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PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
AGENDA
FOR THE REGULAR MEETING OF
MONDAY, MAY 8, 2017 AT 7:00 P.M.
AT THE
LOWELL CITY HALL
CITY COUNCIL CHAMBERS
SECOND FLOOR
301 EAST MAIN STREET

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
 - a. April 10, 2017 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
 - a. Zoning Ordinance Revisions – Chapter 4
 - b. Zoning Ordinance Revisions – Chapter 17
6. NEW BUSINESS
 - a. Review 2017 Goals and Priorities – Audit Report attached
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, APRIL 10, 2017, 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 Barker and the Pledge of Allegiance was recited.

Present: Commissioners Marty Chambers, John Gerard, Jim Salzwedel, Alan Teelander, and Chair Barker.

Absent: Commissioners David Cadwallader and James Zandstra.

Also Present: City Clerk Susan Ullery, City Manager Mike Burns and Williams and Works Planner Andy Moore.

2. EXCUSE OF ABSENCES

IT WAS MOVED BY SALZWEDEL and seconded by GERARD to excuse the absences of Commissioners Zandstra and Cadwallader.

YES: 5. NO: 0. ABSTAIN: 0. ABSENT: 2. MOTION CARRIED.

3. APPROVAL OF AGENDA.

Chair Barker suggested the New Union Brewery Site Plan and Special Land Use review be discussed after Public Comments are received.

IT WAS MOVED BY TEELANDER and seconded by CHAMBERS to approve the agenda as amended.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

4. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING.

IT WAS MOVED BY CHAMBERS and seconded by SALZWEDEL that the minutes of the March 13, 2017 regular meeting be approved as written.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

IT WAS MOVED BY CHAMBERS and seconded by GERARD that the minutes of the March 23, 2017 special meeting be approved as written.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

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

Perry Beachum of 924 Riverside Drive spoke in reference to parking lots, driveways and sidewalks. He questioned how the City could require residents and businesses to hard surface their drives while the City

has not hard surfaced some park areas after upgrades have been made. Chair Barker suggested the City research this and report back to the Commission.

6 **NEW BUSINESS.**

a. **New Union Brewery; Site Plan and Special Land Use Amendment.**

Tyler Velting of New Union Brewery submitted an application for a site plan and special land use approval to add a temporary food kitchen trailer on an adjacent parcel (420 West Main) so as to provide limited food service to New Union Brewery located at 400 West Main Street, at the southwest corner of Hudson and West Main.

New Union Brewery's longer-term plan is to place the kitchen trailer directly behind their building and have it located entirely on 400 W. Main. This would require a variance from City Council in addition to special land use and site plan review and approval from the Planning Commission. The applicant is also proposing to add some outdoor seating to the west of the facility, which would be fenced in and landscaped.

John Bergsma of Uncle John's Vending and Concessions stated their company is the primary vendor for NASCAR. He advised they set up and manage kitchens for places that don't have the expertise. Their company will custom build an exterior kitchen, it has wheels to get it to the site, but they will make it part of the site. Bergsma advised they fall under the same guidelines as a restaurant. They are health department approved in Kent County and the State of Michigan.

Bergsma noted the structure would match the outside of the brewery.

Perry Beachum of 924 Riverside, read a letter into record from Blair and Trudy Cahoon, owners of Keiser's Kitchen, stating they were concerned with the parking at New Union Brewery. They also indicated a concern with putting a truck/trailer inside a building. It was noted the Cahoon's would be in favor of a permanent kitchen to serve their patrons. Velting stated he explained to them that this is different than a food truck and would only serve the patrons at the brewery.

Chris Bieri of 132 South Hudson also had parking concerns.

Greg Canfield of 406 N. Washington congratulated Velting on the success of New Union Brewery. He noted the patrons use the adjacent gravel parking lot and encouraged the Commissioners to require parking improvements.

Commissioner Chambers questioned what type of increase would be placed on the assessed value of the property. City Manager Mike Burns stated he would check with the assessors.

Commissioner Teelander questioned what the next step would be six months from now. Moore explained they would ask for a variance from the Zoning Board of Appeals. Assuming they receive it they then come back to the Planning Commission for a site plan amendment.

Moore reviewed the Site Plan and Special Land Use application with the Commissioners.

IT WAS MOVED BY CHAMBERS and seconded by TEELANDER to accept the Site Plan and Special Land Use as amended with the following recommendations:

1. No demolition or earthwork shall be undertaken on the site until a building permit has been issued consistent with this site plan approval.
2. Prior to issuance of any City permits, the applicant shall have paid all application, permit, reimbursable escrow and other fees related to the request.
3. The applicant and the site shall at all times comply with local standards and ordinances.
4. Any proposed lighting must be reviewed and approved by the Zoning Enforcement Officer prior to construction/placement of such lighting.
5. The Planning Commission considers the building at 400 W. Main to be legally nonconforming. Expansion of the facility in such a way that increases the degree of nonconformance is not permitted.
6. The permanent exterior kitchen trailer may be used for a period of time not to exceed six consecutive months.
7. The applicant shall provide a written agreement with the property owner of 420 West Main Street for the proposed use of the property consistent with this approval.
8. All previous conditions and approvals associated with New Union Brewery shall remain in effect.
9. Parking lots line finalized.
10. Installation of outdoor lighting around the service area and outside seating area.

YES: Commissioners Chambers, Gerard, Salzwedel, Teelander and Chair Barker.

NO: 0. ABSENT: 2. MOTION CARRIED.

7. OLD BUSINESS.

a. Zoning Ordinance Revisions – Chapter 4.

Tabled for May meeting.

b. Zoning Ordinance Revisions – Chapter 17.

Tabled for May meeting.

c. Discussion regarding West Michigan Regional Planning Commission (WMRPC).

There was discussion on the WMRPC by the Commissioners and City Manager Mike Burns. Burns advised he spoke with other city managers and they do not see any vesting interest and he doesn't either. Chair Barker advised it doesn't fit us here in Lowell.

8. STAFF REPORT

There were no reports.

9. COMMISSIONERS REMARKS

There were no remarks.

IT WAS MOVED BY TEELANDER and seconded by SALZWEDEL to adjourn at 8:12 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan S. Ullery, City Clerk

CITY OF LOWELL
KENT COUNTY, MICHIGAN

ORDINANCE NO. 16-__

**AN ORDINANCE TO AMEND CHAPTER 4, GENERAL PROVISIONS, OF
APPENDIX A, "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF
LOWELL**

Councilmember _____, supported by Councilmember _____,
moved the adoption of the following ordinance:

THE CITY OF LOWELL ORDAINS:

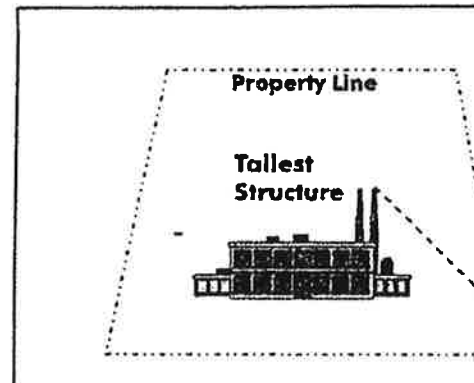
Section 1. Amendment of Chapter 4. Chapter 4 of Appendix A, "Zoning," of the Code
of Ordinance of the City of Lowell is amended to read in its entirety as follows:

CHAPTER 4. - GENERAL PROVISIONS

**SECTION 4.01. - REQUIRED AREA, SPACE, HEIGHT, AND USE CONDITIONS AND
EXCEPTIONS.**

- A. No lots or lots in common ownership and no yard, parking area or other space shall be so divided, altered or reduced as to make such area or dimension less than the minimum required under this ordinance. If already less than the minimum required under this ordinance, said area or dimension shall not be further divided or reduced.
- B. A lot which is platted, or otherwise lawfully of record as of the effective date of this ordinance, may be used as specified in the district in which it is located. The side yards of such lots may be reduced by the same percentage the area of such lot bears to its zoning district requirements, provided that no side yard shall be less than five (5) feet. In all cases, the minimum front and rear yard requirements of this ordinance shall be met.
- C. Height exceptions.

1. The following buildings and structures shall be exempt from height regulations in all districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators and bins, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, wind-powered electrical generator, wireless communication antenna, and television and radio reception and transmission antennas and towers which do not exceed one hundred (100) feet in height.
2. Additions to existing buildings and structures which now exceed the height limitations of their district may be constructed to the height of the existing to which the addition is attached if the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.
3. In the industrial districts stack chimneys, cooling and fire towers, elevator building and bulkheads, storage tanks and other necessary structures are permitted, provided the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.



SECTION 4.02. - PRINCIPAL USE.

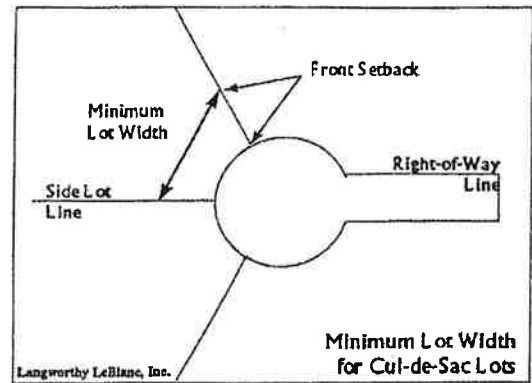
- A. No lot or parcel of land shall contain more than (1) main building or one (1) principal use, except as may be permitted otherwise in this ordinance.
- B. Multiple buildings and/or multiple uses of land on a parcel may be considered a principal building or use collectively if the following conditions are met:
 1. The land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.
 2. All uses, if not the same, shall be similar in function and/or operation.

SECTION 4.03. - STREET ACCESS.

Any lot of record created after the effective date of this ordinance shall front upon a public or private street right-of-way for the minimum lot width required by this ordinance.

SECTION 4.04. - BASIS OF DETERMINING YARD AND LOT REQUIREMENTS.

- A. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the required front yard setback line and shall not be diminished throughout the rest of the lot. Such lots shall have a minimum width of forty (40) feet from the front property line to the required front yard setback line.
- B. The required front yard setback line shall be measured from the right-of-way line or property line, to an imaginary line across the width of the lot drawn at the minimum required front setback distance for that district, excepted as noted in C., below.
- C. Where an average setback line which is less than that required by this ordinance has been established by existing buildings located within three hundred (300) feet of the proposed building, such average setback shall apply.
- D. Corner and through lots. On corner and through lots, the front yard requirements shall apply on both streets. In such cases, the remaining yards shall be side yards, with no rear yard. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.



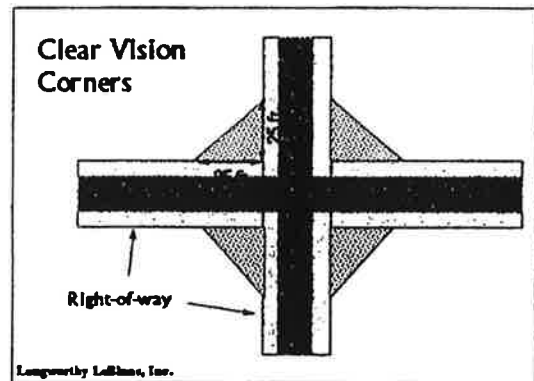
SECTION 4.05. - PROJECTIONS INTO YARDS.

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features:
 - 1. May project a maximum of four (4) feet into a required front or rear yard; and
 - 2. Shall not project into the required side yard.
- B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed, and uncovered:
 - 1. May project a maximum of ten (10) feet into a required front yard;
 - 2. May project a maximum of fifteen (15) feet into a required rear yard;
 - 3. Shall not project into a required side yard; and
 - 4. Shall not be placed closer than ten (10) feet to any front or rear lot line.
 - 5. If such structures enclosed on any side or covered in any manner they shall be considered part of and subject to the same setbacks as the main building.

(Ord. No. 95-06, § 1, 12-27-95)

SECTION 4.06. - CLEAR VISION.

- A. Except for lots within the C-2 or MU districts, no plantings, fencing, or other obstruction shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended. This shall not prohibit the planting of shrubbery which will not achieve a height at maturity of more than thirty (30) inches.
- B. No plantings shall be established in any required front yard which, in the opinion of the zoning enforcement officer, will obstruct the view from of vehicles entering or leaving the site from driveways or adjacent roadways.



SECTION 4.07. - FENCES AND WALLS.

- A. Fences or walls shall be located on the same property as the use to which they apply.
- B. No fences or walls may be erected or maintained within the right-of-way of any public street, alley or other public way or in a clear vision area required by section 4.06 hereof.
- C. The height of a fence shall be measured from the average grade elevation within thirty (30) inches of each side of the proposed fence. The artificial raising of the land on which a fence is located in order to increase the height of a fence is prohibited.
- D. Unless specifically provided for elsewhere in this ordinance, a fence or wall or that portion of a fence or wall that is greater than fifty (50) percent solid may not exceed a height of thirty-six (36) inches within any required primary front yard. A fence that is less than fifty (50) percent solid may not exceed a height of forty-eight (48) inches within any required primary front yard.
- E. Fences shall not exceed a height of seventy-two (72) inches in any other area, except as noted in F. below. Fences shall be measured from the finished grade to the top of the fence. Posts will not be considered a part of fence height unless in the opinion of the zoning enforcement officer they obstruct vision.
- F. No fence or wall shall contain any exposed spike, nail, barb, other pointed instrument or electrification unless necessary for security in a nonresidential district, or for the protection of public utility buildings or improvements, or for livestock containment in agricultural areas. The exposed spike, nail, barb or other pointed instrument portion of the fence or wall shall be at least six (6) feet from the finished grade, in which case the height of the fence or wall may extend to a maximum of seven (7) feet above the finished grade.

- G. Fences in residential districts shall be residential in appearance and intent. Farm type fences are allowed on farmland in residential districts.
- H. In an industrial district, an open, wire protective fence may be constructed in the required front yard, where necessary, to enclose secure areas or to prevent access to potentially hazardous areas.
- I. All fences located along a property line shall have exposed posts and/or bracing of the fence located so as to face the interior of the property, and the finished side shall face the outside of the property.
- J. Any fence or wall erected or maintained along or near a lot line or other property boundary line shall be located and maintained so that no part of the fence or wall is located upon or encroaches on or above any other adjacent lot or parcel of property.
- K. All fences and walls shall be kept in good repair and condition: Both sides of a fence or wall, including a fence erected along a property line, shall be maintained in good repair and condition to maintain the original aesthetic of the fence including but not limited to finish, shape and style. If not maintained as prescribed, the city may be require that the fence be repaired or removed.
- L. A zoning permit shall be obtained from the zoning enforcement officer prior to the installation of a fence or wall and the design of all fences and walls, including openings for vehicular traffic or other purpose, shall only be as permitted in this section and the permit issued by the zoning enforcement officer.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 04-1, § 4, 3-15-04)

SECTION 4.08. - ACCESSORY BUILDING AND USES.

- A. Accessory buildings attached to dwellings or other main buildings, including enclosed porches and garages, shall be deemed a part of such buildings and must conform to all regulations of this ordinance applicable to such main buildings.
- B. An accessory building or use shall only be permitted on lot which contains a principal use or main building.
- C. No part of an accessory building shall be used as a dwelling for residential purposes.
- D. On corner lots, where the side lot line is a continuation of the front lot line of the lot to its rear, the accessory building or use shall be located no nearer than the required front yard setback line on the lot behind the corner lot.
- E. No more than two (2) detached accessory buildings may be permitted on any lot or parcel.
- F. Detached accessory buildings shall be located:
 - 1. A minimum of ten (10) feet from any main building;
 - 2. A minimum of three (3) feet to any side or rear lot line, as measured to the eave of the building;
 - 3. No nearer than the front yard setback required for the main building.

- G. Detached accessory buildings -Maximum total floor areas for all such buildings:
1. For single- and two-family dwellings, including a garage:
 - a. On lots of less than nine thousand (9,000) square feet, nine hundred and sixty (960) square feet; and
 - b. On lots of nine thousand (9,000) square feet or more: one thousand two hundred (1,200) square feet.
 2. Other uses:
 - a. Multiple-family developments: nine hundred sixty (960) square feet, excluding garages for the use of residents.
 - b. Manufactured home parks: as permitted by Chapter 9 hereof;
 - c. For uses in the C-3 district zoning districts: not to exceed the floor area of the main building(s); and
 - d. For uses in all other nonresidential zoning districts other than the C-3 zoning districts: not to exceed 25% the floor area of the main building(s).
- H. No detached accessory building in a residential district shall exceed the height of the main building located on the same lot.
- I. Any accessory building with a floor area greater than six hundred (600) square feet shall be permanently constructed on a concrete foundation and shall conform to all applicable building codes and other similar codes and regulations that apply to such structures.
- J. Accessory buildings with a floor area greater than two hundred (200) square feet shall (i) comply with applicable building codes and other similar codes and regulations that apply to such structures and (ii) be compatible in design and similar to the main building with respect to exterior finish materials, color, overall design and aesthetic quality. The following additional standards shall apply to such accessory buildings:
1. Accessory buildings covered with vinyl, canvas, nylon or other similar membrane materials shall not exceed two hundred (200) square feet in ground coverage and shall be securely attached or anchored to the ground.
 2. Bright contrasting stripe or patterned covers and orange tarp covers shall not be permitted.
 3. An accessory building shall be well maintained and kept in a clean and safe condition; rips in the cover, hanging cover material, leaning frames and other visual detriments that present an unkept image shall not be permitted.
 4. An accessory building shall not detract from or undermine the character or quality of the surrounding neighborhood.
 5. Gazebos, pergolas or other accessory buildings erected and used by a retail and commercial business for no more than one hundred eighty (180) days during any consecutive 12-month period and accessory buildings erected for no more than three (3) consecutive days during any consecutive three-month period for social events such as

weddings, graduations and family reunions shall be exempt from the requirements of this subsection.

- K. Accessory buildings not meeting the requirements of subsection J. of this section may be permitted as a special land use in an I-L Light Industrial District and an I-Industrial District as regulated by chapter 17.
- L. Upon construction of a primary accessory building or the construction of an additional bay(s) to the primary accessory building, a hard surfaced driveway must be constructed from the public street or alley to the primary accessory building. The intent of this section of the ordinance is to create a dustless surface, minimize maintenance and establish an attractive pathway to garages.
- M. A minimum width of ten (10) feet for a driveway and a minimum of twelve (12) feet for a new curb cut shall be established.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 99-6, § 1, 8-16-99; Ord. No. 04-1, § 5, 3-15-04; Ord. No. 11-02, §§ 1—4, 1-3-11)

SECTION 4.08A. - REQUIREMENTS FOR PLACEMENT OF TEMPORARY STORAGE UNITS.

The following shall apply to the placement of temporary storage units within the City:

- A. Temporary storage units may only be placed upon or within a driveway or parking area, or, if access exists at the side or rear of a lot, the side or rear yard.
- B. No temporary storage unit shall be placed upon or within public property or a public place including without limitation a street, sidewalk or out-lawn between a public street and sidewalk.
- C. A limit of one (1) temporary storage unit may be located upon or within a lot for a maximum of thirty (30) consecutive days, including the day of delivery and removal, within any six-month period.
- D. A temporary storage unit may not exceed eight (8) feet in height, eight (8) feet six (6) inches in width or sixteen (16) feet in length.
- E. A temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property.
- F. A temporary storage unit shall at all times, be maintained in good condition, free from evidence of deterioration, graffiti, rust, ripping, tearing, holes or breaks.
- G. No temporary storage unit shall be used for human occupancy or to store solid waste, construction debris, demolition debris, business inventory, commercial goods, goods for property other than the property where the temporary storage unit is located, or any illegal or hazardous material. Upon reasonable notice, the city may inspect the contents of any temporary storage unit at any reasonable time to confirm that it is not being used to store said materials.
- H. A temporary storage unit which is not removed at the end of the time for which it may lawfully remain in place, may be removed by the city, without notice, and the cost of such removal shall be a lien upon the property on which such unit was located which costs may be collected by the city in the same manner as the city collects delinquent and ad valorem property taxes.

- I. A sign advertising the company or vendor supplying a temporary storage unit located on a temporary storage unit shall not be subject to the provisions of chapter 20 hereof provided the temporary storage unit is in compliance with this section 4.08A.

(Ord. No. 07-10, § 2, 11-5-07)

SECTION 4.09. - REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS.

It is the intent of this section to establish minimum standards of appearance and construction for all single-family dwellings placed in the city, whether constructed on a lot or a manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all of the following standards:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be:
 1. New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or
 2. Used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the building inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- C. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire energy and other similar codes which are or may be adopted by the city, and with applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with such standards or regulations shall be provided to the building inspector.
- D. The dwelling unit shall comply with all restrictions and requirements of this ordinance, including, without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the district in which it is located.
- E. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code adopted by the city.
- F. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and towing mechanism removed.
- G. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty (20) feet at time of manufacture, placement or construction.
- H. The dwelling shall be provided with one (1) accessory building or garage, either attached to the dwelling unit or detached on the same lot, having minimum dimensions of ten (10) feet in width by twenty (20) feet in length.
- I. The dwelling unit shall be connected to public sewer and water supply systems approved by the City of Lowell.

- J. The foregoing standards shall not apply to a manufactured home located in a manufactured home park licensed by the Michigan Mobile Home Commission and approved by the city according to the provisions contained in Chapter 12 of this ordinance except to the extent required by state or federal law.

SECTION 4.10. - TEMPORARY USES OR BUILDINGS REQUIRING ZONING ENFORCEMENT OFFICER AUTHORIZATION.

- A. Upon application, the zoning enforcement officer may issue a permit for the following temporary buildings or uses. Each permit shall specify a location for such building or use and shall be valid for a period of not more than six (6) calendar months. Permits may be renewed by the zoning enforcement officer for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose.
1. Temporary office building or construction yard incidental and necessary to construction at the site where located.
 2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, such temporary office or model home shall be removed when fifty (50) percent or more of the lots or units have been sold or leased.
- B. In considering authorization for all temporary uses or buildings, the zoning enforcement officer shall consider the following standards and may attach reasonable conditions to temporary uses or structures to ensure that the standards of this section are met. The zoning enforcement officer shall determine that:
1. The use or structure will not have an unreasonable detrimental effect upon adjacent properties;
 2. The use or structure is reasonably necessary for the convenience and safety of the construction proposed;
 3. The use or structure does not adversely impact the character of the surrounding neighborhood;
 4. Access to the use area or structure is located at a safe location.

SECTION 4.11. - HOME OCCUPATIONS.

- A. No person other than members of the resident family shall be engaged in the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than a total of twenty-five (25) percent of the floor area of the dwelling unit and/or accessory building shall be used in the conduct of the home occupation.

- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the main building.
- D. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Parking areas for such home occupation shall be located off the street and other than in a required front yard.
- E. No merchandise or articles for sale shall be displayed for advertising purposes and no sign or device relative to the sale of such merchandise shall be displayed on the premises. Only those materials produced on the premises as a result of such home occupation may be submitted for sale.
- F. 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 premises, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In 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 cause fluctuation in line voltage off the premises.
- G. Nothing in this Section shall be construed to prohibit the instruction of a fine art or craft in a single-family residence in the City pursuant to MCL 125.3204, provided that the provisions of this Section are met.

SECTION 4.12. - SATELLITE DISH ANTENNAS.

- A. In any nonresidential district, the following restrictions shall apply:
 - 1. The dish antenna shall be permitted in the side and rear yard or mounted on top of a building, and securely anchored.
 - 2. The nearest part of the antenna shall be at least five (5) feet from any property line.
 - 3. The height shall not exceed the height restrictions in the district in which the proposed device is to be located.
 - 4. No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation.
 - 5. A site plan shall be prepared and submitted to the building inspector for approval prior to issuance of a building permit. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
- B. In any residential district, the following restrictions shall apply:
 - 1. The dish antenna shall be permitted in the rear yard only, unless such location prohibits the antenna from receiving signals in which case the zoning enforcement officer may approve another location on the lot.
 - 2. The nearest part of the antenna shall be at least (5) feet from any property line.

3. The unit shall be securely anchored as determined by the building inspector.
4. The maximum height measured from the ground to the top edge of the dish shall be fifteen (15) feet.
5. The antenna shall be an unobtrusive color, as approved by the building inspector. Nor shall any portion of the dish antenna contain any name, message, symbol, or other graphic representation.
6. A site plan shall be submitted to the building inspector for approval prior to the issuance of a building permit. The site plan shall include the proposed location of the antenna and an elevation drawing showing the proposed height, color, and foundation details.

SECTION 4.13. - NONCONFORMITIES.

It is recognized that within the zoning districts established by this Ordinance or amendments thereto, there exist uses, buildings, structures and/or parcels and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or an amendment thereto. It is the intent of this section to permit these nonconformities to continue until they are removed.

A. General provisions for nonconformities.

1. Except where specifically provided to the contrary, and subject to the provisions of this section, a lawful building or structure, or the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this ordinance, or in the case of an amendment of this ordinance, then on the effective date of such amendment, may be continued even though such use does not conform with the provisions of this ordinance or any amendment thereto.
2. Any lot, use of land, building or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, building or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.
3. An existing lot, use of land, building or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous Zoning Ordinance, created or commenced during a period of time when no valid Zoning Ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided that such lot, use of land, building or structure is in compliance with this section.
4. Any building, structure or use shall be considered existing and lawful and for purposes of this section if on the effective date of this ordinance, a building permit has been obtained

therefor, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

5. On any nonconforming building or structure, or on any building or structure located on a nonconforming lot or devoted in whole or in part to any nonconforming use, work may be done in on ordinary repairs or on repair or replacement of walls, fixtures, wiring or plumbing, provided that the building or structure as it existed on the effective date or amendment of this Ordinance, shall not be altered or increased except in compliance with this section.
6. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official
7. The change of tenancy, ownership or management of any existing nonconforming lots, uses of land, buildings or structures, or of lots, uses of land, buildings or structures in combination, shall be permitted
8. Structures, buildings or uses nonconforming by reason of height, area and/or parking and loading space provisions may be extended, enlarged, altered, remodeled or modernized only when the following conditions are met:
 - a. The building or structure shall comply with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization.
 - b. The zoning enforcement officer shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.
 - c. Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.
 - d. Legal nonconforming buildings and structures in the MU District may be extended, enlarged, remodeled or modernized only if the extension, enlargement, remodeling or modernization does not increase the degree of the nonconformity.

B. Nonconforming uses

1. No nonconforming use of any land or structure shall hereafter be moved, enlarged or extended unless such movement, enlargement or extension does not increase the degree of the nonconformity.
2. The nonconforming use of a building or structure or of any land or premises shall not be:
 - a. Changed to any other nonconforming use.
 - b. Re-established after it has been changed to a conforming use.

- c. Re-established after abandoned or discontinued for a continuous period of twelve (12) months. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - 1) Utilities, such as water, gas and electricity to the property, have been disconnected;
 - 2) The property, buildings, and grounds, have fallen into disrepair;
 - 3) Signs or other indications of the existence of the nonconforming use have been removed;
 - 4) Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
 - 5) Other actions, which in the opinion of the zoning enforcement officer, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use
3. In the event any non-residential nonconforming use is damaged by fire, wind, Act of God or public enemy such that the cost of restoration or repair would exceed sixty (60) percent of the true cash value of the improvements prior to its damage or destruction, a substantial improvement, rebuilding or restoration of the nonconforming use shall only be permitted if first authorized by the board of zoning appeals. In considering such authorization, the board of zoning appeals shall consider the following standards:
 - a. Whether such substantial improvement will significantly extend the probable duration of the nonconforming use.
 - b. Whether or not the land previously occupied by the nonconforming use can be reasonably used for a use permitted in the applicable district.

C. Nonconforming buildings and structures

1. In the event any non-residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, it may be rebuilt or restored to its original nonconforming condition if the cost thereof does not exceed sixty (60) percent of the true cash value of the nonconforming building or structure prior to its damage or destruction.
2. In the event any residential nonconforming building or structure is damaged by fire, wind, Act of God or public enemy such that its replacement cost would exceed sixty (60) percent of the true cash value of the nonconforming building or structure prior to its damage or destruction, it may be rebuilt or restored only in compliance with all provisions of this Ordinance.
3. If a building or structure that is considered an historic resource pursuant to Chapter 11.5 of the Code of Ordinances by the historic district commission is damaged by fire, wind, act of God or public enemy, such building or structure may be rebuilt or restored to its original nonconforming condition, regardless of the extent of the damage.

4. A nonconforming residential structure may be enlarged or increased as long as such enlargement does not increase the degree of nonconformance.

D. Nonconforming lots of record

1. In any district in which residential dwellings are permitted, notwithstanding other limitations imposed by the provisions of this zoning ordinance, a residential dwelling and permitted accessory building may be constructed or located on a single lot of record in existence at the effective date of the adoption of or applicable amendment to this zoning ordinance, provided, the lot meets at least eighty (80) percent of the required lot area, lot width and side yard setback required by that district and, further, provided, that any building or structure constructed or located on the lot complies with all other yard setback requirements.
2. Except as noted in (2) below, if two (2) or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this ordinance, or an amendment thereto, are:
 - a. In common ownership;
 - b. Abutting each other or have continuous frontage, and;
 - c. Individually do not meet the lot width or lot area requirements of this ordinance,Then the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance. Such parcels shall be combined into such lot or lots meeting the lot width and lot size requirements of this ordinance. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this ordinance.
3. The planning commission may permit use of abutting nonconforming lots of record in common ownership provided that the commission finds that:
 - a. The nonconforming lots of record were not created by the owner of the properties; and
 - b. There is not a substantial number of vacant, nonconforming lots of record in a similar situation within the vicinity of the lot(s) proposed for use that, if used, would alter the character of the neighborhood.

SECTION 4.14. - ESSENTIAL SERVICES.

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any use district, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this ordinance, except those which may be considered a danger to the community health, safety and welfare.

SECTION 4.15. - EXCAVATIONS OR HOLES.

- A. The construction, maintenance, or existence within the city of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, or wells, which constitute or are likely to constitute a danger or menace to the public health, safety, or welfare, are hereby prohibited.
- B. This section shall not prevent any excavation under a permit issued by the zoning enforcement officer, planning commission and/or building inspector where such excavations are properly protected and warning signs posted in such manner as approved by the building inspector.
- C. This section shall not apply to streams, natural bodies of water, or to ditches, reservoirs, and other such bodies of water created or existing by authority of governmental units or agencies.

SECTION 4.16. - RECREATIONAL VEHICLE STORAGE IN RESIDENTIAL DISTRICTS.

Licensed and operable recreational vehicles may be stored or parked in residential districts, provided the following regulations are complied with:

- A. Recreational vehicles may be stored or parked to the rear of the front building line of the primary structure.
- B. Recreational vehicles may be stored or parked in a driveway not less than ten (10) feet from the front lot line.
- C. Recreational vehicles may be used for temporary occupancy for one (1) period not to exceed nine (9) consecutive days during any six (6) consecutive calendar months as long as they are otherwise in compliance with this section 4.16.

SECTION 4.17. - SWIMMING POOLS.

- A. Pools used for swimming or bathing shall conform with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.
- B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a permit has been obtained from the zoning enforcement officer.
- C. The outside edge of the pool wall shall not be located closer than six (6) feet from any rear or side lot line; provided, that if any part of the pool walls are more than two (2) feet above the surrounding grade level, such pool shall be placed or erected not less than ten (10) feet from any lot line. No pool shall be located under any electrical wiring or in a front yard. In the case of a waterfront lot, a pool may be located between the water's edge and the dwelling, but shall not be located within a required yard.
- D. Unless otherwise permitted by the State Construction Code, each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed

four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.

- E. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 4.18. - MECHANICAL WORK.

- A. Mechanical work on trucks over one (1) ton or more, or race cars, stock cars or otherwise, owned by the occupant of a dwelling, or on any vehicles not owned by an occupant of the premises is prohibited in residential districts. Any permitted work on vehicles must be performed entirely within a building, and no parts or vehicles not in a legally operable condition shall be stored outside.
- B. In all residential districts, motor vehicles not intended for private passenger use shall be garaged at all times.

SECTION 4.19. - KEEPING OF PETS AND OTHER ANIMALS.

- A. No more than three (3) adult dogs or cats in combination shall be kept or housed in one (1) residential unit in any residential district.
- B. One (1) horse may be kept on a lot of not less than one and one-half (1½) acres, providing the structure containing such use is located not less than one hundred (100) feet from all adjoining residential district lot lines or residential use. An additional horse may be permitted for each one-half (½) acre over one and one-half (1½) acres.
- C. As long as applicable public health standards are met, fowl (excluding roosters), rabbits or similar animals may be kept within the living space of a residential unit in all residential zone districts. Fowl (excluding roosters), rabbits or similar animals kept outside or in an outside enclosure in any residential zone districts is (i) permitted by right if the lot is at least an acre in size and (ii) permitted by special use permit if the lot is less than an acre, but at least one-half (½) acre. Two (2) such animals are permitted for each one-half (½) acre in lot size. Roosters may not be kept either inside or outside in any residential zone district. Any outside structure housing such animals shall be located not less than fifty (50) feet from all adjoining lot lines. Setback requirements do not, however, apply to such animals housed within the living space of a residential unit.

SECTION 4.20. - PRIVATE STREETS.

- A. Purpose. The city determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:
 - 1. Will not be detrimental to the public health, safety, or general welfare;
 - 2. Will not adversely affect the long term development policies of the city;

3. Will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
 4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural-environment of the city.
- B. Definitions. As used in this section, "safe and unimpeded route of travel" shall mean a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the city.
- C. Frontage and access.
1. Any lot not having frontage on a public street shall have frontage upon a private street.
 2. All parcels utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.
 3. All private streets shall have direct access to a public street.
- D. Permits.
1. No individual, association, corporation, or entity, either public or private, shall construct a private street without first having obtained a private street permit from the city council.
 2. The building inspector shall not issue building permits for construction of any building or structure on lots served by a private street until construction of the private street as approved by the city council has been completed.
 3. A driveway permit shall be obtained from the Michigan Department of Transportation, where applicable, or from the City of Lowell.
 4. A soil erosion and sedimentation control permit shall be obtained, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
 5. All other required State of Michigan permits shall be obtained.
 6. The city council may elect to have all design and construction plans reviewed by the city's attorney, fire chief, engineer, or planner prior to consideration of the application for the private street permit.
- E. Application. An application for a private street permit shall contain the following:
1. A completed private street permit application, provided by the city.
 2. A detailed written description of the development to be served by the private street.
 3. Seven (7) copies of a plan, drawn to scale, prepared by a registered engineer, showing the precise location, grade, route, elevation, dimensions, and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect. However, the plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed private street is to serve five (5) or fewer parcels or main buildings, and if the

zoning enforcement officer waives in writing the requirement for the plan to be prepared by a registered engineer.

4. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
5. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
6. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one hundred (100) feet thereof.
7. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private street right-of-way.

F. Design requirements.

1. The specifications for width, surface and base materials, curbing, drainage utility locations and method of construction of a private street shall conform to the standards set forth in sub-subsections 2. and 3. below based on the number of dwelling units served by such private streets as well as the other provisions of this subsection F.
2. Private streets serving three (3) to five (5) dwelling units shall:
 - a. Have a minimum sixty-six (66) foot right-of-way easement granted to adjacent properties principally served by such private street.
 - b. Be constructed in a good and workmanlike manner upon and parallel to the centerline of the right-of-way easement.
 - c. Be constructed so as to control storm water runoff and permit effective storm water drainage by such means as ditches and valley gutters constructed parallel to and on either side of the street, sloping the sides of the street from the center thereof or other effective methods.
 - d. Have a driving surface of either asphalt or concrete with a firmly compacted base consisting of the following cross sections:
 - 1) Asphalt
 - i. six (6) inches of sand in accordance with specifications as established from time to time by the City
 - ii. six (6) inches of gravel in accordance with specifications as established from time to time by the City
 - iii. three (3) inches of asphalt placed as two (2) layers in accordance with specifications as established from time to time by the City.
 - 2) Concrete -

- i. six (6) inches of sand in accordance with specifications as established from time to time by the City
 - ii. six (6) inches of concrete in accordance with specifications as established from time to time by the City.
 - a. Have a finished driving surface width of not less than sixteen (16) feet with a six (6) inch thick by two (2) feet wide gravel shoulder on each side of the driving surface.
 - b. Be constructed, when and where necessary, over adequate culverts.
 - c. If ending with a cul-de-sac, have a minimum turnaround radius of forty-five (45) feet.
 - d. Not be expanded to serve more than five (5) dwelling units without meeting the requirements of subsection 3 immediately below.
 - e. If in the future a determination is made to convert the private street to a public street, conform to public street specifications.
3. Private streets serving six (6) or more dwelling units shall:
- a. Have a minimum sixty-six (66) foot right-of-way easement granted to adjacent properties principally served by such private street.
 - b. Be constructed in a good and workmanlike manner upon and parallel to the centerline of the right-of-way easement.
 - c. Have culverts placed at all natural drainage courses or other waterways; sizes and grades shall be determined using the appropriate stormwater runoff formula calculations and culvert materials shall conform to city engineer specifications.
 - d. Receive the approval of the engineer designated by the City of all designs, materials and methods of installation where the placement of underground storm sewers and valley gutters is determined necessary by the city engineer.
 - e. Shall receive the approval of the engineer designated by the City of the layout including their location, intersections, cul-de-sacs, vertical street alignment, street grades, street signs, horizontal curves, curb openings at or near intersections and other aspects as determined by the engineer designated by the City.
 - f. Have a driving surface of either asphalt or concrete with a firmly compacted base consisting of the following cross sections:
 - 1) Asphalt -
 - i. twelve (12) inches of sand in accordance with specifications as established from time to time by the City
 - ii. six (6) inches of gravel in accordance with specifications as established from time to time by the City
 - iii. three (3) inches of asphalt placed as two (2) layers in accordance with specifications as established from time to time by the City.
 - 2) Concrete -

- i. twelve (12) inches of sand in accordance with specifications as established from time to time by the City
 - ii. six (6) inches of concrete in accordance with specifications as established from time to time by the City.
 - g. Have a finished driving surface width of not less than twenty-four (24) feet with a six (6) inch thick by two (2) feet wide gravel shoulder on each side of the driving surface.
 - h. If ending with a cul-de-sac, have a minimum turnaround radius of forty-five (45) feet.
 - i. If in the future a determination is made to convert the private street to a public street, conform to public street specifications.
4. Length of private streets.
- a. No private street shall extend for a distance of more than eight hundred (800) feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street, except as otherwise noted, without a private street access complying with this section being provided to another public street.
 - b. The maximum length of a proposed private street may be exceeded if the city council, after recommendation of the planning commission, finds that at least one (1) of the following conditions exists:
 - 1) That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
 - 2) That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the city council prior to confirming this finding.
 - 3) That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the fire chief and the recommendation forwarded to the planning commission.
 - c. The city council, upon a finding that at least one (1) of the above conditions exists, shall establish the maximum length of the proposed private street.
5. Right-of-way/easement width.
- a. All private streets constructed after the effective date of this ordinance shall have a recorded permanent right-of-way and easement with a minimum width of at least sixty-six (66) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.

- b. Private streets in existence as of the effective date of this ordinance whose right-of-way or easement width is less than sixty-six (66) feet need not provide additional right-of-way or easement width, but such width shall not be subsequently reduced so as to increase its noncompliance with these requirements.
- 6. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the city engineer. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than one hundred and fifty (150) feet, as measured along the right-of-way line thereof.
- 7. Existing private streets.
 - a. A private street existing on the effective date of this ordinance may continue in existence and be maintained and used, though it may not comply with the provisions of this section. Such private streets shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 - b. Any private street existing on the effective date of this ordinance to which one (1) or more additional lots or parcels are created or otherwise permitted access, shall have the entire length of the existing private street upgraded to comply with the applicable requirements of this subsection F.
 - c. If a private street existing on the effective date of this ordinance is extended by the construction and use of an additional length of private street the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of this subsection F.
- C. Review standards; modification of certain requirements.
 - 1. Prior to approving a private street permit application, the city council shall determine the following:
 - a. The proposed private street will not be detrimental to the public health, safety, or general welfare.
 - b. The proposed private street will not adversely affect the use of land.
 - c. The private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 - d. The private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the city.
 - e. The construction of the private street will conform to the requirements of this section.
 - 2. The city council may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.

3. Upon application the city council may modify any of the private street requirements of this section after finding that all of the following conditions exist:
 - a. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features. Such natural features shall be clearly identified and described in the application for any such modification;
 - b. The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit;
 - c. That no other reasonable private street design alternatives are available that would comply with the requirements of this section; and
 - d. That the request for modification was reviewed by the fire chief and/or city engineer, and/or any other person or official designated by the city council and a recommendation submitted to the council.
- D. Maintenance and repairs.
 1. Private streets shall be maintained in a manner that complies with the provisions of this section.
 2. All private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the city. All private streets shall be continuously maintained in such a way that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
 4. Private street maintenance or restrictive covenant agreements.
 - a. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the city council with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the city council which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid.
 - b. The applicant(s) agree, by filing an application for and receiving a permit under this ordinance, that they will assure that any building(s) or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the city council prior to the issuance of the permit.

- E. Performance guarantee. The city council may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Act 207 of the Public Acts of Michigan of 1921, as amended.
- F. Inspections/certificate of compliance.
 - 1. Upon completion of construction of the private street, the city engineer shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this ordinance.
 - 2. The applicant(s), at the applicant(s)'s expense, shall provide the city with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the City of Lowell.
 - 3. If the completed private street does not satisfy the requirements of the permit or this ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this ordinance.
- G. Fees for the permits required hereunder shall be set by the city council from time to time by resolution. Additionally, the city council may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the city attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.
- H. The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street that they shall indemnify and hold the city harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or of the failure to properly construct, maintain, use, repair, and replace the private street.

SECTION 4.21. - WIRELESS COMMUNICATION TOWERS.

- A. A different use of an existing structure on the same lot shall not preclude the installation of a commercial wireless communication tower on such lot when such tower is approved in accordance with the provisions hereof.

Commercial wireless communication antennas and related equipment may be permitted within any zone district if mounted on an existing commercial wireless communication tower, publicly-owned tower or other structure and provided the conditions in section 17.04BB have been met, and provided the height of the tower or other structure will not be increased, and provided the footprint of the related buildings, structures and supports will not be increased. If these conditions have not been met, the applicant must obtain site plan review and approval from the planning commission. The planning commission shall have the discretion of holding a public hearing on the review of the site plan.'

SECTION 4.22. - AMATEUR RADIO ANTENNAS.

Amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in section 153(q) of title 42 of the United States Code and licensed by the federal communications commission) may be approved by the planning commission as a special land use in any zone district if it is reasonably demonstrated that the application of any of the provisions of this article would be to preclude or prevent the operation of such amateur radio antenna. In granting such special land use, the planning commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications. Such conditions, if any, shall not be more than the minimum practicable regulations necessary to accomplish the city's legitimate purposes in regulating such amateur radio antennas.

SECTION 4.23. - CANOPIES AND AWNINGS.

Canopies and awnings are permitted in C-1, C-2, C-3 and PF Districts to be placed around door or window openings in buildings and structures without limitation as to number. The height of such canopies and awnings from the lowest point on canopies and awnings shall not encroach beyond the public sidewalk into the public street. In addition, canopies and awnings are permitted over installed equipment attached to a building or structure. Such awnings shall be compatible with the building or structure. In addition to the provisions of this section, chapter 11.5 of the Code shall apply to awnings and canopies located in a historic district. Signage located on a canopy or awning shall comply with Chapter 20 of this Ordinance.

SECTION 4.24. - OUTDOOR LIGHTING REQUIREMENTS AND RESTRICTIONS.

- A. Purpose. The purpose of this section 4.24 is to allow for nighttime use of property through proper illumination while creating and maintaining safety for pedestrians and motorists by minimizing glare directed onto public rights-of-way. In addition, the requirements of this section 4.24 are meant to preserve the restful quality of nighttime by eliminating intrusive, artificial light and illumination that unnecessarily contributes to "sky glow," and to reduce light pollution and light trespass onto adjacent properties.
- B. Exempted lighting. Lighting commonly associated with single-family or two-family dwellings, including porch lights, low-level lawn lights, soffit-mounted facade illumination and special seasonal lights, such as holiday decorations, shall be exempted from the requirements of this section 4.24, provided, however, that flood lights, spot lights or yard lights mounted higher than ten (10) feet above grade shall be subject to the standards of section 4.24E hereof. Lighting associated with temporary or special events, may be exempted from the requirements of this section 4.24 hereof upon prior request and approval of the city manager or his or her designee.
- C. Scope and application.
 - 1. The requirements of this section 4.24 shall apply to any new development or renovation requiring a site plan pursuant to chapter 18 of this ordinance and to the installation of any new regulated lighting as provided under section D of this section 4.24. New developments

shall comply with this section 4.24, as shall existing developments under consideration for an other than minor changes in a site plan as described in section 18.09 hereof.

2. Any new development or renovation requiring a site plan pursuant to chapter 18 of this ordinance shall include detail on the design and location of all exterior lighting, including light poles, wall-mounted fixtures and illuminated signs. The planning commission or zoning enforcement officer may require submission of additional details, including lighting output, bulb type, planned lighting coverage and other elements to determine the extent of proposed lighting on the site and any potential impacts off the property subject to site plan approval.

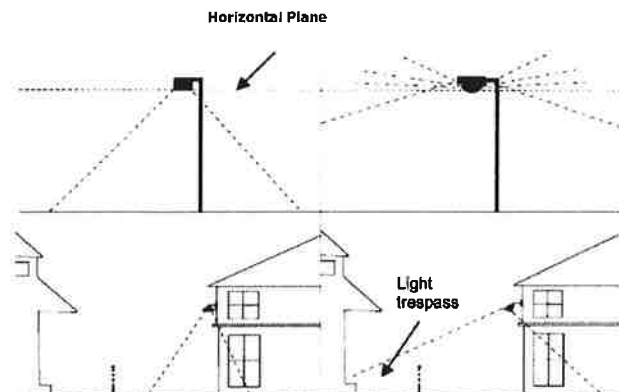
D. Regulated lighting. The following types of outdoor lighting shall be regulated by this section:

1. Lighting intended to illuminate a site, facade and/or parking area for commercial, industrial, institutional and multiple family residential uses.
2. Private street lighting and public street lighting, including that installed by a municipality or power company.
3. All forms of neon lighting.
4. Lighting of signs.
5. Lighting not exempted under section 4.24B hereof.

E. General standards. Outdoor lighting shall be designed, constructed and maintained in compliance with the following standards:

1. Direct light and directly-reflected light shall be confined to the subject property by screening, shielding, landscaping or other measures such that no lighting in excess of one-half ($\frac{1}{2}$) foot candle shall be cast on adjoining private property. This standard shall not apply to internally lit signs meant to be visible from the adjoining public right-of-way.
2. Lamps or bulbs, fixtures and other physical parts of the fixture assembly shall be shielded or hooded to prevent glare from traveling beyond the subject property and to ensure that the light source is not directly visible from beyond the boundary of the subject property.
3. Light fixture assemblies shall have one hundred (100) percent cut-off above the horizontal plane at the lowest part of the light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane as illustrated by figure 4.24.
4. There shall be no lighting of a blinking, flashing or fluttering nature including changes in light intensity, brightness or color. Beacon, strobe and search lights shall be prohibited.

Figure 4.24. Fully Cut-off, Downward Facing Fixtures



No colored lights shall be used at any location or in any manner which might be confused with or construed as traffic control devices.

5. In addition to the requirements of this section 4.24, parking area lighting shall comply with the standards of section 19.03C of this ordinance.
 6. The planning commission or zoning enforcement officer may impose additional conditions on site illumination to further the purpose of this section 4.24.
 7. Internally-lit signs, electronic message boards, back-lit changeable copy signs and signs incorporating light emitting diode (LED), liquid crystal, video or other types of internally-lit systems shall be designed, shielded and oriented so as not to interfere with adjacent public rights-of-way or adjacent property and such signs shall not emit light exceeding either ten (10) foot candles measured four (4) feet perpendicular to the sign face or one-half (½) foot candle measured at the property line of adjoining privately-owned property.
- F. Departures. Outdoor lighting shall comply with the requirements of this section 4.24, provided, the planning commission may, upon written application approve departures from the standards of this section 4.24 if the planning commission finds that the following standards are demonstrated by the applicant:
1. The use is a permitted or special land use in the zoning district.
 2. The applicant will undertake reasonable measures to assure that the public health, safety and welfare would not be undermined by approving the proposed departure.
 3. The proposed plan includes reasonable measures to mitigate any glare, annoyance, intrusion or distraction would be caused by the proposed lighting.
 4. The general public would benefit from the proposed lighting and the proposed lighting and related land use are consistent with the city master plan.

SECTION 4.25. - OUTDOOR FURNACES.

- A. Purpose. The city desires to regulate the location and operation of outdoor furnaces to secure and promote the health, safety and welfare of the public. Outdoor furnaces are an alternative to traditional home-heating methods and have increased in popularity because of rising fuel costs. This increased usage has led to the recognition that outdoor furnaces can impact health, safety and welfare if not designed and used properly and these impacts are multiplied when used in densely populated areas. Outdoor furnaces shall only be permitted under certain circumstances and only when specific requirements are met in order to broaden home-heating options for city residents while insuring regulations are in place to protect residents from, health, safety and welfare impacts.
- B. Application. An outdoor furnace shall not be installed on any property unless a certificate of zoning compliance and any required mechanical and building permits have been issued by the city. A mechanical permit application along with the applicable fee shall be submitted to the city with descriptive information that is necessary to determine compliance with the requirements of this section and any applicable building codes. In addition, the applicant shall submit a signed acknowledgement indicating that combustion in the outdoor furnace of

material prohibited by this section is grounds for revocation of the certificate of zoning compliance requiring immediate discontinuance of its use.

- C. Eligibility. Outdoor furnaces are permitted in side and rear yards as an accessory use to residential dwellings (i) on parcels in a SR-Suburban Residential District and (ii) on parcels in an R-1 Residential District with a parcel area of at least twenty thousand (20,000) square feet. In a R-1 Residential District the application for a mechanical permit shall include a recorded deed restriction in a form acceptable to the city signed by the property owner prohibiting the subdivision or splitting of the parcel in a manner which would result in the outdoor furnace being located on a parcel of less than twenty thousand (20,000) square feet or with isolation and setback dimensions less than those required by this section.
- D. Isolation and setback. An outdoor furnace shall be located a minimum of eighty (80) feet from any residential dwelling on an adjacent parcel and shall be located a minimum of forty (40) feet from the property line of the parcel where it is located.
- E. Stack height. Stack or chimney height of an outdoor furnace shall extend to an elevation at least two (2) feet above the roof peak of any residential dwelling within three hundred (300) feet of the outdoor furnace.
- F. Combustion materials. Only dry, seasoned wood or pellets manufactured for use in an outdoor furnace may be used in an outdoor furnace. The city may approve an alternative fuel if it is recommended by the outdoor furnace manufacturer and will result in air emissions no greater than that of dry, seasoned wood or pellets manufactured for outdoor furnace use. Combustion of toxic or other materials that generate offensive odors or excessive smoke or that are harmful to human health are prohibited. Such prohibited materials include, but are not limited to, trash, garbage, plastics of any kind, wood that is painted, varnished or treated, gasoline, oil, rubber, naphtha, materials treated with petroleum products, leaves and paper products including cardboard. Any use of prohibited construction materials shall result in the revocation of the zoning compliance certificate requiring the immediate discontinuance of use of the outdoor furnace.

SECTION 4.26. - LANDSCAPING

The intent of this section is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, between uses, on the interior of sites and within parking lots. Landscaping is viewed as a critical element contributing to the aesthetics and quality of development and redevelopment within the City of Lowell.

The standards of this Article are also intended to screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, minimize negative impacts of storm-water runoff, minimize noise, air and visual pollution, and promote the preservation of healthy, desirable trees.

The landscape standards of this Section are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design.

Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.

- A. Exemptions. Individual single-family dwellings, two-family dwellings, home occupations, agricultural uses and other uses not requiring site plan review are not subject to the provisions of this Section. When a site plan is required pursuant to Article 16, landscaping shall be incorporated into the site and a landscape plan shall be submitted in conjunction with the site plan. The landscape plan shall clearly describe the location, type, size, height, and spacing of plant materials.
- B. Modification of Requirements. The City may modify requirements of this Section when it finds circumstances that warrant a change in the requirements of this section, or in finding that existing landscaping or screening, or existing conditions on the site, will be preserved and would meet the intent of this section.
- C. Installation. Wherever this Ordinance requires landscaping, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials which may be supplemented with other plantings. The Zoning Enforcement Officer may allow a postponement of installation of up to six (6) months upon request of an applicant based on seasonal weather conditions, but all landscaping must be installed within one (1) year of issuance of a certificate of occupancy. Whenever possible, selection of plant and tree species and minimum installation sizes should be generally consistent with applicable guidelines and recommendations of the Lowell Arbor Board.
- D. Maintenance. Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials, including lawn areas, shall be maintained in a healthy condition and be neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, it shall be replaced within six (6) months of written notice from the Zoning Enforcement Officer, or within an extended time period as specified in said notice.
- E. Specific Landscaping Requirements.
 - 1. Buffers between Uses. For non-residential uses abutting or adjacent to a residential zoning district and/or a residential use, there shall be provided and maintained on those sides a wall or wooden privacy fence six (6) feet in height, or between six (6) feet and eight (8) feet in height in industrial districts, or a landscaped buffer or berm, at least partially comprised of evergreen trees, sufficient to provide adequate screening between uses for the purpose of protecting the quality and integrity of the residential district and/or use.
 - 2. Front Yard Landscaping. In the C-1, C-3, I-L and I districts, front yard landscaping is required as specified below:
 - a. Landscaping shall consist of a minimum of one (1) canopy tree and three (3) deciduous shrubs for each thirty (30) feet of lot width.

- b. Additional front yard landscaping is encouraged and may be required by the City where it is found that such additional landscaping would further the intent of this section.

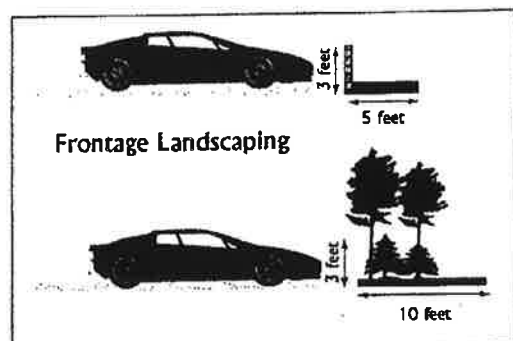
3. Parking Lot Landscaping.

- a. Changes to existing parking lots. The Zoning Enforcement Officer shall review landscaping plans for major changes to an existing parking lot. Major changes to parking lots shall comply with the landscaping requirements of this section unless modifications are approved by the Planning Commission or Zoning Enforcement Officer as permitted by this Section. Major changes consist of the following:

- 1) Replacement or alteration of existing drainage elevations or structures affecting more than fifty (50) percent of the existing parking lot.
- 2) For any expansion or addition of a parking lot equal to or greater than twenty-five (25) percent of the area of the existing parking lot, the expanded area shall comply with the landscaping requirements of this Section.
- 3) Reconstruction of the parking lot, including the removal of existing pavement and drainage structures, which affects more than twenty-five (25) percent of the existing parking lot. Instances in which a parking lot is to be resurfaced and no other modifications to the parking lot or drainage patterns are proposed shall not constitute "reconstruction" for the purposes of this subsection.
- 4) Any other change which, in the opinion of the zoning enforcement officer, constitutes a major change. The phased expansion or replacement of parking lots and/or surfaces in order to circumvent the requirements of this section is prohibited.
- 5) The Zoning Enforcement Officer may waive the requirements of this Section if it is determined that the parking lot landscaping requirements of this Section would unreasonably reduce the number of spaces within the parking lot. The Zoning Enforcement Officer may refer any parking lot replacement or expansion to the Planning Commission for a decision.

- b. Frontage landscaping. Where any parking area abuts or faces a public street, landscaping shall be required between the parking area and the street right-of-way. Such landscaping shall consist of, at a minimum, one (1) of the following:

- 1) A strip of land at least five (5) feet in width as well as a solid screen of a hedge, fence or decorative wall, or any combination thereof, which measures at least three (3) feet in height; or
- 2) A strip of land at least ten (10) feet in width containing at least one (1) canopy tree for each thirty (30) feet of lot width.



The required strip of land specified in items 1 and 2 above shall also be covered with grass or other approved ground cover.

- c. Interior parking lot landscaping. In addition to frontage landscaping, parking lots shall also contain landscaping within the interior of the parking lots as specified below:
- 1) Interior landscaping shall be provided for any parking area containing twenty (20) or more parking spaces.
 - 2) The interior of the parking lot shall be considered as any point from the outside boundary of the parking area.
 - 3) The interior area of any parking lot shall incorporate planting islands at a minimum ratio of one (1) island per each twenty (20) parking spaces, or part thereof.
 - 4) Each planting island shall be at least ninety (90) square feet in area with a minimum horizontal dimension of nine (9) feet.
 - 5) Landscaped islands shall be dispersed evenly throughout the entire area of the parking lot in order to break up large expanses of pavement and shall be used to separate pedestrian areas, maneuvering areas, and drives whenever possible.
 - 6) A minimum of one (1) approved canopy tree shall be provided for each planting island, with the balance of the island covered with grass, or approved shrubs or ground cover.
 - 7) Fifty (50) percent of the required trees shall be installed in the interior of the parking area and fifty (50) percent on the perimeter. The required trees shall be in addition to those which may otherwise be required by this section.

Section 5. Publication. After its adoption, the City Clerk shall publish this ordinance or a summary thereof, as permitted by law, along with its date of adoption in the *Lowell Ledger*, a newspaper of general circulation in the City, at least ten (10) days before its effective date.

Section 6. Effective Date. This ordinance shall take effect ten (10) days after it, or a summary thereof, as permitted by law, along with the date of its adoption, is published in the *Lowell Ledger*, a newspaper of general circulation in the City.

YES: Councilmembers _____

NO: Councilmembers _____

ABSTAIN: Councilmembers _____

ABSENT: Councilmembers _____

ORDINANCE DECLARED ADOPTED.

Dated: _____, 2017 _____

Susan Ullery

City Clerk

CERTIFICATION

I, the undersigned City Clerk of the City of Lowell, Michigan (the "City"), certify that the above ordinance is a true and complete copy of an ordinance adopted at a regular meeting of the Lowell City Council held on _____, 2017, pursuant to notice given in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended, and notice of its adoption, including a summary of its contents and its effective date, was published in the *Lowell Ledger*, on _____, 2016. I further certify that the above ordinance was entered into the Ordinance Book of the City on _____, 2017, and was effective _____, 2017, ten (10) days after publication.

Dated: _____, 2017

Susan Ullery

City Clerk

CHAPTER 17. - SPECIAL LAND USES

SECTION 17.01. - SCOPE.

This section provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the city. For purposes of this ordinance, all special land uses within the various districts are subject to the conditions and standards of this chapter. In addition, the following uses shall conform to the specific standards cited in section 17.04, as applicable.

(Ord. No. 95-06, § 1, 12-27-95)

SECTION 17.02. - APPLICATION AND REVIEW PROCEDURES.

- A. Required Information. An application for special land use approval shall be submitted to the zoning enforcement officer. Each application shall be accompanied by:
 - 1. The payment of a fee as established by the city council;
 - 2. A completed application form, as provided by the city;
 - 3. Complete site plans pursuant to in Chapter 18; and
 - 4. A written statement indicating compliance with section 17.03, A., and the applicable provisions of section 17.04.
- B. Applications. Applications for a special land use shall be submitted to the zoning enforcement officer at least twenty-one (21) days prior to the next regular planning commission meeting. Upon receiving all materials required in Section 17.02(A), the application and accompanying materials shall be forwarded to the planning commission at its next scheduled meeting for a public hearing.
- C. Public Hearing Required. The planning commission shall hold a public hearing on the application, providing the notice of such hearing in accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.
- D. Planning Commission Review and Decision. Following the public hearing, the planning commission shall review the application materials, comments received at the public hearing and any other information related to the application, including recommendations or reports from the city planner, engineer, or other party, and shall approve, approve with conditions, or deny the request for special land use approval. In arriving at its decision, the Planning Commission shall refer to and be guided by those standards set forth in this Chapter and any other standards in this Ordinance that are applicable to the proposed special land use. The Planning Commission shall incorporate the basis for the decision and any conditions which should be imposed into its decision.

- E. Issuance of a Special Land Use Permit. A special land use permit shall be issued by the zoning enforcement officer upon approval of the special land use by the Planning Commission. The special land use permit shall list all the conditions of approval stipulated by the Planning Commission. The zoning enforcement officer shall forward a copy of the special land use permit to the applicant and the City Clerk. A site plan submitted as an attachment to a special land use application may be considered and reviewed in conjunction with said special land use application and shall be processed according to the procedures of Chapter 18.
- F. Appeals. No decision or condition related to a special land use application shall be taken to the Board of Zoning Appeals.
- G. Amendments. Amendments to a special land use permit shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a site plan may be made to an existing special land use permit with the approval of the Zoning Administrator.
- H. Transfers. The special land use permit, with any and all associated benefits, conditions and required security shall run with the land and may be transferred to a new owner upon the sale or transfer of the property in question. The prior owner, upon transferring the special land use permit, shall advise the zoning enforcement officer of said transfer in order to insure the continued validity of the permit and compliance with the terms and conditions of the approved permit.
- I. Reapplication. No petition for special land use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmission.
- J. Expiration. A special land use approved pursuant to this chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction and proceeding meaningfully toward completion within one (1) year after the date of approval of the special land use, except as noted below.
1. The planning commission may grant one (1) six (6) month extension of such time period, provided the applicant requests the extension prior to the date of the expiration of the special land use approval.
 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the special land use approval shall be null and void.
- K. Abandonment. Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if the zoning enforcement officer finds that any of the following conditions apply:
1. The owner declares or otherwise makes evident an intent to discontinue such use.

2. When the use has been replaced by a different use.
3. If the use has been abandoned for more than one (1) year, and the zoning enforcement officer finds that one or more of the following conditions exist:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
 - b. The property, Buildings, and grounds, have fallen into disrepair.
 - c. Signs or other indications of the existence of the use have been removed.
 - d. Removal of equipment or fixtures that are necessary for the operation of the special land use.
 - e. Other actions, which in the opinion of the zoning enforcement officer constitute an intention of the part of the property owner or lessee to abandon the use.
- L. Violations. The planning commission shall have the authority to suspend or revoke any special land use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this chapter, other applicable sections of this ordinance, or conditions of the special land use approval. Prior to any action, the planning commission shall conduct a public hearing as required by this chapter. The permit holder shall be provided with a reasonable opportunity to correct the violation(s).
- M. Conditions of Approval. The planning commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the special land use approval, pursuant to section 17.02, G. Conditions imposed shall be those necessary to:
 1. Meet the intent and purpose of the zoning ordinance;
 2. Relate to the standards established in the ordinance for the land use or activity under consideration;
 3. Insure compliance with those standards;
 4. Protect the general welfare;
 5. Protect individual property rights; and
 6. Ensure that the intent and objectives of this ordinance will be observed.
- N. Performance Guarantees. As a condition of approval of a special land use, the planning commission may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items. Performance guarantees shall be processed as required in section 22.03, B.

SECTION 17.03. - SPECIAL LAND USE REVIEW STANDARDS.

The Planning Commission shall approve a special land use upon finding that the proposed special land use meets all applicable regulations of this Ordinance and complies with each of the of the following standards, in addition to those specific standards in this Chapter that are established for certain uses:.

- A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the following standards and, in addition, that each use of the proposed site will:
 1. The proposed special land use shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;
 2. The proposed special land use shall be generally consistent with the City of Lowell Master Plan;
 3. The proposed special land use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
 4. The proposed special land use shall not create excessive additional requirements at public cost for public facilities and services; and
 5. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

~~B.A. The planning commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the special land use approval, pursuant to section 17.02, G. Conditions imposed shall be those necessary to:~~

- ~~1. Meet the intent and purpose of the zoning ordinance;~~
- ~~2.1. Relate to the standards established in the ordinance for the land use or activity under consideration;~~
- ~~3.1. Insure compliance with those standards;~~
- ~~4.1. Protect the general welfare;~~
- ~~5.1. Protect individual property rights; and~~
- ~~6.1. Ensure that the intent and objectives of this ordinance will be observed.~~

~~G.A. As a condition of approval of a special land use, the planning commission may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components may include, but shall not be limited~~

~~to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items. Performance guarantees shall be processed as required in section 22.03, B.~~

SECTION 17.04. - SITE DESIGN STANDARDS.

The general standards and requirements of ~~section Sections 17.01-17.03~~ apply to are basic to all special land uses. The specific and detailed requirements set forth in this section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

Those uses specified in this ordinance as permitted by right or as special land uses shall be subject to the requirements of the district in which the use is located. In addition, to all applicable conditions, standards, and regulations shall apply as set forth below; as are cited in the following:

- A. Country clubs, golf courses, riding stables, and public and private athletic grounds and parks, and other similar uses, including related uses, such as snack bars or small retail shops selling goods directly related to the primary use.
 1. The use shall be located on property with direct access to a public street.
 2. Any outdoor activity areas shall be set back a minimum of fifty (50) feet from any residential district or use.
 3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
 4. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
 5. Buildings housing animals, storage equipment, or other similar buildings shall be located at least fifty (50) feet from any lot line.
- B. Commercial greenhouses and nurseries, when operated primarily as wholesaling operations and limited retail sales.
 1. Minimum lot area shall be one (1) acre.
 2. Minimum lot width shall be two hundred (200) feet.
 3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
 4. All open air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.
 5. The lot area used for parking for customers shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.

6. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.

~~7. All lighting shall be shielded from adjacent residential areas.~~

~~8-7.~~ The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.

~~9-8.~~ All loading activities and parking areas shall be provided on the same premises (off-street).

~~10-9.~~ The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

~~11-10.~~ No display area shall be located within ten (10) feet of a street right-of-way line.

C. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

1. Exceptions. No soil, sand, gravel, or other earth material shall be removed from any land within the city without special land use approval, with the following exceptions:

- a. When the earth removal is incidental to an operation for which a building or other permit has been issued by the city;
- b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
- c. The earth removal involves less than one hundred (100) cubic yards;
- d. The earth removal is for the purpose of construction of a swimming pool.
- e. The soil removal will not be in violation of any other section of this ordinance, other city ordinance, Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.

2. Application Requirements. A site plan conforming to the requirements of Chapter 18 of this Ordinance, and also containing the following:

- a. The location and construction details of proposed access drives and service roads on the parcel, together with proposed scrub pads;
- b. The boundaries of the area proposed for the mining activities. If such activities are to be conducted in phases or in separate mining cells, such phases or cells shall be numbered and the phase or cell boundaries shall be depicted with the acreage of each indicated. Each phase or cell shall be labeled as completed, active or future as the case may be;
- c. The location and details of proposed fences, berms, landscaping, gates, signs and parking areas;
- d. The location of proposed structures and fixed equipment to be placed on the site for mining and related activities;
- e. Setback lines as required by this section;

- f. The boundaries, surface areas and bottom contours of any lake or pond to be created or modified by the mining activity.
- g. A written plan narrative containing the following information:
 - 1) The time period proposed for the mining activity;
 - 2) A description of the type of natural resources and the quantity (in cubic yards) involved in the proposed mining;
 - 3) Methods of mining, moving, storing, processing, loading and transporting of the natural resources on and from the site;
 - 4) Identification of and proposed sequence of which phases or cells will be mined and restored, including projected dates for completion of restoration and reuse of each phase or cell;
- h. Measures to be taken to:
 - 1) control noise and vibration beyond the boundaries of the parcel;
 - 2) control erosion and wind-blown sand, dust, dirt or other materials;
 - 3) control access and prevent trespass on the site;
 - 4) prevent waste accumulation;
 - 5) prevent stagnant water and control surface water erosion;
 - 6) preserve existing vegetation and topsoil.
- i. A description of the proposed hours of operation;
- j. If Natural Resources are to be removed from the Parcel:
 - 1) A description of the type and the loaded weight of trucks to be used;
 - 2) The proposed number of trucks leaving the site per day;
 - 3) The proposed route through the Township to be used by such trucks.
- k. A description of Ancillary Activities proposed for the site;
- l. Identification of wells on adjacent properties and the area water tables and a description of the impact of the proposed Natural Resource Extraction on such wells and water table.
- m. A current wetland identification and/or delineation reports detailing the presence of wetland conditions on the Parcel and their status as regulated or unregulated, together with copies of any permits or applications for permits issued by or filed with the MDEQ.
- n. Copies of all other federal, state or County permits or approvals that relate to and are required for the proposed Earth Change.
- o. a preliminary sketch plan of the proposed end use of the property to inform the Planning Commission of the intended long-term use of the site. Such sketch plan shall contain the information required in Section 18.04(A)(2) of this Ordinance. Planning Commission approval of the special land use request for the earth removal shall not constitute approval of the proposed end use.
- p. The planning commission may require an environmental impact statement, engineering data, or other such justification supporting the need for and

consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.

g. If the planning commission determines that the mining may have an effect on adjacent wells and/or on the water table in the area, it may require the applicant to submit a current hydrogeological report, prepared and certified by a registered professional engineer and/or environmental consultant

3. In reviewing an application for mining, the Planning Commission shall also determine whether or not the applicant has satisfied his/her burden in demonstrating that no very serious consequences would result from the extraction. In making this determination, the Planning Commission may consider the following factors in accordance with MCL 125.3205:

a. The relationship of extraction and associated activities with existing land uses.

b. The impact on existing land uses in the vicinity of the property.

c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.

f. The overall public interest in the extraction of the specific natural resource on the property.

4. Operational Requirements. All mining activities shall comply with the following operational requirements:

2-a. All uses shall be established and maintained in accordance with all applicable State of Michigan, County or City statutes, ordinances and regulations. In cases where there is a conflict between state and local statutes, the more restrictive regulations shall control. ~~f any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.~~

3-b. All earth removal operations shall be conducted in a manner such that the earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties.

4-c. No machinery shall be erected or maintained within fifty (50) feet of any property or street ~~line~~right-of-way. Further, ~~No~~ cut or excavation shall be made closer than fifty (50) feet to any street right-of-way line or property line in order to ensure sublater support to surrounding property. The planning commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located within two hundred (200) feet of any residential district or use.

5-d. Where it is determined by the planning commission to be a public hazard, all uses shall be enclosed by a fence, berm or other acceptable screening at least six (6) feet or more in height for the entire periphery of the property or

portion thereof. Fences shall be adequate to prevent trespass, and shall be placed no closer than fifty (50) feet to the top or bottom of any slope.

~~6. No slope shall exceed an angle with the horizontal of forty-five (45) degrees.~~

~~7.e.~~ No building shall be erected on the premises except as may otherwise be permitted in this ordinance or except as temporary shelter for machinery or for a field office, subject to approval by the planning commission.

~~8.f.~~ The planning commission shall ~~recommend—establish~~ routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road within the site shall be hard surfaced for a distance established by the planning commission to minimize dust, mud, and debris being carried onto the public street.

~~9.g.~~ All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to property, individuals, or to the community in general.

~~10. Proper measures, as determined by the zoning enforcement officer shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.~~

~~h. The conduct and operations of the mining shall not result in:~~

~~1) wind-blown sand, dust or soil that would migrate off-site;~~

~~2) the collection of surface water or the run-off of water onto adjoining lands contrary to normal and natural drainage patterns;~~

~~3) the removal or disturbance of existing trees and vegetation on the site in areas on which the Natural Resource Extraction for a specific phase or cell is not commenced or continuing or that is not used for drives or Ancillary Activities;~~

~~4) the failure to promptly reclaim any area of a phase or cell when the mining for that phase or cell is completed.~~

~~11.i.~~ When excavation and removal operations or either of them are completed, the excavated area shall be graded so that no gradients is disturbed earth shall be steeper than a slope of 3:1 (horizontal-vertical). A layer of arable topsoil, of a quality approved by the zoning enforcement officer, shall be spread over the excavated area, except exposed rock surfaces or areas lying below natural water level, to a minimum depth of four (4) inches in accordance with the approved contour plan. The area shall be seeded with a perennial rye grass and maintained until the area is stabilized and approved by the planning commission.

~~12.5. At the time of special land use application for earth removal activities, the applicant shall submit a preliminary sketch plan of the proposed end use of the property to inform the Planning Commission of the intended long-term use of the site. Such sketch plan shall contain the information required in Section 18.04(A)(2) of this Ordinance. Planning Commission approval of the special land use request for the earth removal shall not constitute approval of the proposed end use.~~

j. Where excavation operation results in a body of water five (5) feet deep or greater, the owner or operator shall place appropriate "Keep Out Danger" signs around said premises not more than one hundred fifty (150) feet apart.

k. The planning commission may require, as a condition of approval, the annual review of a mining project and/or an annual report to be presented to the planning commission by the applicant. Such report would summarize progress on the site, the amount of material removed, any complaints received and their resolution, and other items deemed necessary by the planning commission.

~~13. The planning commission may require an environmental impact statement, engineering data, or other such justification supporting the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.~~

l. Applicants shall obtain and submit to the City all applicable local, state and federal permits.

D. Veterinary hospitals, animal clinics, and kennels.

1. The minimum lot size shall be one (1) acre.
2. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear or side yard setback area.

3. All principal use activities shall be conducted within a totally enclosed main building.

3.4. Applicants shall obtain and submit to the City all applicable local, state and federal permits.

E. Radio and television transmitting buildings and towers.

1. Minimum site size shall be two (2) acres.
2. Individual setbacks for any tower or other similar structure shall be equal to one-half (½) the height of any such structure.

2.3. Applicants shall obtain and submit to the City all applicable local, state and federal permits.

F. Bed and breakfast establishments.

1. The establishment shall be serviced by approved water and sanitary sewer services.
2. The establishment shall be located on property with direct access to a paved public street.
3. No such use shall be permitted on any property where there exists more than one (1) other bed and breakfast establishment within seven hundred fifty (750) feet, measured between the closest property lines.
4. Such uses shall only be established in a single-family dwelling.
5. Parking shall be located to minimize negative impacts on adjacent properties.

6. The lot on which the establishment is located shall meet the minimum lot area requirements of the zone district.
7. The total number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed a total of seven (7) guest rooms in any case.
8. Exterior refuse storage facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.
9. One (1) sign shall be allowed for identification purposes. Such sign shall be non-illuminated and un-animated, be mounted flat against the wall of the principal building and not exceed four (4) square feet in area.
10. The establishment shall contain the principal residence of the operator.
11. Accessory retail or service uses to a bed and breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.
12. Breakfast may be served only to the operator's family, employees, and overnight guests.

~~12-13.~~ Applicants shall obtain and submit to the City all applicable local, state and federal permits.

G. Schools, churches, libraries, and community center buildings.

~~1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.~~

1. Main buildings shall be set back a minimum of fifty (50) feet from the nearest property line of any residential district or use ~~property line~~.
2. For uses exceeding a seating capacity of two hundred and fifty (250) persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

H. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.

1. Any such buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
2. Any such building shall comply with the yard setback requirements of the district in which it is located.

~~2-3.~~ Applicants shall obtain and submit to the City all applicable local, state and federal permits.

I. State licensed residential group care facilities.

1. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
2. The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.
- 2.3. Applicants shall obtain and submit to the City all applicable local, state and federal permits.

J. Group and commercial day care homes and facilities.

1. There shall be provided, equipped and maintained, on the premises, a minimum of one hundred and fifty (150) square feet of usable outdoor recreation area for each client of the facility. (Note: the state requires 600 sq ft total 'within a reasonable walking distance from the home' for a group day care home.)
2. The outdoor recreation area shall be fenced and screened from any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
3. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
4. The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.
- 4.5. Applicants shall obtain and submit to the City all applicable local, state and federal permits.

K. Multiple-family dwellings.

1. All dwelling units in the building shall have a minimum of seven hundred fifty (750) square feet per unit.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
- ~~4. Buildings shall not be constructed closer than a distance equal to one and one-half (1½) times the height of the taller building.~~
- ~~5.4. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.~~

L. Public or private campgrounds.

1. Minimum lot area shall be three (3) acres. The lot shall provide direct vehicular access to a public street. The term lot shall mean a campground or travel trailer park.
2. Public stations containing adequate water outlet, waste container, toilet and shower facilities shall be provided.

3. No commercial enterprise shall be permitted to operate on the lot, except that a convenience shopping service facility, campground office, or building containing similar accessory uses intended primarily for use by guests may be provided ~~on a lot containing more than eighty (80) sites~~. Such buildings convenience store, excluding laundry and similar ancillary uses, shall not exceed a maximum floor area of one thousand (1,000) square feet.
4. Each lot shall provide hard-surfaced, dust-free vehicle parking areas for site occupant and guest parking. Such parking area shall be located within four hundred (400) feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).
5. Each site shall contain a minimum of one thousand five hundred (1,500) square feet. Each site shall be set back at least seventy five (75) feet from any public or private street right-of-way or property line.
6. Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway of at least twenty four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any roadway.
7. Any open drainage ways must have seeded banks sloped at least 3:1 (horizontal-vertical) and designed to properly drain all surface waters into a public drainage system, subject to approval by the Drain Commission of Kent County and the City of Lowell.
8. All sanitary facilities shall be designed and constructed in strict conformance to all applicable county health regulations.
- ~~9.~~ A minimum distance of fifteen (15) feet shall be provided between all travel trailers and tents.
- ~~9-10.~~ Applicants shall obtain and submit to the City all applicable local, state and federal permits.

M. Funeral homes and mortuary establishments.

1. Minimum lot area shall be one (1) acre with a minimum width of one hundred and fifty (150) feet.
2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
- ~~3.~~ A caretaker's residence may be provided within the principal building.
- ~~3-4.~~ Applicants shall obtain and submit to the City all applicable local, state and federal permits.

N. Commercial storage warehouses.

1. Minimum lot area shall be one (1) acre.
2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family dwelling in the R-2 District.
3. Parking and circulation:
 - a. One (1) parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirement may be met with the parking lanes required for the storage area. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.
 - b. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - c. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum of ten (10) spaces, to be located adjacent the rental office, for the use of customers.
 - d. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.
- ~~4.~~ A ten-foot wide buffer strip along the side and rear lot lines shall be provided

~~4.~~

O. Banks, credit unions, savings and loan associations, and other similar uses as determined by the zoning enforcement officer, with drive-through facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street right-of-way. A minimum of five (5) stacking spaces for each outdoor teller or automatic teller device shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.

~~2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.~~

~~3.2.~~ Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest street right-of-way line to the nearest edge of said access.

~~4.3.~~ The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.

~~5.4.~~ Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring properties and uses.

P. Hotels and motels.

~~1. Minimum lot area shall be four (4) acres and minimum lot width shall be two hundred (200) feet.~~

~~1. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.~~

~~2. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.~~

Q. Theaters, concert halls, or similar places of public assembly, as determined by the zoning enforcement officer.

~~1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.~~

1. Main buildings shall be set back a minimum of one hundred (100) feet from any residential district ~~or use~~.

2. For uses exceeding a seating capacity of two hundred and fifty (250) persons, a traffic impact study ~~shall~~ may be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity, and access on abutting and nearby streets which are likely to provide access to the site.

3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

R. Residential dwellings, in the same building with commercial uses.

1. All commercial uses, excluding storage, shall not be located on the same story of the building as the dwelling unit.

2. Dwelling units shall comply with the applicable requirements of the R-3 District for multiple-family dwellings.

S. Off-street parking lots.

1. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained so as to dispose of all surface water.

2. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least fifty (50) feet from an intersection.

~~3. All lighting shall be shielded from adjacent residential areas.~~

~~4. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.~~

~~5.3.~~ Public access to the site shall be located at as far as practicable least fifty (50) feet from any intersection as measured from the nearest street right-of-way line to the nearest edge of said access.

- ~~6.~~ The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.

~~7.~~

T. Restaurants with drive-through facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

~~3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.~~

~~4.3.~~ Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

~~5.4.~~ The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.

~~6.5.~~ Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

U. Vehicle service stations, excluding body shops.

1. Minimum lot area shall be thirty two thousand (32,000) square feet.
2. Minimum lot width shall be one hundred and fifty (150) feet.
3. All buildings, structures, and equipment shall be located not less than fifty (50) feet from any street right-of-way line and not less than fifty (50) feet from any side or rear lot line abutting a residential district.
4. No more than one (1) curb opening shall be permitted for every seventy-five (75) feet of frontage along any street, with a maximum of one (1) per street when located on a corner lot.
5. No driveway or curb opening shall be located nearer than seventy-five (75) feet to any intersection nor more than twenty-five (25) feet to any adjacent residential district property line. No driveway shall be located nearer than fifty (50) feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the planning commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.

6. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped areas.
7. The entire lot used for vehicular activities, excluding the area occupied by a building, shall be hard-surfaced with a concrete or bituminous surface. All areas not paved or occupied by buildings or structures shall be landscaped.
8. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.
9. When adjoining residentially zoned property parking and storage areas shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
10. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed on all sides by a six (6) foot sight-obscuring wall or fence. No such outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles (not to exceed a maximum of five (5) such vehicles) shall not be permitted for a period exceeding three (3) days (seventy two (72) hours).
11. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the planning commission. If such use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the planning commission.
12. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent property.
13. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

13-14. Applicants shall obtain and submit to the City all applicable local, state and federal permits.

V. Vehicle wash establishments, either self-serve or automatic.

1. All washing activities must be carried on within a building.
2. Vacuuming activities may not be conducted within any required yard.
3. Sufficient space shall be provided to accommodate all vehicle queuing on the property, so no vehicles are required to wait on an adjoining street to enter the site.

W. Open air businesses.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.

3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

4. All open air businesses shall comply with all applicable city and county regulations regarding sanitation and general health conditions.

~~5. The planning commission may require the permittee to furnish a surety bond in accordance with this ordinance to insure strict compliance with any regulation contained herein and required as a condition of special land use approval.~~

6.5. The lot area used for parking and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained so as to dispose of all surface water.

7.6. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least fifty (50) feet from an intersection.

8.7. All lighting shall be shielded from adjacent residential districts or uses.

9.8. In the case of a plant materials nursery:

- a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
- b. All loading activities and parking areas shall be provided on the same premises (off-street).
- c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be contained to prevent any adverse effect upon adjacent properties.

~~10.6.~~ No display area shall be located within twenty (20) feet of a street right-of-way line.

X. Retail building supplies.

1. Minimum lot area shall be one (1) acre.

2. Minimum lot width shall be two hundred (200) feet.

3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.

4. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.

~~5. All lighting shall be shielded front adjacent residential districts or uses.~~

6.5. The storage or materials display areas shall meet all the yard setback requirements applicable to any principal building in the district.

Y. Landing and take-off areas for rotocraft, and airports.

1. The lot area used for vehicle and aircraft parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, paved surface, and shall be graded and drained so as to dispose of all surface water.

2. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

~~3. All lighting shall be shielded from adjacent residential districts or uses.~~

3. Vehicle and aircraft parking areas and any landing area shall have setback a minimum of fifty (50) feet from any lot line, or as required by appropriate federal or state regulations, whichever is greater.

4. Approval from all applicable local, State and federal agencies shall be required and submitted to the City.

Z. Petroleum storage located at least five hundred (500) feet from any residentially zoned property.

1. The minimum lot area shall be five (5) acres.
2. The lot shall be located so that at least one (1) side abuts an arterial street and all access shall be from such arterial street.
3. The main and accessory buildings and any storage facilities shall not be located nearer than three hundred (300) feet to any adjacent residential district or use.
4. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures are contained on the site and will not cause the contamination of any water source.

AA. Sexually Oriented Business. Sexually oriented businesses shall comply with the requirements of Chapter 17A.

BB. Commercial wireless communication towers.

In addition to the standards of Section 17.03, the Planning Commission shall find that a proposed Commercial Wireless Communication Tower meets the following specific Special Land Use standards.

1. Purpose and Intent. The Telecommunications Act of 1996, as amended, sets forth provisions concerning placement, location and construction of towers and related facilities for communication. The purpose of this section is to establish general guidelines for the siting of Commercial Wireless Communication Towers, which include antenna structures. In order that such towers not cause visual pollution or create a safety hazard on adjacent properties, reasonable regulations for the location, use of existing structures, and design of new structures and towers, are appropriate. Commercial Wireless Communication Towers are specifically determined to NOT be essential services as defined in this Ordinance. The intent of these provisions is to encourage users of towers to:
 - a. Protect land uses from potential adverse impacts of towers.
 - b. Place the location of new towers in appropriately-zoned areas.
 - c. Minimize the total number of towers throughout the community.

- d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 - e. Locate and configure towers in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
 - f. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 - g. Consider the public health and safety of personal wireless service facilities.
 - h. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
 - i. It is not the intent to regulate ham radio antennae under this section.
2. Administratively Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:
- a. Antennas on Existing Structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a new Commercial Wireless Communication Tower may be approved by the Zoning Administrator as a co-location or as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure, provided:
 - (1) The antenna does not extend more than ten (10) feet above the highest point of the structure;
 - (2) The antenna complies with all applicable FCC and FAA regulations;
 - (3) The equipment building for such co-located equipment can be incorporated into an existing structure or cabinet, and
 - (4) The antenna complies with all applicable building codes.
 - b. Microcell Networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
3. Additional Information Required for Review. In addition to the requirements of Chapter 17 and Section 17.03, Commercial Wireless Communication Tower applications shall include:
- a. Name and address of the proposed operator of the site.
 - b. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
 - c. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.

- d. A statement by a registered professional engineer licensed to practice in Michigan that the proposed commercial wireless communications tower will be installed in accordance with the manufacturer's specifications and all applicable City codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided. Such statement shall set forth the fall zone area for the proposed tower. If the fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such statement shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination.
 - e. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - f. A notarized statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.
 - g. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the City of Lowell or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure.
 - h. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
4. Planning Commission Review. Once all required materials are submitted, the Planning Commission shall review the application in accordance with the standards of Chapter 17 and shall either approve, approve with conditions, or deny the application within 90 days of receipt of all required information, as determined by the Zoning Enforcement Officer. If the Planning Commission does not approve, approve with conditions, or deny the application within 90 days, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.
5. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.
6. General Provisions. Commercial Wireless Communication Towers, including their accessory equipment may be permitted, subject to the following provisions:
- a. A Commercial Wireless Communication Towers is permitted in the PF and I zoning districts only. Such towers shall be placed on parcels (whether the land is owned

or leased by the tower owner) which have an area no less than the minimum parcel area and width for the district.

- b. All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer to any property line than the radius of the certified fall zone as provided in Section 17.04 BB, 3, d, hereof, and in no case less than 200 feet from any residence or 200 feet from a zoning district which does not permit Commercial Wireless Communication Towers as a Special Use.
- c. All proposed towers of a height greater than the maximum height permitted in the zone district in which it is located shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by the City. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- d. The service building shall be aesthetically and architecturally compatible with buildings within three hundred feet of the property on which it is located.
- e. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
- f. Monopole tower design shall be required. Guyed towers are prohibited.
- g. The Planning Commission may require landscape screening of the service building and fencing.
- h. Strobe lights shall not be allowed except as required by FAA or other applicable agency.
- i. No signs shall be allowed on an antenna or tower. The service building or fence surrounding the service building and tower may contain not more than two signs of not more than two (2) square feet, listing the name, address and contact telephone number of the operator. Additionally, not more than two (2) signs not to exceed two (2) square feet signaling "danger" or "no trespassing" may also be placed on the fence or service building.
- j. Towers shall be enclosed by a locked gate and security fencing 6 feet in height, and shall be equipped with an appropriate anti-climbing device.
- k. The Applicant shall certify its intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential

shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.

- I. Notwithstanding the provisions of this section, the maximum height for a Commercial Wireless Communication Towers in the City of Lowell shall be 199 feet.
- m. Proposed towers shall be at least one-half mile from existing towers except for towers dedicated to essential municipal services.
7. Removal of Abandoned Antennas and Towers. A Telecommunication Tower that is unused for a period of twelve (12) months shall be removed. The applicant or owner is responsible for the removal of an unused tower. Failure to do so shall be sufficient cause for the City to cause the removal of the Tower at the owner's expense.
8. Bonds. The owner of a Telecommunications Tower; including equipment/accessory buildings, shall post an unconditional and irrevocable letter of credit or bond acceptable to the City Attorney with the City of Lowell to cover the reasonable estimated costs and expenses of dismantling and removing the communication tower. The amount of the bond shall be established by the Planning Commission, and may be adjusted from time to time to reflect changing costs and expenses of dismantling and removing the facility.
9. Nonconforming Uses.
 - a. Pre-existing towers that do not meet the requirements of this section shall be allowed to continue in use as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction, other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance. Modifications to height and type of construction of pre-existing towers shall not be permitted, except in conformance with this Section.
 - b. Rebuilding Damaged or Destroyed Nonconforming Towers. Nonconforming towers that are damaged or destroyed may not be rebuilt except in conformance with the requirements of this Section.

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.

DD. Brewery/Winery

1. A brewery/winery shall be located on a parcel at least two hundred (200) feet from any residentially zoned property.
2. Sites shall be designed and operated to minimize potential negative impacts on adjacent properties, such as odors, vibration, smoke, dust, fumes, and similar potential impacts.
3. The applicant shall demonstrate that all trucks and delivery vehicles be provided with adequate maneuvering areas on the lot. Maneuvering shall not be permitted on adjacent property or in a public right-of-way.
4. Approval may include the establishment of hours of operation for a brewery/winery.
5. A brewery/winery shall obtain and maintain all applicable federal, State, and local permits and upon request, furnish copies of applicable permits to the City.
6. The applicant shall demonstrate that adequate parking and loading areas are provided on the site.

(Ord. No. 95-06, § 1, 12-27-95; Ord. No. 96-6, § 1, 10-21-96; Ord. No. 97-2, § 12, 11-17-97; Ord. No. 00-4, § 6, 9-18-00; Ord. No. 12-03, § 4, 6-4-12)

Planning Commission Goals/Priorities
2017

1. Master Plan – due 2017
2. Review maximum building height
3. Review each district and its setbacks
4. Residential Zoning Districts – Lessen setbacks in Historic District (R2 and R3)
5. **Lot Coverage Standards/Nonconforming Lots – Very Strict – Specifically in the C3 District.**
6. **Requirements for parking spaces – Possible thoughts to a new formula based on “area population’s”.**
7. Comprehensive review of ordinance
8. What is considered to be “hard surfaced”

MEMORANDUM

To: City of Lowell Planning Commission
Date: April 6, 2016
From: Andy Moore, AICP
RE: Zoning Ordinance Audit

The purpose of this memorandum is to summarize parts of the City of Lowell Zoning Ordinance that may need reconsideration or revision to help ensure effective land use and development standards to regulate the built environment. This report is intended to serve as a brief evaluation of the current zoning language and it highlights key policy issues and structural elements that may be revised to establish a more comprehensive and defensible document. This audit was completed at the request of the Planning Commission as they look to work on revisions to better serve the residents of the City.

As a general comment, the current Zoning Ordinance is fairly comprehensive and includes many the customary regulations normally found in a Michigan ordinance. However, parts of the Ordinance are antiquated and we recommend looking for ways refine certain provisions, remove duplicative language and craft more user-friendly language by using simple tables where appropriate. On another note, the format could be updated to ensure more obvious section and page numbering. Currently, if new language is inserted in the document, all the following pages would be renumbered which can lead to confusion if not everyone is using the same document. We find it more appropriate to number pages using a "chapter number – page number" format, where the fourth page of Chapter 3 would be page 3-4.

The following pages review each chapter of the Ordinance and highlight problems or policy questions that should be considered by the Planning Commission.

Chapter 2 – Definitions

Definitions are of primary importance in the effective use of the Zoning Ordinance. However, the current Ordinance appears to be deficient in its definitions in that many land uses regulated by the Ordinance are not defined. Ideally, every listed permitted or special land use should be defined to help reduce ambiguity. For example, "retail store" is a permitted land use in the C-2 district but is not defined. What happens when an applicant and the City disagree on what constitutes a retail store? All permitted land uses should be defined to eliminate personal interpretation of the Ordinance's intent.

Additional general comments about definitions follow:

1. References to the City or Village Zoning Act, which occur in several instances throughout the Ordinance, should be revised to reference the Michigan Zoning Enabling Act (MZEa), which was adopted in 2006.
2. Throughout the definitions are terms throughout this article that refer to adult or sexually oriented businesses. These should be moved to one definition under the heading of "adult uses" or "sexually oriented businesses."
3. Many of the graphics could be updated for clarity, and additional graphics for could be created as appropriate.
4. Definitions for day cares, adult foster cares and similar state-licensed residential care facilities should be revised and/or updated to be consistent with definitions used by the State of Michigan
5. The definition of "farm" should be revised to be consistent with the Right to Farm Act.
6. The definition for lot lines, particularly those for front lot lines, should be reviewed, particularly in the case of corner lots, where the front lot line is the shorter to the two lot lines that are adjacent to the street. It may be appropriate to allow the Zoning Enforcement Officer to determine the front yard in certain circumstances.

Chapter 4. General Provisions

Chapter 4 contains provisions generally applying to all properties in the City. Most development proposals, permit applications, and land use activity will need to comply with these requirements. For this reason, general provisions are significant, as they relate generally to the entire City. Following are our observations relating Chapter 4.

1. Section 4.07(J) pertaining to fences seems to prohibit "privacy screens" but it is not clear what that means or how it is different from a privacy fence, if at all. Further, this subsection should be revised for clarity as the language is very confusing.
2. Section 4.10 pertaining to temporary uses should be revised to address temporary sales activities, such as fireworks, Christmas trees, and similar items. Currently the City requires a special land use permit for temporary fireworks tents, which seems unnecessarily burdensome. Note that a change to this Section may require the City Council to amend the general law ordinance pertaining to solicitors, peddlers and transient merchants.
3. Section 4.11 contains standards for home occupations. While the standards are acceptable, we suggest that an exemption be added that allows "the instruction of a fine art or craft" in any dwelling in the City, as required by the MZEa.
4. Section 4.13 pertaining to nonconforming uses should be revised for clarity. This section primarily addresses nonconforming buildings or structures, with nonconforming uses only addressed occasionally. This should be clarified and

expanded. We recommend organizing this section into at least three distinct subsections: one for general provisions pertaining to nonconformities, one for nonconforming uses and one for nonconforming buildings or structures.

5. Section 4.13A contains standards for nonconforming lots, but is somewhat duplicative of the standards in Section 4.03(C). This should be addressed and clarified, and/or combined into Section 4.13.
6. Section 4.19 addresses the keeping of animals. This should be reviewed by the City to determine if it is still appropriate, and to address any potential

Chapters 5-16 District Standards

This chapter contains dimensional, land use and other standards for each of the City's fourteen zoning districts. We have the following comments:

1. As a general note, the boundaries of all the City's zoning districts should be explored and reviewed to ensure that properties are zoned appropriately.
2. It may be beneficial to state certain land uses in more general terms. For example, in the SR district "schools, churches, libraries, and community center buildings" are permitted as special land uses. This may be more aptly described as "institutional uses", which would also include similar uses that are not a school, church, library or community center building.
3. There are some inconsistencies with regard to state-licensed residential care facilities that should be corrected. For example, in the R-1 district such facilities are a permitted use, except for those that care for four or fewer minors. However, the state defines a family day care as one involving fewer than 6 children. This should be corrected for consistency.
4. In the table of dimensional requirements for each district, there is a standard referring to "lot coverage" which corresponds to a percentage. This is defined as the percentage of a lot covered by buildings or structures. However, the standard is of little use because it is not referred to as either a maximum or minimum. This should be corrected to refer to a maximum lot coverage, or eliminated.
5. The City's commercial and industrial district have a "lot coverage" standard of 60%, specifically includes building and parking areas. If interpreted as a maximum lot coverage requirement (as it is typically applied), then this is a difficult if not impossible standard to meet, especially in the more developed portions of the City. This should be reviewed and revised.
6. Some of the land uses permitted in the industrial districts are too specific. For example, "the manufacture, compounding, assembly or treatment of articles from the previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, [etc...] is too specific and should be shortened to "manufacturing, processing or assembly establishment" or something similar.

7. Section 13.03B indicates that "petroleum storage at least 500 feet from a residentially zoned property", which is confusing. Does this apply to any part of a development in that involves petroleum storage? Or only if petroleum storage is the principal use of the parcel? Why would this only apply to petroleum storage in the Industrial district?
8. The title of Chapter 15 "Planned Unit Development District" seems to indicate that approval of Planned Unit Development (PUD) constitutes a rezoning, but the language of the Ordinance suggests that it is only subject to special land use review and approval. PUDs can be processed either as a special land use or as a rezoning, and each has its benefits and drawbacks. The process should be clarified and one method of review and approval (either special land use or rezoning) should be chosen.
9. The PF Public Facilities district is intended for properties and facilities owned by the City of Lowell or other public or quasi-public entities. Most City facilities, schools, parks, cemeteries, etc. are in this designation. While most of the standards are appropriate, setbacks and other dimensional standards should be revised to ensure that public facilities are in compliance with this chapter.

Chapter 17 - Special Land Uses

Chapter 17 outlines the process by which special land uses are reviewed and approved in the City. It is generally complete, although we do offer the following comments:

1. The approval criteria in Section 17.03A could be strengthened somewhat and expanded to state that a proposed special land use be consistent with the City's Master Plan.
2. This chapter is missing some suggested provisions regarding special land uses, such as abandonment and changes to an existing or approved special land use.
3. Chapter 17A is a lengthy chapter regulating adult (sexually-oriented) businesses in the City. This chapter should be revised to ensure that adult businesses are not effectively excluded from the City, and that other standards are still defensible and practical. Since adult businesses are a special land use, it may be appropriate to incorporate these provisions into Chapter 17.

Chapter 19. Off-Street Parking and Loading

Chapter 19 addresses parking and loading provisions. This chapter contains typical minimum parking standards for many land uses permitted in the City, as well as some locational and design requirements for parking areas. It also addresses off-street loading spaces.

1. Section 19.02 contains provisions regarding the location of required parking facilities. The City may consider loosening these regulations somewhat so that in certain instances on-street or other parking may be counted toward the minimum.
2. Section 19.03(B) requires that parking lots be surfaced with asphalt or concrete or some other surface acceptable to the Planning Commission. The Commission

should discuss what other surfaces are acceptable and under what conditions such surfaces may be used.

3. Section 19.06 sets forth criteria for construction and reconstruction of parking lots, as well as parking lot landscaping. Some of the standards in Section 19.06(B) have been characterized as onerous in the past, as it requires a property owners to complete the parking lot in full conformance with the Ordinance, even if only 25% of it is being reconstructed or resurfaced. The Commission should discuss these standards.
4. The landscaping standards in 19.06(C) are generally acceptable, but many feel that they result in lots with fewer spaces, which can become a sensitive issue in areas where there is a real or perceived shortage of parking (i.e. downtown). This should be discussed by the Commission.
5. Section 19.07 contains minimum parking standards for various land uses in the City. This table should be revised so that it ties to specific land uses that are permitted in the City, and the parking requirements should be reviewed against an objective manual such as ITE's Parking Generation to ensure that the standards are appropriate.
6. As a general note, we often recommend that a high degree of flexibility be written into parking standards. In many cases, an applicant can better determine the amount of parking needed with greater accuracy than the City.

Chapter 20 Signs

This chapter was comprehensively re-written a few years ago so no major revisions are needed. However, the 2015 US Supreme Court decision *Reed v. Town of Gilbert* may affect certain provisions in the Ordinance if any sign regulations are deemed to be "content-based." *Reed v. Town of Gilbert* determined that content-based regulation was unconstitutional, so revisions to potentially content-based regulations may be required.

Chapter 21 – Board of Zoning Appeals

Chapter 21 establishes the Zoning Board of Appeals (ZBA), and outlines the ZBA's jurisdictions and powers, and variance criteria. While generally complete, this chapter should be expanded to more fully enumerate the responsibilities of the ZBA and establish any other obligations that are consistent or required by the MZEA.

Chapter 22 – Administration and Enforcement

This section contains provisions that address the administration of the Zoning Ordinance. This chapter is relatively brief and should be expanded to address public hearing procedures, the creation of the Planning Commission, amendments, others. We have the following specific remarks regarding Chapter 22:

1. Section 22.01 contains language that creates the position of the Zoning Enforcement Officer. While this language is appropriate in this Section, it should be expanded to present the duties and limitations of the Zoning Enforcement Officer in greater detail.
2. Section 22.02 describes the requirements for when building permits and certificates of occupancy are required. I do not believe this language is appropriate in the Zoning Ordinance, since building permits and certificates of occupancy are issued by the building inspector pursuant to the City's adopted Building Code. It should be revised or removed.
3. There is no language in this section that sets forth or authorizes zoning permits. Zoning permits are generally required for most building activities so the Zoning Enforcement Officer can verify that the Zoning Ordinance is being followed. This language should be added to this section.
4. This chapter should be expanded to include language addressing the following topics:
 - a. Public hearing procedure, consistent with the MZEA.
 - b. Zoning amendment procedure, consistent with the MZEA and including criteria to assist the Planning Commission in determining whether an amendment (either a rezoning or text amendment) should be approved or not.
 - c. Fees and applicant escrow accounts.

Chapter 23 – Zoning Map Amendments; Description of Rezoned Properties

This chapter serves to describe changes made to the official City Zoning Map by using legal descriptions to track the changes to the map. However, past practice for many years has been to track zoning changes by parcel address and/or permanent parcel number on the official Zoning Map. Therefore we believe this Chapter can be removed in its entirety.

Chapter 24 – Open Space Preservation

This chapter is intended to address a requirement of the MZEA that requires a municipality to provide an "open space development option" in its Zoning Ordinance. Specifically, the MZEA requires that a municipality provide a developer the option to develop a property with the same number of units as would be provided under conventional zoning, but with some portion of the property set aside as permanent open space, and lot width and area requirements reduced commensurately. The language of this chapter seems a bit lengthy, and it could likely be moved to the general provisions chapter of the Ordinance.

Conclusion

Our notes discussed above are intended as a place to begin discussion on revisions to the Zoning Ordinance. They are intended to generate thought as to creating effective, clear and purposeful regulations for City residents. At our next meeting, we will review the comments in

this memorandum and receive feedback from the Planning Commission on our critique. Additional matters of local importance should be discussed, as well, to provide us with a greater understanding of local issues. The Commission should use this information to discuss which (if any) chapters or provisions of the Ordinance should be revised this year.

As always, please feel free to call me with questions or comments.

2017					
<u>Open Date</u>	<u>Close Date</u>	<u>Address</u>	<u>Name/Business</u>	<u>Subject</u>	
08/22/2016	02/07/2017	128 S. Monroe	Granite Company	Addition	
02/16/2016	01/13/2017	318 E. Main	Big Boiler	Brewery	
01/12/2017	01/16/2017	2179 Gee Drive	John Baar	Finish Basement	
01/19/2017	01/23/2017	1410 W. Main	John Curtis	Addition	
01/26/2017	02/02/2017	1375 Highland Hill	Allen Edwin	New Home	
01/26/2017	02/02/2017	1353 Highland Hill	Allen Edwin	New Home	
01/24/2017	02/02/2017	315 Sherman	Adam Bassett	Fence	
01/18/2017	02/02/2017	200 N. Monroe	Library	Deck	
03/10/2017	03/10/2017	1224 Highland Hill	Allen Edwin	New Home	
03/10/2017	03/10/2017	1268 Highland Hill	Allen Edwin	New Home	
03/23/2017	03/23/2017	140 S. Broadway/149 S. Hudson	King Milling/Phase 1	MCC Building/ Dryer Foundation	
04/20/2017	04/21/2017	12080 Gee Drive	Matt and Laura Garrison	Porch Addition	
04/21/2017	04/25/2017	312 E. Main	Main St. Dev.	Demo - Garage	
04/24/2017	04/24/2017	1376 Highland Hill	Allen Edwin	New Home	
04/24/2017	04/24/2017	1365 Highland Hill	Allen Edwin	New Home	
04/24/2017	04/24/2017	137 S. West	GH Improvements	Decks (2)/Fence	