

ARTICLE IV

GENERAL PROVISIONS

4.0 EFFECTS OF ZONING

Zoning affects every structure and use. Except as specified, no building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except when in conformity with the regulations specified for the zoning district in which it is located.

In case any building or part is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance with this Zoning Ordinance.

If construction on a building is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building provided that actual construction is being diligently carried on, and that such building shall be entirely completed for its planned or designed use within one (1) year from the effective date of this Ordinance, or affecting amendment.

4.1 APPLICATION OF REGULATIONS

The regulations set by this Ordinance throughout the City and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.

- A. All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations specified for the district in which it is located.

- B. No building or other structure shall be altered;
 - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District.
 - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
- C. No yard or lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

4.2 SCHEDULE OF DISTRICT REGULATIONS

Regulations affecting the arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in this Ordinance.

4.3 GENERAL REGULATIONS

A. Building Permit Required ? Conformance to Zoning

In accordance with other City codes, ordinances and regulations duly adopted by the City Commission and in accordance with this Ordinance, no building shall be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this Zoning Ordinance, eligibility for a building permit shall be established upon conformance with the provisions contained herein.

B. Certificate of Occupancy Required

No new principal building or dwelling subject to the provisions of this Ordinance shall be occupied, inhabited or used until a Certificate of Occupancy is issued by the Building Inspector.

C. Structures

1. **Restoring Unsafe Buildings:** Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or the Allegan County Health Department. A building or structure condemned by the Building Inspector may be restored to safe condition provided change of use or occupancy is not contemplated nor compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is equal to or in excess of its State Equalized value, the structure shall be made to comply in all respects with the requirements for materials and methods of construction of structures hereafter erected.
2. **Structure to Have Access:** Every principal structure hereafter erected or moved shall be in a lot adjacent to a public street or with access to an approved street, and all structures shall be located on lots as to provide safe and convenient access for servicing fire protection, and required off-street parking.
3. **One Single-Family Structure Per Lot:** No single family detached residential structure shall be erected upon a lot with another single family detached residential structure. In addition, every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot or a building site as herein defined.
4. **Exceptions to Height Regulation:** The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

D. Accessory Buildings

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

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to all regulations of this Ordinance applicable to main building.
2. Accessory building shall not be erected in any required yard, except a rear yard.

4.4 MOTOR HOMES, CAMPERS, RECREATIONAL VEHICLE TRAILERS AND POOLS

- A. The parking of a travel trailer, motor home or camper trailer when in use or occupied for periods exceeding twenty-four (24) hours on lands not approved for such use shall be expressly prohibited, except that the Zoning Administrator may extend temporary permits allowing the parking of said travel trailer, camper trailer or motor home in a rear yard on private property, not to exceed a period of two (2) weeks. All travel trailers, camper trailers, or motor homes parked or stored shall not be connected to sanitary facilities.
- B. The open storage of any recreational vehicle such as but not limited to: truck camper bodies, snowmobiles, boats, motor homes, camper trailers, travel trailers, all terrain vehicles, etc., shall be permitted only within the confines of the rear yard and shall further respect the requirements of this Section applicable to accessory buildings, insofar as distances from principal structure, lot lines and easements are concerned.
- C. The open storage of utility trailers, boat trailers and other similar conveyance shall be permitted only within the confines of the rear yard and shall further respect the requirements of this Section applicable to accessory buildings, insofar as distances from principal structures, lot lines and easements are concerned.
- D. Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 1. There shall be a minimum distance of not less than ten (10) feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. The side yard setback shall apply to side yards greater than ten (10) feet.
 2. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.
 3. No swimming pool shall be located less than thirty-five (35) feet from any front lot line.
 4. No swimming pool shall be located in any easement.

4.5 LOTS

- A. New Lots to be Buildable: All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.

- B. No new lots shall be created which do not meet the minimum lot size regulations of this Ordinance.
- C. Corner Lots: On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining two (2) required yards shall be the required side yard and which the required rear yard.
- D. Existing Platted Lots: (See Non-Comformities) The use of more than one (1) lot in common ownership where the same do not comply with ninety (90%) percent of the minimum requirements of this Ordinance shall be determined on the basis of neighborhood character. For the purpose of this Section, the Planning Commission shall use the following standards to determine neighborhood character:
1. Two Lots: If each of the two (2) adjacent lots in question has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least sixty (60%) percent of the total number of developed lots within four hundred (400) feet on both sides of the same street, each of said lots in question shall be construed to be in character with the neighborhood, If not, the two (2) lots shall be considered a single lot.
 2. Three Lots: If each of the three (3) lots in common ownership has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least sixty (60%) percent of the total number of developed lots within four hundred (400) feet on both sides of the same street, each of said lots shall be construed to be in character with the neighborhood. If not, the three (3) lots shall be considered one (1) or two (2) lots meeting the zone district requirements.
 3. Four or More Lots: If each of the four (4) or more lots in common ownership are less than the minimum requirements, they shall be re-subdivided into one (1), two (2) or three (3) lots meeting the zone district requirements.

4.6 SATELLITE DISH ANTENNAS

The following regulations have been adopted to insure that satellite dish antennas comply with the health, safety and aesthetic objectives of the City. Those objectives include, but are not limited to, the prevention of poorly constructed or poorly installed or otherwise unsafe structures; unsightly, obtrusive or unsafe structures in front yards; structures out of scale with principal buildings; structures within required side yard or rear yard setbacks obstructing open space and/or creating fire hazards; the proliferation of more satellite dish antennas than are necessary to service a lot or premises.

- A. Small satellite dish antennas are not subject to regulation by the City. A small satellite dish antenna is defined as:
1. A satellite dish antenna that is two (2) meters or less in diameter and is located or proposed to be located in any area included in the B-1, B-2, CBD, or OS-1 Zoning Districts; or
 2. A satellite dish antenna that is one (1) meter or less in diameter and is located in any area of the City.
- B. A large satellite dish antenna is defined as any satellite dish antenna which is not a small satellite dish antenna. The following regulations shall apply to all large satellite dish antennas:
1. Only one (1) satellite dish antenna shall be permitted per lot or premises. However, two (2) satellite dish antennas shall be permitted per lot or premises, if one (1) satellite dish antenna is for television reception only, and one (1) satellite dish antenna is for amateur (i.e. ham) radio operation only.
 2. A satellite dish antenna may not be placed in a front yard. A satellite dish antenna may be placed in a side yard, a rear yard, or on top of a building.
 3. Subject to approval of the Zoning Administrator, a satellite dish antenna shall be securely anchored through the use of a concrete pad or other system adequate to secure the satellite dish antenna during high winds.
 4. The minimum side yard and rear yard setbacks for satellite dish antennas in various zoning districts shall be the same as those for accessory buildings in such zoning districts.
 5. A satellite dish antenna shall not exceed fifteen (15) feet in height or twelve (12) feet in diameter.
 6. No portion of a satellite dish antenna shall contain any name, message, symbol or other graphic representation visible from adjoining properties.
 7. However, one (1) sign identifying the manufacturer of the satellite dish antenna not larger than five (5) inches by twenty (20) inches shall be permitted, and no more than two (2) safety warning signs no larger than five (5) inches by twenty (20) inches shall be permitted.
 8. A satellite dish antenna shall be white or some other non-obtrusive color approved in writing by the Zoning Administrator in advance of installation.

4.7 ANIMALS, BEES, LIVESTOCK & FOWL-USE, SHELTER & STORAGE

No animals, bees, livestock or fowls, or structures for same, other than common household pets shall be permitted as an accessory for use, shelter or storage in any district other than the Agricultural District.

4.8 GENERAL LIGHTING, SCREENING REQUIREMENTS, AND FENCES

A. Lighting

All private lights used for the illumination of dwellings or business establishments or for the illumination of business buildings or areas surrounding them, or the illumination or display of merchandise or products of business establishments shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business property. Lighting which is designed to illuminate the premises shall be installed in a manner which will not cast direct illumination on adjacent properties.

B. Fences in Residential Areas

Fences are permitted in residentially zoned areas subject to the following conditions:

1. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six (6) feet in height measured from the surface of the ground.
2. In the Agricultural District, parcels having an area in excess of two (2) acres and a frontage of at least two hundred (200) feet are excluded from these regulations.
3. Fences shall not contain barbed wire, electric current or charge of electricity, except buried invisible low voltage animal barrier ? fences? which shall be exempt from these regulations.
4. No fence shall be located in the required minimum front yard, or in the front of the lot beyond the front of the house, or whichever is greater, except those which meet all the following requirements:
 - a. No such fence shall exceed four feet in height above the grade of the surrounding ground.
 - b. All such fences shall be:
 1. Of wood, metal or masonry construction, the area of which shall be not more than 40% solid, with the open spaced uniformly spread over the entire area of the fence; or,
 2. Of chain link construction.
5. No fence shall be erected without first obtaining a permit from the Zoning Administrator.

C. Corner and Driveway Clearance

No fence, wall, shrubbery, sign, or other obstruction to vision above a height of twenty four (24) inches from established street grades shall be permitted within the triangular area formed:

1. At the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five feet from their point of intersection (See Figure 7, Exhibit A).
2. At the intersection of a driveway and a street where two sides of the triangle defined by measuring fifteen (15) feet in length along the edge of the driveway and along the curb edge of the roadway line from the point of intersection and the third side is a diagonal connecting the first two. (See Figure 7, Exhibit B).

4.9 NON CONFORMITIES

A. Non-Conforming lots, Non-Conforming uses of land, Non-Conforming structures and Non-Conforming uses of structures and premises

Intent: It is the intent of this Ordinance to permit legal non-conforming lots, structures, or uses to continue until they are removed but not to encourage their expansion.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, except as provided below, nor shall non-conformities be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such

demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

B. Non-Conforming lots

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family detached dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of adoption or amendment of this Ordinance. The provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Zoning Board of Appeals.

C. Non-Conforming uses of land

Where, on the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If such non-conforming use of land ceases for any reason for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

D. Non-Conforming structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged, altered or rebuilt in a way which increases its non-conformity. Such structures may be enlarged, altered or rebuilt in a way which does not increase its non-conformity.

2. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
3. In the event any non-conforming building or structure shall be damaged by fire, wind, or an Act of God or the public enemy, the same shall be permitted to be rebuilt provided it does not exceed the size, floor area, height and placement of the original building or structure.

E. Non-conforming uses of structures and land

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the non-conforming uses and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside the building. However, with the review and approval of the Planning Commission, a parking lot serving the non-conforming use may be initially established or enlarged without violating this Ordinance. In deciding whether or not to approve the addition or enlargement of such a parking lot, the Planning Commission shall consider and uphold the requirements of Section 18.7 of this Ordinance, as well as whether the addition or enlargement of the parking lot will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned. (See 18.7 for approval process)
3. If no structural alterations are made, any non-conforming use of a structure, or structure and land combination, may be changed to another non-conforming use of the same or a more restricted classification provided that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Planning Commission may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use. (See Article XVIII for approval process)

4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for six (6) consecutive months, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
6. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. Repairs and Maintenance

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building as it existed at the time of passage or amendment of this Ordinance.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting public safety, upon order of such official.

Further, nothing in this Ordinance shall be deemed to prevent additions or alterations to existing single-family residences or two-family residences located in other than a One-Family Residential District, a Two-Family Residential District or a RM-1 District, nor shall anything in this Ordinance be deemed to prevent additions or alterations to existing multiple family residences located in other than residential districts, provided that each and everyone of the following conditions are met:

1. That the standards and regulations applicable to the R-2 One-Family Residential District shall apply as minimum standards for all additions or alterations to single family residences; and
2. That the standards and regulations applicable to the RT Two-Family Residential District shall apply as minimum standards for all additions or alterations to two-family residences; and
3. That the standards and regulations applicable to the RM-1 Multiple-Family Residential Districts shall apply as minimum

standards for all additions alterations to multi-family residences;
and

4. After review of the application and public hearing or written comments, if any, the Planning Commission shall approve, approve with conditions, or deny the permit based upon the standards of the special use as set forth in the appropriate use district. The decision on a special use permit application shall be incorporated in a statement of conclusion relative to the special use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

4.10 TEMPORARY PERMITS

Temporary permits may be authorized as a Special Use by the City Commission after a hearing, for a period not to exceed one (1) year, for non-conforming uses incidental to construction projects on the same premises and including such uses as storage of building supplies and machinery, signs and the assembly of building materials. In addition, the Commission, after a hearing, may authorize a certification for a dwelling house to be temporarily used as a sales and management office for the sale of homes within a subdivision for a period of one (1) year, provided all of the following requirements are complied with:

- A. The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.
- B. No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.
- C. Said dwelling house shall meet all other zoning restrictions of the zone in which it is located.