advertising an individual, firm, profession, business or other thing and visible to the general public.

**Significant natural feature.** A natural area as designated by the planning commission, city council, or the Michigan Department of Natural Resources or Environment, Great Lakes, and Energy (EGLE) Department of Environmental Quality, or other applicable agency which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

**Specified anatomical areas.** The male genitals in a state of sexual arousal even if completely and opaquely covered, any portion of female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of buttocks, vulva or genitals of any person.

**Specified sexual activities.** Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in (A) through (B) above.

**Story.** That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

Story, half. An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches. For the purpose of this ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

Street, private. An undedicated, privately controlled and maintained right-of-way or other interest in land which affords the principal means of access to three (3) or more lots or parcels.

Street, public. A public dedicated right-of-way other than an alley, which affords the principal means of access to abutting property.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

Substantial enlargement of a sexually oriented business. The increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on the effective date of this ordinance.

Substantial improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 97-2, § 9, 11-17-97)

## **SECTION 2.19A. - DEFINITIONS - T.**

Temporary storage unit. A transportable unit, container, or structure designed primarily for temporary storage of personal property, household goods and other such materials for use on a temporary basis. Such unit shall not be considered an accessory building as provided in section 4.08 of chapter 4 of this zoning ordinance.

Theater or ~~Concert~~ concert Hallhall. A building or part thereof devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

Utility and public service buildings. Public buildings used for the provision of services traditionally provided by local government, such as including water and sewer, roads, parks, schools, and police and fire protection.

(Ord. No. 07-10, § 1, 11-5-07)

## **SECTION 2.20. - DEFINITIONS - V.**

Vehicle repair facilities. Any building, premises or land where the primary use is the repair of motor vehicles, including body shops, provided all work is performed within an enclosed building and the storage of motor vehicles is within a completely secure area.

Vehicle service station. Building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires and other similar motor vehicle accessories.



Vehicle towing service. The dispatching, towing and transporting of motor vehicles for service, repair, salvage and the temporary storage of motor vehicles not more than thirty (30) days on the site of the vehicle towing service within a completely secure area.

Vehicle Wash-wash establishment. A building or structure used for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment. A vehicle wash establishment may be considered a principal use, or an accessory use when located on the same lot as a vehicle service station or similar uses.

Veterinary Hospitalhospital. An establishment where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-11, § 2, 12-20-99; Ord. No. 04-5, § 1, 11-15-04; Ord. No. 12-03, § 1, 6-4-12)

## SECTION 2.21. - DEFINITIONS - W.

Wall. A structure designed to serve as a full barrier to views of or from contact with others.

Waste dumpster. A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one (1) cubic yard.

Warehouse. A building used primarily for the storage of goods and materials.

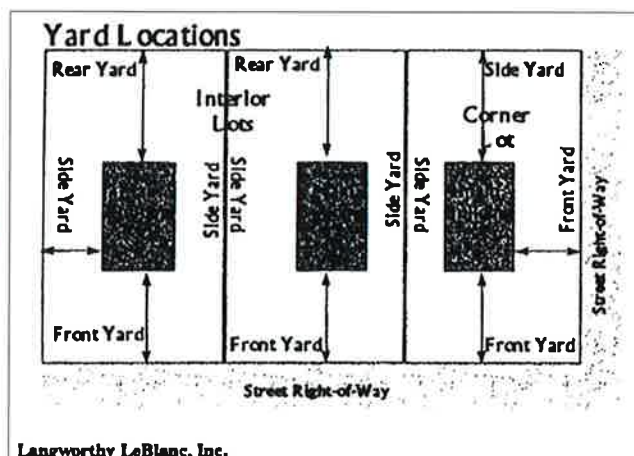
Wholesale sales. An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 04-1, § 3, 3-15-04)

## SECTION 2.23. - DEFINITIONS - Y.

Yards. The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, and as defined herein.

- A. Front yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.
- B. Rear yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. *In the case of a corner lot, the rear yard may be opposite either street frontage.*
- C. Side yard. An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest



point on the side lot line to the building line of the main building.

Yard, required. The ~~required yard shall be that set forth in the zoning ordinance as the minimum yard requirement for lots~~ each district as set forth by this ordinance.

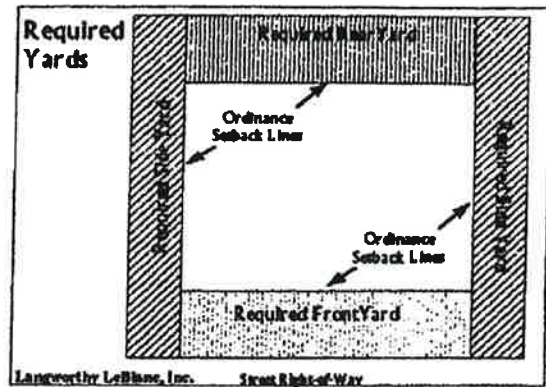
(Ord. No. 95-06, § 1, 12-27-95)

#### **SECTION 2.24. - DEFINITIONS - Z.**

Zoning Act. The Michigan Zoning Enabling Act, Act 207-110 of the Michigan Public Acts of 19242006, as amended.

Zoning enforcement officer. The person designated by the city council to administer the provisions of this zoning ordinance.

(Ord. No. 95-06, § 1, 12-27-95)



Request Number: \_\_\_\_\_

Filing Fee: \_\_\_\_\_



301 East Main Street  
Lowell, Michigan 49331  
Phone (616) 897-8457  
Fax (616) 897-4085

## APPLICATION FOR SITE PLAN REVIEW / SPECIAL LAND USE

- All drawings must be sealed by an architect, engineer or surveyor unless waived by the Zoning Administrator.
- 15 copies of the site plan must be submitted to the City Manager's office no later than four weeks the Planning Commission meeting to allow adequate staff review.
- The Planning Commission meets the second Monday of the month at 7:00 p.m. where plans are approved, rejected or modified.
- Preliminary plans may be presented for Planning Commission comment, but no final approval is given until all required conditions are met.
- After approval, public works and building permits must be secured before construction may commence.

1. Street Address and/or Location of Request: 211 S. WASHINGTON
2. Parcel Identification Number (Tax I.D. No.): #41-20- 02-435-006
3. Applicant's Name: Chris Nelson Phone Number 616-210-0023  
Address: 10788 Sayles Rd Lowell MI 49331  
Street City State Zip  
Fax Number \_\_\_\_\_ Email Address nb towing llc@gmail.com
4. Are You: ☐ Property Owner ☐ Owner's Agent ☐ Contract Purchaser ☐ Option Holder
5. Applicant is being represented by: \_\_\_\_\_ Phone Number \_\_\_\_\_  
Address: \_\_\_\_\_
6. Present Zoning of Parcel \_\_\_\_\_ Present Use of Parcel \_\_\_\_\_
7. Description of proposed development (attach additional materials if needed):  
Fence in Property, Pave the area already covered by millings  
and use the facility as impound yard and small engine/  
Auto Repair.

The facts presented above are true and correct to the best of my knowledge.

Signature: Greg Canfield Date: 12-21-20

Type or Print Your Name Here: GREG CANFIELD

Property Owner Approval: As owner I hereby authorize the submittal of this application and agree to abide by any decision made in response to it.

Owner

Greg Canfield

Date



S. WASHINGTON ST



# williams&works

engineers | surveyors | planners

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** February 4, 2021  
**From:** Andy Moore, AICP  
**RE:** 225 South Washington

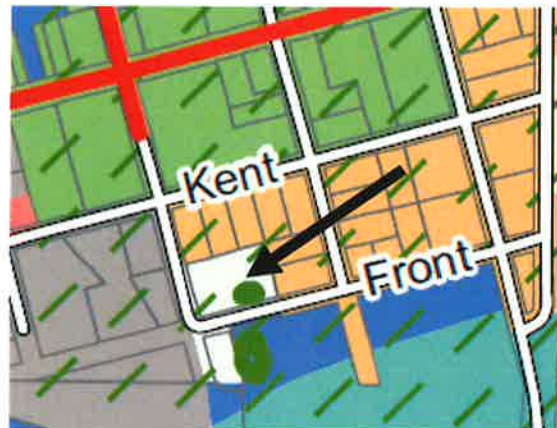
Mr. Chris Nelson has applied for site plan review and special land use to operate a towing facility on 225 South Washington Avenue. The property is located at the northeast corner of Washington Avenue and Front Street and is surrounded by residential properties to the north and east, and industrial properties to the south and west. This memo is intended to provide an overview of the application, which is scheduled for the March Planning Commission meeting.

Towing services are permitted in the I Industrial (by right) and the C-3 General Business (by special land use) districts only; they are not permitted in the LI Light Industrial district. Therefore the application cannot be processed further until one of two options is pursued: (1) seeking a rezoning to Industrial, or (2) requesting a text amendment that would permit towing services in the Light Industrial district.

If the Commission feels that a rezoning to the industrial district is appropriate, the use would be permitted without a public hearing, but would still be subject to the specific special land use criteria for towing services in Section 17.04CC of the Zoning Ordinance.

If the Commission feels that a text amendment adding towing services to the LI district is the appropriate route, it should also discuss if the use should be considered a permitted use or special land use, and if permitted by right, whether the standards of Section 17.04CC should apply or not.

Of course, a third option would be to take no action at all, which would prohibit the towing service from located on the subject parcel.



Use-specific regulations for towing services (see Section 17.04 CC) include the following:

CC. Vehicle towing service.

1. All buildings, structures and parking areas shall be arranged so as to allow all maneuvering of tow trucks, flatbed trucks and other equipment transporting or towing motor vehicles to conduct operations entirely on the site of the vehicle towing service property without encroaching onto the public right-of-way except when entering and exiting the site.
2. A vehicle towing service shall not engage in salvage operations, sale of parts or dismantling of motor vehicles.
3. A vehicle towing service shall not engage in motor vehicle repair activities unless it is also approved as a vehicle repair facility.
4. Motor vehicles stored at a vehicle towing service site shall (a) be kept within an enclosed building or structure or outdoors in a secure fenced-in area screened from view with appropriate approved landscaping and (b) not be stored outdoors for more than thirty (30) days.
5. All surfaces for maneuvering and storage of motor vehicles shall be paved with asphalt or concrete and shall be graded to conduct stormwater to a collection system approved by the city.
6. Motor vehicles stored on a vehicle towing service site shall be stored within or upon containment equipment intended to capture any fluids which may leak from the motor vehicles.
7. All hazardous or toxic wastes accumulated on a vehicle towing service site shall be stored and disposed of in accordance with applicable state and federal requirements. No hazardous or toxic substances shall be discharged to the public sanitary sewer or stormwater systems or to groundwater or surface water features.
8. Any outdoor storage area shall be illuminated and comply with the standards of section 4.24.

This discussion will be helpful to staff to ensure that the application is processed in accordance with the Commission's direction. A copy of the submitted site plan is included in your packets for your (preliminary) review. We look forward to discussing this with you on Monday.

As always, please feel free to contact me if there are questions or comments.

2021				
Open Date	Close Date	Address	Name/Business	Subject
02/04/2021	02/04/2021	514 N. Monroe	Home Specialists	Remodel



2020					
Open Date	Close Date	Address	Name/Business	Subject	
01/6/2020	01/16/2020	930 Sibley	Darla Maloney	Egress Window	
02/21/2020	02/21/2020	159 S. West	Suzie Reinbold	Various Repairs	
03/7/2020	03/07/2020	220 N. Division	David Brandt	Fence	
03/11/2020	03/11/2020	1751 Gee Drive	Tony Beers	Partial finish basement	
03/03/2020	03/18/2020	1264 Fun	John VanderWilp	Pole Barn	
03/24/2020	03/26/2020	722 N. Washington	Sue Murley	Various Imp Inside	
04/14/2020	04/17/2020	917 Lincoln Lake	Michael Johnson	Shed	
03/31/2020	04/03/2020	1701 Faith	Dean Milstead	Shed	
04/21/2020	04/24/2020	1100 Sibley	Brian Cook	Fence	
04/27/2020	04/30/2020	1020 Sibley	Tracie Eikey	Fence	
04/27/2020	05/01/2020	1965 W. Main	Meds Café	Temp Sign	
04/27/2020	05/12/2020	1100 Sibley	Brian Cook	Deck	
05/08/2020	05/08/2020	318 Lincoln Lake	Casmir Delnick	Pool	
05/28/2020	06/02/2020	1115 E. Main	Louis D'Agostino	Renovation/Porch	
05/28/2020	06/01/2020	312 E. Main	ZPS Investments	Demo	
06/02/2020	06/04/2020	1335 W. Main	H&H Management	Renovation	
06/11/2020	06/11/2020	203 N. Hudson	Robert Halvorson	Fence	
06/09/2020	06/23/2020	2475 Gee Drive	Scott and Brandi Barriger	Covered Porch	
06/23/20	06/23/20	257 Donna	Elizabeth Sparks	Reroof	
06/08/20	06/23/2020	2050 W. Main	T-Mobile	Signs	
06/22/2020	06/23/2020	924 N. Hudson	Emma Wikstrom	Fence	
06/16/2020	06/24/2020	96 & 100 W. Main	Scott Brown Enterprises	Interior Demo	
07/20/2020	07/20/2020	280 Valley Vista Drive	Cyndie Drake	Shed	
07/24/2020	07/24/2020	624 Lafayette	Ann Dimmick	Sun Room	
07/28/2020	07/28/2020	312 E. Main	ZPS Investments	Demo	
08/06/2020	08/06/2020	701 Amity	Mike Steele	Rebuild garage	



08/06/2020	08/06/2020	216 W. Main	Amber Rau	Remodel
08/10/2020	08/10/2020	2050 W. Main	Wild Bills Tobacco	Remodel
09/01/2020		570 Foreman St	Serveforce	Fence
09/01/2020		611 N Jefferson	Lou Augustino	Demo
09/01/2020		623 N Jefferson	Lou Augustino	Demo
09/02/2020		145 S Center	Chris Cavanaugh	Home addition
09/02/2020		1240 Grand River Dr	Ed Zigmont	Outdoor Wood Furnace
09/02/2020		216 W. Main St	Amber Rau	Sign - Temporary
09/21/2020	09/30/2020	211 N. Grove	Brian Smith	Add 2 <sup>nd</sup> floor and complete remodel
10/13/2020	10/21/2020	930 Sibley	Don Shaffer	Fence
10/23/2020	10/23/2020	212 N. Broadway	Suzanne Reinbold	Interior Work
11/10/2020	11/10/2020	280 Roberta Jayne	Marilyn Branham	Garage
11/06/2020	12/15/2020	625 Chatham	LL&P	Alteration
12/16/2020	12/16/2020	2111 W. Main	Tractor Supply	Propane Tank
12/28/2020	12/28/2020	1400 Foreman	Litehouse Foods	Interior Remodel and Exterior sidewalk improvement.