

CITY OF NEW BUFFALO
ZONING ORDINANCE

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## **ARTICLE 1: PURPOSE, TITLE, AND SCOPE**

### **SECTION 1-1 PURPOSE**

Pursuant to the authority granted to the City of New Buffalo by the Public Acts of the State of Michigan, this Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare.
- B. To protect the character and the stability of the open space, residential, and nonresidential areas within the City of New Buffalo and promote the orderly and beneficial development of such areas.
- C. To provide adequate light, air, privacy and convenience of access to property.
- D. To regulate the intensity of land use and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health.
- E. To lessen and avoid congestion on the public highways and streets.
- F. To promote healthful surroundings for family life in residential areas.
- G. To protect the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, and other health and safety hazards.
- H. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them.
- I. To enhance the social and economic stability of the City.
- J. To enhance the aesthetic desirability of the environment throughout the City.
- K. To conserve the expenditure of funds for public improvements and services.

### **SECTION 1-2 LEGISLATIVE INTENT**

Zoning districts in this Ordinance each have a deemed purpose and are based on the City of New Buffalo General Plan. The districts are sized to be adequate to handle long-term needs, and yet must be monitored relative to any necessary changes or updating as time passes. While the regulations limit the use of properties, the Ordinance is intended to provide landowners with a range of choices, flexibility, and options for development.

### **SECTION 1-3 TITLE**

This Ordinance shall be known and may be cited as the "City of New Buffalo Zoning Ordinance."

### **SECTION 1-4 SCOPE OF PROVISIONS**

- A. **Interpretation and Application.** In its interpretation and application, the provisions of this Ordinance
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shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance. However, where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

- B. **Vested Rights.** Except as otherwise noted, nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety, and welfare.
  - C. **Zoning Rights Vested With Property, Not Owner.** The right to continue a land use or activity or construct a building or structure which is either permitted by this Ordinance or established as a legal nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property.
  - D. **Applicability of Zoning Ordinance Regulations.** Except as otherwise provided for in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of this Ordinance, shall be subject to this Ordinance.
  - E. **Uses Permitted by Right.** All land development specifically listed under the heading "Uses Permitted by Right" shall be allowed when determined to be in accordance with all provisions of this Ordinance and all other applicable laws, regulations or ordinances having jurisdiction over the proposed use of land. Where not specifically permitted, uses are prohibited, unless construed to be similar to a use as expressly determined in accordance with Section 1-4G.
  - F. **Uses Permitted by Special Land Use.** All land development specifically listed under the heading of "Uses Permitted by Special Land Use" in the district description contained in this Ordinance shall be allowed upon recommendation to the City Council by the Planning Commission after a public hearing and upon approval by the City Council in accordance with Article 17 of this Ordinance.
  - G. **Uses Not Specifically Mentioned.**
    - 1. Any use of land or development activity not specifically mentioned in this Ordinance may be classified by the Zoning Administrator as the use most similar in character to the proposed use.
    - 2. If the Zoning Administrator needs further interpretation of the proposed use, the Official may refer the proposed use to the Board of Zoning Appeals for classification.
    - 3. If the Board of Zoning Appeals finds that the use is not similar in character to uses listed in the Ordinance they shall so find. The applicant may then make application to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include the proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Use Permitted by Right or a Use Permitted by Special Land Use.
  - H. **Application Submittals.** Where any provision of this ordinance requires the submittal of any application or other required information to the City within a specified number of days prior to a meeting, those days shall be constructed to be business days, exclusive of weekends and holidays.
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**ARTICLE 2: DEFINITIONS AND INTERPRETATIONS**

**SECTION 2-1 INTENT AND PURPOSE**

The purpose of this Article is to establish rules for the interpretation of the text of this Ordinance, to define certain words and terms, and to provide for the interpretation of this Ordinance by adoption of a technical dictionary. Certain words and terms which may not appear in this Article, but which have special application may be defined in other Articles to which they apply.

**SECTION 2-2 USE OF WORDS AND TERMS**

- A. If the meaning of this Ordinance is unclear in a particular circumstance, then the Board of Zoning Appeals shall construe the provision to carry out the intent of the Ordinance, if such intent can be discerned from other provisions of the Ordinance or law.
  - B. All words and phrases shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
  - C. Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
  - D. The words "person", "proprietor", "property owner", and "operator" shall include any recognized form of legal entity.
  - E. The words "property", "lot", "parcel", "real-estate", "premises", "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
  - F. The word "road" shall also mean "highway", "street", "alley", "drive", "cul-de-sac", or other public thoroughfare.
  - G. The word "building" shall include the word "structure".
  - H. The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended", "arranged", or "designed".
  - I. The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
  - J. The word "may" shall be interpreted as permissive or discretionary.
  - K. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
    - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
    - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
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- 3. "Either..or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- L. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the City or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- M. The word "lot" includes the words "plot"; "parcel"; and "condominium unit/building site".
- N. The word "erected" or "erection" as applied to any building or structure shall be construed to include the words "built", "constructed", "reconstructed", "moved upon", or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed, or moved upon, such as excavation, filling, drainage or the like.

**SECTION 2-3 DEFINITIONS "A"**

**Abutting (lot or parcel):** is a lot or parcel which shares a common border with the subject lot or parcel.

**Accessory Use, Building, or Structure:** a use, building, or structure which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot or parcel as the principal use to which it is related.

**Addition:** A structure added to the existing structure after the completion of the existing structure which extends or increases the floor area, or height of a building or structure.

**Adjoining (lot or parcel):** is a lot or parcel which either abuts the subject property, or is located directly across a public or private street right-of-way from the subject parcel.

**Adult Foster Care Facility:** A facility defined as an "adult foster care facility" by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An "adult foster care facility" includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care.

**Adult Foster Care Family Home:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

**Adult Use:** is any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to selling, displaying, providing services, or exhibiting material for entertainment, a significant portion of which include matter or actions depicting, describing or presenting "Specified Sexual Activities" or "Specified Anatomical Areas.". For purposes of this definition, the term significant shall be defined as greater than twenty percent (20%) of the total material displayed or exhibited for sale for entertainment purposes, or comprising more than twenty percent (20%) of the revenue produced by the business. Adult uses include, but are not limited to the following: adult motion picture theater, adult mini-motion picture theater, adult motion picture arcade, adult book store, adult cabaret, adult novelty store, adult motel, and adult massage parlor.

**Adult Bookstore:** An establishment used for the sale of books, magazines, posters, video cassettes, motion picture films, and other printed materials; or tapes or sex objects for other than contraceptive purposes; distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas," as defined herein.

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

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

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

**Alteration:** Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area height or physical size of the building or structure.

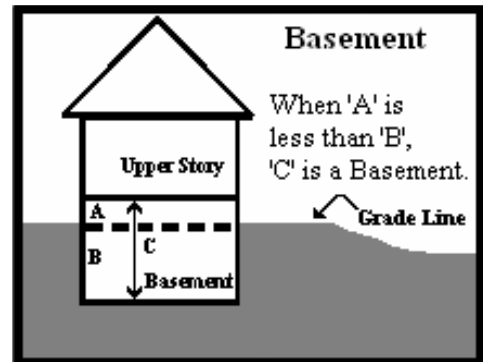
**SECTION 2-4 DEFINITIONS "B"**

**Base Flood Level:** The highest elevation of a flood having a one (1) percent chance of being equaled or exceeded in any given year.

**Basement (Cellar):** That portion of a building which is partly below and partly above grade, and having at least one-half (1/2) its height below grade.

**Bed and Breakfast:** A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

**Building :** A combination of material, whether portable or fixed forming a structure having a roof supported by columns or by walls affording a facility or shelter for use or occupancy by person, animals, or property.



**Building Line:** A line parallel to the right-of-way line at a distance therefrom equal to the depth of the minimum required front yard for the district in which the lot or parcel is located.

**Building Official:** The officer or other designated authority charged with the administration and enforcement of the City Building Code, or his or her duly authorized representative.

**SECTION 2-5 DEFINITIONS "C"**

**Change of Use:** A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance.

**City:** Means the City of New Buffalo, Michigan.

**City Building Code:** The duly adopted Building Code of the City of New Buffalo.

**City Council:** The legislative body of the City of New Buffalo, Michigan.

**City and Village Zoning Act; Zoning Act:** Act 207 of the Michigan Public Acts of 1921, as amended.

**Commercial Wireless Telecommunication Services:** Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**Condominium:** A system of separate ownership of individual units and /or multi-unit projects according to Public Act 59 of 1978, as amended.

**Construction:** The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.

**Convalescent or Nursing Home:** A structure with sleeping rooms, where persons are housed or lodged on a full time basis and are furnished with meals, nursing and medical care.

**Cul-de-sac:** A dead end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street allowing for vehicle turnaround.

**Customary Household Pets:** Includes dogs, cats, rabbits, and similar types of pets traditionally kept in a residential home. Wild or exotic animals shall not be considered customary household pets.

## **SECTION 2-6 DEFINITIONS "D"**

**Day Care, Commercial:** A facility, other than a private residence, receiving minor children for care for periods of less than 24 hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

**Day Care, Family:** A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

**Day Care, Group:** A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

**Density:** The number of dwelling units per unit of lot area (see Lot Area).

**Density, Gross:** "Gross Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot.

**Density, Net:** "Net Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot, excluding any lot area owned by a governmental entity; used as a private street; occupied by a non-residential use; or containing wetlands, flood plain, or water.

**Development:** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and mining, excavation, landfilling or land disturbance, and any extension of an existing use of land.

**Driveway:** An improved public or private passageway providing vehicular ingress to, and vehicular egress from, a public or private road to or from a lot, parcel, or building on abutting grounds.

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**District, Zoning:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.

**Dwelling:** A detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one (1) or more persons, not including accessory buildings or structures, either attached or detached. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings.

**Dwelling, Duplex:** A detached building, designed for or occupied by two (2) families living independently of each other.

**Dwelling, Multiple Family:** A single building with abutting walls containing more than two (2) residential dwelling units.

**Dwelling, Single-Family:** A detached building, designed for or occupied exclusively by one (1) family.

**Dwelling Unit:** A building, or portion thereof, designed exclusively for human occupancy providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

#### **SECTION 2-7 DEFINITIONS "E"**

**Educational Institution:** A public or private accredited kindergarten through twelfth grade school, college, trade, or business school, nursery school, pre-school, or day care center, and/or related administrative offices, excluding maintenance garage.

**Enlargement:** An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

**Erected:** Shall mean built, constructed, altered, reconstructed, moved upon, or any physical operation on the premises which are required for construction purposes. Excavation, fill, drainage and the like shall be considered a part of erection.

**Essential Public Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems. These may include, but are not necessarily limited to, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare. Essential services shall not include buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Cellular telephone or communications towers as defined by this Article shall not be considered essential services.

**Excavation:** Removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, marrow, shale, limestone, clay or other mineral or organic substances, other than vegetation, from water or land, whether exposed or submerged.

**Existing Use:** The use of a parcel of land or a structure at the time of the enactment of this Ordinance.

#### **SECTION 2-8 DEFINITIONS "F"**

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**Family:**

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

**Fence:** Any permanent partition, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit. An ornamental fence is less than three (3) feet in height and more than two (2) feet from any lot or property lines (normally used to set off planting areas).

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters; or the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Hazard Area:** Land which on the basis of available flood-plain information is subject to a one (1) percent or greater chance of flooding in any given area.

**Flood Insurance Rate Map (F.I.R.M.):** An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special hazards and the risk premium zones applicable to the community.

**Flood Insurance Study:** Flood Insurance Study is the official report provided by the Federal Insurance Administration, containing flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

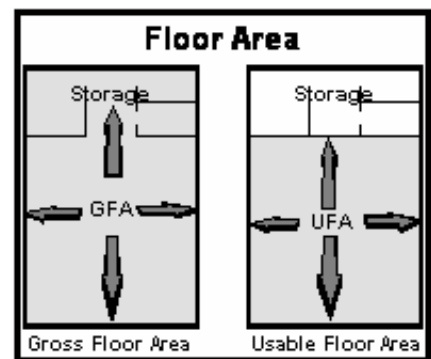
**Floodway:** The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.

**Floor Area:** The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.

**Floor Area, Gross (GFA):** The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/ storage rooms, thickness of walls, columns, or other features.

**Floor Area, Usable (UFA):** "Usable floor area" means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers.

- A. Such floor area which is used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise shall be excluded from this computation of "usable floor area".
- B. Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.



**Frontage:** The total length of the front lot line (in feet) being the horizontal distance between the side lot lines, as measured at the street right-of-way line, or private street easement line.

**SECTION 2-9 DEFINITIONS "G"** [Ord. 149, 2/15/2005]

**General Plan (master plan):** See Master Plan

**Government and Community Service Facility:** A facility under the operational control of a governmental unit, specifically a township, city, village, county, state, the United States Government, or some combination of governmental units, including, but not limited to, offices, libraries, museums, town halls, post offices, courts, and civic centers; excluding vehicle and equipment maintenance, garages and correctional institutions.

**Grade, Finished:** The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.

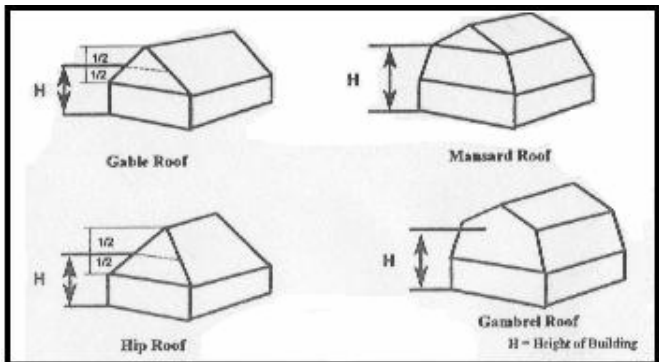
**Greenbelt:** A strip of land of specified width and location reserved for the planting of shrubs, grasses, and/or trees to serve as an obscuring screen or buffer strip.

**Group Day Care Center:** See Day Care, Group.

**SECTION 2-10 DEFINITIONS "H"** [Ord. 149, 2/15/2005]

**Heavy Equipment:** Commercial vehicles with a Gross Vehicle Weight in excess of ten thousand (10,000) pounds, and excavating, grading, road building, earth moving, demolition, loading and similar equipment.

**Height, Building:** The building height is the vertical distance measured from the established pre-construction grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.



**Home Occupation:** An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling.

**SECTION 2-11 DEFINITIONS "I"**

**Industrial Use:** A structure, building, or parcel of land, or portion thereof utilized or inherently designed to be utilized for the purpose of production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, constructing, or printing of goods or products, and related research and development facilities.

**SECTION 2-12 DEFINITIONS "J"**

**Junk:** Shall mean any worn out or discarded materials including, but not necessarily limited to: yard debris, scrap metal, scrap paper, scrap lumber, other scrap and discarded materials, and any inoperable motor vehicles, machinery, appliances, or products. Junk includes the above materials, whether they are to be landfilled, recycled, sold, or used in some other way.

**Junk Yard:** Any land or building used for the storage, sorting, dismantling, baling, salvaging, recycling, and/or sale of junk. Junk yards shall not include residential or municipal garden or leaf composting, a municipal dump or landfill, or drop-off stations for residential recyclables.

**SECTION 2-14 DEFINITIONS "K"**

Section reserved for future use.

**SECTION 2-15 DEFINITIONS "L"**

**Land Use:** A description of how land is occupied or utilized.

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

**Lot:** A parcel of land, or contiguous parcels of land under one (1) ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this Ordinance and having access to a public road or approved private road. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

**Lot Area:** The total area within the described lot lines of a parcel of land, excluding road right-of-way, or private road easement area.

**Lot, Corner:** A parcel of land abutting upon two (2) or more streets at their intersection, or upon parts of the same street forming an interior angle of less than one-hundred thirty-five (135) degrees. See Graphic.

**Lot, Coverage:** That portion of the area of lot that contains buildings and structures measured as a percent of the entire lot area.

**Lot Depth:** The distance from the front lot line to the rear lot line measured in the general direction of the side lines of the lot.

**Lot, Flag:** A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.

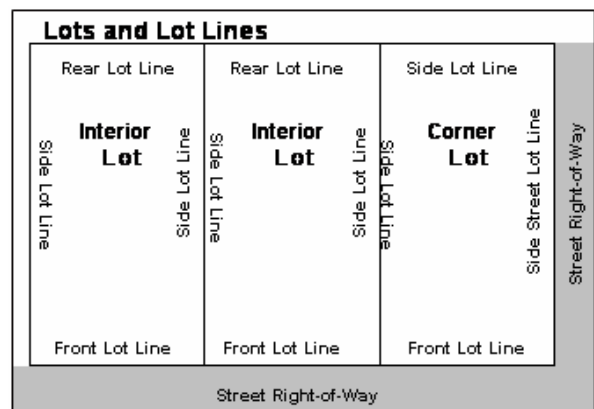
**Lot, Interior:** A lot other than a corner lot.

**Lot Line:** The boundaries of a lot which divide one (1) lot from another lot or from a public or existing private road or any other publicly owned parcel of land.

**Lot Line, Front:** In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating such lot from the street right-of-way or private road easement line.

**Lot Line, Rear:** That lot line which is opposite and most distant from the front lot line. In the case of an irregular- or triangular-shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line.



**Lot of Record:** Any parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds records as of the date of adoption of this ordinance or any relevant amendment thereto which would affect such lot, which lot actually exists as shown or any part of a parcel held in record ownership separate from that of the remainder.

**Lot Width:** The horizontal distance between side lot lines measured parallel to the front lot line at the front lot line and at the required front setback line. For lots fronting on a cul-de-sac, lot width shall mean the horizontal distance between side lot lines measured parallel to the front lot line at the required front setback line.

## **SECTION 2-16 DEFINITIONS "M" [Ord. 175, 2/19/2008]**

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

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

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

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

**Master Plan:** The Master Plan under current adoption by the City of New Buffalo and shall include any amendments or updates thereto.

**Motel:** A series of attached, semi-detached, or detached rental units each containing a bedroom, bathroom, and closet space in which transient, overnight, lodging or boarding are offered to the public for compensation. The design of a motel is oriented to the public traveling by motor vehicle with individual sleeping rooms exiting directly to the outside with patron parking located at or near each room exit.

**Municipal Parks:** City owned or operated parks, including: parks, playgrounds, recreational areas, athletic grounds, community buildings, beaches, boat-launches, marinas, nature areas, non-motorized trails, museums, outdoor performing arts areas, gardens, and green-spaces.

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**SECTION 2-17 DEFINITIONS "N"**

**Non-conforming Building:** A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.

**Non-conforming Lots of Record:** A platted lot that conformed with all City zoning requirements at the time of recording of said plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot outside a recorded plat that conformed with all City zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning requirements for lot area, lot width, or both.

**Non-conforming Use:** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, and that does not conform to the use regulations of the Zoning District in which it is located.

**Nursery:** A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers, or perennial ground covers from seed or seedlings for the purpose of retail or wholesale trade.

**SECTION 2-18 DEFINITIONS "O"**

**Occupancy Certificate:** A written document received from the Building Inspector stating that the City Building Code, as amended, and this Ordinance have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for its previously declared purpose.

**Occupy:** The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage, or use of equipment, merchandise or machinery in any institutional, commercial, agricultural, or industrial building.

**On-Premise Parking (off-street):** Includes the parking spaces, loading/unloading areas, and circulation aisles that are on the same lot(s) or parcel(s) as the development project being submitted for review.

**Open Space, Common:** Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

**Ordinance:** Means the City of New Buffalo Zoning Ordinance when no other ordinance description is used.

**Owner:** The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessor, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

**SECTION 2-19 DEFINITIONS "P" [Ord. 171, 6/12/2007]**

**Parcel:** A lot described by metes and bounds or described in a recorded plat.

**Pawnbroker:** Any person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price. An internet drop-off store meeting the requirements detailed in M.C.L.A. Chapter 446 (Act No. 469, of the Public Acts 2002, as amended), shall not count as a pawnbroker.

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**Permit:** An official document or certificate issued by an authorized official, empowering the holder thereof to perform a specified activity which is not prohibited by law, but not allowed without such authorization.

**Planned Unit Development (PUD):** The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.

**Plat:** A recorded subdivision of land as provided in Act 288 of 1967, as amended, the Land Division Act.

**Primary Resident:** A person whose principal place of residence is in the City of New Buffalo and where such person resides at least one hundred eighty-three (183) days each year.

**Principal Use:** The primary or predominant purpose to which a parcel of land is devoted as distinguished from an Accessory Use.

**Property Line:** See Lot Line.

**Public Water Course:** A stream or creek which may or may not be serving as a drain as defined by Act 40 of the Public Acts of 1956, as amended, being MCLA 280.1 et seq. or any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

#### **SECTION 2-20 DEFINITIONS "Q"**

Section reserved for future use.

#### **SECTION 2-21 DEFINITIONS "R"**

**Recreational Vehicle or Equipment:** A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

**Rehabilitation:** The upgrading of an existing building or part thereof which is in a dilapidated or substandard condition.

**Repair:** The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

**Residential Family Care Center:** See State Licensed Residential Facility.

**Restoration:** The reconstruction or replication of an existing building's original architectural features.

**Right-of-Way:** A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

#### **SECTION 2-22 DEFINITIONS "S"**

**Satellite Dish Antenna, or Dish Antenna:** An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**Screen:** A structure such as a fence, wall, landscape buffer, or combination of same, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

**Setback:** Is the horizontal distance between a front, rear, or side lot line and a building line.

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**Setback, Required:** is the required minimum horizontal distance between a front, rear, or side lot line and a building line, provided, however, said horizontal distance shall be measured from the street right-of-way line whenever a yard abuts a public or private street. On lots with multiple street frontage, such as corner lots, all sides of said lots abutting a street shall be considered front yards for setback purposes.

**Shopping Center:** Is a group of commercial establishments (3 or more), planned and developed as a unit, with a minimum gross leaseable area of 20,000 square feet, and containing on-premise parking.

**Sign:** (See definition in Article 16, Signs)

**Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, in accordance with Public Act 59 of 1978 as amended.

**Site Plan:** A scaled drawing(s) illustrating existing and proposed conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

**Specified Anatomical Areas:** For the purposes of this ordinance shall be defined as:

- A. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola;
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** For the purposes of this ordinance shall be defined as follows:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse, or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**State Licensed Residential Facility:** A residential care family or group facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include such facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

- A. A Family Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A Group Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

**Stop Work Order:** An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Story:** That part of a building included between the surface of any floor, excluding basements, and the surface of the next floor, or if there is no floor above, then the ceiling next above.

**Street Private:** A privately owned and maintained thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or main buildings.

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**Street, Public:** A public thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

**Structural Alterations:** Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or in the dimensions or configurations, or of the roof and exterior walls or means of egress.

**Structure:** A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up which requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within the structure.

**Subdivision:** Subdivision means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, Act 288 of 1967 of the Public Acts of Michigan, as amended. "Subdivide" or "subdivision" does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of the City of New Buffalo Land Division Ordinance.

**Subdivision Plat:** A map or chart depicting the subdivision of land as regulated by the Land Division Act, as amended.

#### **SECTION 2-23 DEFINITIONS "T"**

**Tower, Communication:** Towers erected for the purpose of providing Commercial Wireless Telecommunication Services or other radio wave communications.

**Travel Trailer:** A vehicular portable structure built on a chassis which is less than thirty-two (32) feet in length and is of such a width and weight as not to require special highway movement permits when drawn by a vehicle.

#### **SECTION 2-23 DEFINITIONS "U"**

**Use:** The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

**Useable Floor Area:** See Floor Area, Useable.

#### **SECTION 2-24 DEFINITIONS "V"**

**Variance:** Permission given by the Board of Zoning Appeals to a property owner to depart from the literal requirements of this Ordinance which may occur when compliance with this Ordinance would create a practical difficulty or unnecessary hardship on the property owner.

**Variance, Use:** Permission granted by the Board of Zoning Appeals to a property owner to place a use on the property or within a building on the property which is not otherwise permitted in the zoning district in which the property is located.

**Vehicle:** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

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**Vehicle Repair:** Any major activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

**Vehicle Service Station:** A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Article.

**Veterinary Hospital, Clinic, and Indoor Kennel:** Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

**SECTION 2-25 DEFINITIONS "W"**

**Wall:** The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.

**Watercourse:** An open trench either naturally or artificially created which periodically or continuously contains moving water draining an area of at least two (2) acres which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

**SECTION 2-25 DEFINITIONS "X"**

Section reserved for future use.

**SECTION 2-26 DEFINITIONS "Y"**

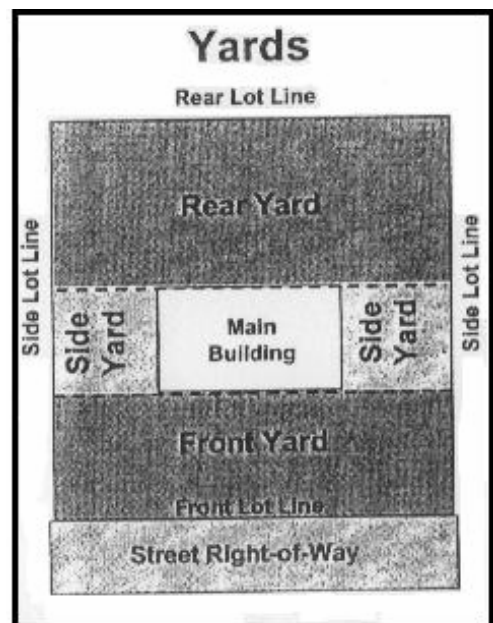
**Yard:** A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

**Yard, Front:** A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the foundation line of the building. The required front yard shall mean the yard to be established as a result of compliance with the required front yard setback.

**Yard, Rear:** A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building. The required rear yard shall mean the yard established as a result of compliance with the required rear yard setback.

**Yard, Side:** A yard between the foundation line of the main building and the side lot line extending from the required front yard to the required rear yard. The required side yard shall mean the yard to be established as a result of compliance with the required side yard setback.

**Yard, Abutting A Street:** Any yard which abuts a public or private street shall be considered a front yard for building setback purposes.



**SECTION 2-27 DEFINITIONS "Z"**

**Zoning:** The dividing of the city into districts of a number and shape considered best suited to carry out the purposes of the Zoning Act and the creation of uniform regulations throughout each individual district. Such districts are referred to as Zoning Districts in this Ordinance.

**Zoning Act:** The City and Village Zoning Act, Public Act 207 of 1921, as amended.

**Zoning Administrator:** The person designated by the City to administer and enforce this Zoning Ordinance.

**Zoning Board of Appeals:** Is the City of New Buffalo Zoning Board of Appeals created under Act 207 of the Public Acts of 1921, as amended.

**Zoning Compliance Permit:** Is a permit to be issued by the Zoning Administrator the purpose of which is to indicate that the activity or development being requested of the city is in compliance with all the regulations contained in this Ordinance.

**Zoning Ordinance:** The City of New Buffalo Zoning Ordinance.

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**ARTICLE 3: GENERAL PROVISIONS**

**SECTION 3-0 INTENT AND PURPOSE**

It is the purpose of this Article to establish regulations and conditions which are generally applicable to all or most districts of this Ordinance unless otherwise indicated. The purpose of this Article is to provide uniform regulations applicable within the City of New Buffalo which supplement the specific requirements for each district, and each permitted use. The regulations of this Article shall apply to all Districts of this Ordinance, unless specifically excepted elsewhere in this Ordinance.

**SECTION 3-1 ESSENTIAL PUBLIC SERVICES**

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district. It is the intent to exempt such essential services from the application of this Ordinance.

**SECTION 3-2 ACCESSORY BUILDINGS STRUCTURES AND USES**

A. General Requirements.

1. Accessory buildings and structures shall be permitted subject to the regulations of this Section.
2. Attached accessory buildings and structures shall be made structurally a part of the principal building and shall conform to the site development standards of the district in which the building or structure is located.
3. Detached accessory buildings and structures in non-residential districts shall be setback six (6) feet from all side and rear lot lines.

B. Detached Accessory Buildings and Structures - Residential Districts or Uses.

1. Location: Detached accessory buildings and structures shall be permitted only in the side or rear yard.
  2. Setback: Accessory buildings shall be setback a minimum of two (2) feet from a side or rear property line, and a minimum of ten (10) feet from the primary structure, but where it abuts an alley, it shall be setback six (6) feet.
  3. Number of Buildings. Up to two (2) accessory buildings shall be permitted, however their combined area shall not exceed the maximum permitted area for detached accessory buildings.
  4. Maximum Permitted Size:
    - a. For lots of ten-thousand (10,000) square feet in area or less: nine hundred and sixty (960) square feet shall be permitted.
    - b. For lots greater than ten-thousand (10,000) square feet in area, up to one (1) acre: one thousand five hundred (1,500) square feet shall be permitted.
    - c. For lots greater than one (1) acre: two thousand (2,000) square feet shall be permitted.
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5. Maximum Rear Yard Coverage: Detached accessory structures shall not cover more than 40 percent of the rear yard area. In the case of corner lots, such structures shall not cover more than forty (40) percent of the yard opposite the principal front yard.
  6. Permitted Height: No detached accessory building shall exceed a height of twenty (20) feet.
  7. Swimming Pool: A swimming pool shall be permitted in addition to any detached accessory structure located on a lot or parcel. Swimming pools shall comply with the city's building code, and be located a minimum of ten (10) feet from the residential structure and any property line.
- C. Detached Accessory Buildings - Nonresidential Districts or Uses.

Detached accessory buildings having one thousand (1,000) square feet of area or more shall be approved through the site plan review process. Detached accessory buildings of less than one thousand (1,000) square feet may be approved as a minor change to a site plan (see Article 18). All detached accessory buildings shall comply with the building setback requirements of the primary structure.

**SECTION 3-3 CORNER LOTS**

- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.
- B. General Provisions
1. The required front setback shall be met on both the principal and secondary streets; provided that where the lot contains an existing main building, the front setback from the secondary street may be reduced by ten (10) feet.
  2. The remaining setbacks shall be a side setbacks .
  3. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

**SECTION 3-4 MAIN BUILDING OR PRINCIPAL USE**

Each parcel shall contain only one (1) main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple family dwellings, contained within a single, integrated complex, sharing parking, signs, access, and other similar features which together form a unified function and appearance.

**SECTION 3-5 FENCES**

- A. Fences in Residential Districts shall not exceed six (6) feet in height, measured from the surface to the uppermost portion of the fence.
- B. Fences erected within the front yard in any district shall not exceed three and one-half (3 ½) feet in height. Fences within the front yard shall be of a type which is not more than fifty (50) percent solid and shall not be located within any clear vision area, per section 3-13.
- C. Fences in Residential Districts or enclosing residential uses shall not contain barbed wire or be
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electrified.

- D. In Residential Districts, the finished side of the fence shall face the abutting property.
- E. Fences shall not be erected within any public right-of-way in any district.
- F. Fences shall not be erected within two (2) feet from a sidewalk, where the sidewalk is within the public right-of-way.

**SECTION 3-6 REQUIRED AREA OR SPACE**

No lot, yard, courtyard, parking area or other space shall be so reduced in area or dimension as to make said 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 reduced.

**SECTION 3-7 ILLEGAL DWELLINGS**

A portion of a detached garage or accessory building may contain one (1) sleeping room; provided such sleeping room contains sanitary facilities and meets all applicable local and state codes; and further provided no kitchen facilities shall be contained within the detached garage or accessory building. Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the City building code and other applicable regulations. In no case, shall any living space located in a basement be counted toward the required floor area requirement for the district in which it is located.

**SECTION 3-8 KEEPING OF ANIMALS**

- A. The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in any Residential District.
- B. The keeping of animals not normally considered household pets, including, but not limited to, horses, pigs, sheep, cattle, and poultry is prohibited in all zoning districts.
- C. Any area where such permitted animals are kept shall be maintained in a safe and sanitary condition.

**SECTION 3-9 MECHANICAL APPURTENANCES**

- A. Except in the CBD, Central Business, mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, shall be placed not closer than twelve (12) feet to any lot line.
  - B. Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar apparatus, located on the roof of any building shall comply with the following standards:
    - 1. Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.
    - 2. The apparatus and enclosure shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall not occupy greater than fifteen (15) percent of the total area of the roof of the building on which it is placed.
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**SECTION 3-10 EARTH REMOVAL, GRADING AND FILLING**

- A. Purpose. In order to protect adjacent properties, public roads and public water courses, and to provide for adequate drainage of surface water, the following requirements shall apply to all construction activities.
1. General Standards. Earth changes shall be made in a manner so: there will not be increased flows to adjacent properties, erosion, filling of ditches or other drainage ways, or creation of standing water over drainage fields.
  2. Filling Above Grade of Adjacent Property. Filling of property to an elevation above the established grade of adjacent property shall not be permitted without the expressed written approval of the City Engineer.
  3. Surface Grade Near Buildings. The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flows away from the building or structure
  4. Soil Erosion and Sedimentation Control Permit. Any land development which disturbs the existing grade of more than one (1) acre of land or lies within five hundred (500) feet of a river, stream, lake or open drain, shall require a Soil Erosion and Sedimentation Control Permit pursuant to Public Act 347 of 1972, as amended, prior to issuance of a development permit.
  5. Inland Lakes and Streams Act. Any land development, dredging, filling, or other activity requiring a permit pursuant to the Inland Lakes and Streams Act 1972 PA 346, shall be required to obtain said permit prior to the issuance of a development permit.

**SECTION 3-11 ENCROACHMENTS INTO YARDS**

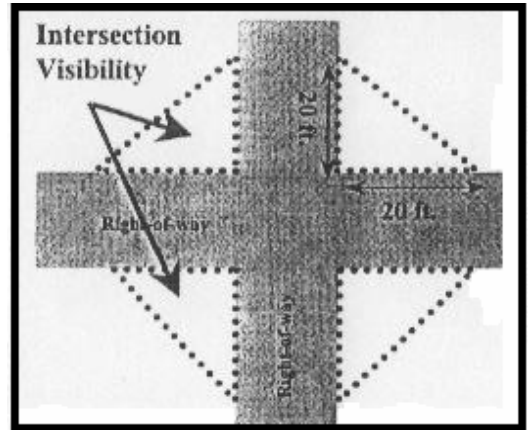
- A. Permitted Architectural Element Encroachment. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of this Ordinance, provided such encroachment into a required front or rear yard area is no closer than ten (10) feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the required side yard of the lot.
- B. Permitted Terrace, Patio, Porch, and Deck Encroachments. Terraces, patios, porches, and decks shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance with the exception of the side yard, provided that they are:
1. Attached to the main building;
  2. Not covered with a roof;
  2. Elevated no more than forty-eight (48) inches above the average surrounding final grade;
  3. Not fully enclosed by a wall or fence over five and one-half (5½) feet in height;
  4. Located no closer than ten (10) feet from a street right-of-way line or rear lot line
- C. Enclosed Encroachments Considered Part of Main Building. Terraces, patios, porches, and decks that are enclosed (covered with a roof), not including steps leading to such structures, shall be attached to and considered part of the main building and shall comply with all regulations applicable to such main buildings.
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**SECTION 3-12 CONSTRUCTION BUILDINGS**

Mobile offices, tool sheds, storage trailers, shall be permitted during the time of actual construction provided they are located pursuant to Section 3-2 of this Ordinance and are in compliance with the County Health Department Sanitary Code. These structures shall be removed within twelve (12) working days after the completion or abandonment of construction work on the property.

**SECTION 3-13 INTERSECTION VISIBILITY**

No fence, wall, sign, hedge, screen or any planting shall be erected or maintained to obstruct vision between a height of three (3) feet and eight (8) feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines twenty (20) feet from the point of intersection of the right-of-way lines.



**SECTION 3-14 SWIMMING POOLS**

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains twenty-four (24) inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, which means shall be approved by the Zoning Administrator. Such side walls, fence or enclosure, including the gates, shall not be less than four (4) feet or greater than (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children.
- B. Swimming pools shall not be located less than ten (10) feet from any lot line or any main building.
- C. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.
- D. No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the zoning administrator.

**SECTION 3-15 PERMITTED FRONT SETBACK REDUCTIONS**

- A. Where the established front yards for existing main buildings within two hundred (200) feet of the side lot line of, and in the same zoning district as, a subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of the street and entirely or partially within two hundred (200) feet of the side lot lines of the subject lot, subject to subsections B and C, below.
  - B. The front yard reduction permitted in subsection A, above shall only be permitted if there are two (2) or more lots occupied by main buildings within the area described for computing the average front yard.
  - C. In no case shall the front yard setback resulting from the application of these provisions, be less than fifteen (15) feet.
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**SECTION 3-16 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS**

Any single-family dwelling, whether constructed and erected on a lot, or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

- A. Minimum Square Footage. The dwelling shall meet the minimum square footage requirements for the district in which it is located.
  - B. Design Features.
    - 1. The minimum width across any front, side, or rear architectural elevation shall be at least twenty four (24) continuous feet of exterior wall.
    - 2. All dwellings shall have either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling;
    - 3. The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
    - 4. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
    - 5. The dwelling shall contain an interior storage area in a habitable basement or cellar located under the dwelling, or in a defined storage room space separate from closet areas, garage, utility or furnace rooms. The minimum storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
    - 6. Laundry facilities shall be required.
    - 7. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
    - 8. The dwelling shall be connected to a public sanitary sewer and public water system, if available.
    - 9. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity.
      - a. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans (which may include elevational sketches or photographs) submitted for a particular dwelling, subject to appeal by an aggrieved party to the Board of Zoning Appeals within a period of twenty-one (21) days from the receipt of notice of said Zoning Administrator's decision.
      - b. Any determination of compatibility shall be based upon the standards set forth in this subsection regarding dwellings as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within nine hundred (900) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20) percent of the lots situated within said area; or where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of manufactured home parks throughout the City.
  - C. Compliance with City Building Code, State, and Federal Regulations. The dwelling shall conform to the City Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such
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standards or regulations allow standards of construction which are less stringent than those imposed by the Building Code in effect in the City, then in that event, the less stringent Federal or State standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- D. **Manufactured Home Standards.** In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to said manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
- E. **Manufactured Homes, Applicable City Standards.** The dwelling shall be placed upon and secured to a permanent foundation in accordance with the City Building Code. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable code for single-family dwellings. In the event that the dwelling shall be installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- F. **Non-applicability to Manufactured Homes in a State Licensed Mobile Home Park.** The foregoing standards shall not apply to manufactured homes located in a state licensed manufactured home park except as required by state or federal law or otherwise specifically required in any City Ordinance pertaining to such parks.

### **SECTION 3-17 TEMPORARY OCCUPANCY IN VEHICULAR DWELLING**

The owner or renter of any premises upon which a dwelling is situated may permit the parking of an occupied recreational vehicle (RV), motor home, mobile home, or travel trailer, of a guest or visitor on the premises for a period not exceeding a total of fifteen (15) days, but not more than eight (8) consecutive days, in any period of three hundred and sixty five (365) consecutive days, provided that a permit is applied for by the owner of said property and issued by the Zoning Administrator. Application for such permit shall include the serial number and license number of the unit, the name and permanent address of the owner thereof, and a statement warranting that the occupants of the unit shall have unrestricted use of the sewer and water supply facilities of the dwelling.

### **SECTION 3-18 SATELLITE DISH ANTENNAS**

No satellite dish antenna shall be constructed, installed, maintained, or operated in the City of New Buffalo except in conformance with these regulations. It is the intent of these regulations to protect the community from a potentially unsightly proliferation of such antennas in open view; to protect public safety by regulating the placement of such dishes in front yards and thereby avoiding visual obstructions to traffic; and ensuring conformance to applicable building codes to avoid injury or destruction of property.

- A. No satellite dish with a diameter of 24 inches or greater shall be placed in any front yard.
  - B. No satellite dish shall exceed the maximum height limitations for the district in which it is located.
  - C. All satellite dishes with a diameter of 24 inches or greater shall conform to the required setbacks for accessory buildings and structures for the applicable zoning district in which they are located.
  - D. No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation visible from adjoining properties, except as required by the manufacturer of the dish antenna or federal regulations for safety purposes.
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- E. A satellite dish shall only be permitted in connection with, incidental to, and on the same lot as a principal use or main building.
- F. A satellite dish antenna with a diameter of 24 inches or greater shall not be erected, constructed, or installed until a building permit therefore has been obtained from the Building Inspector to ensure that the dish is properly anchored and secured against high winds.

**SECTION 3-19 SEASONAL USES**

- A. The Zoning Administrator, upon receiving an application, may issue a permit for the temporary sale of merchandise in any Nonresidential District, related to a seasonal or periodic event. Such seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities, but shall not include roadside stands.
- B. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of such a use is seasonal in nature and will not be established as a permanent use. The Zoning Administrator will also determine:
  - 1. that the use does not have an unreasonable detrimental effect upon adjacent properties;
  - 2. that the use does not impact the nature of the surrounding neighborhood;
  - 3. that access to the area will not constitute a traffic hazard due to ingress or egress; and
  - 4. that adequate off-street parking is available to accommodate the use.
- C. Each permit shall be valid for a period of not more than ninety (90) days and may be renewed by the Zoning Administrator for up to one (1) additional thirty (30) day period, provided the season or event to which the use relates is continued.

**SECTION 3-20 STORAGE OF RECREATION EQUIPMENT**

Recreational equipment may be parked outside of an enclosed building on any lot within a Residential District provided that the following requirements are met:

- A. On any lot in a Residential District, recreational equipment shall not be located within the front yard. If located on a through lot, recreational equipment shall not be located in the front yard, or required rear yard.
- B. Notwithstanding the provisions of this Section, recreational equipment may be parked within any yard, but not within the required setback area, for cleaning, loading, or unloading purposes for not more than forty-eight (48) hours within any seven (7) day period.

**SECTION 3-21 STORAGE AND REPAIR OF VEHICLES**

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district shall be conducted entirely within the interior of a building.
  - B. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.
  - C. It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit
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the open storage or parking outside of a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction being conducted on such lot.

**SECTION 3-22 SITE CONDOMINIUMS**

- A. Approvals Required. Site condominium subdivisions and development projects being undertaken pursuant to Section 141 of the Condominium Act, (MCLA 559.241), Public Act 59, of 1978, as amended, shall require the approval of the Planning Commission through the site plan review process (Article 19), and shall also require the approval of the City Council.
  - B. Site Development Requirements. Site condominium projects shall meet the site development requirements stated in the zoning district in which the project is located. Due to the different terminology and manner in which land is subdivided under the Condominium Act, the following definitions and application methods are offered to be able to apply the site development requirements to a condominium project.
  - C. Infrastructure Requirements. A site condominium subdivision shall meet all street and utility standards as contained in this ordinance or otherwise adopted as standard policy for the city. Street or utility easements required per this ordinance or city policy shall also be provided.
  - D. Definitions. The following definitions shall be used in review and approval of site condominium projects:
    - 1. Building Envelope: The ground area occupied, or to be occupied, by the principal structure which is, or is intended to be, placed on a building site, together with any attached accessory structures.
    - 2. Building Site (Condominium Unit): Regardless of use, that portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed. The building site or condominium unit may appear as a traditional lot, or may be a combination of the building envelope and limited common area.
    - 3. Condominium Structure: Any building or structure constructed upon a building site (condominium unit).
    - 4. Site Condominium: A division of land, on the basis of condominium ownership, subject to the Condominium Act, (MCLA 559.241), Public Act 59, of 1978, and not subject to the Land Division Act, Public Act 288 of 1967, as amended.
  - E. Correlation of Site Development Requirements to Site Condominium Projects.
    - 1. All regulation pertaining to a lot shall apply to the building site in a condominium project.
    - 2. All regulations pertaining to dwelling or building height, width, or size shall apply to the condominium structure.
    - 3. Required setbacks shall apply to all site condominium subdivisions and shall be measured as follows:
      - a. The front yard setback shall be measured from the nearest street right of way or easement line to the building envelope.
      - b. The side yard setback shall be measured from the side of the building envelope to the side building site line.
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- c. The rear yard shall be measured from the rear line of the building envelope to the rear line of the building site.
  - 4. Regulations for building to building spacing shall be measured from building envelope to building envelope.
  - 5. The city shall have the authority to require any changes to the site condominium which are intended to have the condominium project meet the intent of the site development requirements.
- F. Master Deed and Restrictive Covenants. All condominium subdivision projects shall be required to submit a copy of the proposed master deed for the projects and including any proposed restrictive covenants to apply to the project.

**SECTION 3-23 PRIVATE ROADS**

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, the following terms shall have these meanings:

- 1. "Parcel" means a tract of land which can be legally described with certainty and is capable of being located by survey.
- 2. "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 at least 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.
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2. The Building Inspector shall not issue building permits for construction of any building or structure on lots served solely by a private street until a permit for the private street has been approved by the Planning Commission and a safe and unimpeded route of travel is available for any such structure requiring a building permit.
3. A driveway permit shall be obtained from the Michigan Department of Transportation, where applicable, or from the City of New Buffalo.
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 Planning Commission may elect to have all design and construction plans reviewed by the City's attorney, 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 Administrator 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. Construction specifications for width, surface and base materials, curbing, drainage, utility locations, and method of construction shall conform to the City of New Buffalo standards for public streets except as otherwise provided, as follows:
    - a. All private streets shall have a recorded permanent right-of-way and easement with a minimum width of at least forty (40) feet. The easement shall also expressly permit public
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or private utilities to be installed within the easement.

- b. The area in which the private street is to be located shall have a minimum cleared width of twenty-four (24) feet, which clearing shall always be maintained.
- c. Road surface may be gravel, but shall meet the minimum construction standards of the Berrien County Road Commission for gravel roads. The road surface shall be a minimum of sixteen (16) feet in width.
- d. Any private street which terminates at a dead-end shall have a means for vehicle turn-around either by use of a cul-de-sac, with a minimum radius of forty (40) feet, or by a continuous loop private street system, both of which must be constructed in accordance with the standards set forth in this Section.
- e. The road surface shall have a minimum crown of .02 foot per foot from the centerline of the private street to the outside edge thereof.
- f. A road shoulder at least two (2) feet wide, composed of six (6) inches of compacted gravel, shall be provided on each side on the private road surface and shall slope one-half (½) inch per foot from the outside edge of the road surface to the top of the slope.
- g. The maximum longitudinal road grade shall not exceed six percent (6%), provided that the City Council may allow up to a ten percent (10%) grade if the applicant produces written justification, satisfactory to the Council, that an increase in the road grade will not adversely affect public safety and the design of the road system(s). The City Council may seek written recommendations from the City Engineer.

2. Length of private streets.

- a. No private street shall extend for a distance of more than one thousand two hundred and forty (1,240) 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
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establish the maximum length of the proposed private street.

3. 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 forty (40) 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 forty (40) 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.
4. 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.
5. 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.

G. Review standards; modification of certain requirements.

1. Prior to approving a private street permit application, the Planning Commission 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.
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2. The Planning Commission may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
3. Upon application the Planning Commission 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.
  - d. That the request for modification was reviewed by the Fire Chief or City Engineer, or any other appropriate person or official and a recommendation submitted to the Planning Commission.

H. 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 Planning Commission 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 Planning Commission 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 Planning Commission prior to the issuance of the permit.

I. Performance Guarantee

The Planning Commission may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Section 22-3B.

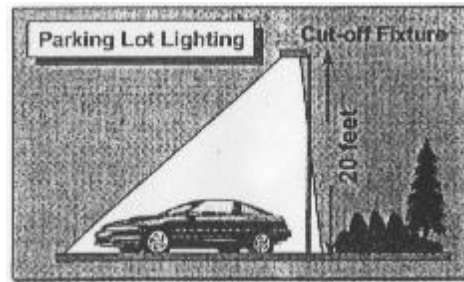
J. Inspections/Certificate of Compliance

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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 New Buffalo.
  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.
- K. Fees: Fees for the permits required hereunder shall be set by the Planning Commission from time to time by resolution. Additionally, the Planning Commission 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.
- L. Indemnify: 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.
- M. Permitted: Private roads may be permitted in residential districts and planned unit developments only. Private roads may not be approved if they are projected to reach an average daily traffic volume of 1,000 or more vehicles per day anytime in the future. If approved, a private road shall meet the design and construction standards as established by the city.

**SECTION 3-24 LIGHTING REQUIREMENTS**

- A. Parking lot lighting shall be as required in Section 15-4C.
- B. Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any Residential District or use which adjoins the site.
- C. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.



**SECTION 3-25 FEES AND CHARGES**

The City Council shall by resolution establish such fees and charges as it may require for applications, permits, reviews, and for other procedures and services related to the provisions of this Ordinance.

**SECTION 3-26 HOME OCCUPATIONS**

Home occupations shall be permitted by right in any residential district subject to meeting the following conditions:

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- A. They shall be conducted entirely within the primary residential structure or within a detached accessory building on the same lot as the home; provided that the maximum area devoted to the home occupation shall not exceed an area equal to twenty (20) percent of the finished floor area of the home.
- B. They shall not require more than 4 client trips or deliveries to the home in any 8 hour period.
- C. They shall not require any regular deliveries by semi trucks.
- D. They shall not involve any equipment or operations which create noise, vibration, odors, or other nuisance conditions beyond the lot lines of the home.
- E. They shall not involve any outdoor storage of supplies or equipment.
- F. They shall not involve the storage or use of explosive materials.
- G. They shall not employ any individual who does not live at the home.
- H. They shall not involve any commercial vehicles other than vans or pickups of less than 21 feet in length.
- I. Signage shall be limited to one sign not more than two (2) square feet in size, to be mounted flat to the residential dwelling, and non-illuminated.

**SECTION 3-27 WIRELESS COMMUNICATION TOWERS**

- A. Commercial wireless communication towers may be considered either a principal or accessory use, as a Special Land Use only on public property. This includes mounting onto a publicly or privately owned tower or publicly elevated storage tank or tower. Collocations are encouraged with existing wireless communication towers.
- B. Commercial wireless communication towers require a municipal franchise agreement. Tower lease areas shall be maintained in a neat and orderly manner and shall be completely fenced. Effective landscaping and screening shall be used around fenced areas. Wireless communication equipment shall be stored inside secured shelters and shall use natural materials and neutral colors for the exterior. Leased areas shall be appropriately lit.
- C. A privately owned, non-commercial tower may be erected as an accessory use in any district, provided such tower does not exceed seventy (70) feet in height in residential districts and one hundred (100) feet in nonresidential districts, and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

**SECTION 3-28 LANDSCAPED BUFFER**

- A. In order to provide protective screening for residential areas adjacent to or near non-residential areas, a landscaped buffer shall be provided by the non-residential property owners. Such requirement shall be a strip at least ten (10) feet in width which is planted and maintained with evergreens, such as spruce, pines, or firs at least five (5) feet in height, or a hedge of evergreens at least five (5) feet in height, situated so as to provide an effective sound and visual permanent buffer. The portion of the landscaped area not covered by plantings shall be kept in a healthy growing condition, neat and orderly in appearance.
  - B. Any shrubs, bushes or other growing plants which project into or across adjacent land may be trimmed back to the property line by the adjacent property owner.
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ARTICLE 4: ZONING DISTRICTS AND MAP

SECTION 4-1 ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, the City of New Buffalo is divided into the following zoning districts:

<b>Flood Plain District "FP-1"</b>	<b>Article 5</b>
<b>Single Family Residential District "R-1"</b>	<b>Article 6</b>
<b>Medium Density Residential District "R-2"</b>	<b>Article 7</b>
<b>High Density Residential District "R-3"</b>	<b>Article 8</b>
<b>Mobile Home Park District "R-4"</b>	<b>Article 9</b>
<b>Central Business District "CBD"</b>	<b>Article 10</b>
<b>General Commercial District "GCD"</b>	<b>Article 11</b>
<b>Waterfront Marina District "WM"</b>	<b>Article 12</b>
<b>General Industrial District "I-1"</b>	<b>Article 13</b>

SECTION 4-2 OFFICIAL ZONING DISTRICTS MAP

The boundaries of the zoning districts enumerated in Section 4-1 are hereby established as shown on the "Official Zoning Map, City of New Buffalo," which accompanies this text; this map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the City Clerk, accessible to the public, and the final authority as to the current zoning status of all property in the City.

SECTION 4-3 INTERPRETATION OF DISTRICT BOUNDARIES

If because of the scale, lack of details, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined, upon written application by the Board of Zoning Appeals. In arriving at a decision, the Board shall apply the following standards:

- A. The boundaries of zoning districts are intended to follow centerlines of alleys streets other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.
- C. Unless shown by dimension on the Official Zoning Map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
- D. Where district boundaries are indicated as approximately following City limits, they shall be construed

as following the City limits.

- E. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.
- F. If a district boundary is indicated as being parallel to, or an extension of a feature described in this Section it shall be so construed.
- G. Where physical or natural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered in this Section the Board of Zoning Appeals shall determine the district boundaries.

#### **SECTION 4-4 ZONING OF VACATED AREAS**

If a street, alley or other public right-of-way within the City is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, such lands shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.

#### **SECTION 4-5 ZONING OF FILLED LAND; USE OF WATERS**

If earthen fill is placed in any lake or stream, the created land shall automatically and without further governmental action acquire and be subject to the same zoning regulations applicable for lands to which the land attaches or is adjacent; and the created land shall be used for those purposes as are permitted under this Ordinance for the adjoining lands.

#### **SECTION 4-6 ZONING OF ANNEXED AREAS**

When property is annexed into the City, the Planning Commission shall consider the appropriate district classification and shall propose an amendment to this Ordinance concerning the annexed land to the City Council within three months of the effective date of the annexation. In the interim period no new development projects shall be approved, however expansions to existing facilities may be acted upon.

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**ARTICLE 5: FP-1 FLOOD PLAIN DISTRICT**

**SECTION 5-1 INTENDED PURPOSES**

As the density of the population in the community increases and the urban area expands, the importance of preserving drainage basins and area around drainage streams for their intended purpose becomes acutely obvious. When the land is developed, a greatly increased amount of water runoff results from the replacement of open land with streets and buildings. The purpose of this zoning district is to preserve drainage basins in the community and to prevent building in areas subject to flooding and upon land which exhibits unstable soil characteristics.

**SECTION 5-2 USE REGULATIONS** [Ord. 175, 2/19/2008]

The following are permitted, so long as the use does not require the erection of a structure intended for year-round habitation:

- A. Municipal parks and private recreational areas.
- B. Forestry.
- C. All uses other than those permitted above are prohibited.

**SECTION 5-3 MINIMUM FLOOD PLAIN MANAGEMENT REGULATIONS**

- A. All words and phrases used in this part shall be construed to have the same meaning as those words and phrases as defined in the full Federal regulations, (24 CFR 1910.3(D)).
  - B. The following minimum regulations shall apply in all zones designated on the flood insurance rate map for the City of New Buffalo, Michigan, dated December 4, 1979 hereinafter referred to as FIRM and the official zoning map of the City of New Buffalo.
    - 1. Require permits for all proposed development in any area of special flood hazard. The term "development" is defined as any man-made change to improved or unimproved real estate, including but not limited to building or other similar type structures."
    - 2. Review permits for proposed development to assure that all other necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.
    - 3. Require that new construction (including prefabricated buildings and mobile homes) and substantial improvements be anchored to prevent flotation and lateral movement, and be constructed with flood resistant materials and methods.
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4. Assure that subdivision proposals and proposals for other developments, including their utilities and drainage, are located and designed to be consistent with the need to minimize flood damage.
  5. Require that all subdivision proposals and other proposed development greater than fifty (50) lots or five (5) acres, whichever is less, include base flood elevation data.
  6. Require new water and sewer systems (including on-site systems) be located and designed to avoid impairment.
  7. Obtain and maintain records of flood elevation and flood proofing levels for all new or substantially improved structures, and whether or not such structures contain a basement.
  8. In ravine situations, notify adjacent communities and State Coordination Office prior to any alteration or relocation of a watercourse and submit copies of such notification to FIA. Within the altered or relocated portion of any watercourse, assure that the flood carrying capacity is maintained.
- C. The following minimum requirements apply in specific zones designated on the FIRM:
1. In unnumbered A zones, obtain, review and reasonably utilize base flood elevation data from alternative sources, prior to its being provided by FIA through its Flood Insurance Rate Study, as criteria for requiring that all new residential structures and substantial improvements to existing structures have their lowest floor (including basement) elevated or flood proofed to or above the base flood level.
  2. In zones A1-30, for new construction and substantial improvements, require that:
    - a. Residential structures have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception for all the allowance of basements and/or storm cellars by the FIA.
    - b. Nonresidential structures have the lowest floor (including basement) elevated to or above the base flood level, or be flood proofed to or above that level.
  3. In zone AO, for new construction and substantial improvements, require that:
    - a. Residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the communities FIRM.
    - b. Non-residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM, or be flood proofed to or above that level.
  4. In zones A1-30 and AO where flood proofing is used in lieu of elevation, require that a registered engineer or architect certify that the flood proofing methods used are adequate to withstand the forces associated with the base flood and submit such certification to the community, or submit to the FIA for approval, local regulations containing detailed flood proofing specification which meet the watertight performance standards.
  5. In zones A1-30, for new, substantially improved or expanded mobile home parks or subdivisions, require that stands or lots are elevated to or above the base flood level, that adequate accesses and drainage is provided, and if pilings are used for elevation, that the construction standards for elevation on pilings are met and anchored in accordance with Federal Regulations (Sec. 1919-B9).
  6. Adopt a regulatory floodway and assure that it is designed to carry the waters of the flood without increasing the base flood level more than one (1) foot at any point.
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7. In the regulatory floodway prohibit development or encroachments (including fill) which would result in any increase in flood levels during the base flood discharge.
8. In the regulatory floodway prohibit the placement of mobile homes.

**ARTICLE 6: R-1 SINGLE FAMILY DISTRICT**

**SECTION 6-1 INTENT AND PURPOSE**

This district is intended primarily for single-family detached residential use and support services or facilities which are typically found in single-family areas and which can be located in a manner to be compatible with the single-family neighborhood.

**SECTION 6-2 USES PERMITTED BY RIGHT** [Ord. 175, 2/19/2008]

Land and/or buildings in the R-1 District may be used for the following purposes by right:

- A. Single-family detached dwelling units
- B. Accessory uses pursuant to Section 3-2.
- C. Home Occupations pursuant to 3-26.
- D. State licensed residential care family facilities.
- E. State licensed family day care centers.
- F. Municipal parks.

**SECTION 6-3 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the R-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Article 17:

- A. Educational institutions
  - B. Religious institutions
  - C. State licensed group day care centers
  - D. State licensed residential care group facilities
  - E. Government and community service facilities
  - F. Cemeteries
  - G. Home occupations not meeting the standards in Section 3-26.
-

**SECTION 6-4 SITE DEVELOPMENT REQUIREMENTS**

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below.

<b>R-1 District Regulations</b>	<b>Requirements</b>
Minimum Lot Area	8,700 square feet provided that all lots platted prior to the date of adoption of this ordinance may be 8,000 square feet.
Minimum Lot Width	66 feet (residential), 200 feet (non-residential)
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setback	6 feet
Minimum Rear Yard Setback	30 feet
Maximum Lot Coverage	35%
Maximum Building Height	<b>residential:</b> 35 feet, not exceeding two and one-half (2 ½) stories. <b>non-residential:</b> 65 feet, provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement one (1) corresponding foot of width or depth.
Minimum Dwelling Unit Square Footage	one-story: 1,000 square feet two-story: minimum of 800 square feet on first floor

**ARTICLE 7: R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT**

**SECTION 7-1 INTENT AND PURPOSE**

This district is intended primarily for single-family detached and two-family dwellings and support services or facilities which are typically found in residential areas and which can be located in a manner to be compatible with such residential uses.

**SECTION 7-2 USES PERMITTED BY RIGHT [Ord. 175, 2/19/2008]**

Land and/or buildings in the R-2 District may be used for the following purposes by right:

- A. Single-family detached dwelling units.
- B. Two-family dwelling units.
- C. Accessory uses pursuant to Section 3-2.
- D. Home Occupations pursuant to 3-26.
- E. State licensed residential care family facilities.
- F. State licensed family day care centers.
- G. Municipal parks.

**SECTION 7-3 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the R-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Article 17:

- A. All uses permitted by special land use in the R-1 District.

**SECTION 7-4 SITE DEVELOPMENT REQUIREMENTS**

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required in accordance with Article 19.
  - B. Parking is required in accordance with Article 15.
  - C. Signs are permitted in accordance with the requirements of Article 16.
  - D. Setbacks, height, area, and lot dimensions are required as noted below.
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<b>R-1 District Regulations</b>	<b>Requirements</b>
Minimum Lot Area	single-family dwelling: 8,700 square feet; provided that all lots platted prior to the date of adoption of this ordinance may be 8,000 square feet; two-family dwelling: 11,000 square feet.
Minimum Lot Width	66 feet (residential), 200 feet (non-residential)
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setback	side yard not to be less than six (6) feet
Minimum Rear Yard Setback	30 feet
Maximum Lot Coverage	40%
Maximum Building Height	<b>residential:</b> 35 feet, not exceeding two and one-half (2 ½) stories. <b>non-residential:</b> 65 feet, provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement one (1) corresponding foot of width or depth.
Minimum Dwelling Unit Square Footage	one-story: 1,000 square feet two-story: minimum of 800 square feet on first floor Two-Family: 1,600 square feet

**ARTICLE 8: R-3 HIGH DENSITY RESIDENTIAL DISTRICT**

**SECTION 8-1 INTENT AND PURPOSE**

This district is intended for buildings containing multiple-dwelling units, including both attached single-family dwelling units and apartment-style residential development. It is intended to provide additional variety in housing opportunity and choices, and to recognize the need to provide affordable housing.

**SECTION 8-2 USES PERMITTED BY RIGHT [Ord. 175, 2/19/2008]**

Land and/or buildings in the R-3 District may be used for the following purposes by right:

- A. Multiple-family dwelling units, including single-family attached dwelling units, and apartment buildings.
- B. Single-family detached dwelling units.
- C. Accessory buildings and uses associated with the above permitted uses, including:
  - 1. Automobile carports or garages.
  - 2. Health club facilities intended primarily for residents of the residential complex.
  - 3. Recreational facilities intended exclusively for residents of the residential complex such as pools and tennis courts and other similar uses.
  - 4. Community center building.

Accessory buildings shall also comply with the regulations contained in Section 3-2 of the ordinance.

- D. Home Occupations pursuant to Section 3-26.
- E. State licensed residential care family facilities.
- F. State licensed family day care centers.
- G. Municipal parks.
- H. Public utility or service buildings, not requiring the outdoor storage of materials.

**SECTION 8-3 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the R-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the special use requirements contained in Article 17:

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- A. State licensed group day care centers
- B. State licensed residential care group facilities
- C. Multiple-family dwelling units providing any type of nursing or medical assistance, assisted living facility, or residential complex providing a common eating area.
- D. Home Occupations not meeting the standards in Section 3-26.

**SECTION 8-4 SITE DEVELOPMENT REQUIREMENTS**

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Minimum building setbacks, height, area, and lot dimensions are required as noted below.

<b>MINIMUM BUILDING SETBACKS</b>	
Front Yard	30 feet
Side Yard	20 feet
Rear Yard	30 feet

<b>MINIMUM BUILDING TO BUILDING SPACING</b>	
Side to side	25 feet
front to front	50 feet
rear to rear	80 feet
front to side	50 feet
corner to corner	25 feet
front to rear	60 feet
rear to side	50 feet

<b>MINIMUM DWELLING UNIT SIZE (Multiple-Family Dwelling Units)</b>	
Efficiency units	500 square feet
One-bedroom units	600 square feet
Two-bedroom units	800 square feet
Three-bedroom units	1,000 square feet
Four-bedroom units	1,150 square feet

<b>OTHER REQUIREMENTS</b>	
Minimum Lot Width	150 feet
Maximum Lot Coverage	35% of total lot area
Maximum Building Height	35 feet
Maximum Density	A maximum net density of twelve (12) units per acre shall be permitted.
Maximum Dwelling Units Per Building (Attached single-family dwelling units)	6 units
Maximum Dwelling Units Per Building (Apartment-style dwelling units)	12 units (unless approved by special use)

**ARTICLE 9: R-4 MANUFACTURED HOME PARK DISTRICT**

**SECTION 9-1 INTENT**

Consistent with the City's goal to provide a mix of housing styles, types, and densities to accommodate the residential needs of all groups, the Manufactured Home Park District is intended to provide regulations for manufactured home residential developments to permit additional variety in housing opportunities and choices.

**SECTION 9-2 PERMITTED USES [Ord. 175, 2/19/2008]**

No land or buildings in the R-4 District shall be used, erected, altered or converted, in whole or in part, by right except for the following uses:

- A. Manufactured homes located in a state-licensed manufactured home park.
- B. Manufactured home parks in accordance with the requirements of Section 9-5.
- C. Family day care homes or foster care family homes.
- D. Accessory buildings, structures, and uses.
- E. Home occupations.
- F. Municipal parks.

**SECTION 9-3 SPECIAL LAND USES**

Except for permitted uses, no land or buildings in the R-4 District shall be used, except for the following purposes when approved in accordance with the requirements of Article 17.

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. Group day care home or adult foster care group home.

**SECTION 9-4 SITE DEVELOPMENT REQUIREMENTS**

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for Manufactured Home Parks and all Special Land Uses in accordance with Article 19.
  - B. Parking is required in accordance with Article 15.
  - C. Signs are permitted in accordance with the requirements of Article 16.
  - D. All applicable Flood Plain requirements of Article 5.
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**SECTION 9-5 LICENSED MANUFACTURED HOME PARKS**

- A. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended.
- B. The parking of more than one manufactured home on a single parcel of land or on two or more adjoining parcels of land under common ownership shall be illegal in the City of New Buffalo, irrespective of the requirements of any other Ordinance of the City of New Buffalo, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this Article.
- C. All applications to establish a Manufactured Home Park District must be approved by the City Council, upon the recommendation of the Planning Commission.
- D. Manufactured Home Sales

The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home park may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or used manufactured home by a resident of the manufactured home development provided the development permits the sale.

**ARTICLE 10: CBD - CENTRAL BUSINESS DISTRICT**

**SECTION 10-1 INTENT AND PURPOSE**

This district is intended to provide convenience retail and services, specialty retail, tourist-oriented retail and services, entertainment establishments, and professional offices in a concentrated, but well-designed manner. This district is intended to serve the local residents as well as the vacationing or visiting public.

**SECTION 10-2 USES PERMITTED BY RIGHT AND SPECIAL USE PERMIT**

Land or buildings in the CBD District may be used for the following uses "by right" or by "special use permit" as identified. Those uses permitted by special use permit shall be reviewed in accordance with provisions contained in Article 17.

<b>GROCERY, FOOD STUFFS, PHARMACIES AND RELATED USES</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
1.	Grocery store	X	
2.	Convenience store selling foods, without gasoline sales.	X	
3.	Specialty food stores including: meat market, bakery, produce, candy/nuts, and health food store.	X	
4.	Bulk food sales (retail)	X	
5.	Pharmacy (without drive-thru service)	X	
6.	Pharmacy (with drive-thru service)		X
7.	Medical supplies	X	
8.	Liquor sales	X	

<b>AUTOMOTIVE, GASOLINE, AND MARINE SALES AND SERVICE</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
9.	Automotive parts		X
10.	Marine supplies (not including water craft sales and service)	X	
11.	Marine supplies (including water craft sales and service)		X

<b>OFFICES</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
12.	Executive, professional, and administrative offices.	X	
13.	Medical offices, out-patient clinics, and emergency med center		X
14.	Real estate and insurance	X	
15.	Veterinary office (but not including outdoor kennels, run, or exercise facilities).	X	
16.	Municipal offices and facilities (but not including penal institutions, halfway houses, work release facilities, or facilities of a similar character).	X	
17.	Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, but without drive-thru facilities.	X	
18.	Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, with drive-thru facilities		X

<b>RESTAURANTS, LOUNGES, BARS, AND PUBS</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
19.	Restaurants, cafes, coffee shops and ice cream shops (without drive-thru service).	X	
20.	Outdoor Seating/Service		X
21.	Bars, lounges, or pubs (not including adult entertainment).	X	

<b>GENERAL AND SPECIALTY RETAIL AND PERSONAL SERVICES</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
22.	Sporting goods (not including recreational vehicle sales and service).	X	
23.	Bait shops	X	
24.	General merchandise stores limited to new merchandise and entirely within an enclosed building (includes department and variety stores).	X	
25.	Used retail merchandise sales conducted entirely within an enclosed building and handling product lines classified as antiques, used, second-hand, surplus or factory seconds.		X
26.	Stores selling small appliances, computers/software, office equipment, camera/photo supplies, and electronics.	X	
27.	Personal services including: hair salons, beauty/barber shops, florists, health and fitness clubs, photographic studios, travel agencies, locksmith, tax services, video rental (non-adult), dry cleaners (non-industrial), pet grooming and commercial day care.	X	
28.	Massage services		X
29.	Specialty retail stores including: books/news/magazine (non-adult), stationery, jewelry, hobby/toys, gift/novelty, luggage/leather, sewing/needlework, tobacco, music/compact discs/tapes, and musical instruments.	X	
30.	Apparel, including shoes and clothing accessories.	X	
31.	Hardware stores	X	

<b>RECREATION, LEISURE, HOTELS, AND MOTELS</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
32.	Bowling Alley, with or without the sale of food and alcoholic beverages.		X
33.	Miniature golf.		X
34.	Indoor movie theater or performing arts theater (not including adult entertainment)		X
35.	Lodge halls, social clubs, fraternal organizations, banquet halls, and other similar uses not involving residential occupancy or adult entertainment.		X
36.	Municipal parks*	X	
37.	Hotels		X
38.	Motels		X
39.	Bed and Breakfast		X

\* [Ord. 175, 2/19/2008]

<b>MISCELLANEOUS</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
40.	Public utility buildings and uses, but not including storage yards.		X
41.	Educational institution offices or facilities.		X
42.	Open air businesses.		X
43.	Parking structures		X
44.	Residential Dwellings		X
45.	Religious institutions*		X

\* [Ord. 177, 9/22/2008]

**SECTION 10-3 SITE DEVELOPMENT REQUIREMENTS**

All Permitted Uses and Special Land Uses are subject to the following site development requirements:

- A. Site plan review is required in accordance with Article 19.
- B. Parking is required in accordance with Article15.
- C. Signs are permitted in accordance with the requirements of Article16.

D. Setbacks, height, area, and lot dimensions are required as noted below.

<b>CBD SETBACK, HEIGHT, AREA AND LOT REQUIREMENTS</b>	
Minimum lot size	8,000 square feet
Minimums lot width	66 feet
Maximum building height	35 feet [Ord. 141, 3/18/2003]
Front yard setback	none required
Side yard setback	<p><b>When abutting non-residentially used or zoned property:</b> 10 feet, however, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically light availability to existing or proposed buildings. Where abutting lots have buildings employing a common party wall no side yard shall be required.</p> <p><b>When abutting residentially zoned property:</b> 30 feet</p>
Rear yard setback	25 feet
Maximum lot coverage	70 percent of the total lot area.

**ARTICLE 11: GCD - GENERAL COMMERCIAL DISTRICT**

**SECTION 11-1 INTENT AND PURPOSE**

The intent of this district is provide an area for a broad range of businesses which for market and traffic reasons are well-suited for location along a major roadway. It is particularly intended for the more intensive commercial needs of the city including: automotive servicing, marine sales and service, construction related offices, and larger retail uses which have large parking demands. All uses in this district will have appropriate signs, adequate lighting levels, attractive landscaping, and convenient parking areas. Special intention will be given to the location of access points and other traffic and pedestrian conditions to ensure that such businesses are operated in a safe and efficient manner. Where possible, access points, parking areas, and other common features will be combined to serve more than one business.

**SECTION 11-2 USES PERMITTED BY RIGHT AND SPECIAL USE PERMIT**

Land or buildings in the GCD District may be used for the following uses "by right" or by "special use permit" as identified. Those uses permitted by special use permit shall be reviewed in accordance with provisions contained in Article 17.

<b>GROCERY, FOOD STUFFS, PHARMACIES AND RELATED USES</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
1.	Grocery store	X	
2.	Convenience store selling foods, without gasoline sales.	X	
3.	Specialty food stores including: meat market, bakery, produce, candy/nuts, and health food store.	X	
4.	Bulk food sales (retail)	X	
5.	Pharmacy (without drive-thru service)	X	
6.	Pharmacy (with drive-thru service)	X	
7.	Medical supplies	X	
8.	Liquor sales	X	

<b>AUTOMOTIVE, GASOLINE, AND MARINE SALES AND SERVICE</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
9.	Automotive parts	X	
10.	Automotive sales and service, including used car dealerships and motorcycle dealerships		X
11.	Light truck sales and service		X
12.	Mobile/modular home sales and service		X
13.	Recreational vehicle sales and service		X
14.	Gasoline sales (may include convenience sales or auto repair)		X
15.	Automobile related repair or service businesses		X
16.	Car wash, automatic or manual		X
17.	Marine supplies (not including water craft sales and service)	X	
18.	Marine supplies (including water craft sales and service)		X

<b>OFFICES</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
19.	Executive, professional, and administrative offices.	X	
20.	Medical offices, out-patient clinics, and emergency med center	X	
21.	Real estate and insurance	X	
22.	Veterinary office (but not including outdoor kennels, run, or exercise facilities).	X	
23.	Municipal offices and facilities (but not including penal institutions, halfway houses, work release facilities, or facilities of a similar character).	X	
24.	Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, but without drive-thru facilities.	X	
25.	Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, with drive-thru facilities		X
26.	Construction-related contractors offices (without outdoor storage of construction equipment or materials).	X	
27.	Construction-related contractors offices (with outdoor storage of construction equipment or materials).		X

<b>RESTAURANTS, LOUNGES, BARS, AND PUBS</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
28.	Restaurants, cafes, coffee shops and ice cream shops (without drive-thru service).	X	
29.	Restaurants, cafes, and ice cream shops (with drive-thru service).		X
30.	Bars, lounges, or pubs (not including adult entertainment).	X	
*	Outdoor Seating/Service.		X

\* [Ord. 159, 6/13/2006]

<b>GENERAL AND SPECIALTY RETAIL AND PERSONAL SERVICES</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
31.	Sporting goods (not including recreational vehicle sales and service).	X	
32.	Bait shops	X	
33.	General merchandise stores limited to new merchandise and entirely within an enclosed building (includes department and variety stores).	X	
34.	Used retail merchandise sales conducted entirely within an enclosed building and handling product lines classified as antiques, used, second-hand, surplus or factory seconds and pawn shops.	X	
35.	Stores selling small appliances, computers/software, office equipment, camera/photo supplies, and electronics.	X	
36.	Printing and mailing services (not including commercial delivery services having a fleet of more than two trucks, vans, or cars).	X	
37.	Personal services including: hair salons, beauty/barber shops, florists, health and fitness clubs, photographic studios, travel agencies, locksmith, tax services, video rental (non-adult), dry cleaners (non-industrial), pet grooming and commercial day care.	X	
38.	Massage services		X
39.	Specialty retail stores including: books/news/magazine (non-adult), stationery, jewelry, hobby/toys, gift/novelty, luggage/leather, sewing/needlework, tobacco, music/compact discs/tapes, and musical instruments.	X	
40.	Apparel, including shoes and clothing accessories.	X	
41.	Hardware stores	X	
42.	Home furnishings, wall and floor coverings, and draperies.	X	

<b>RECREATION, LEISURE, HOTELS, AD MOTELS</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
43.	Bowling Alley, with or without the sale of food and alcoholic beverages.	X	
44.	Miniature golf.	X	
45.	Indoor movie theater or performing arts theater (non-adult)		X
46.	Lodge halls, social clubs, fraternal organizations, banquet halls, and other similar uses not involving residential occupancy or adult entertainment.		X
47.	Municipal parks*	X	
48.	Hotels	X	
49.	Motels	X	
50.	Bed and Breakfast		X

\* [Ord. 175, 2/19/2008]

<b>MISCELLANEOUS</b>			
<b>Land Use</b>		<b>Permitted by Right</b>	<b>Special Use</b>
51.	Public utility buildings and uses, but not including storage yards.		X
52.	Educational institution offices or facilities.		X
53.	Open air businesses.		X
54.	Parking Structures		X
55.	Residential Dwellings	X	
56.	Religious institutions*		X

\* [Ord. 177, 9/22/2008]

**SECTION 11-3 SITE DEVELOPMENT REQUIREMENTS**

All Permitted Uses and Special Land Uses are subject to the following site development requirements:

- A. Site plan review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below.

<b>GCD SETBACK, HEIGHT, AREA AND LOT REQUIREMENTS</b>	
Minimum lot size	15,000 square feet
Minimum lot width	100 feet
Maximum building height	35 feet [Ord. 141, 3/18/2003]
Front yard setback	30 feet
Side yard setback	<p><b>When abutting non-residentially zoned property:</b> 10 feet, however, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically light availability to existing or proposed buildings. Where abutting lots have buildings employing a common party wall no side yard shall be required.</p> <p><b>When abutting residentially used or zoned property:</b> 40 feet</p>
Rear yard setback	30 feet
Maximum lot coverage	60 percent of the total lot area.

**ARTICLE 12: WM - WATERFRONT MARINA DISTRICT**

**SECTION 12-1 INTENT AND PURPOSE**

This district is primarily designed to accommodate commercial and recreational boating along with those activities and services related to harbor and waterway improvements, thereby facilitating navigation and providing safe and economical waterfront recreational development. It is also intended to provide lodging or residential development which would be in support of the district.

**SECTION 12-2 USES PERMITTED BY RIGHT [Ord. 175, 2/19/2008]**

Land or buildings in the WM District may be used for the following uses by right:

- A. Private marinas.
- B. Commissary facilities for the provision of food, beverages, and the like to be stored aboard boats.
- C. Municipal parks or private beaches and recreational areas.
- D. Marine-oriented retail businesses including: boat sales, boat engine sales, fishing/boating supplies, specialty retail with marine oriented clothing or supplies.
- E. Retail sales of convenience foods, excluding drive-thru restaurants.
- F. Restaurants, lounges or clubs.
- G. Hotels, motels, or other such facilities to provide temporary homeport accommodations.
- H. Accessory buildings and uses customarily incident to the above permitted uses.

**SECTION 12-3 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the WM District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Article 17:

- A. Municipal or private port facilities, including outdoor storage.
- B. Boat and motor repair
- C. Fueling Stations.
- D. Multiple-family residential use, including attached single family, two-family, and apartments.
- E. Detached single family dwellings.

**SECTION 12-4 SITE DEVELOPMENT REQUIREMENTS**

All permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site plan review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below.

<b>WM District Regulations</b>	<b>Requirements</b>
Minimum Lot Area	15,000 square feet
Minimum Lot Width	100 feet
Maximum Building Height	35 feet
Front, Side and Rear Yard Setback	front: 15 feet, side and rear: 10 feet; provided where there is a common wall planned for a building on an adjacent property, no side yard shall be required.
Maximum Lot Coverage	70 percent

**ARTICLE 13: I-1 GENERAL INDUSTRIAL DISTRICT**

**SECTION 13-1 INTENT AND PURPOSE**

This district is intended for heavy-commercial and light-industrial uses which are not unreasonably offensive, hazardous, or debilitating to surrounding property or the community through the effects of noise, smoke, odor, dust, dirt, noxious gases, vibration, glare, heat, fire hazards, industrial wastes, or traffic. The City of New Buffalo, because of its limited geographic area and the current residential development pattern, does not have areas suitable for heavy-industrial development.

**SECTION 13-2 USES PERMITTED BY RIGHT [Ord. 175, 2/19/2008]**

Land and/or buildings in the I-1 District may be used for the following purposes by right:

A. Commercial Uses:

1. Whole sale businesses
2. Heavy service businesses (such as construction company offices, plumbing and heating, automotive repair, truck or heavy equipment repair, truck painting etc.)
3. Building supply
4. Self-storage facilities
5. Heavy truck or equipment sales
6. Truck or heavy equipment rental
7. Municipal or private indoor athletic facilities
8. Boat storage facilities

B. Industrial Uses:

1. Research facilities
2. Laboratories
3. Tool and die shops
4. Warehouses
5. Printing and publishing companies
6. Metal bending and welding companies
7. Industrial dry cleaning plant.
8. Manufacturing of automotive parts, apparel and other fabric products, signs, wood products, electrical machinery or equipment, metal products, glass products, and plastic products.
9. Public utility facilities.
10. Commercial gasoline fueling stations.

C. Municipal Uses:

1. Municipal parks.

**SECTION 13-3 USES PERMITTED BY SPECIAL LAND USE** [Ord. 171, 6/12/2007]

Land and/or buildings in the I-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Article 17.

- A. Warehousing, bulk storage, and transport of propane, liquid petroleum, fuel oil, and similar fuels.
- B. Junkyards and salvage yards.
- C. Adult uses.
- D. Towers in excess of fifty (50) feet in height for Commercial Wireless Telecommunication Services.
- E. Pawnbrokers.

**SECTION 13-4 GENERAL STANDARDS FOR PERMITTED AND SPECIAL USES IN THE I-1 DISTRICT**

Uses in the I-1 District shall comply with the following general standards:

- A. All uses or activities shall be carried on in completely enclosed buildings with the exception of parking, and outdoor storage as provided for below.  

Storage may be permitted outside within the side or rear yard only, and shall be screened by a wall, fence, berm, or other landscape method. In no case shall the height of the materials being stored exceed the height of the type of screening chosen. Screening with the exception of living vegetation, shall not exceed a height of 10 feet.
- B. No use shall store, either within an enclosed building, or outside, any material or liquid of a highly-flammable or explosive nature in quantities or locations which would result in a hazard to adjacent properties.
- C. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be excepted if they do not exceed traffic noise peaks from surrounding streets at any point on the lot boundary.
- D. Uses in this district shall not create the following conditions at or beyond their lot boundary:
  - 1. Emit obnoxious, toxic, or corrosive fumes or gases, except for those produced by internal combustion engines.
  - 2. Emit odorous gases or other odorous matter in such quantities as to be offensive.
  - 3. Emit noxious smoke, excluding steam
  - 4. Discharge into the air dust or other particulate matter created by any industrial operation or emanating from any products stored prior to or subsequent to processing.
  - 5. Produce heat or glare which is humanly perceptible.
  - 6. Produce physical vibrations which are humanly perceptible.

- 7. Produce electromagnetic radiation or radioactive emission that could be injurious to human beings, animals, or vegetation, or of any intensity that interferes with the lawful use of any other property.
- E. No use in this district shall produce or store any material designed for use as an explosive, nor use such material in production.

If after review of an application or site plan, the Planning Commission has concerns about whether the standards can or will be met, they may request additional information from the applicant. This information may include additional factual information, professional evaluations, or measurement of impact factors, such as noise, air emissions, and vibration.

**SECTION 13-5 SITE DEVELOPMENT REQUIREMENTS**

All Permitted and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below unless greater setbacks are required by this Ordinance.

<b>I-1 DISTRICT REGULATIONS</b>	
Minimum lot area	1 acre (43,560 square feet)
Minimum lot width	150 feet
Maximum height	40 feet
Front yard setback	35 feet
Side yard setback	15 feet
Rear yard setback	20 feet
Maximum lot coverage	50%

**ARTICLE 14: DISTRICT REGULATIONS**

**SECTION 14-1 SCHEDULE OF REGULATIONS [Ord. 141, 3/18/2003]**

Unless specified elsewhere in this Ordinance, all uses, structures and buildings on all zoning lots shall conform to the Schedule of Regulations and accompanying footnotes shown on the following pages.

**SCHEDULE OF REGULATIONS\***

DISTRICTS	AREA (a) (SQ. FT.)	WIDTH (FT.)	YARD SETBACKS (FT.)			HEIGHT		COVER- AGE (%)
			Front	Side	Rear	Feet	Stories	
<b>R-1 Single Family Residential</b>	8,700 (h)	66 (b)	20	6	30	35 (c)	2 ½	35
<b>R-2 Medium Density Residential</b>	8,700 (d)(h)	66 (b)(d)	20	6 (e)	30	35 (c)	2 ½	40
<b>R-3 High Density Residential</b>	Single & Two Family	See Secion 8-4						
	Multiple Family	See Secion 8-4						
<b>R-4 Manufactured Home Park</b>	See Chapter 9							
<b>CBD Central Business</b>	8,000	66	none	(f)	25	35		70
<b>GCD General Commercial</b>	15,000	100	30	(f)(i)	30 (i)	35		60
<b>WM Waterfront Marina</b>	15,000	100	15	10 (g)	10	35		70
<b>I-1 General Industrial</b>	43,560	150	35	15 (i)	20 (i)	40		50
<b>PUD Planned Unit Development</b>	See Chapter 18							

\* Footnotes are an integral part of these District Regulations and should be read in conjunction with the above schedule.

**FOOTNOTES TO DISTRICT REGULATIONS**

- (a) All dwellings shall contain a minimum floor area in accordance with the following:
  - single family 1,000 sq. ft., with at least 800 sq. ft. on the ground floor
  - two-family 1,600 sq. ft., total
  - multi-family: efficiency 500 sq.ft.
  - 1 bedroom 600 sq. ft.
  - 2 bedroom 800 sq. ft.
  - 3 bedroom 1,000 sq. ft.
  - 4 bedroom 1,150 sq. ft.

Accessory buildings shall conform to the requirements of Section 3-2.
- (b) Minimum width shall be two hundred (200) feet for all nonresidential uses.
- (c) Nonresidential buildings may be built to a height of up to sixty-five (65) feet; provided one (1) additional foot of setback shall be added to each yard requirement for each foot by which the height exceeds thirty-five (35) feet.
- (d) All two-family dwellings shall have a minimum lot area of eleven thousand (11,000) sq.ft.
- (e) The total of both side yards shall not be less than twenty (20) feet.
- (f) When abutting non-residentially used or zoned property, a side yard of ten (10) feet shall be provided. However, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically the availability of light to existing or proposed buildings. Where abutting lots have buildings employing a common party wall, no side yard shall be required. When abutting residentially used or zoned property, a side yard of thirty (30) feet shall be provided.
- (g) Where there is a common wall planned for a building on an adjacent property, no side yard shall be required.
- (h) All lots platted prior to the date of adoption of this ordinance may be 8,000 square feet.
- (i) Where a side or rear yard abuts residentially zoned property, a landscaped buffer shall be provided in accordance with the requirements of Sec. 3-28.

**ARTICLE 15: ON-PREMISE PARKING AND LOADING**

**SECTION 15-1 PURPOSE**

The purpose of this section is to permit and regulate on-premise (off-street) parking of motor vehicles and the on-premise loading and unloading of vehicles in all zoning districts.

In all zoning districts, on-premise parking facilities for the storage and parking of motor vehicles for the use of occupants, employees and patrons of buildings erected, altered, or extended after the effective date of this ordinance shall be provided as prescribed herein.

**SECTION 15-2 LOCATION OF PARKING**

A. One- and Two-Family Dwellings.

Required on-premise parking shall be provided on the same lot or parcel as the dwellings it is intended to serve. With the exception of driveways, no parking shall be allowed closer than 10 feet to a street right-of-way line. Driveways for single-family dwellings shall not exceed 30 feet in width. Total driveway width for two-family dwellings shall not exceed 48 feet. In no instance shall the total area devoted to driveways and parking areas for one or two-family dwellings exceed one-third of the front-yard area.

B. Multiple-Family Dwellings.

Required on-premise parking for multiple-family dwellings shall be provided on the same lot or parcel as the dwellings they are intended to serve. In no instance shall any parking space, other than that provided within an enclosed garage or carport, be located nearer than 15 feet to a residential building.

C. Other Land Uses.

1. Required on-premise parking for other than residential uses shall be located on the same lot, or within lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space of the on-premise parking lot.
2. Parking on lots under different ownership within 300 feet may also be permitted if such arrangement does not result in a parking deficiency for the other use, and a legal agreement specifying the terms for the parking arrangement, signed by all involved parties, is provided.

**SECTION 15-3 GENERAL REQUIREMENTS**

A. Parking Location Standards.

1. The parking of any vehicle on-premise in other than a designated parking area approved for such parking by the Planning Commission shall be prohibited.
2. The parking of any vehicle on any lawn or landscaped area shall be prohibited. The Planning commission may require any person or business responsible for converting lawn or landscaped areas to parking, without having received site plan approval, to restore such areas to their original state.

3. For all residential uses, the parking of motor homes, boats, trailers and other large recreational equipment in the front yard for longer than 48 hours in any 7 day period shall be prohibited.
4. Off-street parking shall not be required for permitted and special non-residential uses within the CBD District where the owner can demonstrate to the satisfaction of the Planning Commission that adequate parking is available to serve the use on-street, in a community parking lot, and/or through a shared arrangement with other nearby uses. This exemption shall not apply to residential uses in the CBD District.

B. Storage or Repair in Parking Areas.

1. The use of parking areas for the storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance, is prohibited, unless specifically approved by the Planning Commission as part of site plan review or by special use permit, as applicable.
2. The storage of semi-trailers outside of areas approved for such storage on an approved site plan shall be prohibited.
3. The use of parking areas for the storage or parking of vehicles unrelated to the business for which the parking is intended shall be prohibited, except as permitted by Section 15-2C2.
4. The use of semi-trailers for storage purposes on a long term basis (longer than a week) is prohibited.

C. Determination of Parking Requirements.

1. The minimum parking space requirements for all uses shall be those identified in Section 15-6.
2. For uses not specifically listed in Section 15-6, the requirements for on-premise parking shall be determined as follows:
  - a. The Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirement to a use which is listed in Section 15-6. In such case, the same parking requirement shall apply.
  - b. The Planning Commission may establish the parking requirement for the proposed use based on documentation pertaining to the parking demand for that use provided and substantiated by the applicant, or based on other professional planning resource material.
3. Public street right-of-ways shall not be counted for meeting on-premise parking requirements.
4. Outdoor parking spaces required for business-related vehicles shall be provided in addition to the parking spaces required in Section 15-6.
5. Two or more buildings or uses may collectively provide the required on-premise parking if a signed agreement is provided by the property owners, and the number of spaces being provided meets the minimum required for all uses calculated individually. Such parking shall be convenient to all uses for which it is intended.
6. Where 2 or more uses are present on the premises, parking requirements shall be calculated for each use, unless specifically provided otherwise herein.

D. Maximum Amount of Parking.

In order to minimize excessive areas of pavement which results in adverse aesthetic and environmental impacts, and contributes to high rates of storm-water runoff, the Planning Commission may limit the

total amount of parking to not exceed the minimum parking requirement by more than 30 percent.

E. Conversion of Parking Areas to Other Uses.

Unless the Planning Commission has reviewed and approved the change, any parking area once approved as a required parking area shall not be changed to any other use.

**SECTION 15-4 DESIGN AND CONSTRUCTION REQUIREMENTS.**

A. Surface and Drainage Requirements.

All parking areas shall be surfaced with a durable and dustless surface and shall be properly graded and provided with adequate drainage facilities as approved by the City Engineer.

B. Surface Striping.

All paved parking spaces, aisles, and unloading zones shall be striped or marked. Such striping or other required demarcation shall be maintained permanently in a condition such that easy interpretation of such markings by intended users is possible. In approved unpaved parking areas, spaces shall be defined by wheel chocks, concrete bumpers, or other similar device.

C. Lighting.

All parking lot lighting shall be designed, located, and/or shielded to prevent spillover onto adjacent properties, and shall be arranged to prohibit adverse affects on motorist visibility on adjacent public roadways. The maximum height of parking lot light fixtures shall be 20 feet for any fixture to be located within 150 feet of a residential district or use, and a maximum height of 30 feet for all other locations.

D. Dimensional Standards for Parking Spaces and Aisles.

All on-premise parking areas shall meet the minimum parking space and maneuvering lane standards contained in the following table.

<b>MINIMUM PARKING SPACE AND MANEUVERING LANE STANDARDS</b>				
Parking Pattern (degrees)	Maneuvering Lane Width One-Way	Maneuvering Lane Width Two-Way	Parking Space Width <sup>1</sup>	Parking Space Length <sup>2</sup>
Parallel	12 feet	20 feet	9 feet	25 feet
30 to 50	12 feet	20 feet	9 feet	21 feet
54 to 74	13 feet	24 feet	9 feet	21 feet
75 to 90	20 feet	24 feet	9 feet	20 feet

Notes: <sup>1</sup> Parking space width measured perpendicular to the space centerline  
<sup>2</sup> Parking space length measured along the space centerline.

**SECTION 15-5 PARKING UNITS OF MEASUREMENT**

A. Equivalency or Substitution.

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ARTICLE

1. Wherever parking requirements are based on gross floor area, gross leaseable area may be substituted if that figure is more readily available.
2. In calculating bench seating for places of assembly, 2 feet shall be the equivalent of one seat.
3. In those cases where the Planning Commission determines that striping of spaces would not be appropriate, 300 square feet of parking area shall be provided for each required parking space.

B. Rounding.

In calculating the required amount of parking or loading spaces, any fraction of 0.5 or greater shall be rounded up, and any fraction of less than 0.5 shall be rounded down.

**SECTION 15-6 MINIMUM PARKING SPACE REQUIREMENTS**

The minimum amount of parking spaces required for designated uses are included in the tables below.

<b>A. GENERAL RESIDENTIAL</b>	
Single-family and two-family dwellings	2.0 spaces per dwelling unit
Multiple-family dwelling and dormitories	2.0 spaces per each unit
Manufactured homes in a mobile home park	2.0 space per each manufactured home unit or site

<b>B. SENIOR HOUSING</b>	
Housing for fully independent residents: Senior independent units and independent care retirement village or center	1.5 spaces per each room and living unit
Housing for residents requiring a moderate level of care: senior "interim care", "elder care", and "intermediate care" units	1.0 space per each room
Housing for residents whose care is fully dependent on others: Convalescent homes, nursing homes, rest homes, etc.	1.0 space per each two rooms

<b>C. INSTITUTIONAL/CIVIC (Religious, Municipal, Hospital, Child Care, Schools, and Halls)</b>	
Churches, temples, synagogues and other places of worship	1.0 space per each three seats or six feet of pews
Municipal office buildings	4.0 spaces per 1,000 square feet of gross floor area, plus spaces required for any assembly hall, auditorium, and outdoor arena
Hospitals	2.5 spaces per each licensed bed, plus outpatient care and emergency care requirements
Outpatient care and emergency care services	Refer to medical office parking requirements
Child care centers	3.0 spaces plus, 1.0 additional space for each seven children of licensed authorized capacity
Primary schools (elementary and junior high)	2.0 spaces per classroom, plus 1 space for each 3 seats of maximum seating capacity for that indoor facility having the greatest seating capacity
Secondary schools (high)	8.0 spaces per each classroom, or 1 space per each 4 seats of maximum seating capacity for that indoor place of assembly having the greatest seating capacity
Auditoriums, assembly halls, and outdoor arenas	1.0 space per each three seats or six feet of bleachers
Public recreation centers	5.0 spaces per 1,000 square feet of gross floor area
Dance hall, union hall, lodge hall, fraternal hall/club and similar uses	1.0 space per every 2 persons of capacity authorized by the City Building Code or Fire Code if more stringent

<b>D. OFFICE</b>	
Medical, dental office, clinic	5.0 spaces per 1,000 square feet of gross floor area, plus outpatient care, emergency, twenty-four hour med station requirements, if applicable
Outpatient care, emergency care, 24-hour med station	2.0 spaces per exam or outpatient procedure/operating room, plus 1.0 space per laboratory or recovery room, plus 1.0 space for each two rooms for employee parking
General office building and real estate offices	3.0 spaces per 1,000 square feet of gross floor area.
Bank, credit union, savings and loan	6.0 spaces per 1,000 square feet of gross floor area, plus 4.0 stacking spaces per window and ATM

<b>E. COMMERCIAL/RETAIL/SERVICE</b>	
Appliance store	4.0 spaces per 1,000 square feet of gross floor area
Auto service station and auto care centers	3.0 spaces per each service bay, plus 1.0 space per each tow truck, plus 4.0 spaces per 1,000 square feet of area devoted to the sale of automotive goods, or convenience foods
Auto service-oil change/quick lube	3.0 spaces per service bay
Automotive sales	1.0 space per 5,000 square feet of outdoor sales area, plus 1 space per sales desk/office, plus 3 spaces per each service bay
Automobile wash (self wash)	3.0 stacking spaces per bay
Automobile wash (automatic)	2 spaces plus 15 stacking spaces per bay
Bar (lounge)	16.0 spaces per 1,000 square feet of gross floor area, or 0.7 spaces per seat, whichever is greater
Barber shop, beauty salon, hair salon	2.5 spaces per each barber or beautician's chair or station
Bed-and-Breakfast Inn	2.0 spaces, plus 1.0 space per guest room
Conference rooms, exhibit halls, and similar uses	1.0 space per every two persons of capacity authorized by the City Building Code or fire official, or 10.0 spaces per 1,000 square feet of gross floor area, whichever is greater
Convenience store	4.0 spaces per 1,000 square feet of gross floor area or the area devoted to convenience sales when in a multi-use building
Discount retail store	5.0 spaces per 1,000 square feet of gross floor area
Dry cleaners	2.0 spaces per 1,000 square feet of gross floor area, plus 2.0 spaces per drive-up window
Funeral homes	1.0 space per 50 square feet of space devoted to service parlors, chapels, and reception area, plus 1.0 space per each funeral vehicle stored on the premises
Furniture, carpet store	2.0 spaces per 1,000 square feet of gross floor area
Hardware, paint, home improvement store	3.0 spaces per 1,000 square feet of gross floor area
Laundromat	1.0 space per each three washing machines
Mini/self storage warehouse	4.0 spaces if there is an on-site office, no spaces required if there isn't one
Motel/hotel with lounge, restaurant, conference or banquet rooms or exhibit facility	1.0 space per guest room, plus 10.0 spaces per 1,000 square feet of lounge, restaurant, conference or banquet rooms or exhibit space

Recreational vehicle, boat, mobile home, and similar sales	1.0 space per 1,000 square feet of gross floor area, plus 2.0 spaces per each service bay
Restaurant-sit down type with liquor license	16.0 spaces per 1,000 square feet of gross floor area or .6 spaces per seat whichever is greater
Restaurant-family type without liquor license	12.0 spaces per 1,000 square feet of gross floor area or 0.5 spaces per seat, whichever is greater, plus 5.0 longer spaces designated for recreational vehicles
Restaurant-fast food with drive through window	15.0 spaces per 1,000 square feet of gross floor area, plus 10.0 designated drive-through short term waiting spaces, plus 5.0 spaces (no less than 25 feet) designated for recreational vehicles or trucks
Restaurant - take out with less than six tables and/or booths	10.0 spaces
Shopping center	4.0 spaces per 1,000 square feet of gross floor area
Showroom of a plumber, cabinet maker, decorator, or similar trade.	1.0 space per 1,000 square feet of gross floor area
Supermarket/Mega-market (combined grocer and department store)	4.0 spaces per 1,000 square feet of gross floor area
Video rental establishments	4.0 spaces per 1,000 square feet of gross floor area, with a minimum of 12 spaces provided

<b>F. RECREATION/ENTERTAINMENT</b>	
Batting cages	3.0 spaces per cage
Bowling centers	5.0 spaces per lane, plus amount required for the bar if a bar or lounge is present
Commercial outdoor recreation not listed elsewhere.	5.0 spaces per 1,000 square feet of gross floor area, with a minimum of 10 spaces provided
Golf course driving range	1.0 space per tee
Golf course - miniature	1.0 space per course hole
Golf course - par three	3.0 spaces per hole
Golf course	6.0 spaces per hole
Golf course banquet hall/lounge	0.5 spaces per seat, plus spaces required for golf course
Health fitness centers without swimming pools	5.0 spaces per 1,000 square feet of gross floor area
Ice/roller skating rink	6.0 spaces per 1,000 square feet of gross floor area.
Marina	1.0 space per boat slip, plus 1.0 space for each four boat racks in an "in-out" boat keeping building or facility, plus 1.0 space per 1,000 square feet of gross floor area for showroom sales, plus 2.0 spaces per each service bay
Swimming pool	1.0 space per each three persons of capacity authorized by the City Building Code
Theater, cinema	1.0 space per each four seats, plus 4.0 space per screen or stage
Racquetball/tennis centers	1.0 space per 1,000 square feet of gross floor area or 6.0 spaces per court, whichever is greater
Video Arcade	1.0 space per 50 square feet of gross floor area with a minimum of 6.0 spaces required

<b>G. INDUSTRIAL</b>	
Light industrial, manufacturing, testing labs, research and development centers, other industrial.	1.5 spaces per 1,000 square feet of gross floor area, with a minimum of six (6) spaces
Warehousing	1.0 space per each 2,500 square feet of gross floor area, with a minimum of four (4) spaces

**SECTION 15-7 DEFERRED PARKING FOR COMMERCIAL AND INDUSTRIAL DISTRICTS**

An applicant may request that a portion of the required parking be deferred from being constructed in cases where the applicant feels the minimum parking required is in excess of what is required for their business.

*ARTICLE*

Parking may not be deferred below the minimum standard of 0.5 spaces per 1,000 square feet of gross floor-area for industrial uses or eighty (80) percent of the required parking for commercial uses. The applicant shall show that the deferred portion of the parking is possible to construct on the site by showing it on the site plan; and shall guarantee the availability of such area for future parking through a recorded deed restriction on the property, a copy of which shall be provided to the zoning administrator prior to commencing construction on the site. The city shall retain the right to revoke the deferral at anytime if observations of the use indicate that the amount of parking is insufficient. In cases of revocation, the applicant shall construct the deferred portion of the parking within 90 days of being directed to do so by the city.

**SECTION 15-8 BARRIER-FREE PARKING AND DESIGN REQUIREMENTS**

Within each parking lot, signed and marked barrier-free spaces shall be provided at a convenient location, in accordance with state and federal law. Wheelchair access requirements shall be according to state or federal barrier-free regulations, with most restrictive requirements applying.

**SECTION 15-9 ON-PREMISE REQUIREMENTS FOR LOADING AND UNLOADING**

- A. Loading and unloading space shall not use any portion of any public right-of-way or private road easement area, except in the CBD district.
- B. Maneuvering space for trucks using the loading spaces shall be provided on-premise, and shall not necessitate the use of a public right-of-way or private road easement, except in the CBD district.
- C. Loading and unloading spaces shall be a minimum of 12 feet in width, 60 feet in length, and have a minimum clearance of 14 feet in height.
- D. If truck wells are to be used, a protective railing or wall shall be provided along the sides of the well.
- E. Required loading and unloading spaces shall not be included in calculations for parking spaces needed to meet general parking requirements.
- F. Loading and unloading spaces shall be constructed of either cement or asphalt with a base and thickness of pavement suitable for the anticipated weights of the trucks to be using it.
- G. Loading and unloading spaces shall be provided in accordance with minimum requirements contained in the following tables.

<b>REQUIRED LOADING AND UNLOADING SPACES Institutional, Commercial and Office Uses</b>	
Up to 2,000 sq. ft. of gross floor area	None required
2,001 to 20000 sq. ft. of gross floor area	1.0 space
Exceeding 20,000 sq. ft. of gross floor area	1.0 space per each 20,000 sq. ft. of gross floor area, with a maximum of 5.0 spaces required

<b>REQUIRED LOADING AND UNLOADING SPACES Industrial Uses</b>	
Up to 10,000 sq. ft. of gross floor area	1.0 space
10,001 to 20,000 sq. ft. of gross floor area	2.0 spaces
Exceeding 20,000 sq. ft. of gross floor area	1.0 space per each 20,000 sq. ft. of gross floor area, with a maximum of 5.0 spaces required

**ARTICLE 16: SIGNS**

**SECTION 16-1 PURPOSE** [Ord. 178, 10/14/2008]

The sign regulations of this article are intended to protect and further the health, safety, and welfare of the residents of the City of New Buffalo; to maintain and improve the appearance of the City; to preserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. It is further determined that to allow signs of excessive number and size in the City would unduly distract pedestrians and motorists, create a traffic hazard, and reduce the effectiveness of signs needed to direct the public. The regulations of this article are intended to provide reasonable identification for businesses and other uses within the community, but are not intended to serve as a means of advertising.

**SECTION 16-2 DEFINITIONS** [Ord. 178, 10/14/2008]

- A. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
- B. Balloon sign: A sign composed of a non-porous bag of material filled with air.
- C. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- D. Billboard: Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.
- E. Business Center: Any two (2) or more businesses (other than within the CBD district) which:
  - 1. Are located on a single parcel of property; or
  - 2. Are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings; or
  - 3. Share a common parking area; or
  - 4. Otherwise present the appearance of a single, contiguous business area.
- F. Business Center Sign: A freestanding sign identifying the name of a Business Center and/or one or more individual businesses within the center.
- G. Construction Sign: A temporary sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
- H. Directional Sign: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- I. Freestanding Sign: A sign, not attached to a building or wall, supported on poles or supports with a minimum ground clearance of eight (8) feet.

- J. Government Sign: A temporary or permanent sign erected by the City of New Buffalo.
- K. Ground Sign: A sign, the bottom of which is no more than twenty-four (24) inches from the ground, which rests directly on the ground or is supported by short poles or a base, and is not attached to a building or wall.
- L. Highway Sign: A temporary or permanent sign erected within or adjacent to the road right-of-way by the City of New Buffalo, Berrien County, the State of Michigan, or federal government for the purpose of directing or controlling traffic on a public street, road, or highway.
- M. Institutional Bulletin Board: A ground sign upon which is displayed the name of a church, school, library, community center or similar public or quasi-public institution located on the property and which may contain a space for a reader board to announce its services, events, or activities.
- N. Marquee: A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
- O. Marquee Sign: A sign affixed flat against the surface of a marquee.
- P. Memorial Sign: A non-illuminated sign, tablet, or plaque commemorating a person, event, structure, or site.
- Q. Mural: A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
- R. Off-premise Sign: A sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located (including, but not limited to billboards).
- S. Placard: A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing", "No Hunting", "Closed", or "Open" signs.
- T. Political Sign: A temporary sign used in connection with an official local government, school district, county, state, or federal election or referendum.
- U. Projecting Sign: A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than forty-eight (48) inches from the face of the building or wall.
- V. Reader Board: A portion of a sign on which copy is changed manually.
- W. Real Estate Sign: A non-illuminated, temporary sign pertaining to the sale, rent, or lease of the property upon which the sign is located.
- X. Residential Subdivision Sign: A permanent ground sign identifying a recognized platted subdivision, site condominium project, multi-family development, or other residential development, which has been approved by the City.
- Y. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- Z. Roof Sign: A sign erected above the roof line of a building.
- AA. Sign: Any display, figure, painting, drawing, placard, poster or other device visible from the public way which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.

- BB. Special Event Sign and Special Event Banner: Temporary signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.
- CC. Temporary Sign: A display, informational sign, special event banner or other advertising device with or without a structural frame and intended for a limited period of display, including seasonal produce sales, and decorative displays for holidays, or public demonstrations.
- DD. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall to which it is attached.
- EE. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

**SECTION 16-3 GENERAL REQUIREMENTS** [Ord. 178, 10/14/2008]

- A. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except for permitted highway and government signs and those signs permitted in the CBD district which may project from a building wall over a public way. Signs in a public right-of-way, except permitted projection, government, and highway signs, shall be removed by the City at the sign owner's expense.
- B. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- C. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- D. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- E. No sign shall contain any moving or animated parts, nor have the appearance of having any moving or animated parts.
- F. All ground, freestanding, and wall signs may contain reader boards within the maximum size limits permitted for the sign.
- G. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
- H. All signs shall pertain only to the business or activity conducted on the premises, with the exception of billboards located adjacent to state or interstate highways, political signs, and special event signs.
- I. Real estate signs, non-illuminated, are permitted in any Zoning District, but shall be removed within thirty (30) days after completion of the sale or lease of the property.
- J. Construction signs are permitted within any District, subject to the following regulations:
  - 1. Such signs shall be no larger than thirty-two (32) square feet and shall be located not closer than ten (10) feet from the street right-of-way line and shall not be higher than ten (10) feet.
  - 2. In residential developments, any construction sign shall be removed at such time as a permanent subdivision sign is erected, final plat approval is obtained, or a certificate of occupancy is issued for any dwelling in the development; whichever comes first.
  - 3. In non-residential developments, any construction sign shall be removed upon issuance of a certificate of occupancy for the building.

- K. Special event signs are permitted in any zoning district, subject to the following restrictions:
1. Such sign may be located either on or off the lot on which the special event is held.
  2. The display of the signs shall be limited to the ten (10) days immediately preceding the special event which is being advertised.
  3. The signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height above ground level of six (6) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet. The front setback shall be as required for signs in the zoning district in which the sign is to be located.
  4. The signs shall be removed within forty-eight (48) hours of the conclusion of the special event which is being advertised.
- L. Directional signs are permitted in any zoning district subject to the following restrictions:
1. Such sign shall not exceed two (2) square feet in area or three (3) feet in height, and shall be set back at least five (5) feet from any lot line and edge of any driving lane.
  2. A directional sign may contain a commercial logo or trademark, not exceeding one-third of the sign size, but not a business name or commercial message.
- M. Freestanding signs shall have a clear space of at least eight (8) feet between the grade and the bottom of the sign to permit an unobstructed view for motorists and pedestrians.
- N. Temporary signs are permitted in any district subject to the following restrictions:
1. A temporary sign shall only be displayed upon receipt of a permit issued by the Zoning Administrator.
  2. No temporary sign shall be displayed on any one (1) lot or parcel for more than thirty (30) consecutive days for any one permit period and no more than two (2) non-consecutive permits shall be issued for any lot or parcel during any calendar year.
  3. Upon expiration of the permit, the sign shall be removed by the permit holder.
  4. No temporary sign shall exceed thirty-two (32) square feet.
  5. Only one (1) temporary sign shall be permitted on a lot or parcel.
  6. No temporary sign shall be closer than five (5) feet from any property line fronting on a public street.
  7. All temporary signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area.
- O. All lighted signs shall be inspected by the Electrical Inspector for proper and adequate electrical connections. If deemed necessary by the Zoning Administrator, an electrical code permit will be required.

**SECTION 16-4 EXEMPT SIGNS** [Ord. 178, 10/14/2008]

The following signs shall not require a building permit, but shall be subject to all other applicable general requirements of this article:

- A. Government signs.
- B. Placards.
- C. Temporary signs of six (6) square feet in size or less.
- D. Window signs, provided the total area of all signs within one (1) foot of the window shall not obscure more than fifty (50) percent of the window area.
- E. Political signs.
- F. Historical markers.
- G. Memorial signs or tablets.
- H. Murals.
- I. Signs not visible from any street.
- J. Signs for essential services.
- K. Signs with address, owner, or occupant name, of up to one (1) square foot in area attached to a mailbox, light fixture or exterior wall.
- L. Flags or insignia of any nation, state, local government, community organization, or educational institution; and flags used to notify the public that an establishment is open.
- M. Special event banners.

**SECTION 16-5 PROHIBITED SIGNS** [Ord. 178, 10/14/2008]

All signs not specifically allowed under this article (unless exempted from regulation herein) are prohibited in the City of New Buffalo. Further, the following types of signs are expressly prohibited:

- A. Balloons, balloon signs, strings of light bulbs, pennants, streamers, non-special event banners, or flags, except for those flags of a non-commercial nature not used for the purpose of commercial advertisement and specifically exempted.
- B. Any sign, including window signs, which have flashing, moving, or oscillating lights (excluding time and temperature signs, which are permitted).
- C. Roof signs.
- D. Off-premises signs (except for non-commercial signs, special event signs, and billboards).

**SECTION 16-6 MEASUREMENT** [Ord. 178, 10/14/2008]

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back, are of equal size, and are no more than two (2) feet apart at any point, the area of the two (2) back-to-back faces shall be counted as one face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
- D. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

**SECTION 16-7 ILLUMINATION** [Ord. 178, 10/14/2008]

- A. In the Central Business District when signs are illuminated they shall only be illuminated externally, and the source of the light shall be directed to prevent light from shining directly onto traffic or neighboring property.
- B. In the General Commerical District signs may be illuminated internally or externally. When illuminated externally the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property.
- C. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.

**SECTION 16-8 MAINTENANCE** [Ord. 178, 10/14/2008]

- A. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.
- B. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.

**SECTION 16-9 SIGNS PERMITTED BY DISTRICT** [Ord. 178, 10/14/2008]

The following signs are permitted in combination (unless otherwise noted) in each district, subject to the requirements described in the tables and all other applicable regulations of this article.

In addition to the number of wall signs permitted, the surface area which contains any information on awnings shall contribute to the calculation of the total permitted size for wall signs.

<b>R-1, R-2, R-3, R-4 &amp; Residential PUD Districts</b>	
<b>RESIDENTIAL SUBDIVISION SIGNS</b>	
Number	One (1) per entrance road to the development, not exceeding two (2) such signs per development
Size	No greater than forty (40) square feet
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than eight (8) feet above grade
<b>INSTITUTIONAL BULLETIN BOARD</b>	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	Minimum fifteen (15) feet from the street right-of-way line
Height	Not more than six (6) feet above grade
<b>SIGNS FOR HOME OCCUPATIONS</b>	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet and no higher than six (6) feet if freestanding
Location	Mounted flat against the wall and non-illuminated or freestanding in front yard
<b>WALL SIGNS FOR NON-RESIDENTIAL USES</b>	
Number	One (1) per street frontage
Size	For public and quasi-public facilities (such as schools, churches, and similar institutional uses) no sign shall be greater than five (5) percent of the wall area to which it is affixed, not to exceed fifty (50) square feet. For private offices no such sign shall be greater than six (6) square feet.
Location	Mounted flat against the wall facing the street.

<b>CBD, Central Business District</b>	
<b>WALL SIGN</b>	
Number	One (1) per business; provided that any business which has frontage on more than one (1) street shall be permitted to have one (1) wall sign per street frontage, subject to the following size restrictions.
Size	No greater than fifteen (15) percent of the ground floor wall area to which it is affixed on the front and no greater than ten (10) percent of the ground floor wall area on any side or rear face which abuts a street, not to exceed fifty (50) square feet per sign. Where two or more businesses occupy a single building, the ground floor wall area shall be limited to that portion of the building occupied by the respective business.
Location	Mounted flat against the wall facing the street
<b>GROUND SIGN</b>	
Number	One (1) per lot or parcel.
Size	No greater than forty-eight (48) square feet
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade
Illumination	Shall not be illuminated if property is adjacent to Residential District.
<b>PROJECTING SIGN, AWNING SIGN, OR MARQUEE SIGN</b>	
Number	One (1) per street frontage
Size	No greater than ten (10) square feet
Location	Projecting out from the building wall not more than four (4) feet and having a clearance of at least eight (8) feet between the sidewalk and the bottom of the sign.

<b>GCD, WM &amp; Commercial PUD Districts</b>	
<b>GROUND SIGN OR FREESTANDING SIGN</b>	
Number	One (1) per street frontage but not more than two (2) signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least fifty (50) feet in order to have a second sign. No freestanding sign shall be permitted for individual businesses within any business center.
Size	No greater than forty-eight (48) square feet for ground signs or sixty (60) square feet for freestanding signs; provided that in the GCD District the area of a freestanding sign may be increased to eighty (80) sq.ft.
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade for ground signs or twenty-five (25) feet for freestanding signs
<b>WALL SIGN</b>	
Number	One (1) per business; provided that any business which has frontage on more than one (1) street shall be permitted to have one (1) wall sign per street frontage, subject to the following size restrictions.
Size	No greater than ten (10) percent of the wall area to which it is affixed and which is occupied by the respective business, not to exceed one hundred (100) square feet
Location	Mounted flat against wall facing the street
<b>BUSINESS CENTER SIGN</b>	
Number	One (1) per street frontage but not more than two (2) signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least fifty (50) feet in order to have a second sign. No freestanding signs shall be permitted for individual businesses within any business center.
Size	No greater than eighty (80) square feet.
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than twenty-five (25) feet
<b>BILLBOARD (within the C-4 District only, as a Special Exception Use)</b>	
No billboards shall be permitted, except in conformance with the Highway Advertising Act	

<b>I-1 &amp; Industrial PUD Districts</b>	
GROUND SIGN (no freestanding signs are permitted)	
Number	One (1) per lot or parcel
Size	No greater than forty-eight (48) square feet
Location	Minimum ten (10) feet from the street right-of-way line
Height	Not more than four (4) feet above grade
WALL SIGN	
Number	One (1) per street frontage
Size	No greater than five (5) percent of the wall area to which the sign is affixed, not to exceed one hundred (100) square feet
Location	Mounted flat on wall facing street
BILLBOARD (if approved as a Special Exception Use)	
No billboards shall be permitted, except in conformance with the Highway Advertising Act.	

**SECTION 16-10 NONCONFORMING SIGNS** [Ord. 178, 10/14/2008]

- A. Every permanent sign which was erected legally and which lawfully exists at the time of the enactment of this article, but which does not conform to the height, size, area, or location requirements of this article as of the date of the adoption of these regulations, is hereby deemed to be nonconforming. This status shall not be granted to any temporary sign, banner, placard, or other non-permanent sign.
- B. Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- C. For the purposes of this article, a nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. The copy of the sign may not be amended or changed, unless specifically designed to be changed periodically as in Reader Board, without bringing such sign into compliance with the requirements of this article.
- D. Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
- E. Any sign which for a period of one (1) year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- F. A sign accessory to a nonconforming use may be erected in the City in accordance with the sign regulations for the District in which the property is located.

**SECTION 16-11 SIGN PERMITS** [Ord. 178, 10/14/2008]

No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, unless such sign is specifically exempted as provided in this article.

**ARTICLE 17: SPECIAL LAND USES**

**SECTION 17-1 PURPOSE**

The intent of this Article is to provide regulations and a more detailed review of uses that in many cases would be compatible with the uses permitted by right in a given district, but which, by reason of the special nature of such uses or their location in relation to neighboring properties, would not always be so. Because of their unique characteristics, it is often necessary to place restrictions or conditions associated with the approval of special land uses to ensure their compatibility with surrounding development.

**SECTION 17-2 STANDARDS FOR APPROVAL**

- A. Basic Approval Standards. Prior to approving a special land use application, the following general standards, in addition to any specific standards required for an individual special use shall be satisfied. The proposed use or activity shall:
  - 1. Be compatible and in accordance with the City of New Buffalo Master Plan.
  - 2. Be designed, constructed, operated, and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
  - 3. Be adequately served by public facilities and services such as streets, police, fire protection, drainage structures, water and sewage facilities recreation facilities, and primary and secondary schools.
  - 4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.
  - 5. Promote the public interest through provision of a service, facility, or use determined to be non-detrimental to the residents of the city.
  - 6. Be in compliance with all city ordinances, and state and federal statutes, and licensing provisions as applicable.
  - 7. Not create safety concerns for pedestrian or vehicular circulation.
- B. Special Use Subject to Site Plan Review. Properties for which application for a special land use is made shall also be subject to site plan review and approval in accordance with the requirements of Article 19, Site Plan Review.

**SECTION 17-3 APPLICATION PROCEDURE**

- A. Applicant. Any person owning or having an interest in the subject property may file a written application for one or more special land use permits as provided for in this Ordinance.
- B. Application and Fee. The following materials shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the meeting at which the Planning Commission first considers the special land use application. Sufficient copies of the application, site plan, and other written and graphic

instruments shall be provided in accordance with the requirements set forth by the Planning Commission:

1. Payment of the required fee.
2. Copies of a site plan meeting the requirements of Article 19.
3. Completed and signed application form.
4. Proof of ownership and description of ownership interest.
5. An analysis of the impacts of the proposed use may be required by the Planning Commission. In presenting such impact analysis the applicant shall provide information which describes the methodology used. The analysis shall be carried out by qualified individuals and verification of same shall be provided by the applicant. Such impact analysis may be required to address any or all of the following:
  - a. Traffic impacts including analysis of trip generation, impact on existing and projected traffic capacities, traffic speeds, and impact on surrounding traffic patterns.
  - b. Environmental impacts (Including, but not limited to wetlands, floodplain, high risk soil erosion areas, vegetation, and wildlife habitat).
  - c. Impacts on public facilities and services including, but not limited to, sanitary sewers, water, storm drainage, police and fire protection, schools and recreational facilities.
  - d. Potential for negative economic impact on the neighborhood, surrounding area, neighboring businesses, and/or city as a whole.

**SECTION 17-4 DESIGNATED REVIEW AUTHORITY AND APPROVAL PROCEDURE**

- A. Approval by Planning Commission. The Planning Commission shall have final review and approval authority for all special land uses.
  1. Following the submission of the required application materials the Planning Commission shall hold a public hearing in accordance with the City/Village Zoning Act.
  2. The Planning Commission shall review the application in terms of the standards of Section 17-2, as well as any specific standards required for the special land use and shall approve, approve with conditions, or deny the application.
  3. Upon approval of a special land use application and accompanying site plan, the Zoning Administrator shall issue a special land use permit.

**SECTION 17-5 CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEE**

- A. Conditions. In granting a special land use, the Planning Commission may impose any reasonable additional conditions, limitations, and performance guarantees as in its judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of Section 17-2 are met.
- B. Conditions Attached to Property. Approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.

- C. Record of Conditions. A record of conditions imposed shall be maintained by the City. The conditions shall remain unchanged unless an amendment to the special land use is approved.
- D. Record Shall Be Contained in Planning Commission Minutes. A record of the decision of the Planning Commission, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

**SECTION 17-6 VALIDITY OF SPECIAL USE PERMIT APPROVAL**

- A. Termination of Special Land Use for Failure to Commence Construction or Secure Extension. In cases where actual physical construction of a substantial nature of the structures authorized by a special land use permit has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided in Section 17-6B below, the permit shall automatically become null and void and all rights thereunder shall terminate.
- B. Extension. Upon written application filed with the City Clerk of the City of New Buffalo prior to the termination of the one (1) year period, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the extension period.

**SECTION 17-7 AMENDMENTS TO APPROVED SPECIAL LAND USE PERMITS**

Amendments to approved special land use permits or modification of any condition attached to such approval shall require submittal of a new application which shall be subject to all the requirements of Article 17.

**SECTION 17-8 SPECIFIC DESIGN STANDARDS FOR INDIVIDUAL USES**

The following Special Land Uses shall be subject to the requirements of the District in which located, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

- A. Adult Uses.
  - 1. The lot or parcel on which the use is located shall not be closer than one thousand (1,000) feet from any residential use or zoning district, school, church, or park, measured from lot line to lot line.
  - 2. The use is not located within a one thousand (1,000) foot radius of two other such uses, measured from lot line to lot line.
  - 3. Parking shall be provided at a ratio of one (1) space per person allowed by the maximum occupancy load established by local, county, state, fire, health, or building codes, whichever is greater.
  - 4. No adult use shall remain open at any time between the hours of eleven o'clock (11:00) p.m. and ten o'clock (10:00) a.m. and no such use shall be open on Sundays.
  - 5. No alcohol shall be served at any adult use.
  - 6. No adult use shall permit any person under the age of eighteen (18) years to enter the premises.

Signs shall be conspicuously posted that such minors are not allowed.

7. All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one hour after closing each night.

B. Bed and breakfast establishments.

1. The establishment shall be located on property with direct access to a public street.
2. A residence must contain a minimum of two thousand four hundred (2,400) sq.ft. of living space to qualify for conversion to a bed and breakfast.
3. Such uses shall only be established in a single family detached dwelling.
4. Parking shall be located to minimize negative impacts on adjacent properties.
5. The number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each three thousand (3,000) square feet or fraction thereof by which the lot area of the use exceeds twelve thousand six hundred (12,600) square feet, not to exceed six (6) guest rooms in any case.
6. Exterior refuse storage facilities beyond what might normally be expected for a single family detached dwelling shall be prohibited.
7. The establishment shall contain the principal residence of the operator.
8. 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 so forth.
9. Meals shall be served only to the operator's family, employees, and overnight guests.
10. The maximum stay for any occupant, excluding the owner, shall not exceed thirty (30) days in any twelve (12) month period. A guest register shall be maintained by the proprietors and shall be made available to the City for inspection upon request.
11. No exterior evidence that the facility is a bed & breakfast shall be permitted, other than one (1) non-illuminated sign attached flat against the building or placed in the front yard, not to exceed six (6) sq. ft. and no higher than six feet above the ground, if freestanding.
12. Off-street parking shall be provided at a minimum ratio of two (2) spaces, plus one (1) for each permitted guest room. No parking shall be permitted in the front yard and no parking area shall be lighted, except for a residential porch light.

C. Churches.

1. The Purpose of these requirements is to integrate churches into the fabric of the City's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the church, parking lots, and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.
2. The minimum lot area shall be one (1) acre.
3. The minimum lot width shall be one hundred fifty (150) feet.
4. At least one (1) property line shall abut and have access to a major street.

5. To the extent possible, shared parking arrangements should be employed with other uses in the vicinity to minimize the number of spaces provided on the church property.
- D. Commercial Wireless Communication Towers.
1. The lot size shall be a minimum of twenty thousand (20,000) square feet.
  2. The tower shall be of a monopole design.
  3. The tower shall be set back from all lot lines a minimum distance equal to one-half (½) the height of the tower. All other buildings and structures shall meet the minimum setback requirements of the Zoning District.
  4. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
  5. Where possible, joint use of tower facilities, including City elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the City. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.
  6. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half (½) mile radius of an existing radio, television, cellular, or wireless communications tower.
  7. No signs, except warning or other cautionary signs, shall be permitted on the site.
- E. Construction Related Contractor's Offices with Outdoor Storage.
1. All outdoor storage shall be located in the rear yard only and shall be fenced with a six (6) foot high chain link fence or screen wall.
  2. All outdoor storage yards shall be paved or provided with a durable, dustless surface approved by the Planning Commission.
  3. Screening of outdoor storage yards shall be provided along all property lines in accordance with the requirements of Sec. 3-28.
  4. Outdoor storage yards shall only be permitted in conjunction with a principal use on the property.
  5. No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground.
- F. Establishments Which Contain Drive-thru Facilities Associated with the Permitted Principal Use (Including, but not Limited to Banks, Pharmacies, and Restaurants)
1. Sufficient stacking capacity for the drive-thru portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station at restaurants shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-thru 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. Access driveways shall be located no less than one hundred (100) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.

4. Speakers shall be oriented away from adjoining residential areas to minimize the potential nuisance effects of sound transmission.

G. Educational Institutions

1. Minimum lot width of two hundred (200) feet abutting upon a paved public street.
2. Athletic fields shall not be located closer than one hundred (100) feet to any property line abutting a residential district.
3. Outdoor lighting shall be oriented away and shielded from surrounding residential zoning districts.
4. Suitable screening shall be provided if, in the opinion of the Planning Commission, such screening is needed to minimize noise, visual, or other impacts upon surrounding residential districts.

H. Gasoline Sales

1. Minimum lot area shall be one-half (½) acre and minimum lot width shall be one hundred fifty (150) feet.
2. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way or lot line.
3. All equipment and activities associated with vehicle service operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
5. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use adjacent to the building.
6. Canopy roofs shall be permitted to encroach into any required yard, provided that a minimum setback of five (5) feet is maintained, and further provided that the fascia of such canopy is a minimum of ten (10) feet above the average grade.
7. Access driveways shall be located no less than one hundred (100) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
8. Where adjoining residentially zoned, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be constructed of materials approved by the Planning Commission and continuously maintained in good condition.

I. Junk and Salvage Yards

1. Requests for a special land use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall abut and have suitable access to a major street to ensure safe, direct transport of salvage to and from the site.

3. No portion of the storage area shall be located within one thousand (1,000) feet of any residential district.
  4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.
  5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
  6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
  7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
  8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
  9. All portions of the storage area shall be accessible to emergency vehicles.
  10. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot wide continuous loop drives separating each row of vehicles.
  11. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
  12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
  13. The property shall be a minimum size of at least six (6) acres.
  14. All fences shall be set back a minimum of three hundred (300) feet from any residential district.
  15. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
  16. The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of the City of New Buffalo. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.
- J. Open Air Business
1. The lot area used for parking, display, or storage shall be paved or surfaced with a durable, dustless surface approved by the Planning Commission and shall be graded and drained so as to dispose of all surface water.

2. Access driveways shall be located no less than one hundred (100) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.
4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

K. Residential Dwellings on Upper Floors in CBD District

1. No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.
2. Two (2) on-site parking spaces shall be required for each dwelling unit.
3. Access to dwelling units shall be from outside of the building.
4. No dwelling unit shall be located on the ground floor of the building.

**ARTICLE 18: PLANNED UNIT DEVELOPMENT DISTRICT**

**SECTION 18-1 INTENT AND OBJECTIVES**

This Chapter provides enabling authority and standards for the submission, review, and approval of Planned Unit Developments ( PUDs) as a zoning district within the City. The intent of a PUD is to provide regulation for developments that would result in recognizable and substantial benefits to the ultimate users of a project, and to the community in general where such benefits would be unfeasible or unlikely to be achieved under the requirements of the other districts in this Ordinance. Any Planned Unit Development shall be designed to accomplish the following Objectives:

- A. To encourage the use of land in accordance with its natural character and adaptability;
- B. To promote the conservation of land, natural features and resources;
- C. To encourage innovation in land use planning and development;
- D. To promote the enhancement of housing, commercial and industrial employment, traffic circulation, and recreational opportunities for the residents of the Township;
- E. To promote and ensure greater compatibility of design and better use between neighboring properties;
- F. To promote more economical and efficient use of the land while providing harmonious variety of housing choices and the integration of necessary commercial and community facilities; and
- G. To promote the preservation of important natural features including wetlands, wooded areas, high quality view sheds, and unique vegetation, and promote their inclusion in permanent open space areas.
- H. To allow phased construction with knowledge that subsequent phases will be approved as originally proved by the city.

The provisions of this Article are not intended as a device for ignoring the Zoning Ordinance, or the planning upon which it has been based. The provisions of this Article are intended to result in land use development that is substantially consistent with the goals and objectives of the City's General Development Plan, this Ordinance, and with sound planning principles.

**SECTION 18-2 QUALIFICATIONS**

A landowner may seek approval for a PUD District subject to the following requirements:

- A. **Minimum Size.** The minimum size of a PUD shall be two (2) acres of contiguous land, unless the Planning Commission finds that consideration of a PUD on lesser acreage substantially accomplishes the intent of the General Development Plan, meets the Intent and Objectives of Section 18-1, and permits an improved layout of land uses, roadways, or other site features that could not otherwise be achieved under normal zoning.
- B. **Conditions To Be Met.** The proposed development must also demonstrate at least two (2) of the following conditions:
  - 1. The proposed PUD would contain two (2) or more separate and distinct uses, for example, single family and multiple family dwellings.

2. The PUD site exhibits significant natural features which will be preserved as a result of the PUD plan.
3. The PUD site has distinct physical characteristics which make compliance with the strict requirements of this Ordinance impractical.
4. The proposed design of the PUD includes innovative development concepts that substantially promote the Intent and Objectives of Section 18-1, or permit an improved layout of land uses, roadways, or other site features that could not otherwise be achieved under normal zoning.

**SECTION 18-3 APPLICATION PROCEDURE**

A. **Pre-Application Conference.** The applicant shall contact the zoning administrator to schedule a pre-application conference with the Planning Commission. At this conference the Planning Commission shall inform the applicant of information needed, and the process to be followed for review. A fee is not required for this conference. No action shall be taken at the pre-application conference, nor shall any statements made at the conference be considered binding. The following minimum information shall be submitted to the zoning administrator at least ten days prior to the meeting.

1. A concept plan for the development showing the approximate number of residential units to be constructed for residential projects, and floor area of non-residential uses.
2. The total land area of the project
3. Identification of significant natural features, including flood plains, wetlands, steep slope areas, high risk soil erosion areas, and wooded areas.
4. Areas to be designated as common areas or open spaces.

B. **Application Submittal.** At a minimum, the PUD application shall include sufficient copies of the following:

1. A completed application form as provided by the city along with the required fee as established by the City Council. Such application shall include a signature of the owner or party having an equitable interest in the property, authorizing the submittal of the PUD.
2. The applicant shall submit a draft of the site development regulations proposed for the property and the project. These regulations may address uses permitted, setbacks, building materials, landscape guidelines, parking requirements, utility standards, and other similar site development regulations. For any site development standard not addressed in this draft the zoning ordinance standards shall apply.
3. The site development plan prepared in accordance with Article 19 (Site Plan Review). For multi-phased PUD's the site development plan may be submitted for Phase 1 of the project, with a conceptual plan being shown for the remaining phases. A conceptual plan shall consist of identification of uses, residential density, estimated parcel or lot sizes, and the general street layout. Subsequent phases shall be required to undergo the full site plan review process, and shall be required to meet the requirements of the zoning ordinance and the PUD ordinance as applicable.
4. In addition to the information required for submittal for site plan review, the following information shall also be submitted, unless waived by Planning Commission at the pre-application conference.
  - a. A general description of the project and a statement of how the PUD meets the intent of this

Article as stated in Section 18-1, and how the PUD meets the qualifying conditions stated in Section 18-2.

- b. Architectural sketches showing building heights, external wall finishes, location of building entry ways, lighting elements, and other architectural features.
  - c. Site plan information not required in Article 19, but required to show compliance with the proposed PUD ordinance.
  - d. A list of departures from Zoning Ordinance regulations that will be required, and a statement of why these departures will not present a design problem from a planning perspective.
  - e. Legal documentation of a single ownership or control in the form of agreements, contracts, covenants, or deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors.
  - f. A construction schedule detailing the completion of the proposed improvements. Project Phasing shall also be identified if applicable.
5. Depending on the size and complexity of the project, the city staff, Planning Commission, or City Council may request other information deemed pertinent to the proposed development. Such information may include, but is not limited to: traffic assessment, environmental impact assessment, fiscal impact assessment, market needs assessment, and utility impact assessment.
6. The application shall not be considered complete, and shall not be considered formally accepted by the city, until it is reviewed by the city and been found to have all required submittal information and appropriate fees.
- C. **Public Hearing.** A public hearing on the proposed PUD and site development plan shall be conducted by the Planning Commission. Public hearings shall not be required for subsequent phases of a multi-phased project. Notice of such hearing shall be published in accordance with the requirements of the City/Village Zoning Act for ordinance amendments and shall contain:
- 1. A general description of the Planned Unit Development project being requested.
  - 2. The boundaries of the property which is subject to the request.
  - 3. The date, time, and location of the public hearing.
  - 4. The location and deadline for written comments to be received concerning the request.
- D. **Planning Commission Recommendation.** Within a reasonable time following the public hearing, the Planning Commission shall make a recommendation regarding the PUD to the City Council for denial, approval, or approval with conditions. The recommendation shall include a report stating the Planning Commission's recommendations, and any conditions relating to an affirmative recommendation. The Planning Commission shall base its recommendation on the standards set forth in Section 18-3E1. a-d..
- E. **City Council Action.**
- 1. Within a reasonable time of the action of the Planning Commission, the City Council shall consider the request for PUD zoning and the applicable development plan, and deny, approve, or approve with conditions, the application. A Planned Unit Development shall not be approved unless the City Council, after recommendation of the Planning Commission, finds that the

following conditions are met:

- a. Site plan review standards of Section 19-9.
  - b. The intent and objectives and qualifications for a PUD as outlined in this Article.
  - c. The general PUD design considerations of Section 18-6
  - d. The proposed design and uses are consistent with the City of New Buffalo Master Plan.
2. The PUD approval shall not take effect until all conditions imposed as part of the Council action have been agreed to, in writing, by the applicant and applicable changes made to the final site plan.

**SECTION 18-4 EFFECT OF APPROVAL**

- A. **For Single-Phase PUD's.** Approval of a PUD and site development plan shall constitute an amendment to the Zoning Ordinance and Zoning Map to designate the subject property as a "PUD, Planned Unit Development". The development regulations applicable to the PUD will be those included in the ordinance creating the PUD and those contained on the final site plan for the PUD (with conditions as attached to the PUD approval). For those site development areas not addressed in either the PUD or site plan, the zoning ordinance regulation shall continue to apply.
- B. **For Multi-Phased PUD's.** Approval of a multi-phased PUD shall confer PUD zoning on the entire project. All subsequent phases of a PUD shall be required to submit to the full site plan review process with the required information to be submitted being the same as for the first phase. Subsequent phases of the PUD shall conform to the uses, general layout, and concepts illustrated in the initial conceptual plan. A public hearing shall not be required after the first phase, unless it is determined by the Planning Commission or the City Council that the phase is a significant change from the initial concept plan which served as the basis for the PUD zoning approval.

**SECTION 18-5 EXPIRATION OF APPROVAL**

- A. **Expiration Date for Failure to Start.** Approval of the PUD development plan shall expire and be of no effect unless substantial construction has commenced within one (1) year of the date of approval of the Plan or any phase thereof. An extension for a specific period may be granted by the City Council upon good cause shown, only if such request is made in writing to the City Council prior to the expiration date.
- B. **City Council Options Upon Expiration.** In the event an approved PUD development plan has expired, the City Council may rezone the property in accordance with the provisions of Section 22-4 concerning amendments.
- C. **Expiration Conditions for Multi-Phased PUD's.** In the case of a PUD proposed to be completed in phases, the expiration of plan approval shall only be effective for each phase after approval.

**SECTION 18-6 GENERAL DESIGN STANDARD FOR PUD'S**

All Planned Unit Developments and phases thereof, shall comply with the following general design standards:

- A. **Site Plan Review Standards.** Site plan review standards contained in Section 19-9 of this ordinance.

- B. **General Provisions.** General provisions contained in Article 3 of this ordinance
- C. **Independency of Phases.** The project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space.
- D. **Building Compatibility.** The proposed buildings within the PUD, including consideration for bulk, placement, architecture, and type of materials shall be compatible with like buildings within the PUD as well as generally compatible with buildings in the general vicinity.
- E. **Building Materials.** Building material standards shall be included in the PUD ordinance that ensure compatibility within the PUD and with nearby surrounding buildings. Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. High intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building are prohibited except as approved for building trim.
- F. **Open Space.** A minimum of twenty (20) percent of the entire PUD area shall be provided in permanent open space. The permanent retention of this open space area shall be provided for in the PUD ordinance and illustrated on the development plan. This required open space area shall serve to preserve the highest quality natural features present on the site. Such areas may include woodlands, wetlands, floodplains, water bodies, and areas of unique vegetation. Open space areas shall also be designed to be contiguous to the extent possible. Required setbacks, road right-of-way or easements, and stormwater detention areas shall not be counted toward the open space requirement.
- G. **Access Management.** The following access regulations shall be required in addition to those contained in Article 3 (General Provisions).
  - 1. As a general guideline, PUD's shall be designed to minimize the need for driveways or street outlets onto adjacent public streets.
  - 2. Where feasible driveways serving individual buildings or groups of buildings shall be located on a street that is internal to the project site.
  - 3. Where feasible, cross-access drives between commercial uses shall be provided.
  - 4. A maximum of one (1) driveway or street opening per existing public street frontage shall be permitted for the PUD. Additional driveways may be permitted provided that such drive is constructed and permitted to share access with other uses within the PUD, or an adjoining principal use or existing lot. The Planning Commission may permit additional driveways, if justified by a professional traffic study provided by the applicant or owner indicating the need for such additional driveways.

**SECTION 18-7 USES PERMITTED WITHIN PUD'S**

Uses permitted within a Planned Unit Development (PUD) include the following:

- A. All uses permitted by right or special use permit in any zoning district, and determined by the Planning Commission and City Council to be appropriate for the PUD, based on Section 18-7B.
- B. The determination of what uses may be permitted shall be made based on the following criteria:
  - 1. Degree to which the proposed uses are compatible with the City general development plan, and permitted uses in the current zoning district.
  - 2. Compatibility of the proposed uses with all uses proposed for the PUD.
  - 3. Compatibility with existing or expected development surrounding the PUD.

4. Assessment of the need for the proposed use(s).
5. The market compatibility of the proposed use with other uses in the PUD.
6. The potential impact of each use on public services and facilities in the vicinity of the site, including but not limited to traffic, water, sewer, police, fire and schools.

**SECTION 18-8 DENSITY FOR RESIDENTIAL PUD'S**

- A. **Minimum Density.** Residential densities for PUD's shall be based on the minimum lot size and maximum density permitted in the most restrictive residential zoning district which permits each of the individual residential uses. The applicant shall prepare a site plan under the conventional zoning district site development requirements to be called the "parallel plan". This plan shall be prepared using the minimum lot size for the conventional zoning district(s), with all lots being buildable. The number of dwelling units which can be built under the parallel plan will be the minimum number of units allowed under the PUD, with additional units being possible using the following bonus criteria.
- B. **Density Bonus Criteria.** The density bonus shall be based on an aggregate of one (1) or more of the following elements for which the Planning Commission and the City Council determines the PUD qualifies; provided the total density bonus shall not exceed a maximum of fifty (50) percent:
  1. A high level of clustered development with common open space exceeding the requirements of Section 18-6 (F) may qualify for density bonuses in accordance with the following:
    - a. Twenty-five (25) percent of open space: five (5) percent density bonus.
    - b. Thirty-five (35) percent open space: fifteen (15) percent density bonus.
    - c. Forty-five (45) percent open space: twenty (20) percent density bonus.
  2. Inclusion of an integrated mixture of housing types, such as detached housing with attached housing or multiple-family dwellings may qualify for up to a five (5) percent density bonus.
  3. Including a restriction in the PUD prohibiting the removal of tree cover beyond a one-hundred (100) foot distance from a dwelling unit may qualify for up to a five (5) percent bonus.
  4. Providing active recreational facilities such as a golf course, baseball diamond, tennis court, basketball court or community clubhouse may qualify for up to a five (5) percent density bonus.
  5. Cleanup of site contamination consistent with a baseline environmental assessment (BEA) approved by the Michigan Department of Environmental Quality may qualify for up to a ten (10) percent density bonus.
  6. Combining parcels under different ownership for the PUD project may qualify for up to a ten (10) percent density bonus.
  7. Preserving natural features such as wooded areas, wetlands, floodplains, and unique vegetation areas may qualify for up to a five (5) percent bonus, depending on the degree of preservation and preservation plan.

**ARTICLE 19: SITE PLAN REVIEW**

**SECTION 19-1 PURPOSE**

The purpose of this article is to require and review those documents or drawings as specified in the ordinance, to ensure that a proposed land use or development is in compliance with this ordinance, other local ordinances, state statutes, and federal statutes. And furthermore, its purpose is to ensure that development taking place within the City of New Buffalo is properly designed, safe, efficient, environmentally sound, and developed in such a manner as to protect adjacent properties from adverse impacts.

**SECTION 19-2 USES REQUIRING SITE PLAN REVIEW**

All new construction and new uses, including the expansion of existing buildings, structures, and uses (other than single-family or two family dwelling that are permitted by right in the zoning district in which they are located) shall require site plan review. This shall include uses permitted by right, private streets, public buildings and structures, planned unit developments, special uses, mobile home parks, and site condominium subdivisions.

**SECTION 19-3 AUTHORITY AND RESPONSIBILITY FOR SITE PLAN REVIEW**

The Planning Commission shall have the authority and responsibility to review and make decisions regarding all plans submitted for site plan review , except where this ordinance specifically provides authority for other officials to conduct specified types of plan reviews. The Planning Commission may delegate specified review activities to staff or consultants as they may decide is appropriate.

**SECTION 19-4 PROHIBITIONS PRIOR TO SITE PLAN APPROVAL**

Until a site plan is approved and in effect, no grading, removal of vegetation, filling of land, or construction shall commence for any development or use for which site plan approval is required.

**SECTION 19-5 SITE PLAN REVIEW PROCESS**

- A. Ten (10) copies of a complete site plan shall be submitted to the Zoning Administrator along with an application for that purpose and a fee, as established by resolution of the City Council from time to time.
- B. The Zoning Administrator shall review the site plan for completeness, and shall obtain comments, as the zoning administrator considers necessary, from the Department of Public Works, Water Department, Police Department, Fire Department, City Planner, and other City departments or consultants. Notice that site plan approval has been requested shall be mailed for information purposes only to the owners of all abutting properties, and other persons whom the Zoning Administrator deems appropriate. All such notices shall be mailed at least seven (7) days prior to the meeting at which the Planning Commission will consider the site plan. Any failure to give notice to the owners of abutting property pursuant to this section shall not affect the validity of any action taken by the Planning Commission pursuant to this chapter.
- C. Once the Zoning Administrator determines that the site plan is complete, the zoning administrator shall transmit the site plan, along with comments from City departments and consultants to the Planning Commission at least two (2) weeks prior to the next meeting. The Zoning Administrator shall not be

required to submit any site plan for review which was submitted less than forty (40) days prior to the next regularly scheduled Planning Commission meeting.

- D. The Planning Commission shall consider the site plan and shall: (1) approve the site plan, as submitted, if all applicable requirements and standards have been met; (2) approve the site plan with conditions; or (3) deny approval of the site plan if applicable requirements and standards have not been met.
- E. The reasons for the Planning Commission's action, along with any conditions that may be attached, shall be stated in the meeting minutes and a copy provided to the applicant.
- F. If approved, two (2) copies of the final site plan shall be signed and dated by the Secretary of the Planning Commission and the applicant. One (1) copy shall be kept on file with the City and one (1) copy shall be returned to the applicant or his designated representative.

**SECTION 19-6 REQUIRED CONTENTS OF SITE PLAN**

The following information shall be required to be submitted for site plan review.

**A. General Information:**

- 1. The applicant's name, address, telephone number, and their interest in the project and/or property.
- 2. The name, address, and telephone numbers of the owner(s) of record (or the firm or corporation having a legal or equitable interest in the land), and the signatures of the owners authorizing the site plan submittal.
- 3. The name, address, and telephone number of the individual or firm preparing the site plan.
- 4. Project title.
- 5. Proof of property ownership or purchase agreement.
- 6. The legal description, address, and tax identification number of the parcel.
- 7. Written permission, signed by the property owner, granting the Planning Commission and City Officials authority to enter onto property which is the subject of an application for site plan approval (this item is optional).
- 8. Deed restrictions, master deed restrictions, and bylaws as applicable.

**B. Site Analysis/Project Impact Information:**

- 1. Existing topographic elevations at two-foot intervals, proposed grades, and direction of drainage flows.
- 2. The location of existing structures on the subject site and on adjacent parcels within fifty (50) feet of subject parcel.
- 3. Location and type of significant existing vegetation.
- 4. Location and elevations of existing watercourses and water bodies, including county drains, and man-made surface drainage ways, floodplains, and wetlands.

**C. Site Plan Information:**

1. A vicinity map.
2. North arrow, and date of original submittal and all revisions.
3. A grading plan showing finished contours at a minimum interval of one (1) foot, and correlated with existing contours so as to clearly indicate cut and fill required (All finished contour lines are to be connected to existing contour lines at or before the lot lines).
4. Location of proposed and/or existing property lines with dimensions, legal description, and statement or illustration of building setback lines.
5. The size of parcel (in acres) and a breakdown of use areas using the categories: street rights-of-way, development area, and open space.
6. The gross and net acreage of all parcels in the project. (Net acreage is the size of the parcel in acres after subtracting any area that is within a street right-of-way or formal access easement).
7. Land uses (residential, commercial, industrial, vacant, etc.) and zoning classification for the subject parcel and adjoining parcels.
8. Location of proposed buildings (including accessory buildings) and intended uses thereof, as well as the length, width, height, and total square footage of each building. For buildings housing multiple use types, the square footage for each use type shall be provided.
9. Indication of phases, if applicable.
10. Location of existing streets, street rights-of-way and private easements of record.
11. Location and dimensions of proposed streets, drives, curb cuts, driveway radii, access easements, deceleration/acceleration lanes or tapers, and passing lanes as applicable.
12. Location, design, and dimensions of proposed parking areas (including indication of all spaces, dimensions of spaces, handicapped spaces, and method of surfacing), and fire lanes.
13. Location, design, and dimensions of loading and unloading areas.
14. Location, and design of all sidewalks, walkways, bicycle paths, and areas for public use.
15. Location of water supply lines and/or wells including fire hydrants; a storm drainage plan showing storm sewers, exterior drains, dry wells, catch basins, retention/detention areas, and point of discharge for all drains; and sanitary sewer system, including septic systems, if applicable.
16. Location of all other utilities on the site.
17. The description of measures to be taken to control soil erosion, and sedimentation during and after completion of grading and construction operations.
18. Location, size, and specifications of all signs with cross-sections.
19. Exterior lighting locations whether pole-mounted or building-mounted and a statement included that all lighting will be shielded to avoid spillover to adjacent properties or streets. If pole-mounted the height of pole shall be included.
20. Location and specifications for all proposed perimeter and internal landscaping and other screening features. For all new landscape material the proposed size upon installation shall be indicated. Existing landscaping to be retained shall also be indicated.

21. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
22. Seal of the registered engineer, architect, or surveyor who prepared the site plan.

**D. Waiver of Site Plan Requirements:**

Specific requirements of this section may be waived by the Planning Commission where it is determined that such information is not applicable to the subject request.

**SECTION 19-7 EXPIRATION OF SITE PLAN APPROVAL**

Unless a building permit has been issued, and on-site construction has actually started within 1 year of the date of the Planning Commission's approval of the site plan, approval of the site plan shall expire and be of no effect. If an approved site plan expires per this Section, no permits for development or use of the subject property shall be issued until the site plan has been resubmitted and approved, subject to the provisions of Article 19. The Planning Commission, in its discretion, may authorize up to one (1) extension of this time limit up to one (1) additional year; provided a written request for such extension is submitted by the property owner to the Planning Commission prior to the expiration of the original approval. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the extension period.

**SECTION 19-8 AMENDMENT OF AN APPROVED SITE PLAN**

A site plan may be amended based upon whether the desired amendment is classified as a major or minor amendment to the site plan. Major amendments shall require review and approval by the Planning Commission and minor amendments shall only require the approval of the zoning administrator.

**A. Major amendments shall include one or more of the following:**

1. A change in the original concept of the development.
2. A change in the use or character of the development.
3. A change in the type of dwelling unit being proposed.
4. An increase in the number of dwelling units planned.
5. An increase in floor area of more than ten (10) percent.
6. A change in the basic layout or design of the project.
7. A change in the character, function, or location of any street or access driveway.
8. A reduction in the amount of open space, or relocation of open space areas.
9. The movement of a building footprint by more than ten (10) feet

**B. Minor amendments shall include one or more of the following:**

1. A change in floor area of ten (10) percent or less
2. Additions to parking lots of up to ten (10) spaces.

3. The movement of a building footprint of ten (10) feet or less.
4. Substitutions in type of landscape plantings not to exceed twenty (20) percent of the total amount of landscape materials; provided such materials are comparable to those they would replace.
5. Accessory buildings having less than 1,000 square feet of area for commercial, industrial, or institutional uses.

## **SECTION 19-9 STANDARDS FOR SITE PLAN REVIEW**

To promote orderly development which is safe, efficient, attractive, sensitive to environmental concerns, and generally promotes the welfare of the city's citizens, all developments and uses, in addition to meeting applicable specific standards as identified in this ordinance, shall also meet the following general standards.

- A. **Organization of Elements.** All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be designed so that there will be no impediment to the development of adjoining property.
- B. **Landscape Preservation.** The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- C. **Drainage Design.** The drainage portion of the site plan shall be designed to city storm design standards and not increase water run-off to adjoining properties, nor overburden watercourses in the area. Retention or detention areas shall be kept to the smallest number possible.
- D. **Soil Preservation.** Site plans shall be developed to prevent or minimize problems with soil erosion or sedimentation.
- E. **Privacy Provisions.** The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of occupants.
- F. **Emergency Vehicle Accessibility.** All buildings or groups of buildings shall be so arranged as to permit emergency vehicle accessibility. Fire lanes shall be provided as deemed necessary by the fire chief to provide adequate fire protection.
- G. **Connective Access to Public Streets.** Every building or dwelling unit shall have connective access to a public or private street by some form of pedestrian sidewalk or pathway.
- H. **Pedestrian Circulation System.** Sidewalks shall be provided, unless specifically waived by the Planning Commission.
- I. **Compatibility with Existing or Planned Streets and Pathways.** The arrangement of streets, sidewalks, and other path systems shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern shall be of a width appropriate to the traffic volume they will carry, and shall have a dedicated right-of-way equal to that specified in any formally-adopted street plan or platted right-of-way.
- J. **Efficient and Safe Traffic Systems.** Street systems shall be designed to be as efficient as possible, and in compliance with commonly accepted traffic engineering standards for safety.

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**SECTION 19-10 SITE PLAN INSPECTION**

The applicant shall notify the zoning administrator when any project that required site plan review is finished and occupancy is desired. A site plan inspection shall be undertaken by the zoning administrator prior to an occupancy permit being issued. The zoning administrator shall make the determination that the completed project has met the site plan requirements, or identify incomplete items. If the site plan is deemed complete, the city may issue the occupancy permit. If the project is deemed incomplete the zoning administrator shall inform the applicant of the items which must be completed before occupancy will be granted. The city may allow occupancy prior to one hundred (100) percent completion of the site plan, if the undone portion will not jeopardize the safe use of the building, and the applicant provides the city with a performance bond or other financial guarantee acceptable to the city that gives the city the means to complete the project in case of default by the applicant.

**SECTION 19-11 FEES**

Fees for the review of site plans and inspections as required by this article, shall be established and may be amended by resolution of the City Council. Fees may include base fees or escrow fees, as established by the City Council.

**SECTION 19-12 VIOLATIONS**

Any failure on the part of the applicant or land owner to comply with any of the provisions of the site plan approval shall be deemed a violation of this ordinance and subject to the penalties prescribed in Article 22. Furthermore, any project for which construction has commenced and no construction activity has taken place for a six (6) month period shall be a violation of this ordinance.

**ARTICLE 20: NONCONFORMING USES AND STRUCTURES**

**SECTION 20-1 INTENT**

Upon the adoption of this Ordinance or subsequent amendments, there may exist lots, structures, and uses of land which were lawful prior to the adoption of the ordinance, or amendment thereto, but which are not in conformance with the provisions of this ordinance, or amendment thereto. It is the intent of this ordinance to permit these nonconforming lots, structures, and uses to continue, but not to encourage their prolonged existence. Because nonconforming lots, structures and uses, so long as they exist, prevent full realization of the goals and objectives of the City of New Buffalo General Development Plan, the spirit of this ordinance is to reduce, rather than increase, such nonconformance.

**SECTION 20-2 NONCONFORMING LOTS**

- A. Existing Lot of Record. In any zoning district where an existing lot of record which does not abut any lot or lots of record in the same ownership, fails to meet the requirements for minimum lot area, minimum lot width, or both, of the zoning district in which it is located, such lot may be used for the permitted uses of the zoning district, provided that all other dimensional requirements not involving lot area and/or lot width of the zoning district in which such lot is located are met.
- B. Abutting Lots of Record Under Single Ownership. In any zoning district, where two or more abutting lots of record in the same ownership and with frontage on the same street do not, when considered individually, meet the requirements for minimum lot area and/or minimum lot width of the zoning district in which the lots are located, such lots shall be combined to create one or more conforming lots for the purposes of this ordinance.

**SECTION 20-3 NONCONFORMING USES OF LAND NOT INVOLVING A BUILDING OR STRUCTURE**

The lawful use of any land, not involving a building or structure, existing and lawful on the effective date of this ordinance, or amendment thereto, may be continued, even though such use does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:

- A. **Enlargement.** Except as permitted under Sections 20-4 and 20-5, no such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this ordinance, or amendment thereto.
- B. **Relocation.** Except as permitted under Sections 20-4 and 20-5, no such nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by such use on the effective date of this ordinance, or amendment thereto.
- C. **Cessation.** If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the requirements of this ordinance. A non-conforming use shall be determined to cease 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 cease and abandon the non-conforming 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 non-conforming use have been removed;
4. Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
5. Other actions, which in the opinion of the zoning administrator, constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.

#### **SECTION 20-4 NONCONFORMING STRUCTURES**

Structures which are existing and lawful on the effective date of this ordinance, or amendment thereto, may be continued, even though such structure does not conform with the provisions of this ordinance, or amendment thereto, subject to the following provisions:

- A. **Enlargement/ Alteration.** Except as provided for, no nonconforming structure may be enlarged or altered in a way which increases its nonconformity with the provisions of this ordinance, unless authorized by the Zoning Board of Appeals, following a public hearing. In authorizing such enlargement or alteration, the Zoning Board of Appeals shall consider and document all of the following:
  1. Whether the proposed enlargement or alteration will change the essential character of the area.
  2. Whether the proposed enlargement or alteration will be contrary to the general development plan.
  3. Whether the proposed enlargement or alteration will have adverse impact on adjoining property or the general welfare of the city, by reason of its nonconformity with the provisions of this ordinance.
  4. Whether there are reasonable and practical alternatives to achieving the desired enlargement or alteration in a manner which does not increase the degree of nonconformity of the structure with the provisions of this ordinance.
- B. **ZBA Conditions Pursuant to Enlargement/ Alteration.** In authorizing approval to enlarge or alter a nonconforming structure, the Zoning Board of Appeals may impose conditions including, but not limited to: additional site landscaping, site buffers, fencing, facade design requirements, additional on-premise parking, vehicular circulation modifications, signage, exterior lighting, and related building and site design modifications.
- C. **Damage and Reconstruction.**
  1. **Nonconforming Structure.** In the event that any nonconforming structure shall be damaged by fire, wind, accident, act of God, or other such means or manner, to the extent that the cost of reconstruction or restoration is equal to or less than one-half of the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall be permitted by right, subject to the provisions of this ordinance. Structures damaged in excess of one-half of the fair market value of such structure prior to the damaging occurrence, as determined by the assessor, exclusive of the market value of land, shall only be reconstructed subject to compliance with underlying zone district standards.
  2. **Building Permit Required.** The above reconstruction or restoration shall require the issuance of a building permit within one year of the occurrence of such damage.
  3. **Secured Building Requirement.** A damaged structure awaiting reconstruction or restoration shall be properly secured within forty-eight (48) hours of the damaging occurrence to prevent trespass,

vandalism, and injury to the public.

- D. **Decrease of Nonconformity and Re-establishment.** If a nonconforming structure is altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.

**SECTION 20-5 NONCONFORMING USE OF STRUCTURE**

The lawful use of any structure existing and lawful on the effective date of this ordinance, or amendment thereto, may be continued, even though such use does not conform with the provisions of this ordinance, or amendment thereto, subject to the following provisions:

- A. **Extending Use Within a Structure.** Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of this ordinance, or amendment thereto, but no such use shall be extended to occupy any portion of a building which was not manifestly arranged or designed for such use at the effective date of this ordinance, or amendment thereto, nor shall such use be extended to occupy any land outside such building.
- B. **Alteration of Structure Possessing a Nonconforming Use.** No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning ordinance in which it is located.
- C. **Reconstruction of Structure Occupied by a Nonconforming Use.** If a structure which conforms with the provisions of this ordinance, but which is occupied by a nonconforming use, is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration exceeds one-half the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, excluding the value of land, such structure may be reconstructed or restored only if its use conforms with the provisions of this ordinance.
- D. **Re-establishment of Nonconforming Use.** If a nonconforming use of any structure is terminated and replaced by a permitted use, such nonconforming use shall not be later re-established.
- E. **Abandonment.** When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for one year, the structure, or structure and land in combination, shall not hereafter be used except in conformance with the regulations of the zoning district in which it is located. A non-conforming use shall be determined to cease 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 cease and abandon the non-conforming 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 non-conforming use have been removed;
  - 4. Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
  - 5. Other actions, which in the opinion of the zoning administrator, constitute an intention of the part of the property owner or lessee to abandon the non-conforming use.
- F. **Removal of Nonconforming Use Status After Removal or Destruction of Building.** Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming use status of the land.

- G. **Change in Use (Substitution).** A nonconforming use of a structure may be changed to another nonconforming use, subject to prior approval of the Zoning Board of Appeals. The Board may approve such change only if it complies with the following standards:
1. The proposed use does not increase the degree of nonconformity existing prior to such change of use. Pursuant to this standard, the proposed use shall not create, or result in, impacts which are considered more objectionable than the use to be replaced. Such impacts shall include, but are not limited to, increased traffic, truck deliveries, parking requirements, hours of operation, noise, vibration, odors, litter, outside storage, pedestrian movement, off-site drainage, and other factors.
  2. No structural alteration of the existing structure will be required to accommodate the new use, unless the alteration will render the structure more conforming to the underlying zone district standards.

In approving a change in use, the Zoning Board of Appeals may require reasonable conditions in order to increase the degree of conformity. Such conditions shall include, but are not limited to, buffers, landscaping, on-premise parking, access controls, hours of operation, and other such conditions to bring about a greater degree of conformity.

#### **SECTION 20-6 REPAIRS AND MAINTENANCE**

- A. **Basic Repairs and Maintenance.** On any structure devoted in whole or in part to any nonconforming 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, mechanical equipment, or plumbing, to an extent not exceeding twenty (20) percent of the current replacement value of the structure as based on the records of the City Assessor, provided that the structure is not enlarged, extended, moved or structurally altered.
- B. **Safety Improvements.** Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public health.

#### **SECTION 20-7 STRUCTURES UNDER CONSTRUCTION**

Any structure on which actual construction was lawfully begun prior to the effective date of this ordinance, or amendment thereto, but, which under this ordinance, or amendment thereto, is classified as nonconforming, shall be considered existing and legally nonconforming pursuant to construction purposes and the intended use. Nothing in this ordinance shall be deemed to require any change in the plans, construction or use of such structure. Actual construction is defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to reconstruction such demolition or removal shall be deemed actual construction.

**ARTICLE 21: ZONING BOARD OF APPEALS**

**SECTION 21-1 CREATION AND MEMBERSHIP**

There is hereby created a Zoning Board of Appeals, herein referred to as the "Board of Appeals," the membership, powers and duties of which are prescribed in this Ordinance.

**SECTION 21-2 COMPOSITION**

The Board of Appeals shall consist of seven (7) members , one (1) of whom shall be a citizen member of the Planning Commission with appointment by the City Council coinciding with that persons term on the Planning Commission, and six (6) members who shall be appointed by the City Council. In the latter instance and for initial appointments, two (2) of said members shall be appointed for a one (1) year term, and two (2) of said members shall be appointed for a two (2) year term, and two (2) members shall be appointed for a full three (3) year term. After initial appointments each member shall serve three (3) year terms. In addition, the City Council may appoint two (2) alternate members who shall serve three (3) year terms. All of the regular and alternate members of the Board shall be citizens of the United States and primary residents of the City of New Buffalo. No elected officer or employee of the City of New Buffalo shall be a member of the Board. Any vacancy in the Board shall be filled by the City Council for the remainder of the unexpired term.

**SECTION 21-3 RULES OF PROCEDURE**

The Board shall annually elect its own Chairman, Vice Chairman and Secretary. Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine by rule. All meetings of the Zoning Board of Appeals shall be open to the public.

**SECTION 21-4 MEETINGS**

**A. Meetings**

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as such Board of Zoning Appeals may determine. All hearings conducted by the Board of Zoning Appeals shall be open to the public. The City Zoning Administrator or his/her representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Four (4) members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

**B. Hearings**

The Zoning Board of Appeals shall make no decision regarding a variance except after a public hearing is conducted by the Zoning Board of Appeals. Notification of hearings shall be in accordance with the following requirements:

1. Public notice of the appeal shall be sent by regular mail or personally delivered at least fifteen (15) days prior to the scheduled hearing to all persons owning real property within three hundred (300) feet of the premises in question, and to the occupants of single and multiple family

dwellings within three hundred (300) feet.

2. The public notice shall be addressed to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used.
3. An affidavit of mailing shall be maintained.
4. The applicant shall be notified by certified mail at least fifteen (15) days prior to the scheduled hearing.

## **SECTION 21-5 JURISDICTION**

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The Zoning Board of Appeals shall not have the authority to hear appeals from a decision made in respect to any special land use, planned unit development, or rezoning. The powers of the Zoning Board of Appeals include:

### **A. Hearing of Appeals**

To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.

### **B. Granting of Variances**

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Article.

### **C. Zoning Ordinance Interpretation**

The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provisions is uncertain.

### **D. Granting of Temporary Uses and Buildings**

1. The Zoning Board of Appeals may permit, upon proper application, temporary uses or buildings not otherwise permitted in the district, not to exceed twelve (12) months and to provide up to a twelve (12) month extension when appropriate.
2. The Zoning Board of Appeals, in granting permits for temporary uses and buildings, shall do so under the following conditions:
  - a. The granting of the temporary use or building shall in no way constitute a change in the basic uses permitted in the district nor on the property where the temporary use or building is permitted.
  - b. The granting of the temporary use or building shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
  - c. All setbacks, land coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals.
  - d. The use or building shall be in harmony with the general character of the district.

- e. No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as provided for in this Ordinance.
- f. Prior to granting a temporary permit the Board may seek the review and recommendation of the Planning Commission.

**SECTION 21-6 DECISIONS**

**A. Procedure**

An appeal may be taken by a person aggrieved, or by an officer, department, or board of the city. Such appeal shall be taken within twenty-one (21) days, as prescribed by the rules of the Zoning Board of Appeals, by the filing with the officer or body from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal.

**B. Filing**

The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan along with staff review comments. Said site plan shall include the following information:

- 1. Project Information, including:
  - a. The applicant's name;
  - b. North arrow;
  - c. Complete and current legal description and size of property in acres;
  - d. Size of property in acres or square feet;
  - e. A survey shall be required for dimensional variance.
- 2. Existing Features
  - a. Property lines and dimensions;
  - b. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site;
  - c. Lot lines and all structures on the property;
  - d. The Zoning Board of Appeals may require buildings and structures within one hundred (100) feet of the site's property lines to also be shown.
- 3. Proposed Construction
  - a. Building footprints, setbacks, and building height; and
  - b. Location and dimensions of parking spaces (if applicable);
- 4. Additional information may be required by the Zoning Board of Appeals, including, but not limited to:
  - a. Existing and proposed topography;
  - b. Location and method of screening waste dumpsters;
  - c. A landscaping plan;
  - d. Details of exterior lighting;
  - e. Details of site circulation and access design.
  - f. Any information specified in section 19-6 which the Zoning Board of Appeals determines to be necessary in order to properly evaluate the request and render a decision.

5. A completed application form, supplied by the Zoning Administrator, and an application fee.

**C. Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

**D. Decisions**

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds (2/3) of the membership shall be necessary to grant a use variance.
2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.
3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.

**E. Record of Actions**

For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

1. Description of the applicant's request.
2. The Zoning Board of Appeal's motion including an explanation of how the request meets each standard outlined in Sec. 21-8 B, for Non-Use Variances, or Sec. 21-8 C, for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.
3. The Board's vote on the motion.
4. A summary or transcription of all relevant material and evidence presented at hearing; and,
5. Any conditions attached to an affirmative decision.

**F. Appeals to Circuit Court**

The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal,

the Circuit Court shall review the record in accordance with the requirements of the City/Village Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.

**G. Resubmission**

No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the Board finds that at least one of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.
2. That new conditions or circumstances exist which change the nature of the original request.

**SECTION 21-7 CONDITIONS OF APPROVAL**

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the City/Village Zoning Act and related to the standards by which the decision is reached.
- C. The Zoning Administrator shall prepare within five (5) days of the board meeting, a written statement of each of the Board's actions, specifying the motion, vote, and conditions imposed. This statement shall be signed and dated by the applicant.
- D. The Board of Appeals may require that the applicant demonstrate compliance with all required conditions prior to the issuance of a building permit by the Building Official and/or require a performance guarantee in accordance with section 22-3 B.

**SECTION 21-8 VARIANCE PROCEDURES**

**A. Authority for Variances**

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

**B. Granting of Non-Use Variances**

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article, or by

reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Article would involve practical difficulties;

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.
6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

**C. Granting of Use Variances**

A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:

1. That the building, structure, or land cannot be reasonably used for any of the uses permitted by right or special approval in the zone district in which it is located.
2. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Article would cause unnecessary hardship;
3. That the proposed use will not alter the essential character of the neighborhood.

- D. Prior to Zoning Board of Appeals hearing on a request for a Use Variance, the Planning Commission shall consider such request and forward a report to the Zoning Board of Appeals. For this report the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, the effect of the request on the essential character of the neighborhood, and other such factors as the Planning Commission may deem relevant.

**SECTION 21-9 FEES**

The City Council may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals.

**SECTION 21-10 APPEALS OF SPECIAL LAND USES AND PLANNED UNIT DEVELOPMENTS**

The Board of Appeals is not authorized to receive, hear, nor act on appeals of special land uses and planned unit developments.

**ARTICLE 22: ADMINISTRATION AND ENFORCEMENT**

**SECTION 22-1 ZONING ADMINISTRATOR**

- A. **Authority.** Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator, or such other official or officials as may be designated by the City Council. The Zoning Administrator shall have the power to:
1. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance.
  2. Issue and serve appearance tickets on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense.
  3. Maintain and safely keep copies of all plans other than for single family dwellings and fees submitted with such application, and the same shall form a part of the records of his/her office and shall be available to the Council and all other officials of the City.
  4. Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.

**SECTION 22-2 PERMITS**

A. **Building Permits.**

1. No building, structure, or commercial sign shall be erected, altered, moved, or substantially repaired unless a building permit shall have been first issued for such work.
2. No building permit shall be issued for the erection, alteration, or use of any building or structure or for the use of any land which is not in accordance with all provisions of this Ordinance.
3. The holder of every building permit for the construction, erection, alteration, repair, or moving of any building or structure shall notify the Building Inspector immediately upon completion of the work authorized by the permit for a final inspection.
4. Prior to issuance of a building permit, the building Inspector may require any information specified in section 19-6 which he determines to be necessary in order to properly evaluate the permit request and determine compliance with the applicable requirement of this ordinance.

B. **Certificate of Occupancy.**

1. No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a Certificate of Occupancy is first obtained for the new or different use.
2. No building or structure which is hereafter erected or altered shall be occupied or used unless and until a Certificate of Occupancy shall have been issued for such building or structure.
3. Certificates of Occupancy, as required by the currently adopted Building Code for the City of New Buffalo, shall also constitute certification of compliance with the Zoning Ordinance.
4. A record of all Certificates of Occupancy issued shall be kept on file in the office of the Zoning

Administrator and copies shall be furnished upon request to any person owning or renting the property which is the subject of the Certificate.

5. Applications for Certificates of Occupancy shall be made in writing to the Building Inspector on a form furnished by the City of New Buffalo. Certificates shall be issued within ten (10) days after receipt of such application if the building or structure or use of land is in accordance with the provisions of this Ordinance and the other applicable Ordinances of the City of New Buffalo.
- C. **Fees.** Fees for the inspection and issuance of building permits or Certificates of Occupancy, or copies required or issued under the provisions of this Ordinance, may be collected by the city in advance of issuance. The amount of such fees shall be established by resolution of the City Council and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

**SECTION 22-3 ENFORCEMENT**

**A. Violations.**

1. A violation of this Ordinance is a municipal civil infraction and shall be processed in accordance with the provisions of Chapter 2, Articles I and II of the City of New Buffalo Code of Ordinances. Such violation shall be subject to a fine of one hundred dollars (\$100.00) for the first offense and two hundred dollars (\$200.00) for subsequent offenses, in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided however, that offenses committed on subsequent days within a period of one (1) week following the issuance of a citation for a first offense shall all be considered separate first offenses.
2. Each day during which any violation continues shall be deemed a separate offense.
3. Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
4. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**B. Performance Guarantees.**

1. As a condition of approval of a site plan review, special land use, or planned unit development, the Planning Commission, City Council, or Zoning Administrator, whichever is designated as the approving authority, or the Zoning Board of Appeals, 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, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
2. Performance guarantees shall be processed in the following manner:
  - a. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the Zoning Administrator. The amount of the

performance guarantee shall be one-hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies, shall not exceed one hundred twenty-five (125) percent of the estimated cost of materials and installation.

- b. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City.
- c. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the City.
- d. The Zoning Administrator, upon the written request of the obliger, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- e. When all of the required improvements have been completed, the obliger shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obliger shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- f. A record of required performance guarantees shall be maintained by the Zoning Administrator.

**SECTION 22-4 ADOPTION AND AMENDMENTS**

**A. Procedure.**

- 1. Written applications for the adoption of a zoning change or amendment to this Ordinance may be initiated by:
  - a. Any interested person;
  - b. The Planning Commission; or
  - c. The City Council
- 2. If said application is for a zoning change, an "interested person" shall either be the owner of the property which will be considered for the zoning change, or, if not the owner of the property, the applicant shall submit a written statement from the property owner indicating his/her permission to submit such application.
- 3. An application for a zoning change shall consist of:
  - a. A written statement from the property owner indicating his/her permission to submit such application, if applicable.
  - b. Payment of a fee, as established from time to time by the City Council.

- c. A map clearly showing the property to be considered for the zoning change, including all properties within one-quarter (1/4) mile of the subject property and the current zoning of all such properties.
  - d. A legal description of the property to be considered for the zoning change and the parcel's tax identification number.
  - e. For a text amendment, the exact wording proposed for change in the zoning ordinance shall be submitted.
  - f. A statement of why the proposed zoning change is desired and any other materials the applicant feels would support their request.
4. The Planning Commission, after public hearing conducted in accordance with the requirements of the City/Village Zoning Act shall forward said application, with its recommendation and report, to the City Council for its consideration.
  5. Upon receipt of the recommendation of the Planning Commission, the City Council shall either approve or deny the requested rezoning in accordance with the procedures adopted by the Council.

**SECTION 22-5 EFFECTIVE DATE**

Public hearing having been held hereon, the provisions of this Ordinance are hereby adopted, and this Ordinance shall take effect on August 14, 2001.

**SECTION 22-6 REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance adopted by the City of New Buffalo, known as Ordinance No.132 and all amendments thereto, are hereby repealed. The repeal does not affect any act done or offense committed, or any liability, penalty, forfeiture, or punishment acquired thereunder.