

# CITY OF ALLEGAN ZONING ORDINANCE

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# **Article I**

## **Preamble**

### **100 Enactment**

The city council of the City of Allegan in the County of Allegan, under the authority of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, hereby ordains, enacts and publishes this ordinance.

### **101 Short title**

This ordinance shall be commonly known as the “Allegan City Zoning Ordinance”.

### **102 Purpose in view**

The Allegan City Zoning Ordinance is hereby established in accordance with the needs of the incorporated city. The text, map, tables and schedules contained herein shall constitute this ordinance. Said ordinance is expressly adopted for the following purposes:

- A. To protect and promote the public health, safety, and general welfare of the city.
- B. To control and guide the orderly growth and development of the city in accordance with its Comprehensive Planning Program, and to implement the growth and development goals and policies contained therein, some of which are enumerated as follows:
  - 1. To encourage a wide range of housing opportunities in an orderly manner in the city from single family to multiple family and congregate housing for the elderly;
  - 2. To ensure that the residential housing environment of the city is safe, healthful and free of visual blight;
  - 3. To preserve the character and value of certain historic areas and structures;
  - 4. To control the indiscriminate conversion of large, older homes into multiple-family dwellings;
  - 5. To prevent loss of life and property by controlling development upon wetlands and floodplains;
  - 6. To preserve and enhance the appearance and viability of the Central Business District; and
  - 7. To ensure the orderly development and operation of industrial uses.
- C. To guard against community impacts which can adversely affect those positive qualities that make up the distinctive character of the city, and which can adversely affect its social and economic climate.
- D. To promote and protect the value of land and buildings which are appropriate to the various districts established by this ordinance.
- E. To prevent conflicts among the use of land and buildings.
- F. To protect the natural environment from pollution of air, waterways and noise; and to encourage the wise use and proper management of all natural resources throughout the community.

## **Article II Definitions**

### **200 Usage**

- A. For the purpose of this ordinance, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted and defined as set forth in this section.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word “herein” means this ordinance; the word “regulation” means the regulations of this ordinance; and the words “this ordinance” shall mean “ the ordinance text, tables and maps included herein, as enacted or subsequently amended.”
- C. A “person” includes a corporation, a partnership, and an unincorporated association of persons such as a club; “shall” is always mandatory; a “lot” includes a plot or parcel, a “building” includes a structure; a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
- D. The “city” is the City of Allegan in the county of Allegan, State of Michigan; and “city council,” “board of appeal,” and “planning commission” are respectively the city council, boards of appeals, and planning commission of the City of Allegan.

### **201 Words and terms defined**

#### Section 201.1 “A”.

**Abandonment:** A land use is considered to have been abandoned when any of the following conditions apply:

- A. Utilities such as water, gas, and electric have been disconnected.
- B. The property, buildings and grounds have fallen into disrepair – i.e. the owner has been prosecuted under the dangerous building ordinance or for demolition by neglect under the historic district ordinance.
- C. Signs or other indications of the existence of the nonconforming use have been removed.
- D. Equipment or fixtures necessary for the operation of the use have been removed.
- E. The use of the property has been changed to another use.
- F. The ownership of the property has been reverted to the government for failure to pay taxes.

**Access:** The provision for ingress and egress of vehicles from an abutting property to an adjacent street.

**Accessory building:** A building or structure located on the same lot with the principal or main building, or a portion thereof. An accessory building is detached from the main building. Where a structure is attached to a main building in a manner by a wall or roof, it shall be considered a part of the main building. No converted mobile structure or vehicle shall be used as an accessory building, such as, but not limited to, a mobile office, a mobile home, a bus, a semi-trailer, a boat, or railroad cars, etc.

**Accessory apartment:** The second dwelling unit after conversion in the R-1 and R-2 zoning districts which is not owner occupied but which may be rented as a home occupation by the owner.

**Accessory use:** A use customarily incidental and subordinate to the principal use or structure, and located on the same lot with such principal use or structure.

**Adult foster care:** A governmental or non-governmental building having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

- A. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of 1978, as amended;
- B. Hospitals for persons with mental disabilities or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;
- C. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;
- D. A child care institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended;
- E. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
- F. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended.

**Agricultural Equipment, Services and Supply:** A business involving the sales and/or rental of agricultural supplies, accessories or services.

**Agri-tourism & Retail:** A secondary retail or service business connected to a farm designed to provide a destination for visitors, including but not limited to tours.

**Alterations:** Any change, addition, or modification in construction of type of occupancy; and any change in the roof or supporting members of the building or structure, such as bearing walls, partitions, columns, beams, girders, or any change which may be referred to herein as “altered” or “reconstructed.”

**Airport:** An area of Land designated and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

**Animal:** Animal shall mean dog, cat, bird, reptile, mammal, fish or any other creature.

**Animal Boarding:** A business involving the temporary care, breeding or training of horses and domestic animals; the facility may include both indoor and outdoor spaces.

**Attic:** The area between roof framing and the ceiling of the rooms below that is not habitable, but may be reached by ladder and used for storage or mechanical equipment. Improvement to habitable status shall make it a story.

#### **Section 201.2 “B”.**

**Bar or tavern:** An establishment or part of an establishment used primarily for the sale or dispensing of alcoholic beverages by the drink.

**Basement or cellar:** A portion of a building having more than five (5) feet below grade.

**Bed and breakfast:** A use which is subordinate to the principal use as a single-family dwelling and a use in which a sleeping room and breakfast area provided in return for payment.

**Boarding, lodging or rooming house:** A single-family structure where more than two (2) but fewer than six (6) rooms are provided for lodging for compensation and for definite periods of time; with one kitchen facility and where meals are provided without service or ordering of individual portions from a menu.

**Botanic gardens:** A facility for the observation, demonstration and training of the cultivation of flowers, fruits, vegetables or ornamental plants.

**Bottom land:** the land area of an inland lake or stream which lies below the ordinary high-water mark and which may or may not be covered by water. P.A. 346 or 1972 [MCL 281.951 et seq., MSA 11.475(1) et seq.]

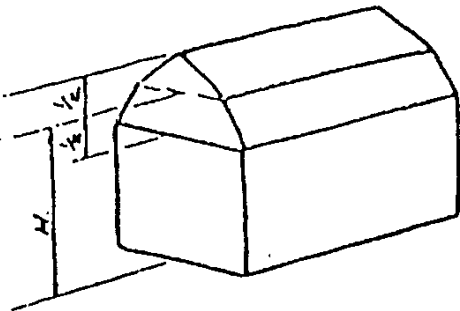
**Buildable area:** The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.

**Building**: Any structure, either temporary or permanent, having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

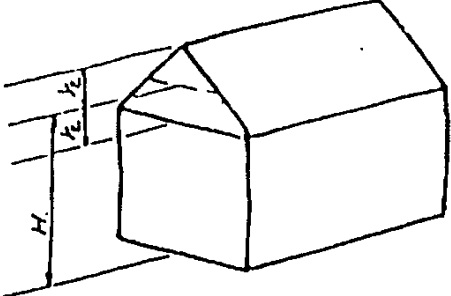
**Building code**: The various codes of the City that regulate construction and require building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the City of Allegan pertaining to building and building regulation.

**Building height**: The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck or mansard roofs; and to the mean height level between the eaves and ridge, hip and gambrel roofs. (See illustrations #1 and #2 below).

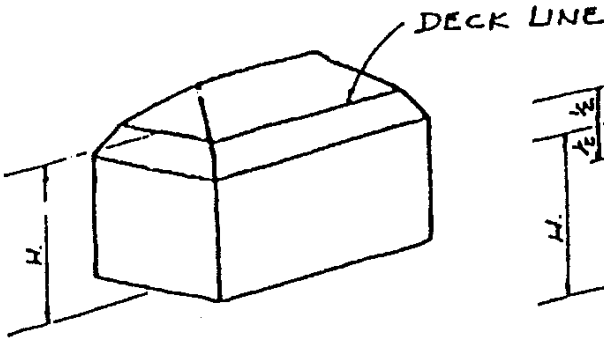
**ILLUSTRATION #1 - BUILDING HEIGHT REQUIREMENTS**



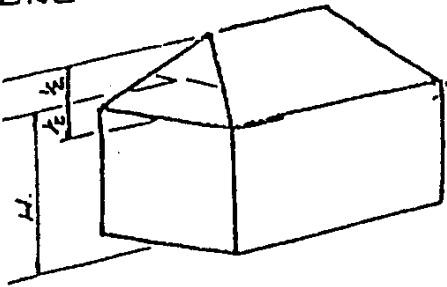
GAMBREL ROOF



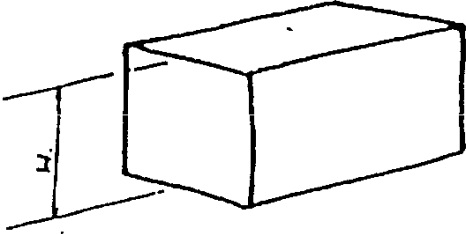
GABLE ROOF



MANSARD ROOF

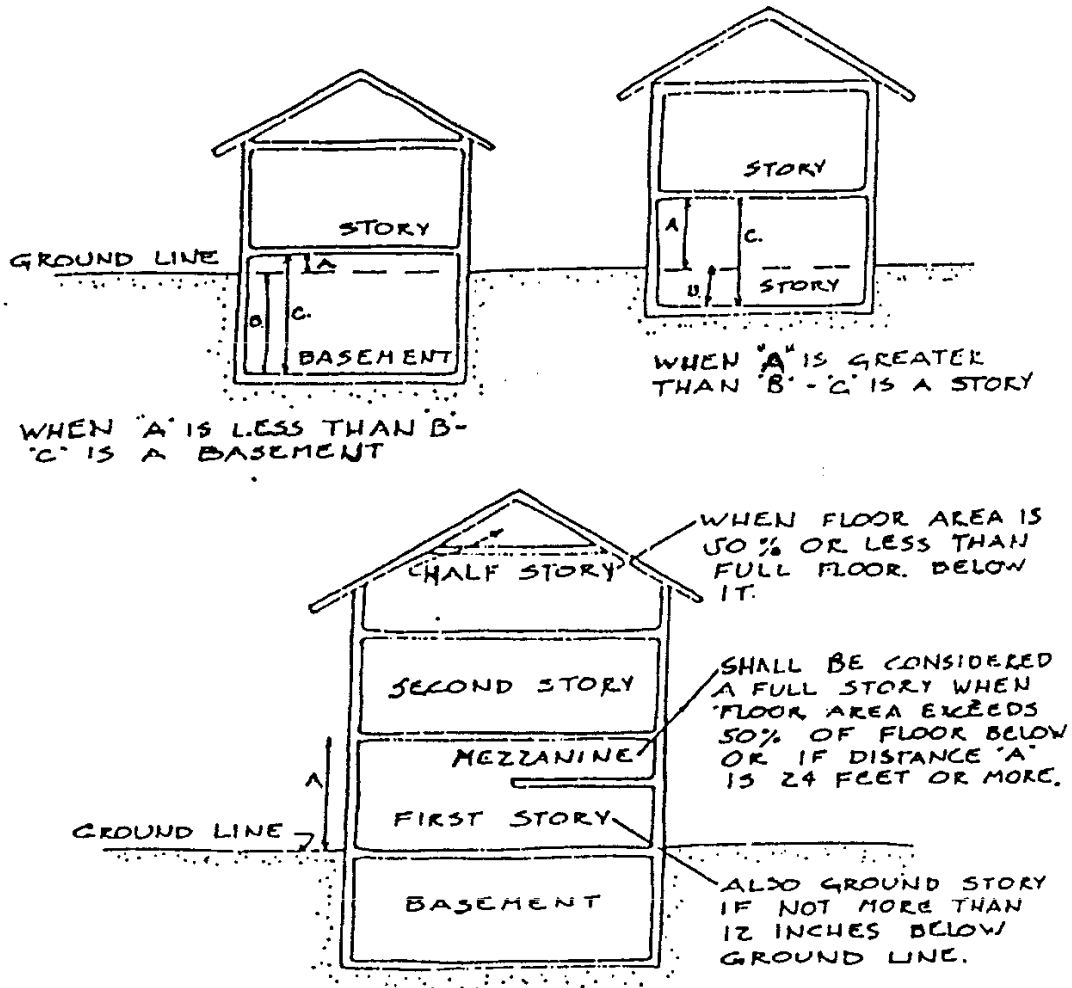


HIP ROOF



FLAT ROOF  
H. = HEIGHT OF BUILDING

## ILLUSTRATION #2 - STRUCTURAL TERMINOLOGY



**Building inspector (or building official):** The person designated by the City Council to administer the provisions of the adopted building code for the City.

**Building, main or principal:** A building in which is conducted the principal use of the lot on which it is situated.

**Building line:** A line parallel to the front line, or parallel to a line connecting the intersection of the front line with the side lot lines if the front line is not a straight line, or



the line designated as a building line on an approved plat of subdivision, and which marks the location at or behind which a building may be built.

**Building permit:** A permit signifying compliance with the provisions of this ordinance as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the City of Allegan.

**Building, Temporary:** The only buildings classified as ‘temporary’ under this ordinance are construction offices and construction tool shed placed on a property during construction of a permanent structure and removed after completion of construction; sales tents and trailers used for seasonal sales on commercial use property; and tents for weddings, funerals and parties.

### Section 201.3 “C”.

**Cell tower:** A tower, pole or similar structure that supports telecommunication antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed or on a building or other structure.

**Cemetery:** A place used for internment of human or animal remains or cremated remains, including a burial park for earth internments, a mausoleum for vault or crypt internments, a columbarium for cinerary internments, or a combination thereof.

**Certificate of occupancy:** A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

**Commercial equipment and supply:** A retail use involving the large-scale sale of goods marketed primarily to commercial businesses, but available to the general public. This use may include bulk sales and frequent commercial vehicle and consumer traffic. Examples of uses include building materials, hardware and garden supplies; heating and plumbing sales and service; and machine sales and rental.

**Commercial vehicle:** A vehicle having a gross vehicle weight greater than one (1) ton designed for transportation of commodities, merchandise, produce, freight, animals, or passengers.

**Comprehensive master plan:** The adopted official statement of the City of Allegan that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within Allegan and that includes a unified physical design for the public and private development of land and water.

**Condominium:** That portion of a condominium project designed and intended for separate ownership and use.

**Construction:** The building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than the normal maintenance shall constitute construction.

**Convalescent or nursing home:** A convalescent home or nursing home is a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein seven (7) or more persons are cared for. Said home shall conform and qualify for license under state law.

**Craftsman/Limited Industrial:** A manufacturing use involving small-scale production or assembly with little to no noxious by-products that typically includes a showroom or small retail outlet, up to 30,000 square feet in size with no more than 10,000 square feet utilized for manufacturing.

**Conversion:** Conversion takes place when a dwelling which has been structurally configured or used as a single-family dwelling is structurally changed or used as a dwelling with two (2) units.

#### **Section 201.4 “D”.**

**Day Care, Commercial:** A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- B. A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.

**Day Care Facility (6 clients):** A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four

(24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**Day Care, Group (7-12 clients):** A private home in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

**Density:** The number of dwelling units per acre of land.

**Drive-in:** An establishment so developed that its retail or service character incorporates a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

**Driveway:** A minor way used by vehicles and pedestrians for access to a single lot or facility.

**Dwelling, multiple-family:** A building or portion thereof, used or designed for occupancy by more than two (2) families living independently of each other. This definition does not include single-family attached dwellings or two-family dwellings.

**Dwellings, single-family attached:** A group of three (3) or more single-family dwelling units which are joined consecutively by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this ordinance, dwellings such as semi-detached and rowhouses, shall be deemed a single-family dwelling.

**Dwelling, single-family detached:** A unit exclusively for use by one (1) family which is entirely surrounded by open space or yards on the same lot.

**Dwelling, two-family:** A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in said building. It may also be termed a duplex.

**Dwelling or dwelling unit:** A building or part thereof containing living, sleeping, housekeeping accommodations and sanitary facilities for occupancy by one or more families.

Section 201.5 **“E”**.

**Efficiency unit (studio):** A dwelling unit consisting of one (1) room, exclusive of bathroom, hallway, closets and the like.

**Essential public services:** The erection, construction, alteration or maintenance of public utilities by municipal departments or commissions of underground or overhead gas, electrical, steam, or water transmission, or distribution systems, collection, communication, supply, or disposal systems (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchanges and/or repeater buildings, electric substations, gas regulators, stations, 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 for the public health, safety or general welfare.

**Events Facility:** A facility regularly available for rental by an individual, group or business for meetings, conferences, service organizations, seminars, lectures and private events that may include limited accommodations for attendees or members.

#### **Section 201.6 “F”.**

**Family:** A single individual doing his/her own cooking, and living upon the premises as a separate, housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate, housekeeping unit in a domestic relationship based on birth, marriage or other domestic bond as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel. This definition shall not include any society, club, fraternity, group, coterie, or organization, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

**Farming:** A Use of land involving the raising and caring of crops or Animals for the purpose of selling or distributing food products or by-products to distribution facilities, including the associated facilities or structures for growing, harvesting, storing, and housing Animals, crops and other materials.

**Fence:** An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

**Firearms dealers:** Business that solely involves the sale, lease or transfer of firearms at wholesale or retail.

**Flood hazard area:** That area subject to flooding on the average of one in every hundred years based on information supplied by the U.S. Department of Housing and Urban Development, Federal Insurance Administration [Federal Emergency Management Agency].

**Floor area:** the sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls or from the center line of walls separating two (2) buildings.

**Funeral Home:** A business involving the preparation of human and Animal remains for burial, cremation, display and other rituals connected with burial or cremation.

**Section 201.7 “G”.**

**Garage, automotive commercial:** Any premises available to the public and used solely for the storage of operable motor driven vehicles eligible to be licensed under Michigan law for remuneration, hire, or sale, and where any such vehicles or engines may also be serviced for operation, or repaired, rebuilt, or reconstructed. To qualify as a garage, automotive commercial, the premises must comply with any state licensing requirements.

**Garage:** A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

**Garden Center:** A retail use involving the sale of plants, gardening supplies and associated equipment that requires both permanent outdoor storage of goods and temporary outdoor displays. Rental and maintenance of small machinery and equipment may be included as a secondary use. This use occupies an area of no more than 7,500 square feet.

**General Entertainment:** An entertainment use for residents of the greater community or region. It typically occupies 5,000 or more square feet, and includes neighborhood entertainment uses, bowling alleys, concert halls, movie theaters (no drive-in) and skating rinks.

**General Industrial:** Warehousing, Packing and Distribution. A general industrial use involving substantial commercial vehicle access and large-scale indoor or outdoor storage of goods typically between production and the market.

**General Industrial: Manufacturing and Assembly:** A general industrial use involving the production of goods from raw materials or the assembly of finished products that can result in noise and other non-noxious by-products. General Manufacturing and Assembly Uses include all Craftsman Industrial Uses

**General Merchandise:** A retail use involving the sale of goods to residents living in the community, many of which will access the store by vehicle. These uses occupy between 5,000 and 30,000 square feet and include Neighborhood Merchandise Uses; appliance and electronic sales and service; department stores; home furnishing sales and rental; paint, drapery and floor coverings; and liquor stores.

**General Open Space/Parks:** A use of land, private or publicly managed, for passive or active recreation for community residents. This use involves at least 2 acres and part or all of the facilities may be illuminated for use after dark. Parking facilities, food and beverage service and spectator facilities are commonly included.

**General Services:** A service use providing daily conveniences to residents living in the community, many of which will access the store by vehicle. These uses occupy between 5,000 and 30,000 square feet. Examples of uses include Neighborhood Personal Services, catering services, computer repair and maintenance, and home furniture and equipment repair.

**General Rules of the Michigan Department of Community Health:** General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133, issued in connection with the Michigan Medical Marijuana Act, as amended.

**Government Offices:** A building or unit within a building or complex operated by a government entity for the benefit of the residents of the community that primarily includes general office space with public access typically limited to reception areas, help desks, or designated meeting spaces.

**Grade:** The established grade of the street or sidewalk shall be the elevation of the top of the curb at the mid-point of the front of the lot. The elevation is established by the city's engineer or building inspector [official].

**Greenbelt or buffer strip:** The strip of land not less than ten (10) feet in width which is maintained with trees acceptable to the building inspector [official] a minimum of six (6) feet in height, spaced not more than ten (10) feet apart; or a hedge row of suitable shrubs not more than four (4) feet in height.

**Section 201.8 "H".**

**Hazardous materials:** Any materials that have been declared to be hazardous to any agency of the State of Michigan or of the United States, including but not limited to toxic materials and metal hydroxides.

**Heavy Industrial: Manufacturing:** A heavy industrial Use involving the production of goods from raw materials, typically resulting in noise, odor and/ or noxious by-products and involving frequent commercial vehicle access and outdoor storage of materials or products.

**Heavy Industrial: Natural Resource Extraction:** A heavy industrial use involving the exploration and extrapolation of minerals, including solids such as coal and ore; liquids such as crude petroleum and gases such as natural gases. This also includes quarrying; well operations; milling, such as crushing, screening, washing and flotation and other processes

typically conducted at the extraction site or as part of the extraction process. The site may have buildings housing offices or equipment, outdoor storage of materials and machinery and frequent commercial vehicle access.

**Heavy Industrial: Waste:** A heavy industrial use involving the sorting, storage and disposal of goods and by-products. Facilities may have large-scale outdoor storage; buildings for administrative offices, storage, processing waste or service of machinery and frequent commercial vehicle access. Examples of uses include crematories, hazardous waste or chemical storage facilities, incinerators, landfills, refuse systems, waste and salvage storage or management, and scrap and waste materials management.

**Home occupation:** Any occupation, profession or activity carried out for gain from a residential property that is clearly subordinate and incidental to the residential nature of the property, and which may involve business activities generally conducted at other locations, or the sale or exchange of services at the residential property.

**Home occupation, major:** A Home Occupation as defined herein that may be apparent to neighbors by virtue of activities on site, signage, outdoor storage or modifications to structures or grounds.

**Home occupation, minor:** A Home Occupation as defined herein that, under normal circumstance, is not apparent to neighbors.

**Hospice:** A residential facility providing palliative and supportive medical and health services to meet the needs of the terminally ill and their families in a residential setting.

**Hospital:** A licensed facility providing medical care and health services to the community. The services may be housed in a building or cluster of buildings and typically include inpatient and outpatient care, offices, laboratories, training facilities, food services for customers, and a gift shop.

**Section 201.9 “I”.**

Reserved.

**Section 201.10 “J”.**

**Junk yard:** Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, or disposal of scrap, worn-out, waste, or discarded materials of whatsoever kind or nature

**Section 201.11 “K”.**

Reserved.

**Section 201.12 “L”.**

**Laundry:** A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersion only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

**Lawn furniture:** Lawn furniture shall include planters, traditional seating or other articles used in readying an area such as a patio for occupancy or use.

**Library/ Museum:** A facility providing accessed structure housing educational, cultural, artistic or historical information, resources, and exhibits.

**Light Assembly:** The assembly or production of goods that takes place primarily through hand tools or household-light commercial level equipment, which does not result in the production or emanation of noise, fumes, odors, dust or vibration beyond the space in which such equipment and activity takes place.

**Loading berth:** An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking. A loading space is five hundred twenty eight (528) square feet in area.

**Lot:** A plat, plot or parcel of land occupied, or designed to be occupied by one (1) building, and the accessory buildings or uses customarily incidental to it, including such open spaces as are arranged and designed to be used with such buildings. A lot may or may not be the land shown on a duly recorded plat.

**Lot area:** Area of a lot bounded by lot lines.

**Lot, corner:** A lot whose lot lines form an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an angle of less than one hundred thirty-five (135) degrees.

**Lot coverage:** The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, pavement area, or swimming pools.



**Lot line:** A boundary line of a lot.

**Lot line, front:** The exterior line or right-of-way of a road on which the lot fronts or abuts.

**Lot line, rear:** Any lot line, other than the front lot line, which is parallel or nearly parallel to the front lot line.

**Lot line, side:** Any lot line nor a front or rear lot line.

**Lot of record:** A lot which actually exists in a subdivision plat as shown on the records of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Lot width:** The distance between side lot lines measured at and along the building line as defined herein.

**Section 201.13 “M”.**

**Manufactured home:** A dwelling which is transportable in one (1) or more sections, that is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder.

**Manufactured housing community:** A use which is a parcel of land under the control of a person upon which three 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 incidental to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

**Marihuana, also known as Medical Marihuana, also known as Marijuana, also known as Cannabis:** That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in the Michigan Medical Marihuana Act. Any other term pertaining to marihuana used in this ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

**Marihuana Collective or Cooperative, also known as Compassion Club:** Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term “collective” or

“cooperative” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act or the General Rules of the Michigan Department of Community Health. A "marihuana collective or cooperative" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, compassion club, collective or cooperative within the City.

**Marihuana Dispensary or Dispensary:** Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term “dispensary” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act or the General Rules of the Michigan Department of Community Health. A "marihuana dispensary" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, compassion club, collective or cooperative within the City.

**Medical office:** A facility in which medical, dental, veterinary (without kenneling or boarding services), health or related providers maintain offices and provide services to patients on an outpatient basis.

**Medical Use of Marihuana:** The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act.

**Michigan Medical Marihuana Act:** PA 2008, Initiated Law 1, MCL 333.26421 *et seq.*, as amended.

**Motel, hotel, or travel lodge:** A building or a series of attached, semi-detached, or detached rental units providing long term or transient lodging with motor vehicle parking in an area contiguous to the building.

**Multi-tenant commercial establishment:** A building housing more than one business operated under common management, or a unified grouping of individual businesses, served by a common circulation and parking system.

Section 201.14 **“N”**.

**Natural Resource Harvesting & Management:** A use of land for the growing and harvesting of natural resources, such as timber, that involves low-impact harvest activity and long-range cultivation and management plans.

**Neighborhood Entertainment:** A small-scale entertainment use located primarily for neighborhood residents living within walking distance. This use occupies less than 5,000 square feet and includes arcades, billiard halls, dance halls or live theaters.

**Neighborhood Merchandise:** A retail use involving the small-scale sale of goods to neighborhood residents living within walking distance. These uses occupy less than 5,000 square feet and include antique shops, apparel stores, art supplies, bicycle sales and repair, drug/pharmacy stores, flower shops, convenience stores, produce market, bakeries, and similar uses.

**Neighborhood Open Space/Parks:** A use of land, public or privately managed, for passive or active recreation for neighborhood residents living within walking distance. This use involves less than two (2) acres and is not illuminated for use after dark. Due to its size, no more than one (1) ball court or field is likely to exist.

**Neighborhood Personal Services:** A service use providing daily conveniences to Neighborhood residents living within walking distance. These uses occupy less than 5,000 square feet and include banks, spas, beauty or barber shops, dance studios or yoga, health clubs, laundromats or dry cleaners, pet grooming, printing and photocopying, tanning salons, tailoring, video rentals and similar uses.

**Night Watchmen’s/ Service Quarters:** Up to two (2) residential dwelling units typically developed with a commercial or industrial use to house security staff.

**Nonconforming lot of record (substandard lot):** A lot lawfully existing at the effective date of this ordinance, or affecting amendment, and which fails to meet the minimum area, minimum lot width, minimum frontage, access, and other requirements of the zoning district in which it is located.

**Nonconforming structure:** A structure, or portion thereof, lawfully existing at the effective date of this ordinance, or affecting amendment, and which fails to meet any of the minimum yard setbacks, lot coverage or dimensional requirements of the zoning district in which it is located.

**Nonconforming use:** A use lawfully existing in a building or on land at the effective date of this ordinance, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

**Section 201.15 “O”.**

**Open air business:** A business including the sales or display of retail merchandise or services outside of a permanent structure.

**Open space:** That area of a lot, parcel or property, which remains unbuilt, is landscaped or essentially unimproved and which is not used for parking, storage or display.

**Outdoor sales lot:** A retail use where a significant portion of the goods are stored or displayed outside during both business and non-business hours. Outdoor sales lots include automobile and truck sales; automobile, truck and trailer rental; boat and recreational sales and rental; and manufactured home dealerships.

**Owner:** A person who is the legal title holder or land contract purchaser of the property which is the subject of the conversion.

**Section 201.16 “P”.**

**Parking Lot:** A parcel of land that does not contain a permitted Building Type and is solely used for the temporary parking of vehicles.

**Personal Storage:** A business providing leased, individual spaces for the storage of household goods.

**Pharmaceutical Preparations:** An industrial business engaged in the research, production, assembly, storage or transfer of pharmaceuticals.

**Planned industrial parks:** A development of land, used primarily for general industrial manufacturing and assembly uses, that is under unified control and is planned and developed as whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open space, and other site features and improvements.

**Planning commission:** The Allegan City Planning Commission which has been authorized by the city council to carry out the powers and responsibilities of planning commissions as authorized by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**Police and Fire:** A facility providing public safety and emergency services that primarily includes offices with limited public access and frequently includes training facilities, locker rooms, and limited overnight accommodations.

**Porch:** An unenclosed, covered area projecting from and connected to a building which is not used for livable space.

**Post Office:** A publicly accessed facility for the collection and distribution of mail and packages and the selling of supplies and mail related products.

**Principal building:** A building in which is conducted the principal use of the lot on which it is located.

**Private gathering facility:** A facility for private prearranged gatherings by invitation only for such activities as meetings, conferences, weddings, club meetings, fashion shows, children birthday parties, teas or similar use wherein compensation is paid for the use of the facility for said activities.

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

**Section 201.17 “Q”.**

Reserved.

**Section 2001.18 “R”.**

**Recreation vehicles:** A vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, (Act 419, Michigan P.A. of 1976, as amended).

**Religious institution:** Places of assembly owned or maintained by an organized religious organization for the purpose of regular gatherings for worship services including churches, mosques, synagogues, temples, shrines, meetinghouses and pagodas. Schools, daycare facilities, food pantries, soup kitchens, homeless shelters or other uses designed to serve social welfare needs are excluded as primary uses.

**Research and development facility:** A research and development facility is any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. Development may include a limited number of test units of a given

product resulting from such research and shall include limited production while a product is being test-marketed which is the interim step between full research and development and ultimate full scale production.

**Restaurant:** A retail establishment selling food and drink primarily for consumption on the premises.

**Road frontage:** The length of the lot line which borders a public or private road.

**Road or street, private:** An irrevocable easement running with the land to one (1) or more owners of adjacent properties which provides access to those adjacent properties and which is not dedicated for general public use.

**Road or street, public:** Any public right-of-way which provides vehicular access to adjacent properties.

Section 2001.19 **“S”**.

**School: Elementary/Middle:** An education facility for Grades K (kindergarten) through eight (8).

**School: High School:** An education facility for Grades nine (9) through twelve (12).

**School: Higher & Continuing Education:** An education facility offering post-secondary school educational activities and programs, which may or may not be tied to a degree program.

**Senior Assisted Living Facility:** A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of senior citizens generally of sixty (60) or more years of age who need help with activities of daily living, which may or may not include a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, and where the emphasis of the facility remains residential.

**Setback:** The horizontal distance from a lot line inward toward the part of the building nearest to that lot line.

**Site plan review and approval:** The submission of plans for review and approval, as required by this ordinance.

**Shooting and Archery Range:** An establishment providing training facilities and space for target practice with bow and arrows or firearms. The facility may or may not include an indoor firearm range and/or be associated with a private club.

**Sexually oriented business:** An establishment engaged in providing services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**Special use permit:** A permit for a use that would not be appropriate generally without restriction throughout the zoning district; but which, if controlled as to the number, area, location or relation to the city, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. Such uses shall be permitted when the specific review criteria provide in this ordinance for them are met.

**Specified anatomical areas:** These shall include:

- A. Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified sexual activities:** These shall include:

- A. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- B. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy; or
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in (1), (2) or (3) above.

**Story:** That portion of a building included between the upper surface of the next floor above, or if there is no floor above, then the space between such floor and the ceiling or roof above; provided, however, that where the floor level of the first story is at least five (5) feet below the adjoining finished grade, the space shall be considered a basement and not counted as a story.

**Structural changes or alterations:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground; including, but not limited to, buildings, driveways, fences, signs and walls.

**Subgrade:** For commercial buildings on ground that slopes to the rear, where a rear entrance is one floor below the front entrance at street level.



Section 201.20 “T”.

Temporary Building: (see Building, Temporary)

Through Lot: A lot that fronts upon two (2) more or less parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

Trailer & RV Park: A Use of land for the temporary parking of recreational vehicles or trailers for entertainment or recreational purposes. The site may include individual vehicle utility connections and a primary structure for park administration.

Transportation Facilities: A business involving the transport of passengers that may include a station with offices, food and beverage service and platforms for arrivals and departures; short and long term parking facilities; maintenance facilities and vehicle storage, such as a bus terminal or railroad facility.

Section 201.21 “U”.

Reserved.

Section 201.22 “V”.

Variance: Permission to depart from the literal requirements of this Zoning Ordinance.

Vehicle Service/Gas Station: A business involving the servicing of vehicles and/or the storage and distribution of gasoline and/or vehicle washing. A convenience store may also be included as a secondary use, as well as, the sales of propane and kerosene.

Vehicle Supply: A retail use involving the sale of automotive parts and accessories that does not include any on-site vehicle service.

Section 201.23 “W”.

Warehouse Merchandise: A retail use involving the large-scale sale of goods to residents living within the region. It is almost exclusively accessed by vehicle and therefore additional consideration should be given to parking and traffic issues. The goods sold may be of the same type or a variety of types and occupy a space of greater than 30,000 square feet.

Section 201.24 “X”.

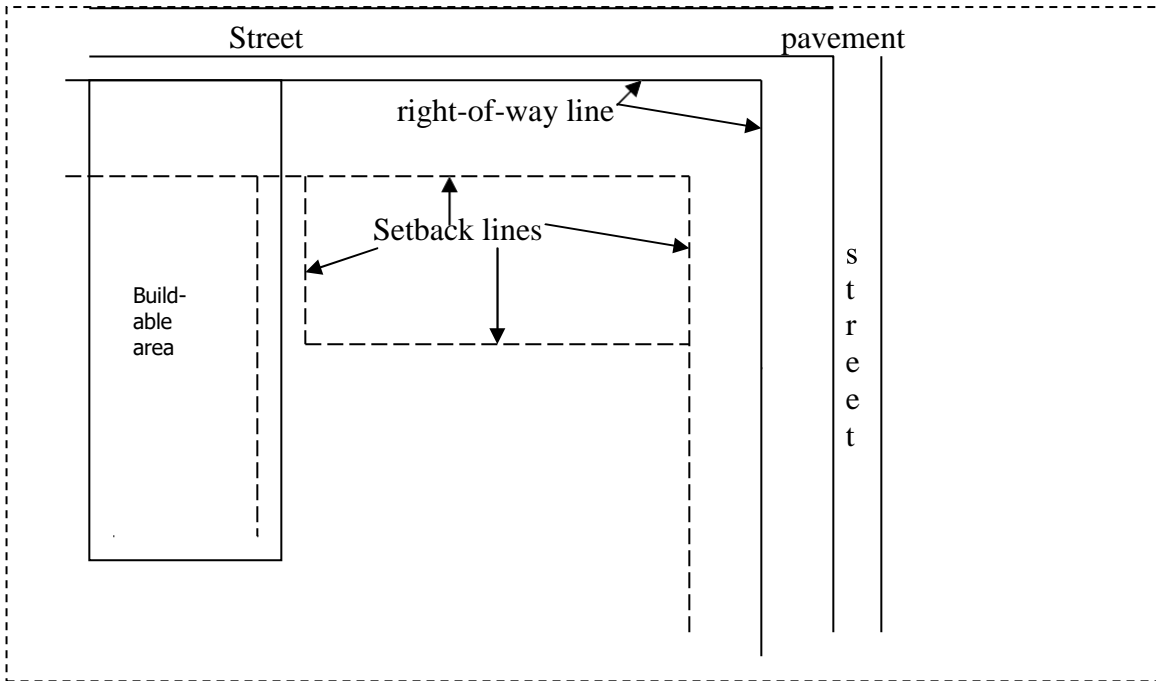
Reserved.

Section 201.25 “Y”.

**Yard:** required side,-rear,-front: An open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area 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.

- A. *Front:* An open space extending the full width of a lot and of a depth measured horizontally at right angles to the front property line, lot line, or right-of-way line.
- B. *Rear:* An open space extending the full width of a lot and of a depth measured horizontally at right angles to the rear property line, lot line, or right-of-way line, except as otherwise provided in this ordinance. between rear plane of the principal building and rear property line
- C. *Side:* An open space extending on each side of the lot from the required front yard to the required rear yard, and of a width measured horizontally at right angles to the respective side property line, lot line, or right-of-way line.

*Illustration No. 3*



Section 201.26 “Z”.

Zoning Administrator: The person designated by the City Council to administer the provisions of the adopted zoning ordinance for the City.

Zoning board of appeals (ZBA): The Allegan City Zoning Board of Appeals (ZBA), the members of which have been duly appointed by the city council and which is authorized as a body to interpret, hear appeals, and grant variances only in accordance with the provisions of this ordinance.

## **Article III Establishment of Districts**

### **300 Establishment of districts**

The City of Allegan is hereby divided into the following districts:

- R-1 Single Family Residential – Low Density District
- R-2 Single Residential – Medium Density District
- R-3 Multi-Family Residential District
- R-4 Mobile Home Residential Park District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Restricted Commercial District
- M-1 Manufacturing District
- PGL Public and Government Land Uses District
- PUD Planned Unit Development District
- FPL Flood Plain District – Overlay
- HPD Historic Preservation District – Overlay
- WHP Wellhead Protection Area – Overlay

### **301 Zoning map**

The areas and boundaries of such districts noted in Section 300 are hereby established to scale as shown on a map entitled, Zoning Map of the City of Allegan, and referred to herein as the “zoning map.” Said zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this ordinance. Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the city administration building and shall be the final authority as to the current zoning status in the city. No amendment to this ordinance which involves a change of a mapped zoning district, shall become effective until such change and entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the city, and attested by the city clerk.

### **302 Interpretation of district boundaries**

When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of rivers, streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following the side of streets, roads, or highways shall be construed to follow the centerline of streets, roads, or highways.
- C. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

- D. Boundaries indicated as approximately following city boundaries shall be construed to follow such lines.
- E. Boundaries indicated as following shoreline or stream beds shall be construed to follow the general established seasonal high water limit of such shoreline or stream bed, and in the event of a more than temporary or seasonal change in shoreline or stream bed shall be construed as moving with the newly formed or established seasonal high water limit.
- F. Boundaries indicated as approximately following property lines, section lines or other line of survey shall be construed to follow such chartered lines as of the effective date of this ordinance, or affecting amendment.
- G. Boundaries indicated as following railroads lines shall be construed to follow the centerline of the railroad right-of-way.
- H. Boundaries indicated as parallel to or extensions of features indicated in subsection A-G above, the Zoning Official shall interpret the district boundaries. Upon appeal, the Zoning Board of Appeals reserves the right to override the interpretation of the Zoning Official.

**303 Area not included within a city district**

In every case where property has not been specifically included within a district, including all cases of property becoming a part of the city's jurisdiction after the effective date of this ordinance, such property shall be automatically zoned single-family low density residential, R-1.

## **Article IV**

### **Use and Dimensional Standards**

#### **400 Effect of zoning**

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

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

If construction on a building or structure is lawfully begun, or a building permit has been issued for the building or structure, prior to adoption of this ordinance, nothing in this ordinance shall be deemed to require any change in the planned or designed use of any such building provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned use within two (2) years from the effective date of this ordinance, or affecting amendment.

#### **401 Application of regulations**

- A. The regulations set by this ordinance throughout the city and within each district shall be minimum regulations and shall apply to each class or kind of structure, land or use.
- B. All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located.
- C. No building or other structure shall hereafter be altered:
  - 1. To accommodate or house a greater number of persons or families than permitted by the zoning district;
  - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
- D. No yard or lot existing at the time of passage of this ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

## **402 Uses, bulk standards**

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

### **402.1 TABLE OF USES**

The Table of Uses presents the uses that are permitted in each Zoning District in the City of Allegan.

	P = Permitted by Right S = Special Use  * = see standards in Article XVII	R-1 Single Family Residential District- Low Density	R-2 Single Family Residential - Med Density	R-3 Multi-Family Dwelling District	R-4 Mobile Home Residential District	PG L Public/Governmental Lands District	C-1 Central Business District	C-2 General Commercial District	C-3 Restricted Commercial District	M-1 Manufacturing District
Dwelling, Single Family	P	P	P				P	P	P	
Manufactured Home	P	P	P	P			P	P	P	
Manufactured Housing Community				P						
Dwelling, Two Family			P				P	P	P	
Dwelling, Multiple Family (3 or more)			P				P	P	P	
Accessory Apartment	P	P	P				P	P	P	
Watchman's/ Service Quarters										P
* Private swimming pool	P	P	P	P						
* Adult Foster Care (7 or more clients)		S	S					S		
* Airport						S				S
* Bed & Breakfast	S	S	S				S	S	S	
* Boarding, lodging or rooming house			S							
* Cemetery						P				S

	P = Permitted by Right S = Special Use														
	* = see standards in Article XVII	R-1 Single Family Residential District- Low Density	R-2 Single Family Residential - Med Density	R-3 Multi-Family Dwelling District	R-4 Mobile Home Residential District		PGL Public/Governmental Lands District		C-1 Central Business District	C-2 General Commercial District	C-3 Restricted Commercial District			M-1 Manufacturing District	
*	Convalescent or nursing home (see Hospice)		S	S					S	S					
*	Day Care, Commercial			S				S	S						
	Day Care Facility (6 clients or less)	P	P	P	P										
*	Day Care, Group (7-12 clients)		S	S											
	Government Offices	P	P	P	P		P	P	P	P			P		
*	Home Occupations	P	P	P	P										
*	Hospice,			P					S						
*	Hospital						P		S				P		
*	Hotel/ Motel/ Travel Lodge							P	P						
	Library/ Museum						P	P	P	P					
	Police & Fire	P	P	P	P		P	P	P				P		
	Post Office						P	P	P	P					
*	Private Gathering Facility	S	S	S	S										
*	Rectory or Parsonage adjacent to a religious institution	S	S	S	S		S	S	S	S	S				
*	Religious Institutions	S	S	S	S		S	S	S	S	S				
*	Senior Assisted Living Facility		S	S					S						
	School - Elementary/Middle	P	P	P	P		P								
	School - High School			P			P								
	School - Higher Education			P			P								
	Commercial Equipment & Supply								P				P		



	P = Permitted by Right S = Special Use  * = see standards in Article XVII																		
		R-1 Single Family Residential District- Low Density	R-2 Single Family Residential - Med Density	R-3 Multi-Family Dwelling District	R-4 Mobile Home Residential District	PGL Public/Governmental Lands District		C-1 Central Business District	C-2 General Commercial District	C-3 Restricted Commercial District			M-1 Manufacturing District						
*	Events Facility			S				S											
*	Funeral Home		S	S				P											
	Garden Center							P					P						
*	General Entertainment							P	P										
	General Merchandise							P	P	P									
	General Services							P	P				P						
	Medical Offices							P	P	P			P						
	Mixed Use building first floor commercial/second floor single or multiple family residential			P				P											
*	Multi-tenant commercial establishment							P	P	P									
*	Neighborhood Entertainment							S	S										
	Neighborhood Merchandise							P	P	P									
	Neighborhood Personal Services			P				P	P	P			P						
*	Outdoor Sales Lot								S				P						
	Personal Storage												P						
*	Professional Office (*w/ 2 or more structures)							S	P				P						
	Restaurant with drive-in								P	P			P						
	Restaurant without drive-in							P	P	P									
	Micro-Brewery							P	P				P						
*	Vehicle Service/Gas Station								S				S						
	Vehicle Supply (No service)								P				P						
	Warehouse Merchandise												P						

	P = Permitted by Right S = Special Use													
	* = see standards in Article XVII													
		R-1 Single Family Residential District- Low Density	R-2 Single Family Residential - Med Density	R-3 Multi-Family Dwelling District	R-4 Mobile Home Residential District		PGL Public/Governmental Lands District		C-1 Central Business District	C-2 General Commercial District	C-3 Restricted Commercial District			M-1 Manufacturing District
							P		P				P	
							P							
		P	P	P	P		P	P	P	P			S	
		P	P	P	P		P	P	P	P			P	
*							S	S	S				S	
*							P						S	
*							S						S	
									P				P	
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													P	
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													P	
*									S				S	
									P	P			P	
													P	

	P = Permitted by Right S = Special Use  * = see standards in Article XVII																
		R-1 Single Family Residential District- Low Density															
		R-2 Single Family Residential - Med Density															
		R-3 Multi-Family Dwelling District															
		R-4 Mobile Home Residential District															
							PGL Public/Governmental Lands District										
									C-1 Central Business District								
									C-2 General Commercial District								
									C-3 Restricted Commercial District								
																M-1 Manufacturing District	
		General Industrial – Manufacturing/Assembly														P	
*		Heavy Industrial - Manufacturing														S	
*		Heavy Industrial – Natural Resource Extraction	S	S	S	S		S		S	S	S			S		
*		Heavy Industrial – Waste													S		
*		Junk Yard													S		
*		Laundry													S		
		Pharmaceutical Preparations									P				P		
*		Planned Industrial Parks													S		
		Research & Development									P				P		
*		Sexually Oriented Business													S		
		Transportation Facilities													S		
*		Private Roads & Streets	P	P	P	P		P		P	P	P			P		
		Light Assembly								S	S				P		

#### 402.2 Unclassified Uses

The Planning Commission may find that a land use, while not specifically classified in this ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district. In reaching such a finding, the Zoning Administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition,

the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the Zoning Administrator determines that such use is similar to the uses permitted by special use permit, a report outlining the determination shall be provided to the Planning Commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use, which, although permitted, involves other features, which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features, which were not contemplated or specified herein, such use shall be prohibited. Nothing in this section shall be construed to prohibit a future amendment of this ordinance to provide standards to regulate a land use that may be currently excluded.

### **402.3 BULK STANDARDS TABLE**

The Table of General Bulk Regulations provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail. Moreover, all uses, buildings and structures shall conform to the other requirements of this Ordinance.

Zoning District	Min Lot Area	Min Lot Width	Minimum Required Setbacks (14) Waterfront setbacks			Max Stories/ Building Height	Max Lot Cover	Min Floor Area
			Front	Side	Rear			
R-1	12,000 SF	80 ft	35 ft <sup>(1)</sup>	10/25 ft <sup>(2) (14)</sup>	25 ft / 20 ft Corner <sup>(14)</sup>	3 Stories/40 ft <sup>(3)</sup>	35%	1,000/750 SF <sup>(4)</sup>
R-2	8,100 SF	60 ft	35 ft <sup>(1)</sup>	10/25 ft <sup>(14)</sup>	25 ft / 20 ft Corner <sup>(14)</sup>	3 Stories/40 ft	35%	800 SF
R-3	4,500 SF / dwelling unit	100 ft	< of 40 ft or 1 1/2 per 1ft Building Height	10/25 <sup>(5) (14)</sup>	< of 40 ft or 2 ft per 1 ft Building Height <sup>(14)</sup>	4 Stories/50 ft	35%	Attached Single Fam 900SF, 600 Multi Fam <sup>(6)</sup>
R-4	15 ac park min 3,060 SF lot min	30 ft	20 ft separation / 50 ft from other buildings	20 ft separation / 50 ft from other buildings <sup>(14)</sup>	20 ft separation / 50 ft from other buildings <sup>(14)</sup>	NA	25%	700 SF
C-1	NA	NA	NA	NA <sup>(14)</sup>	NA <sup>(14)</sup>	50 ft	NA	NA
C-2	NA	75 ft	35 ft and 20 ft landscaped	10 ft <sup>(8) (14)</sup>	15 ft. <sup>(7)(9)(14)(15)</sup>	50 ft	70%	Max FAR 3:1
C-3	Lesser of 12,000 SF or highest contiguous residential use	80 ft <sup>(10)</sup>	Same as highest contiguous residential use	Same as highest contiguous residential use <sup>(11) (14)</sup>	Same as highest contiguous residential use <sup>(7) (14)</sup>	Same as most restrictive contiguous use	35%	NA
M-1	20,000 SF	100 ft	1 ft for 1 ft of building height <sup>(12)</sup>	20 ft (landscaped) or front yard req. <sup>(14)</sup>	20 ft (landscaped) <sup>(14)</sup>	50 ft	50%	NA
PGL	12,000 SF <sup>(13)</sup>	100 ft	35 ft <sup>(1)</sup>	20 ft <sup>(14)</sup>	20 ft <sup>(14)</sup>	4 Stories 50 ft	35%	NA
PUD	2 Acres	200 ft	50 ft	25' or 50' if adjacent to a residential district or use <sup>(14)</sup>	Same as side yard requirement <sup>(14)</sup>	50 ft	NA	NA

Note #1 – In an established neighborhood, the front yard may be established by the average front yard dimension of the adjacent dwelling units within three hundred (300) feet to each side of the lot in question, but not beyond a side street.

Note #2 – 10/25 requires a side yard to be at least equal to ten (10) percent of the lot width at the building line, and the total of both side yards to equal twenty-five (25) per cent of the lot width at the building setback line.

Note #3 – 3/40 sets the maximum building height at three (3) stories or forty (40) feet, and 4/50 = four (4) stories at fifty (50) feet.

Note #4 – 1,000/750 requires a minimum floor area of a single-family dwelling to be one thousand (1,000) square feet, and at least seven hundred fifty (750) square feet must be on the first floor.

Note #5 – Or 1 Ft per 1 Ft per building height of less than 40 Ft. Multiple buildings 1 1/2 Ft per 1 Ft of building height. Or 10/25 if greater than height.

Note #6 – The minimum floor area of a dwelling unit in a multi-family building (three or more units) is: efficiency = 375 sq. ft.; one bedroom = 600 sq. ft.; two bedrooms = 780 sq. ft.; three bedrooms = 900 sq. ft.; and for more than three bedrooms add 80 sq. ft. for each additional bedroom.

Note #7 – Rear 10 Ft needs to be landscaped.

Note #8 – Or greater than 10 percent of average width if along a 2nd Street. If a building is not of fire-resistive construction, its side yards must be one (1) foot for each one (1) foot in height of the structure, but not less than ten (10) feet.

Note #9 – Or = 1.5 feet per one foot of building height if more than ten feet in height.

Note #10 – Same as highest contiguous residential use. R-1 = 80Ft, R-2 = 60 Ft, R-3 = 100Ft.

Note #11 – In the C-3 zoning district, if there is rear yard parking, then there shall be two (2) side yards, each at twelve (12) feet, or 1 side yard of at least 20 feet to give access to the rear yard parking and the other side yard shall meet the primary requirement.

Note #12 – Or < of 30 feet on a non-residential street or 40 feet on an arterial street.

Note #13 – Or same as adjacent residential or commercial district of highest use or of other as needed to meet other site requirements.

Note #14 – **Water Front setback:** Except for docks, storage sheds under 225 square feet GFA and stairways, no building shall be constructed within 10 feet of the top of slope to the river nor within the designated flood hazard area. Where a water front bank is over ten feet in height and the slope exceeds 25% there shall be no construction on the slope without an engineer's report on slope stability, where such report indicates slope instability any permit may be denied.

Note #15 – Corner lots within the C-2 zoning district shall have two or more side yards with no rear yards.



## Article V

### R-1, Single-Family Residential – Low Density District

#### **500 Intent**

This district is intended to provide for relatively low-density single-family residential neighborhoods, which predominantly serve families. Neighborhoods will be quiet and free of unrelated traffic. Residential streets will be scaled for compatibility between pedestrians and automobiles; and will be lined with attractive landscaping.

#### **501 Permitted uses**

In the R-1 district no building, structure or premises shall be used and no building or structure shall be erected, constructed or altered to be used for any purpose other than those listed in Section 402.01, Table of Uses.

#### **502 Yard requirements**

In the R-1 district each building, structure or premises shall have yards as follows:

- A. Front yard: There shall be a front yard of not less than thirty-five (35) feet, except in an established neighborhood, the front yard may be established by the average front yard dimension of the adjacent dwellings units within three hundred (300) feet to each side of the lot in question, but not beyond a side street.
- B. Rear yard: There shall be a rear yard; the rear yard of an interior lot shall be not less than twenty-five (25) feet and the rear yard of a corner lot shall be not less than twenty (20) feet.
- C. Side yards: There shall be two (2) side yards; the total width of the two (2) side yards shall not be less than twenty-five (25) percent of the lot width and the least dimension of the narrowest side yard shall not be less than ten (10) percent of the lotwidth.

#### **503 Height requirements**

Dwellings and other structures permitted in the R-1 districts shall not exceed three (3) stories or forty (40) feet in height.

#### **504 Frontage requirement**

Lots in the R-1 districts shall have a minimum width at the building setback line of eighty (80) feet and a minimum width of fifty (50) feet at the front lot line. All dwellings or main buildings in R-1 districts shall be so constructed or located upon the lot as to have unobstructed frontage on a public street or a private street of record.



**505 Lot area and coverage requirements**

Lots in the R-1 districts shall have a lot area of not less than twelve thousand (12,000) square feet, except that lots without public sewer and/or water utilities shall have a minimum lot size of thirty-five thousand (35,000) square feet. Not more than thirty-five (35) percent of the area of the lot shall be covered by a main building and accessory buildings.

**506 Private garages and other accessory buildings**

- A. No private garage or other accessory building located in the rear yard shall be placed nearer to the rear or side property line than five (5) feet.
- B. No garage or other accessory building shall be placed nearer to a front property line than the main building nor nearer to a side street property line than is permitted with respect to the main building.
- C. A free-standing garage within 10 feet of the main structure shall be considered part of the main building and shall meet all setback requirements of the main building.
- D. No accessory building shall be erected or used, unless the main building to which it is accessory has been previously erected on the same lot or a building permit for the erection of such main building has been previously issued.
- E. No accessory building shall be erected in any required front yard.
- F. No accessory building shall exceed twelve (12) feet in height at the sidewall.
- G. Except in the Historic District, accessory buildings having less than 200 square feet of floor area do not require any permit, however, they shall conform to the requirements of parts A through F above. Within any Historic District accessory buildings under 200 square feet in area are required to obtain approval in compliance with the Historic District Ordinance.

## Article VI

### R-2, Single-Family Residential – Medium Density District

#### **600 Intent**

This district is intended to provide for moderate density single-family residential neighborhoods designed primarily for families. This district is meant to foster and maintain a neighborhood pattern arranged in a traditional grid street pattern with modest setbacks and strong pedestrian orientation.

#### **601 Permitted uses**

In the R-2 district no building, structure or premises shall be used and no building or structure shall be erected, constructed or altered to be used for any purpose other than those listed in Section 402.01, Table of Uses.

#### **602 Yard requirements**

In the R-2 district each building, structure or premise shall have yards as follows:

- A. Front yard: There shall be a front yard of not less than thirty-five (35) feet, except in an established neighborhood, the front yard may be established by the average front yard dimension of the adjacent dwellings units within three hundred (300) feet to each side of the lot in question, but not beyond a side street.
- B. Rear yard: There shall be a rear yard; the rear yard of an interior lot shall be not less than twenty-five (25) feet and the rear yard of a corner lot shall be not less than twenty (20) feet.
- C. Side yards: There shall be two (2) side yards; the total width of the two (2) side yards shall not be less than twenty-five (25) percent of the lot width and the least dimension of the narrowest side yard shall not be less than ten (10) percent of the lotwidth.

#### **603 Height requirements**

Dwellings and other structures permitted in the R-2 district shall not exceed three (3) stories or forty (40) feet in height.

#### **604 Frontage requirement**

Lots in the R-2 district shall have a minimum width at the building setback line of sixty (60) feet and a minimum width of thirty-five (35) feet at the front lot line. All dwellings or main buildings in R-2 districts shall be so constructed or located upon the lot as to have frontage on a public street or a private street of record.

### **605 Lot area and coverage requirements**

Lots in the R-2 district shall have a lot area of not less than eight thousand one hundred (8,100) square feet, except that lots without public sewer and/or water utilities shall have a minimum lot size of thirty-five thousand (35,000) square feet. Not more than thirty-five (35) percent of the area of the lot shall be covered by a main building and accessory buildings.

### **606 Private garages and other accessory buildings**

A. No private garage or other accessory building located in the rear yard shall be placed nearer to the rear or side property line than five (5) feet.

B. No garage or other accessory building shall be placed nearer to a front property line than the main building nor nearer to a side street property line than is permitted with respect to the main building.

C. A free-standing garage within 10 feet of the main structure shall be considered part of the main building and shall meet all setback requirements of the main building.

D. No accessory building shall be erected or used, unless the main building to which it is accessory has been previously erected on the same lot or a building permit for the erection of such main building has been previously issued.

E. No accessory building shall be erected in any required front yard.

F. No accessory building shall exceed twelve (12) feet in height at the side wall.

G. Except in the Historic District, accessory buildings having less than 200 square feet of floor area do not require any permit, however, they shall conform to the requirements of parts A through F above. Within any Historic District accessory buildings under 200 square feet in area are required to obtain approval in compliance with the Historic District Ordinance.

## **Article VII**

### **R-3, Multiple-Family Dwelling Units District**

#### **700 Intent**

The R-3 district is intended for multiple-family residential uses. The character of the district is urban in appearance with moderate multiple-family densities as found in duplexes and low rise apartment buildings.

#### **701 Permitted uses**

In the R-3 district no building, structure or premises shall be used and no building or structure shall be erected, constructed, placed or attached to be used for any purpose other than those listed in Section 402.01, Table of Uses.

#### **702 Yard requirements**

In the R-3 district each building, structure or premises shall have yards as follows:

- A. Front yards: There shall be a front yard at least one and one-half (1 1/2) feet in least dimension for each one (1) foot in height of the main building; provided, however, that no front yard shall be less than forty (40) feet.
- B. Rear yards: There shall be a rear yard at least two (2) feet in least dimension for each one (1) foot in height of the main building; provided, however, that no rear yard shall be less than forty (40) feet.
- C. Side yards: There shall be two (2) side yards, each at least one (1) foot in least dimension for each foot in height of the main building, provided that the total width of the two (2) side yards shall not be less than twenty-five (25) percent of the lot width, and provided that the least dimension of the narrowest side yard shall not be less than ten (10) percent of the lot width; however, in the case of a multi-building development on one (1) lot, the minimum side yard dimension shall be as provided in the provisions sentence or one and one-half (1 1/2) times the height of the building nearest the side lot line, whichever is lesser.

#### **703 Height requirements**

In the R-3 district the height of buildings or structures shall not exceed four (4) stories or fifty (50) feet.

#### **704 Frontage requirements**

Lots in the R-3 district shall have a minimum width at the building setback line of one hundred (100) feet and a minimum width of sixty (60) feet at the front lot line. All

dwellings or main buildings in the R-3 district shall be so constructed or located upon the lot as to have frontage on a public street or a private street of record.

**705 Lot area and coverage requirements**

In the R-3 district there shall be a minimum of four thousand, five hundred (4,500) square feet of lot area per dwelling unit and no more than thirty-five (35) percent of the lot area shall be covered by the main building and accessory buildings.

**706 Private garages and other accessory uses**

- A. No private garage or other accessory building located in the rear yard shall be placed nearer to the rear or side property line than five (5) feet.
- B. No garage or other accessory building shall be placed nearer to a front property line than the main building nor nearer to a side street property line than is permitted with respect to the main building.
- C. A free-standing garage within 10 feet of the main structure shall be considered part of the main building and shall meet all setback requirements of the main building.
- D. No accessory building shall be erected or used, unless the main building to which it is accessory has been previously erected on the same lot or a building permit for the erection of such main building has been previously issued.
- E. No accessory building shall be erected in any required front yard.
- F. No accessory building shall exceed twelve (12) feet in height at the side wall.
- G. Except in the Historic District, accessory buildings having less than 200 square feet of floor area do not require any permit, however, they shall conform to the requirements of parts A through F above. Within any Historic District accessory buildings under 200 square feet in area are required to obtain approval in compliance with the Historic District Ordinance.

## **Article VIII**

### **R-4, Mobile Home Residential District**

#### **800 District intent**

This district is intended to provide for the location and regulation of manufactured housing communities. It is intended that manufactured housing communities be provided with necessary community services in a setting that provides a high quality of life for residents and residential development standards consistent with all other residential districts in the City of Allegan. This use shall be located in areas where it will be compatible with adjacent land uses. Determining the appropriate location for a manufactured housing community is a uniquely challenging task and may have a crucial impact on adjacent and surrounding land uses. A manufactured housing community contains specific site conditions unlike other types of residential development. Sites with an abundance of natural features such as forested areas, wetlands, and steep slopes and sites without the road and utility infrastructure to support a high density living environment are not found to be suitable for the development of a manufactured housing community.

Within the R-4 District, manufactured housing communities shall be governed by this Section, by the requirements of the Act 96 of the Public Acts of 1987, as amended and the standards set forth in the Rules and Regulations promulgated by the Manufactured Housing Commission, including Part 9, Community Construction. The intent of this Section is to provide for manufactured home development, of long-term duration of stay, in areas which are developed in a manner which takes into account such special characteristics as locational needs, site layout and design, demand upon community services, and the relationship to and effect upon surrounding uses of land, and conformance to the City of Allegan Master Plan. All manufactured home developments shall comply with the applicable requirements of Public Act 96 of 1987, as amended. The controlling standards in this Section are not designed to generally exclude mobile homes of persons who engage in any aspect pertaining to the business of mobile homes or mobile home parks.

#### **801 Application procedures**

Pursuant to Section 11 of Act 96 of the Public Acts of 1987, as amended, and the rules promulgated thereunder, an application for the extension, alteration, or construction of a manufactured home development shall be accompanied by a preliminary plan of the proposed development and all permanent buildings indicating the proposed methods of

compliance with these requirements. Said application, fees and preliminary plan shall meet the following requirements:

An application form shall be completed and fees paid in accordance with the fee schedule (as amended from time to time by resolution of the City Council) and twelve (12) copies of the preliminary plan shall be submitted to the Zoning Administrator for distribution to the Planning Commission.

The preliminary plan need not include detailed construction plans, but shall include the following materials:

The applicant's name, address and telephone number and the property owner's name, address and telephone number, if different than that of the applicant.

Notation of all federal, state and local permits required.

The location of the project including the permanent parcel number(s) of the property upon which the project is proposed to be located.

The layout of the project including an illustration of the internal roadway system proposed and typical homesite layout.

The general design of the proposed project including the proposed location and design of signs, trash receptacles, light fixtures and any accessory structures, open lands and recreation areas and accessory uses.

The location, spacing, type and size of proposed plant materials.

A general description of the proposed project including the number of homesites proposed, the anticipated phasing of project development and an indication of the number of homesites to be rented and the number to be sold, if any.

## **802 Review process**

The Planning Commission shall review the submitted preliminary plan and render a decision to approve, approve with conditions or deny the preliminary plan. The Planning Commission shall approve the preliminary plan upon a finding that the proposed use will not, upon the facts known at the time of the submission of the site plan, cause undue hardship, or create unsafe or hazardous health or safety conditions to the general public. Not more than sixty (60) days following the receipt by the Zoning Administrator of a complete application for preliminary plan approval, the Planning Commission shall approve, approve with conditions or modifications, or deny an application and preliminary plan pursuant to the Mobile Home Commission Act, the rules promulgated thereunder and this ordinance.

Upon approval of the preliminary plan, the Zoning Administrator shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the City's files, one (1) copy shall be retained by the Zoning Administrator, and one (1) copy shall be returned to the applicant. Construction shall commence within five (5) years after the date of issuance of a

construction permit by the Michigan Department of Consumer and Industry Services unless an extension has been granted by said Department. Amendments to the approved preliminary plan must be submitted to the Planning Commission for review and approval.

### **803 Noncompliance**

Any substantial noncompliance with the approved preliminary plan shall be reported to the Manufactured Housing Division of the Department of Consumer and Industry Services for remedy along with all pertaining evidence.

### **804 Site development requirements**

The site development requirements of the Manufactured Housing Commission, together with any other applicable requirements of the State of Michigan, Act 96 of 1987, as amended, shall be complied with. No manufactured housing community shall be maintained, operated, or conducted without an annual license from the Michigan Department of Consumer and Industry Services. An inspection of construction may be performed at any appropriate time, pursuant to 1987 PA 96, as amended (the Mobile Home Commission Act).

### **805 Site size**

The minimum site size for a manufactured housing community shall be fifteen (15) acres.



## **Article IX**

### **C-1, Central Business District**

#### **900 Intent**

This district is intended to reflect the central part of the city where downtown shopping, government offices, general services, civic and cultural uses are located. Development in the C-1 District will be pedestrian-oriented with an active street life, week-long retail activities, and common open space for community gathering. It will be friendly and charming and a place where people collect primarily for shopping and retail services. Street level activities will focus on restaurants, services and shopping, while upper stories of downtown will provide a diverse range of office space and residential opportunities. Buildings will contribute to a relatively continuous street wall and surface parking will be limited. The Central Business District is characterized by its "downtown" appearance and pedestrian scale (people walking from place to place, storefront window displays, etc.). Supportive of the Central Business District character is Allegan's role as the county's seat of government. It is the intent of the city to promote, preserve and enhance this central character and its viability in accordance with the development goals and policies of the city's comprehensive planning program.

#### **901 Permitted uses**

In the C-1 district, only those uses specified in Section 402.01, Table of Uses, shall be permitted.

#### **902 Historic preservation district**

If the site to be (re)developed is contained within the boundaries of the City of Allegan Historic Preservation District, then all requirements of that district that are applicable must be met in addition to the requirements of the C-1 district.

#### **903 Height requirements**

In the C-1 district the height of buildings or structures shall not exceed fifty (50) feet.

#### **904 Compliance**

In the C-1 district, no building, structure or premises shall be erected, constructed or altered for an approved use until it complies with the requirements and regulations applicable to said building, structure or premises included in this ordinance, including but not limited to:

- A. Conformance to zoning and/or special use regulation;
- B. General regulations;
- C. Off-street parking and parking lot specifications;

- D. Site plan review as necessary;
- E. Supplemental use regulations.



# Article X

## C-2, General Commercial District

### **1000 Intent**

The General Commercial District, C-2, is intended to provide locations for a wide variety of retail goods and retail services businesses to supplement the Central Business District. These uses are best served along higher volume streets and highways to minimize impact on neighborhoods, schools, parks, etc. This district also offers opportunities for businesses with characteristics that would be adverse to either the Central Business District or Restricted Commercial Districts such as gasoline service stations, auto dealerships and repair services, fast food restaurants and other uses requiring large parking areas. These uses require careful site planning and design to minimize their impact on traffic and the surrounding neighborhoods.

### **1001 Permitted uses**

In the C-2 district, only those business/commercial uses specified in the Table of Uses contained in this ordinance shall be permitted.

### **1002 Yard requirements**

In the C-2 district each building, structure or premises shall have yards as follows:

A. *Front yards:*

1. Every front yard shall have a landscaped planting strip of a minimum five (5) feet in width running the length of the front lot line interrupted only by access driveways
2. In addition, and behind the planting strip, the front yard shall conform to the building line or lines as established from time to time by ordinance for building setback lines, but in no case shall the setback be less than thirty-five (35) feet.
3. Whenever a building is set back in excess of the requirements of this subsection, the front yard shall not be occupied by any structure except for a sign permitted by the sign ordinance; however, not more than eighty (80) percent of the excess area excluding the planting strip of such front yard shall be used for off-street parking. The remaining twenty (20) percent shall be landscaped to complement the parking area.
4. If the lot is a through lot, a five (5) foot landscaped planting strip shall also be provided along both lot lines.

B. *Rear yards:* There shall be a minimum rear yard of at least one and one-half (1 1/2) feet in the least dimension for each one (1) foot in height of said building, but not less than fifteen (15) feet. The ten (10) feet of the rear yard adjacent to the rear lot line shall be a landscaped planting area.

C. *Side yards:*

1. There shall be a minimum side yard often (10) feet in width on each side of the lot. These side yards shall be landscaped planting areas.
2. Whenever a side yard faces an existing or proposed street dedication, the landscaped planting area shall be a width equal to ten (10) percent of the average width of the property, but not less than ten (10) feet.
3. For buildings which are not of fire resistive construction as defined in the building and construction codes of the city, a side yard shall be provided equal to one (1) foot in least dimension for each one (1) foot in height of the structure, but not less than the ten (10) feet prescribed in A. above.
4. Corner lots within the C-2 Zoning District shall have two or more side yards with no rear yards.

### **1003 Height requirement**

In the C-2 district no building, structure or premises shall exceed fifty (50) feet in height.

### **1004 Frontage requirements**

In the C-2 district all buildings, structures or premises shall be constructed or located upon a lot that has frontage upon a public street or a private street of record of a least seventy-five (75) feet.

### **1005 Lot area and coverage requirements**

In the C-2 district no building, structure or premises including garages and accessory buildings shall have a floor area of more than three (3) times the area of the lot and shall not cover more than seventy (70) percent of the area of the lot.

### **1006 Garage and other accessory building requirements**

In the C-2 district any garage or accessory building must be located behind the actual front line of the building and cannot be constructed in or on the required landscaped planting areas of the side and rear yards.

### **1007 Prohibition on storage of personal property: Exceptions**

In the C-2 district no personal property other than vehicles owned by the business or its owner(s) that relate to the conduct of the business shall be stored, maintained or permitted outside an enclosed building, excluding the equipment provided for storage of garbage and/or trash prior to its regular removal. Said vehicles shall be prohibited from parking on the public street adjacent to the business.

### **1008 Compliance**

In the C-2 district, no building, structure or premises shall be erected, constructed or altered for an approved use until it complies with the requirements and regulations applicable to said building, structure or premises included in this ordinance, including but not limited to:

- A. Conformance to zoning and/or special use regulations;
- B. General regulations;
- C. Off-street parking and parking lot specifications;
- D. Site plan review as necessary;
- E. Supplemental use regulations.

## **Article XI**

### **C-3, Restricted Commercial District**

#### **1100 Intent**

This district is a general retail and service district designed for the purpose of providing local convenience shopping to meet the daily needs of the neighborhood. Uses which are not necessary to serve the neighborhood, and/or which might be harmful to nearby residences, are not permitted. Development and buildings in this district should provide pedestrian linkages so as to encourage pedestrian activity between retail and service uses and adjacent neighborhoods. Careful planning will result in context-sensitive design techniques to ensure that non-residential uses are not intrusive on neighborhoods.

#### **1101 Permitted uses**

In the C-3 district, only those business/commercial uses specified in the Table of Uses contained in this ordinance shall be permitted.

All permitted uses and special uses must also meet the following conditions and restrictions:

- A. All business establishments in the C-3 district shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced. Not more than three (3) persons in addition to a single owner or manager shall be engaged at any one time in fabricating, repairing, cleaning, or producing goods or products, or providing services in any establishment.
- B. All permitted uses shall be limited to hours of operation from 8:00 a.m. to 11:00 p.m. on Monday through Saturday.
- C. All business, servicing, processing or storage, except for off-street parking or loading, shall be conducted or located within completely enclosed buildings.
- D. Establishments of the drive-in type, offering goods or services directly to customers waiting in motor vehicles, or for their use and/or consumption within waiting motor vehicles are specifically not permitted except for drive-up windows or automatic teller machines for financial institutions.

#### **1102 Yard requirements**

- A. *Front yard:* The front regulations for the C-3 district shall be the same as those for the residential district to which the C-3 district is contiguous, except that if the C-3 district is contiguous to, or across a street, alley or easement from more than one (1) residential district, the requirements of the highest classification to which it is contiguous shall be observed. The front yard shall be a landscaped planting area compatible with the adjacent properties.

1. Whenever a building used for business purposes is set back in excess of the requirements of this section, the front yard shall not be occupied by any structure or sign except as permitted by the city's sign ordinance. The minimum front yard depth shall be twenty-five (25) feet. No parking shall be permitted in the prescribed twenty-five (25) foot front yard.
  2. If the lot is a through lot, a twenty-five (25) foot landscaped planting strip shall also be provided along the "front" lot line of the second street.
- B. *Rear yard:* In the C-3 district the rear yard regulations shall be the same as those in the residential district to which the C-3 district is contiguous, except that if the C-3 district is contiguous to, or across a street, alley or easement from more than one (1) residential district, then the requirements of the highest classification to which it is contiguous shall be observed. In any circumstance the ten (10) feet of rear yard adjacent to the rear lot line shall be a landscaped planting strip, except if the lot is a through lot.
- C. *Side yards:* In the C-3 district the side yard regulations shall be the same as those in the residential district to which the C-3 district is contiguous, except that if the C-3 district is contiguous to, or across a street, alley or easement from more than one (1) residential district, then the requirements of the highest classification to which it is contiguous shall be observed, except that whenever any portion of the off-street parking facilities required herein are located in the rear yard, there shall be two (2) side yards, each at least twelve (12) feet in least dimension, or one (1) side yard of at least twenty (20) feet in least dimension to give access to and egress from such off-street parking facility. If the twenty (20) foot option is used, the other side yard shall meet the regular requirements of this paragraph.
- D. *Corner lot:* If the lot is a corner lot, the side yard adjacent to the second street shall be a minimum of fifteen (15) feet in continuous width and be a landscaped planting area interrupted only by the crossing of a driveway and/or sidewalk.

### **1103 Height regulations**

In the C-3 district the height regulation shall be the same as the adjacent or contiguous residential district, which are three (3) stories or forty (40) feet for R-1 and R-2 districts, and four (4) stories or fifty (50) feet for R-3 districts.

### **1104 Frontage requirements**

In the C-3 district all buildings, structures or premises shall be constructed or located upon a lot that has frontage upon a public street or a private street of record that is at least the same as the highest classification of residential property to which the C-3 district is contiguous, which is eighty (80) feet for R-1 districts, sixty (60) feet for R-2 districts and one hundred (100) feet for R-3 districts.



### **1105 Lot area and coverage requirements**

In the C-3 district the lot area shall be the same as that of the highest residential classification to which the C-3 district is contiguous, or twelve thousand (12,000) square feet, whichever is lesser. The maximum lot coverage shall not exceed thirty-five (35) percent of the lot area.

### **1106 Garages and other accessory building requirements**

In the C-3 district any garage or accessory building must be located behind the actual front line of the building and cannot be constructed in or on the required landscaped planting areas of the side and rear yards.

### **1107 Prohibition of storage of personal property, exceptions**

In the C-3 district no personal property other than licensed vehicles owned by the business or its owner(s) that relate to the conduct of the business shall be stored, maintained or permitted outside an enclosed building, excluding the equipment provided for storage of garbage and/or trash prior to its regular removal. Said vehicles shall be prohibited from parking on the public street adjacent to the business.

### **1108 Compliance**

In the C-3 district, no building, structure or premises shall be erected, constructed or altered for an approved use until it complies with the requirements and regulations applicable to said building, structure or premises included in this ordinance, including but not limited to:

- A. Conformance to zoning and/or special use regulations;
- B. General regulations;
- C. Off-street parking and parking lot specifications;
- D. Site plan review as necessary;
- E. Supplemental use regulations.

## **Article XII**

### **M-1, Manufacturing District**

#### **1200 Intent**

The Manufacturing District, M-1, is intended to include manufacturing, assembling and finishing activities which have minimal or no nuisance potential to the surrounding non-manufacturing areas. The preferred form of future industrial development is the industrial park concept. Within such a development the overall character may be a combination of industrial uses supplemented by research and office facilities. In all cases, however, local, state and federal environmental regulations and constraints must be met on a continuing basis.

#### **1201 Permitted uses**

In the M-1 district, only those uses specified in the Table of Uses shall be permitted.

#### **1202 Yard requirements.**

- A. *Front yard:* In the M-1 district no building or structure of any kind, or any part thereof, shall be placed closer than thirty (30) feet to any non-arterial street, nor placed closer than forty (40) feet to any arterial street, nor placed closer than a distance equal to one (1) foot for each foot of building height; and in all such instances, not less than sixty-five (65) percent of the area between a front building line and a front lot line shall be restricted and devoted to landscaping. Whenever a building in the M-1 district is set back in excess of the requirements of this subsection, the front yard shall not be occupied by any structure, or sign except as permitted by the city sign ordinance; however, an amount equivalent to not more than eighty (80) percent of that area in excess of the minimum requirement for such front yard may be used to increase the amount of such off-street parking between the front building line and said front lot line. The remaining twenty (20) percent shall be devoted to landscaping.
- B. *Rear yard:* In the M-1 district a minimum rear yard of twenty (20) feet shall be required, and shall be landscaped.
- C. *Side yards:* In the M-1 district two (2) side yards shall be required, each twenty (20) feet in least dimension. All side yards shall be landscaped, except up to ten (10) feet of the side yard farthest from the side lot line may be used for driveways and/or sidewalks. In the event a side yard abuts or is adjacent to a public street, front yard requirements shall govern the requirements for such side yard.

#### **1203 Height requirement**

In the M-1 district no building or structure shall exceed fifty (50) feet in height.

#### **1204 Frontage requirements**

In the M-1 district all buildings, structures or premises shall be constructed or located upon a lot that has frontage upon a public street or a private street of record of a least one hundred (100) feet.

#### **1205 Lot area and coverage requirements**

In the M-1 district lots shall have a minimum lot area of not less than twenty thousand (20,000) square feet, and the total square feet of all buildings and structures on the lot shall not exceed fifty (50) percent of the lot area. In addition, any part of the lot held or designated for future expansion shall be maintained in landscaping. The expansion of any building or facility shall be subject to the provisions of this subsection and compliance made at the time of the application for the issuance of a building permit.

#### **1206 Off-street parking, loading and storage facility regulations**

In the M-1 district off-street parking, loading and storage facilities needed to serve the use shall meet the regulatory requirements the appropriate chapters of this ordinance and not withstanding, the following requirements:

- A. Loading facilities, loading docks or other service areas shall be setback a minimum of seventy (70) feet from any public street.
- B. Parking, paving and associated curbing; except driveways, stops and walkways; shall be set back a minimum of twenty (20) feet from any public street.
- C. Materials, supplies, merchandise or equipment shall not be stored in any area on a site except inside a closed building, or behind a barrier of man-made or growing materials which screens such area from both public streets and adjacent or neighboring property.

#### **1207 Planned Industrial Parks & Industrial Performance Standards**

In the M-1 district all uses are subject to the requirements of Section 1706 Industrial Performance Standards.

In addition, where a Planned Industrial Park (PIP) is established, the Special Use conditions of 1707.25 Planned Industrial Parks, shall apply to all new construction within such park. However, a public hearing is not required for new construction within an established PIP so long as the construction meets the approved condition of the park.

## **Article XIII**

### **PGL, Public/Governmental Lands District**

#### **1300 Intent**

This district includes certain lands set aside for public and/or governmental uses. This district clearly identifies these public/governmental uses; protects them from conversion to non-public uses without process; and assures due consideration and public process prior to the establishment of such uses.

#### **1301 Permitted uses**

In Public/Governmental Lands District, PGL, no building structure or premises shall be used and no building or structure shall be erected, constructed or altered to be used for any purpose other than those listed in Section 402.01, Table of Uses.

#### **1302 Yard requirements**

In Public/Governmental Lands District, PGL, each building structure or premises shall have yards as follows:

A. *Front yards*: There shall be a front yard of not less than thirty-five (35) feet, except in an established neighborhood or commercial area, the front yard may be established by the average front yard dimension of the adjacent dwelling units buildings within three hundred (300) feet to each side of the lot in question, but not beyond a side street.

B. *Rear yards*: There shall be a rear yard of not less than twenty (20) feet;

C. *Side yards*: There shall be two (2) side yards of not less than twenty (20) feet each.

#### **1303 Height requirements**

Buildings in Public/Governmental Lands District, PGL, shall not exceed four (4) stories or fifty (50) feet in height.

#### **1304 Frontage requirements**

In the Public/Government Lands District, PGL, each lot shall have a minimum width at the building setback line equal to the minimum requirements of the adjacent zoning district of highest use, or one hundred (100) feet, whichever is lesser.

#### **1305 Lot area and coverage requirements**

In Public/Governmental Lands District, PGL, each lot shall meet or exceed the following requirements for lot area and coverage:

A. If the lot is adjacent to any residential or commercial zoning district, then the minimum lot size shall be that of the highest adjoining zoning district.

B. If the lot is not adjacent to zoning district(s) listed in subsection A. above, then the lot

size minimum shall be only that necessary to meet the requirements of the yard, landscaping, parking and walkways, and building or premises use, and lot coverage.

C. Not more than thirty (30) percent of the area of any lot shall be covered by a main building and accessory buildings.

**1306 Municipal building review requirement**

A. The City of Allegan, the County of Allegan, the State of Michigan or the United States of America, any of their agencies, departments, or other subdivisions proposing to construct a building or other structure shall apply for a building permit as required for private buildings or structures by this ordinance.

B. All building applications filed by the City of Allegan, or other governmental unit listed in A. above, or any of their agencies, departments, or other subdivisions, shall be set for a site plan review and public comment at a public meeting of the planning commission.

## **Article XIV**

### **PUD, Planned Unit Development District**

#### **1400 Purpose and Intent**

A. This Section provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments. It is the intent of this Section to authorize the consideration and use of Planned Unit Development regulations for the following purposes:

1. To encourage the use of land in accordance with its character and adaptability.
2. To promote the conservation of community character and natural features.
3. To encourage innovation in land use planning and development.
4. To promote the enhancement of housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the City.
5. To promote and ensure greater compatibility of design and use between neighboring properties.
6. To provide for the regulation of land uses not otherwise authorized within this Ordinance.

B. The provisions of this Section are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this Section are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Section to ensure appropriate, fair, and consistent decision-making. A Planned Unit Development must comply with this Section and must:

1. Be designed, constructed, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
2. Be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer.
3. Not create excessive additional requirements at public cost for public facilities and services.
4. Be developed in accordance with the intent for a Planned Unit Development as contained herein.

#### **1401 Qualifying Conditions**

A. In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of one (1) acre; provided, that where a mixture of uses is proposed, the proposed area shall consist of a minimum of four (4) acres.

B. Public water and sanitary sewer shall be available to service the site.

C. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.

### **1402 Development Requirements**

A. Green Space: Each PUD shall contain green space areas equal to a minimum of ten (10) percent of the total site area which is devoted to residential use. Such open space shall be maintained by the developer or homeowner's association and shall be set aside for the common use of the home or lot owners within the PUD with written assurances that the required green space shall remain green in perpetuity and be properly maintained.

For purposes of this section, land within streets, sidewalks, rights-of-way, and parking areas shall not be considered as green space. The City Council, at the recommendation of the Planning Commission, may reduce this requirement where a PUD is proposed in the C-1, Central Business District.

B. Mixed Uses: Residential and non-residential uses may be permitted within the same PUD district upon determination, by the Planning Commission and City Council, that such uses meet the intent and review standards of this section. It shall also be determined that the non-residential uses will not negatively impact the residential uses.

### **1403 Applicable Regulations**

A. Unless specifically waived by the City Council upon the recommendation of the Planning Commission through the provisions of subsection B. below, all regulations of the underlying zoning district prior to the PUD request relative to lot size, lot width, yard area, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply, except that in projects within an underlying residential district which contain mixed uses, the most restrictive district regulations within this Ordinance under which each non-residential use would otherwise be permitted shall apply.

B. Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined in the immediately preceding subsection A. may be granted at the discretion of the City Council upon the recommendation of the Planning Commission as part of approval of a Planned Unit Development. Such departures may be authorized if there are features or planning mechanisms designed into the project which would achieve the objectives of each of the regulations from which a departure is being requested.

## **1404 PUD Design Considerations**

A proposed Planned Unit Development shall take into account the following design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

- A. Perimeter setbacks, screening and buffering, and yards and open space.
- B. Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- C. Underground installation of utilities.
- D. Safe pedestrian circulation and installation of pedestrian amenities.
- E. Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- F. Noise reduction and visual screening mechanisms from adjoining residential uses.
- G. Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- H. Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.
- I. Density and intensity of development in terms of net land area coverage and/or net housing units per acre and the height of structures.
- J. The preservation of natural features.

## **1405 Application and Processing**

A. Effects: The granting of a Planned Unit Development rezoning application shall require an amendment of the Zoning Map constituting a part of this Ordinance. An approval granted under this section including all aspects of the site plan and conditions imposed shall constitute an inseparable part of the zoning ordinance.

B. Site Plan: A City of Allegan PUD application form and fee, and a site plan, in accordance with section 1800, shall be submitted to the City Zoning Administrator. The site plan shall include all of the information required in section 1800, D. The fee shall from time to time be determined by the City Council.

C. Site Plan, Planning Commission Review: The Planning Commission shall review the site plan and shall make reasonable inquiries of the applicant. The Planning Commission shall review the site plan according to the provisions of this section and the submission requirements of section 1800, D; and may recommend to the applicant that certain aspects of the site plan be amended to more fully comply with the provisions of this section. Additional information or studies may also be required.



D. Public Hearing: Prior to the scheduling of the public hearing, the applicant shall submit all required and requested information to the City. Once complete, the Zoning Administrator shall transmit the complete application to the Planning Commission. The Planning Commission, at a regular or special public meeting, shall set a time and place for a public hearing and arrange for publication and delivery of the notice of such hearing in accordance with section 1807.

#### **1406 Standards for Approval**

Following the public hearing, the Planning Commission shall recommend approval, denial, or approval with conditions of the PUD rezoning request and site plan and make its recommendation to the City Council.

In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of the PUD district and the following standards:

A. Granting of the Planned Unit Development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.

B. In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.

C. The proposed development shall be compatible with the Master Plan and shall be consistent with the intent and purpose of this section.

D. The Planned Unit Development shall not change the essential character of the surrounding area and shall be compatible with existing neighboring uses.

E. Land surrounding the proposed development will be compatible or can be planned in coordination with the proposed development.

#### **1407 City Council Approval**

After receiving the recommendation of the Planning Commission, the City Council shall approve, deny, or approve with conditions the PUD application and site plan. The City Council may recommend to the applicant that certain aspects of the site plan be amended to more fully comply with the provisions of this section. Additional information or studies may also be required prior to a decision on the application.

#### **1408 Effect of Approval**

The Planned Unit Development, including the site plan as approved and narrative and all conditions imposed, if any, shall constitute the land use authorization for the property. All uses not specifically specified in the site plan are disallowed and not permitted on the property in spite of the underlying zoning district.

# **Article XV**

## **Overlay Districts**

### **1500 Intent**

Overlay districts are created to reflect the imposition of special needs, considerations, restrictions and regulations upon land areas to reflect or create special protections or uses in the public interest. These areas are delineated on the City of Allegan Official Zoning Map maintained at city hall. Land areas included in an overlay zone must meet the regulations and requirements of the primary zoning and the special regulations of the overlay district. The City of Allegan has three (3) overlay districts listed as follows.

#### **1500.01 HISTORIC PRESERVATION DISTRICT**

This district was created by City Ordinance No. 210, adopted by the City Council on the fourteenth day of January, 1985. This district regulates the use and exterior character of certain parcels of land and buildings thereon for the purposes of preserving and maintaining the historic character and image of the City of Allegan. The regulations for the Historic Preservation Districts are contained in Chapter 13 of the City of Allegan's Code of Ordinance. The guidelines for administration are contained in the Allegan Historic District Handbook as revised periodically by the Historic District Commission.

#### Uses in a Historic District

- A. Any use if located in a historic structure/building shall conform to the Secretary of the Interior Standards for Rehabilitation contained in the City of Allegan Historic Preservation Ordinance, being Chapter 13 of the city's code of ordinances, Section 13-57.
  
- B. All uses listed in 402.01 as Special Uses if located in a Historic District, when proposed for a new building, addition or structure, such structure shall conform to the Secretary of the Interior standards for Rehabilitation No. 9 & 10:
  - 1. (10) New adjacent or related construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
  - 2. (9) New construction will be differentiated from the old and will be compatible with the historic materials, features, size, scale, proportions, and massing to protect the integrity of the property and its environment.
  
- C. The Planning Commission, City Council and Zoning Board of Appeals have no authority to grant variances from a decision of the Historic District Commission when acting under its authority. The Historic District Commission may recommend that the Zoning Board of Appeals grant variances from the zoning ordinance for historic preservation purposes but the HDC cannot grant such variances and the ZBA is not required to grant such variances.

## **1500.02 FLOODWAY/FLOOD PLAIN AREAS OVERLAY ZONE**

This district reflects the areas mandated and delineated by the Federal Emergency Management Agency as being a flood hazard area prone to seasonal and temporary flooding from the Kalamazoo River and tributaries. It is the objective of the City of Allegan to protect the safety and welfare of the community; to minimize the loss of property, structure and life due to flooding; and to maintain flood systems and their absorption capabilities. Specific regulations for uses are found in the underlying zoning districts and regulations for construction, repair or alteration of any structure in these areas are contained in the state construction code.

### **A. Flood Hazard Areas.**

Specific areas that fall within the Flood Hazard Area are shown on the National Flood Insurance Program, Flood Insurance Rate Map (FIRM) for the City of Allegan, Allegan County, Community Panel Number 260003 0001 B, Effective Date: May 4, 1989, or as may be replaced by an update to be released in 2014 or 2015.

### **B. Uses Permitted by Right**

Notwithstanding any other provisions of this Ordinance, land and/or buildings may only be used, subject to the conditions of this Section 1500.02 and conditions required in Article XVII Site Plan Review, for the following purposes by right:

1. Open spaces such as farms, truck gardens, nurseries, parks, playgrounds, golf courses, nature preserves, bridle trails, nature trails, seasonal campgrounds, and other forms of recreational uses provided no alteration is made to the existing floodplain and no structures are erected which may interfere with the flow of the river or the floodplain capacity.
2. Existing uses of existing buildings may continue so long as there is no change of use and so long as the total cumulative cost of any improvements or repairs do not constitute substantial improvements as defined in the floodplain regulations of the state building code.
3. In existing buildings, land uses permitted by right in the underlying zoning district and existing uses proposed for substantial improvements may only be used upon compliance with the state building code and the conditions listed below in sub-part D.

### **C. Special Land Uses**

Land uses and/or buildings permitted as Special Uses in the underlying zoning district shall be subject not only to the Special Use conditions of this ordinance but also to the conditions listed in below in sub-part D.

D. Specific standards for the Floodplain Overlay District

In compliance with the state building code, all new construction or substantial improvements to any structure shall have the lowest floor, including basements, elevated at least one (1) foot above the Base Flood Elevation line as shown on the current Flood Insurance Rate Map (FIRM) for the City of Allegan produced by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program (NFIP); or for non-residential structures, be constructed such that together with attendant utilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards are met and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impacts and uplift forces and other factors associated with the base flood in the location of the structure.

**1500.03 WELLHEAD PROTECTION OVERLAY ZONE**

A. Findings and purpose.

1. The City Council, in considering this ordinance, determined the following:
  - a. Certain groundwater is the sole source of potable water for the City.
  - b. Groundwater is integrally connected with surface waters.
  - c. Releases of toxic or hazardous substances into surface waters or upon lands can adversely affect the quality of groundwater resulting in risk to public health and safety.
  - d. There is a significant public investment in the City's wells and water supply system, so adverse impacts on the groundwater also threaten that investment.
  - e. The economic vitality of the City depends upon the availability of potable water, so adverse impacts on the groundwater also threaten the City's economic vitality.
2. Accordingly, the purpose of this section is to:
  - a. Preserve, protect, and maintain the groundwater upon which the City depends.
  - b. Prevent and minimize the impact of existing and future uses of land on the groundwater.
  - c. Maintain and preserve natural resources, including surface and groundwater.
  - d. Assure the proper implementation of federal, state, and local drinking water, groundwater, and surface water requirements.

B. Establishment of Wellhead Protection Overlay Zone. There is hereby created the Wellhead Protection Overlay Zone which is an overlay district extending across the

City's other zoning districts and consists of the property depicted in the drawing attached as Attachment A which is incorporated into this subsection by reference. Within this overlay zone, the provisions of this section shall apply in addition to those provisions governing the zoning district in which the property is also located. Where the provisions of this section conflict with the provisions of another section, the more restrictive provisions shall apply.

C. General provisions. The following shall apply to all uses and developments in the Wellhead Protection Overlay Zone to the extent such uses include the storage or generation of hazardous substances in quantities greater than 100 kilograms or 25 gallons during any month or which uses require site plan review under this chapter.

1. Groundwater protection standards.

- a. The use and the development and related improvements shall be designed to protect the natural environment, including all surface and groundwater, and to prevent, minimize, and contain releases.
- b. Stormwater management and drainage facilities (i) shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse; (ii) shall not increase flooding, or the potential for environmental contamination, on-site or off-site; and (iii) shall not result in loss of the use of property by any third party.
- c. Industrial facilities with a point source discharge of storm water shall maintain a stormwater pollution prevention plan in accordance with applicable federal and state laws, rules, and regulations.
- d. General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system, the volumes and concentrations of waste discharged to the floor drain shall comply with the City's ordinance provisions governing use of the City's sanitary sewer system including, without limitation, any industrial pretreatment requirements.
- e. Spill prevention programs shall be drafted and implemented.
- f. Federal and state permits, licenses, certifications, and other approvals shall be obtained and maintained, and all laws, rules, regulations, orders, and directives of governmental agencies of competent jurisdiction shall be met, including all of those applicable to the storage, handling, transportation, and disposal of hazardous substances and those applicable to spill prevention, emergency response, right-to-know, and recordkeeping.

2. Aboveground storage and use areas for hazardous substances.

- a. Primary containment of hazardous substances shall be product tight.
- b. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released

substance. Products held in containers with a volume of less than 40 gallons and packaged for retail use shall be exempt from this item.

- c. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage, and vandalism, including an allowance of the expected accumulation of precipitation. Secondary containment shall also be required.
  - d. Out buildings, storage rooms, sheds, and pole barns which are utilized as secondary containment shall not have floor drains which outlet to the soil, a public sanitary or storm sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable federal and state laws, rules, and regulations.
  - e. Areas and facilities for loading and unloading of hazardous substances, as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, surface waters, groundwater, or soils.
3. Underground storage tank systems.
    - a. Existing and new underground storage tanks shall be registered with the applicable governmental agencies as required under applicable laws, rules, and regulations.
    - b. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable laws, rules, and regulations including, without limitation, those concerning leak detection, secondary containment, corrosion protection, spill prevention, and overfill protection.
  4. Out-of-service wells shall be sealed and abandoned in accordance with applicable laws, rules, and regulations.
  5. Well Construction.
    - a. Well drilling, construction, and installation shall only be performed by well drillers registered by the State of Michigan.
    - b. Well construction shall be completed in accordance with the Michigan Water Well Construction and Pump Installation Code, Part 127, 1978 P.A. 168, as amended, and the rules promulgated pursuant thereto, and shall include fully grouting the entire length of the well casing.
  6. Sites with contaminated soils and/or groundwater.
    - a. Site plans shall clearly delineate and take into consideration the location and extent of any contaminated soils and/or groundwater on the site and the need to protect public health and environment.

- b. Information must be provided regarding the type, concentration, and extent of identified contamination, land use deed restrictions, and any remedial action plans.
  - c. Excavation, drilling, direct-push, and other earth penetration shall be sealed with grout or with soil material exhibiting lower hydraulic permeability than the native soil and shall be performed only in accordance with appropriate “due care” plans for the site.
7. Construction standards.
- a. The property owner and the developer shall assure that each contractor or subcontractor handles any hazardous substances in a manner appropriate for the site. For instance, handling hazardous substances in proximity to any surface waters, any well, any drain or storm sewer, or any sanitary sewer may be improper.
  - b. Hazardous substances stored on the construction site during construction shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, soils, groundwater, and surface waters. Any storage container volume of over 40 gallons that contains hazardous substances shall have secondary containment.
  - c. Any storing or handling of hazardous substances that require a material safety data sheet (MSDS) shall comply with all requirements therefor and related thereto.
  - d. Upon completion of construction, all hazardous substances and containment systems no longer used or not needed in the operation of the facility shall be removed from the site and shall be disposed of, recycled, or reused in accordance with applicable laws, rules, and regulations.
  - e. Excavation, drilling, direct-push, and other earth penetration shall be sealed with grout or with soil material exhibiting lower hydraulic permeability than the native soil and shall be performed only in accordance with appropriate “due care” plans for the site.
8. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent releases to soils, surface waters, or groundwater. Cracks and holes in floors, foundations, and walls must be repaired in areas where hazardous substances are handled or stored.
9. The general provisions of this subsection C. shall not apply to:
- a. A use or site where the hazardous substances consist only of those packaged for personal or household use or those present in the same form and concentration as a product packaged for use by the general public and to the extent the total quantity of such excluded hazardous substances does not exceed the lesser of fifty (50) gallons or four hundred (400) pounds at any time.

- b. The hazardous substances are for non-routine maintenance or repair of property, and the uses of the hazardous substances are limited as follows:
  - (i) The aggregate of hazardous substances may not exceed the lesser of fifty (50) gallons or four hundred (400) pounds at any time.
  - (ii) The total use of substances containing hazardous substances may not exceed one-hundred (100) gallons or eight hundred (800) pounds at any time.
- D. Site plan approval required. In addition to the other circumstances in which site plan approval is required under this chapter, site plan approval by the Planning Commission in accordance with this section shall be required for any development or change of use on property within the Wellhead Protection Overlay Zone. In addition to the information required by Section 1800, the site plan application shall contain the following information. In addition to its options available under Section 1800, the Planning Commission may impose conditions upon its approval of any site plan submitted pursuant to this subsection, which conditions are related to protecting surface and groundwaters from contamination.
  1. Specify the location, size, and materials comprising interior and exterior area(s) and structure(s) to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous substances.
  2. Specify location, size, and materials comprising all underground and above-ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated stormwater or wash water, and all similar uses.
  3. Specify the location and use of existing and proposed wells.
  4. Specify the location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store, or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
  5. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.
  6. Specify the hazardous materials to be used, stored, handled or disposed of on the site, including the quantity and purpose of any use. Detail the locations of such use and the plans for spill prevention and containment.
  7. If the site is a “facility” as defined in Part 201 of Michigan’s Natural Resources and Environmental Protection Act, 1994 P.A. 451, as amended, include a copy of the “due care plan, “ if any, for the site.



E. Applicability.

1. It is the burden of the property owner and developer of property within the Wellhead Protection Overlay Zone to demonstrate the inapplicability of this section or show an exemption from the requirements of this section.
2. This section shall not be applicable to the transportation of hazardous substances by motor vehicle or rail in continuous transport across property in the Wellhead Protection Overlay Zone.
3. This section shall not apply to dewatering wells temporarily used during construction.

F. No Variances or Appeals. No use variance can be granted from the provisions in this section. There shall be no appeal from any decision made by the City Council under this section, except those judicial remedies as may be available in the Allegan County Circuit Court under applicable Michigan law.

G. Violations and penalties. A violation of this section shall be a municipal civil infraction, and any person found responsible for such a violation shall be punished by a fine of not less than \$100 and not more than \$2,500 and shall pay the costs of prosecution. Each act of violation and each day a violation occurs or continues shall constitute a separate offense. The penalty provided herein shall be in addition to the abatement of the violating condition, any injunctive relief, the revocation of any permit, license, or certificate (including, without limitation, a certificate of occupancy or any building permit). A violation of this section shall constitute a nuisance *per se*. To the extent not otherwise prohibited by law, persons violating this section shall be liable for any damages to the groundwater, the City drinking water, the City water supply system, and any surface waters which result from such violation including, without limitation, the costs incurred by the City to investigate such violation and to prevent or minimize damages resulting from it.

# **Article XVI**

## **General Regulations**

### **1600 Introduction**

It is the purpose of this Article to set forth regulations that may apply generally in all Zoning Districts to all permitted uses and special uses and to provide detail on how the standards of this Ordinance shall be applied. The use of all land and structures and the construction, reconstruction, alteration, repair and moving of all structures within the City of Allegan shall conform to all applicable provisions of this Ordinance.

### **1601 Building permit required—conformance to zoning**

In accordance with other city codes, ordinances and regulations duly adopted by the city council, and in accordance with this ordinance, no building shall hereafter be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this zoning ordinance, eligibility for a building permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures (See Article XVIII for application procedures.) Major improvements shall include but not be limited to: Demolition or construction or modification to the structural integrity of any wall, floor, ceiling, stairway, exterior window or doorway, porch, deck, sidewalk, foundation, chimney or roof. In the case of detached accessory buildings and structures, a building permit is required.

### **1602 Certificate of occupancy required**

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

### **1603 Structures**

- A. *Restoring unsafe buildings.* Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the building inspector [official] or the County Health Department (Housing Regulations for Allegan County).
- B. *Minimum floor area for dwelling units.* Each new dwelling unit shall have a minimum floor area in accordance with the following standards:
  - 1. Single-family detached. In the R-1, R-3, and R-5 zoning districts, each new dwelling unit shall have a minimum finished living area of one thousand (1,000) square feet of floor area with a minimum of seven hundred fifty (750) square feet on the ground floor for units of more than one (1) story. In the R-2 Single-Family,

Medium Density District, each new dwelling shall have a minimum finished living area of eight hundred (800) square feet.

2. Attached single-family, including two-family and townhouses. Each new dwelling unit shall have a minimum finished living area of nine hundred (900) square feet with a minimum of six hundred (600) square feet on the ground floor for units of more than one (1) story.
3. Multiple-family dwellings.

<i>For</i>	<i>Floor Area/Unit in Square Feet</i>
Efficiency	375 square feet
One bedroom	600 square feet
Two bedroom	780 square feet
Three bedroom	940 square feet
In excess of three bedrooms	940 + 80 square feet for each additional bedroom.

- C. *Sanitary system required.* Each dwelling unit and principal structure shall be equipped with adequate water-carried sewage disposal facilities to comply with the Allegan County Water and Sanitary Regulations, as amended, in effect at the time of the erection of said dwelling or principal structure. Where public utilities exist within two hundred (200) feet at the property line, the owner or developer shall be required to hook up with such system.
- D. *Structure to have access.* Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- E. *One (1) single-family structure per lot.* No single-family detached residential structure shall be erected upon a lot with another single-family detached residential structure. In addition, every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined.
- F. *Accessory buildings.* No accessory building shall be erected in any required front yard. No accessory building shall exceed twelve (12) feet in height at the side wall.
- G. *Exceptions to height regulation.* The height limitations contained herein do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- I. *Accessory fences.*
  1. Fences are structures but require only a zoning permit, not a building permit unless they are over 6 feet in height.
  2. Fences may be constructed of brick, stone, vinyl, wood, metal or wire.

3. A fence not exceeding forty-eight (48) inches in height may be erected in side yards and in front yards forward of the front building line. A fence of this height shall be permitted from the front building line of a residence to within eighteen (18) inches of the sidewalk. A fence not exceeding said height is also permitted on the side yard of a corner lot to the full depth of the lot and to within eighteen (18) inches of the sidewalk.
4. Except for a corner lot, a fence or retaining wall not exceeding six (6) feet in height is permitted on the side yards to the rear of the front building line and on all rear yards.
5. The face of the fence on a side yard of a corner lot shall be erected eighteen (18) inches back from the inside edge of the sidewalk, to leave room for city snow plows use.
6. All fences erected by an individual owner must be erected on his property.
7. All fences erected at or near the property lines shall have the finished side facing outward from the lot.
8. It is unlawful to construct any private fence or barrier within a public right-of-way.
9. All fences must be properly maintained.

#### **1604 Lots**

- A. *New lots to be buildable.* All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.
- B. *Minimum lot size required.* No new lots shall be created which do not meet the minimum lot size regulations of this ordinance.
- C. *Corner lots.* On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining two (2) required yards shall be the required side yard and which the required rear yard.

#### **1605 Floor area calculations**

The floor area of a building shall include the basement floor area when more than one-half (1/2) of the basement height is above the established curb level, or grade, whichever is higher. Floor area shall not include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in the floor area. Areas of basements, utility-rooms, breezeways, porches, or attached garages are not included.

### **1606 Combination of substandard lots**

If more than one (1) lot of record is held in common ownership and said lots are contiguous, undeveloped and substandard in size to the minimum lot size in the zoning district, they shall, for the purpose of this ordinance, be held as one (1) lot or as many lots as shall leave no lot substandard. It is the policy of the City of Allegan to require the combination of substandard lots under common ownership. Said lots shall be combined and recorded prior to issuance of zoning change or building permit for development of substandard lots.

### **1607 Yard calculations**

Eaves that project less than thirty-six (36) inches from the wall surface or permanent window canopies shall not be counted against the required front, side, or rear yard setback, provided that an eight (8) foot height clearance is provided above the adjacent ground level. If the eaves or canopies project more than thirty-six (36) inches, the yard requirements shall be increased by the amount the projection exceeds thirty-six (36) inches. (See illustration #3 in section 201.25)

### **1608 Temporary buildings**

Temporary buildings are prohibited anywhere in the City of Allegan.

### **1609 Garage sales, yard sales and sales of used or unwanted items**

The sale of any merchandise, goods, used or unwanted items in residential zoning districts shall be regulated by Chapter 22, Sales; Article 2, Residential Sales; of the Code of the City of Allegan.

### **1610 Prohibition on storage of personal property in residential districts or on residential property**

- A. No personal property other than lawn furniture shall be stored, placed, maintained or permitted outside an enclosed building or garage in residential districts or on residentially-used property, except as provided in this section.
- B. Such personal property shall not be stored, maintained, placed, or permitted within the front yard as applied to the actual dwelling thereon, and for these purposes, a side yard facing a public street shall be considered as a front yard for a depth of thirty (30) feet.

### **1611 Storage Regulations for Recreational Units and Commercial Vehicles in residential districts or residential property**

- A. The storage or parking of trucks of more than one and one-half (1½) tons capacity, commercial vehicles, motor homes, recreational vehicles, campers of any kind, boats, and similar commercial vehicles and recreational units in a residential district or on a residentially-used property shall comply with the standards of this section.
- B. Semi truck trailers shall be prohibited.

- C. Such commercial vehicles and recreational units described in subsection A. shall be prohibited in any front yard; except if parked in an improved driveway.
- D. Up to two (2) trucks more than 1 ½ tons, commercial vehicles, motor homes, recreational vehicles, campers of any kind, boats or similar recreational units shall be permitted on a property, subject to the above prohibitions and regulations and the following requirements:
  - 1. Storage or parking is permitted within the rear yard and side yard, provided all stored commercial vehicles and recreational units are no closer than three (3) feet from a side lot line or rear lot line and provided that such storage does not prevent clear access between the front and rear yards of the parcel for a person on foot.
  - 2. Parking or storage on any roadway or within a road right-of-way is prohibited.

### **1612 Required off-street parking and loading facilities**

- A. *Schedule of spaces required.* All buildings located in the city shall provide off-street parking adequate for the intended use as determined by the following schedule; provided, the Planning Commission may approve or require additional or fewer spaces, in consideration of adequate parking, avoiding excessive parking, and provision for snow storage.
  - 1. For a single-family dwelling, two-family dwelling, and multiple-family dwellings with:
    - a) One or two bedrooms: 2 parking spaces for each dwelling unit.
    - b) Three or more bedrooms: 3 parking spaces for each dwelling unit.
  - 2. For hotels and motels, 1.25 spaces for each guest or sleeping room.
  - 3. For boarding houses, 2 spaces, plus 1 space for each boarding room, plus 1 space for each employee on duty at any one time.
  - 4. For bed and breakfasts, 2 spaces, plus 1 space for each guest room, plus 1 space for each employee on duty at any one time.
  - 5. For private clubs and lodges with guest sleeping facilities, 1 space for each lodging room plus spaces equal to 30% of the capacity in persons (exclusive of lodging room capacity) of such club or lodge as determined by the Allegan Fire Chief.
  - 6. For private clubs and lodges without sleeping facilities for guests, spaces equal to 30% of the capacity in persons as determined by the Allegan Fire Chief.
  - 7. For retail stores, 3.0 spaces for each 1,000 square feet of gross leasable area.
  - 8. For automotive service stations, 3 spaces for each 1,000 square feet of total gross floor area.
  - 9. For fully automatic automobile wash establishments, 10 stacking spaces for each wash rack plus 1 space for each rack.

10. For self-service automobile wash establishments, 1 stacking space for each wash stall plus 1 drying space for each wash stall.
11. For banks, and savings and loans, 3 spaces per 1,000 square feet of gross floor area plus 4 stacking spaces for each drive-up window and automatic teller.
12. For bowling lanes, 5 spaces for each lane plus space for lounge, restaurant, and video game areas as required in this section.
13. For each restaurant dispensing food and or beverages for consumption on the premises, 1 space for each 2.5 seats or 5 spaces for each 300 square feet of floor area, whichever is greater.
14. For each restaurant dispensing food or beverages without seating, 5 spaces for each 250 square feet of floor area and in no case shall less than 5 spaces be provided.
15. For drive-up type restaurants, in addition to the requirements of [paragraphs] 13 or 14 above, stacking space shall be provided clear of drive aisles for 6 cars.
16. For furniture and appliance stores, household equipment or furniture repair shops, 1.5 spaces per 1,000 square feet of floor area.
17. For motor vehicle sales and machinery sales, 2.5 spaces for each 1,000 square feet of floor area.
18. For theatres (indoor), 1 space for each 3 seats.
19. For undertaking establishments and funeral parlors, 1 space for each 3 chapel or parlor seats, plus 1 parking space for each funeral vehicle kept on the premises.
20. For offices-business, professional, governmental and public assembly units, 3.5 spaces per 1,000 square feet of floor area.
21. For wholesale establishments (but not including warehousing and storage buildings other than accessory), 4 spaces for each 1,000 square feet of floor area.
22. For manufacturing uses or any establishments engaged in production, processing, cleaning, servicing, testing or repairing of materials, goods or products, 1.25 spaces for each 1,000 square feet of floor area.
23. For warehousing and storage buildings, 0.7 spaces per 1,000 square feet of floor area.
24. For church, school, college and other institutional auditoriums, 1 space for each 3 auditorium seats. Also, adequate space for buses used in connection with the activities of the institution. All loading and unloading of passengers shall take place upon the premises.
25. For medical or dental clinics, 5.7 spaces per 1,000 square feet of floor area.
26. For colleges, universities and business, professional and trade schools, 0.5 spaces for each student based upon the maximum number of students attending classes on premises at any one time during a 24-hour period.

27. For hospitals, 2.5 spaces for each hospital bed plus 1.5 spaces in a separate area for each 2 out-patient or emergency patients counted by maximum capacity of either out-patient or emergency facility or both if they are separate.
  28. For libraries, art galleries and museums, public, 3 spaces for each 1,000 square feet of floor area.
  29. For municipal or privately owned recreation buildings or community centers, spaces equal to 30% of maximum occupancy as determined by the Allegan Fire Chief.
  30. For public utility and public service uses, 0.5 spaces per employee.
  31. For pre-schools or nursery schools, 4 spaces, plus 1 space per employee.
  32. For elementary, middle, or junior high schools, 2 spaces per classroom or class area, plus 1 space per employee.
  33. For high schools, 1 space for each employee plus 0.2 spaces per student, based on the maximum number of students for which the facility is designed.
  34. For stadiums, arenas, auditoriums (other than church, college, or institutional schools), convention halls, dance halls, exhibition halls, skating rinks and other similar places of assembly, spaces equal to 30% of the capacity in persons as determined by the Allegan Fire Chief.
  35. For rest homes, nursing homes, convalescent homes or institutions for the aged or for children, 0.3 spaces for each bed plus 1 space for each employee on duty at any one time.
  36. For other uses, spaces in adequate number as determined by the building official to service persons employed or residing on the premises as well as the visiting public.
- B. *Fractional parking spaces.* When determination of the total number of off-street parking spaces required by this ordinance for a specific use results in a requirement of a fractional space, this shall be counted as one (1) parking space.
- C. *Parking area maintenance and striping.* Parking areas shall be maintained in good condition at all times to protect the public safety, health and welfare, including the provision of parking space striping. All parking spaces for non-residential uses and multi-family residential uses shall have striped parking spaces if the building official finds that such striping would benefit maneuverability. If the building official finds that parking space striping has worn, weathered, or is otherwise indistinct or does not meet the intent and spirit of this ordinance, the building official shall instruct the property owner to stripe the parking spaces and the parking spaces shall be striped by the property owner.
- D. *Parking space dimensions.* The dimension of off-street parking spaces shall be in accordance with the following minimum dimensions:



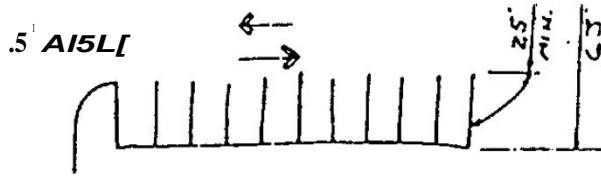
<i>Parking Pattern</i>	<i>Maneuvering Lane Width</i>	<i>Parking Space Width</i>	<i>Parking Space Length</i>	<i>Total Width Of One Tier of Spaces Plus Maneuvering Lane</i>	<i>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</i>
0° Parallel	12 ft.	8 ft.	23ft.	20 ft.	28 ft.
30° to 53°	13 ft.	9 ft.	20 ft.	33 ft.	53 ft.
54° to 74°	18 ft.	9 ft.	21 ft.	39 ft.	60 ft.
75° to 90°	25 ft.	9 ft.	19 ft.	44 ft.	63 ft.

See illustration #6 entitled "Parking Layouts" on the following page. It is not drawn to scale.

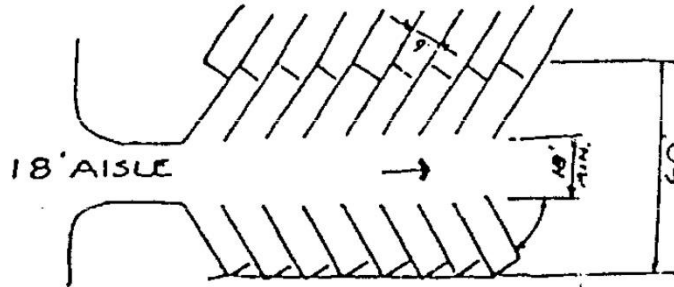
# ILLUSTRATION #6 - PARKING LAYOUTS

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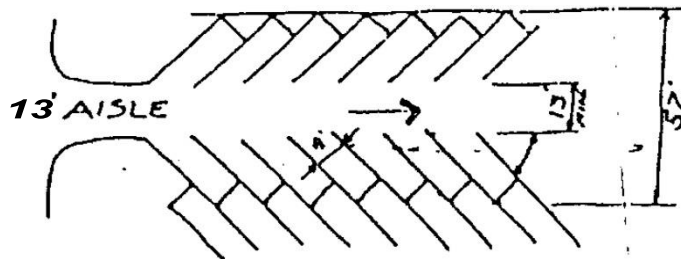
90° PARKING



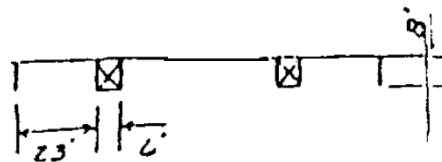
60° PARKING



45° PARKING



PARALLEL PARKING



- E. *Residential off-street parking.* Parking in residential zones is only permitted as an accessory use or as a transitional use and in no case is it intended that parking or access drives to parking be permitted as a principal use of any residentially zoned lot.
- F. *Nonresidential off-street parking.* Provisions shall be made for off-street parking for all nonresidential buildings or additions to such buildings in all districts. The conversion of an existing residence to any other use shall be deemed to be a new use which must meet all provisions of this ordinance.
- G. *Mixed occupancies and uses not specified.* In the case of mixed uses, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provision for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Parking areas for churches, theatres or other uses in which the primary parking demand occurs out of normal store operation hours may be jointly used where adequate arrangements are made to insure that the space is available for each function.
- H. *Location of off-street parking facilities.* Off-street parking facilities shall be located as hereafter specified; where a distance is specified it shall be the distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve, as follows:
  - 1. For all residential buildings and for all nonresidential buildings in residential zones, required parking shall be provided on the same plot with the building.
  - 2. For commercial and all nonresidential uses in commercial zones, required parking shall be provided within three hundred (300) feet.
  - 3. For industrial uses, required parking shall be provided within five hundred (500) feet.
- I. *Community parking option.* The provisions of this ordinance may be met by participation in a municipal or joint community parking program designed to serve a large area, provided all plans for such community parking have been approved by the planning commission. All new business buildings and additions to present buildings in a commercial zone within five hundred (500) feet of a municipal parking area shall be considered as participating in a community parking program.
- J. *Parking areas in commercial and industrial districts.* Every parcel of land hereafter established as a public or private parking area in any commercial or industrial district or hereafter enlarged or altered shall be developed and maintained in accordance with the following requirements:
  - 1. Off-street parking areas shall be effectively screened on any side which adjoins or faces premises situated in any residential zone district, by a screening of evergreen hedge or other natural landscaping. Screening provisions in Section 1615 shall control. Provided, however, that if owners of adjacent residential properties request, in writing, this screening shall be done by a solid uniformly painted fence or wall not less than four (4) or more than six (6) feet in height maintained in good

condition. No part of any parking area shall be closer than ten (10) feet to any school, hospital, or other institutional property line unless screened by an unpierced masonry wall.

2. Stormwater and Lighting: Every such off-street parking area shall be surfaced with asphalt or concrete, and shall be graded and drained to dispose of all surface water to the nearest adjoining street and away from adjoining properties. Parking areas for more than 10 vehicles shall include provisions for Low Impact Design stormwater runoff reduction and pollution prevention – See “*Development Standards for Stormwater Management*” Allegan County Drain Office [www.allegancounty.org](http://www.allegancounty.org). Any lighting in connection with off-street parking shall be so arranged as to reflect the light away from all adjoining residential buildings zones and streets. Lighting provisions of Section 1615 shall control.
3. Non-Motorized Access. Parking areas for 10 or more vehicle shall provide bicycle parking or storage areas and where applicable connectivity to established non-motorized paths.
4. The off-street parking area shall be subject to the approval of the planning commission to insure its adequacy in relation to traffic safety, lighting and protection of the adjacent property.

K. *Parking areas in residential zones.* Any person desiring to establish a parking area as an accessory use in a residential zone shall submit plans to the Planning Commission showing the location, size, shape, design, landscape, curb cuts, and other features of the parking lot. The establishment in such parts of any residential district that abut either directly or across the street or alley from a commercial or industrial district is permitted by special use only. All such parking areas and parking areas required for new multiple-family dwelling and nonresidential buildings in all residential zones may then be authorized, subject to the following conditions:

1. All parking areas shall be landscaped, screened, surfaced, and drained as provided in this ordinance.
2. No part of such parking areas shall extend into the required front yard for that zoning district. The front yard area not occupied by the access drive shall be landscaped.
3. All such parking areas shall be at least forty (40) feet in width.
4. Such parking areas shall be used solely for the parking of passenger automobiles, and no commercial repair work or sales or service of any kind shall be conducted on such parking lot. No sign, other than entrance, exit, and condition of use signs, shall be maintained, and the aggregate area of all such signs shall not exceed twelve (12) square feet.
5. Each entrance to and exit from such parking lot shall be at least twenty (20) feet distance from any adjacent property located in any residential zone, and the location and design of entrances, exits, surfacing, landscaping, marking, and

lighting shall be subject to the approval of the planning commission to insure adequate relation to traffic safety, lighting and protection of the adjacent residential area.

- 6. The building inspector [official] shall thereafter issue a permit, which may be revoked at any time that the aforementioned requirements are not complied with. Any person operating the premises to which said permit relates in violation of any of the conditions specified by this ordinance or fixed to such permit, shall be deemed in violation of this ordinance and shall be subject to the penalties prescribed in this ordinance.
- L. *Driveways in residential zones.* One (1) driveway and one (1) associated curb-cut is permitted per street frontage; provided, that lots with frontage greater than one hundred and fifty (150) feet of frontage may have two (2) driveways on that frontage. The edge of a driveway shall be located a minimum of three (3) feet from a property line. Driveways shall be improved to include pavement, pavers, crushed stone, gravel, or other dustless material as may be approved by the building official.
- M. *Parking and storage of unlicensed vehicles.* Motor vehicles of any kind or type without current registration shall not be stored or parked on any area other than an improved driveway area on any residentially zoned property.
- N. *Required off-street loading berths.* In all districts every building, or part thereof, hereafter erected, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, or block of stores, wholesale store or warehouse, market, hotel, hospital, mortuary, laundry, dry cleaning, or other use similarly requiring the receipt of distribution of materials or merchandise by truck, step van, or other motor carrier of such merchandise or materials, except for daily package delivery services, there shall be provided and maintained, except in the Central Business District, C-1, on the same premises with such buildings, off-street loading spaces in relation to floor area as follows:

10,000 to 20,000 square feet.....	1 space
20,000 to 50,000 square feet.....	2 spaces
50,000 to 100,000 square feet.....	3 spaces
1 additional space for each additional 100,000 square feet or part thereof; provided that:	

- 1. Each loading space shall be at least twelve (12) feet in width, forty-four (44) feet in length, and have a clearance of fourteen (14) feet above grade.
- 2. Such space may occupy all or any part of any required yard or court space, except the front yard.
- 3. No such space shall be located closer than fifty (50) feet to any lot line in any residential district, unless wholly within a completely enclosed building, or enclosed on all sides facing residential zones, by a wall or uniformly painted solid

board or masonry fence of uniform appearance which is not less than six (6) feet in height.

- O. *Fair parking.* The following requirements relate to parking on the properties located in the Davis Addition (north of Delano Street) and the properties north of Tamarack Street, east of Arnold Street and south of Lake Street.
1. Parking is permitted on these parcels during the Allegan County Fair and during other events at the fairgrounds that are attended by five thousand (5,000) or more people and for which a permit has been issued by the City.
    - a. Parking on these parcels may only occur during a period of no earlier than four (4) hours before the start of the event (if the event lasts only one (1) day) or activities of the day (if the event lasts more than one (1) day) and no later than two (2) hours after the end of the event (if the event lasts only one (1) day) or at the end of the day's activities (if the event lasts more than one (1) day).
    - b. Parking on a vacant, unimproved lot may occur only if the lot is supervised while being used and with the consent of the owner. If the lot is not paved, precautions acceptable to and approved by the city shall be taken to minimize on the impact of the surrounding properties. If any such lot is to be used, a plan should be submitted annually with the city manager who shall review and refer the plan to the planning commission to determine if it meets the criteria listed before granting approval. In granting approval, the planning commission shall impose such additional conditions as are deemed necessary. These conditions shall include but not be limited to the control of dust, lighting, placement of sanitary facilities and the submittal of an approved traffic plan, which shall only include the use of the southern most gate on Arnold Street. Further, the area shall not be used for overnight parking, concessions, camping and animal storage.

### **1613 Animals generally: animal boarding**

- A. No animals, livestock or fowls, or structures for same, other than common household pets shall be permitted as a permitted or accessory use in the City unless otherwise specified in this ordinance.
- B. Households shall be limited to a total of three (3) animals normally considered as pets.
- C. Animal boarding facilities shall be allowed in appropriate zoning districts so long as all pets are inside an enclosed building. If a facility requires outside cages, runs, etc., a special use permit must be obtained.

### **1614 Transitional zoning**

A residentially zoned lot having its side yard abutting a commercial or industrial zoning district boundary that is located within the city may be used for an office for doctors, dentists and lawyers, or similar professions. Said transitional use is restricted to only the

one (1) boundary lot and the use may not extend more than one hundred fifty (150) feet from the described boundary. For approval of these uses on a transitional lot, a detailed site development plan and an architectural profile of all structures to be erected shall be submitted to the building inspector [official] to determine that site development meets the following requirements:

- A. Yard and area requirements of the zoning district;
- B. Adequate parking areas and access drives;
- C. Landscaping and screening to safeguard adjacent residential uses; and
- D. That the proposed building has a residential appearance in keeping with the character of the adjacent neighborhood.

### **1615 Lighting and screening requirements**

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

1. Except with approval from the Planning Commission, special purpose lighting, such as aerial lasers and searchlight style lights, construction lighting and sports field or stadium lighting are prohibited.
2. Lighting fixtures shall be fully shielded so as to make the light source invisible unless directly underneath the fixture, with no uplight beyond the fixture's horizontal plane.
3. Light poles and building-mounted fixtures shall not exceed 20 feet in height, unless the Planning Commission finds that a greater pole height would result in fewer pole structures and would not create intrusive light spill onto adjacent properties.
4. Lighting systems for non-residential uses shall be reduced in lighting by 50% or turned off at 10:00 PM or at close of the establishment, whichever is later, until dawn or the start of the next business day. The Planning Commission may modify this requirement according to the needs of the specific use. Emergency security sensor lighting is exempt from this requirement.

B. *Nonresidential uses abutting transitional and residentially zoned lots.* Except as otherwise provided in this zoning ordinance, all premises used for business, commercial or industrial purposes shall be screened from abutting residential districts. Screening shall be any of the following and shall apply to side yard and rear yards:

1. A natural buffer ten (10) feet wide measured at the property line and planted with evergreens or shrubbery which maintains their density and screening effect

- throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district.
2. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
  3. For side yard screening, no such wall or fence shall terminate closer than twenty (20) feet from any adjoining street right-of-way (or rear alley into which a lot has vehicular access/egress), in order to provide safe visual sight distances.
- C. *Traffic visibility and corner lot screening.* In all districts, the frontage for corner lots shall follow the same limitations as provided for residential front yard fencing. In addition, no fence, structure or planting over thirty (30) inches in height above the curb line except deciduous trees shall be erected or maintained within twenty (20) feet of intersecting street right-of-way lines so as to interfere with traffic visibility across the corner.
- D. *Barbed wire use limited.* Barbed wire fences are prohibited in all zoning districts. However, barbed wire strands may be used to enclose storage areas or other similar industrial and commercial uses. The strands shall be restricted to the upper most portion of the fence and shall not extend lower than a height of six (6) feet from the nearest ground level.
- E. *Electric fence use limited.* It shall be unlawful to install, construct or maintain an electric fence upon any lot less than two (2) acres in area, or located within a platted subdivision. A warning sign two (2) square feet in size shall be posted for electrified fences.

### **1616 Dwellings**

The requirements of this section shall apply to all dwellings located outside of a manufactured housing community. All structures used or proposed to be used as a dwelling as defined herein, shall comply with this section, minimum floor area requirements of this Ordinance, and other applicable standards of the State of Michigan and United States Department of Housing and Urban Development.

- A. A dwelling located within the basement of a building, structure or dwelling is prohibited.
- B. A dwelling shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code enforced by the City.
- C. A new dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, as determined by the Zoning Administrator (or Historic District Commission if applicable) upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the zoning board of appeals. Any determination of compatibility shall be based upon the standards set forth in this



section, as well as the character, design and appearance of residential dwellings located outside of manufactured home parks located within five hundred (500) feet of the subject dwelling.

- D. The minimum width of a single-family dwelling unit shall be twenty (20) feet for at least fifty (50) percent of its length, measured between the exterior part of the walls having the greatest length.
- E. Floor to ceiling height shall be a minimum of 7½ feet.
- F. The wheels, pulling mechanism, skirt, and tongue of any manufactured home shall be removed prior to placement on a foundation.
- G. All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential or more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two (2) points of ingress and egress.
- H. The pitch of the main roof of the dwelling unit shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run, with a roof overhang of not less than twelve (12) inches on all sides.
- I. New materials shall be used for all new home construction.

# **Article XVII**

## **Standards for Specific Uses**

### **1700 Supplemental use regulations**

In addition to the more general regulations set forth elsewhere in this ordinance, the following are specific regulations and design standards for uses listed in said article, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community.

### **1701 Reserved**

### **1702 Nonconformities**

#### **1702.01 NONCONFORMING STRUCTURES**

- A. Lawful nonconforming structures in existence at the time of passage of this ordinance or amendments thereof, may be continued.
- B. Structures which become nonconforming as a result of a zoning reclassification may be continued.
- C. A nonconforming structure that is abandoned for a period of not less than one (1) year may not be reused until it is brought in to conformity with the regulations of this ordinance.
- D. Except for structures within a Flood Hazard Area (see F. below), a nonconforming structure that is damaged or destroyed by fire, wind, Act of God or by public enemy may be repaired or reconstructed so long as:
  - 1. It is reconstructed or repaired on the same footprint.
  - 2. That it is returned to substantially the same design and appearance.
  - 3. That its nonconformance is not increased.
  - 4. That a building permit be obtained and substantial work be in progress prior to the one (1) year anniversary date of the damage and that said construction progress continue on an on-going basis until completion.
- E. A nonconforming structure shall not be extended, added to or enlarged unless such extension, addition or alteration is intended to bring said structure into conformity with the provisions of this ordinance.
- F. A nonconforming structure located within a mapped Flood Hazard Area may only be repaired so long as the cost of such repair does not exceed 50% of the structural value of the building, without being brought up to current building code standards for

structures within a flood plan. This sub-section refers to requirements of the state construction code and is not appealable to the Zoning Board of Appeals.

**1702.02 NONCONFORMING LOTS**

A legally existing lot of record that becomes nonconforming by reclassification of its zoning or by other regulations imposed by the adoption of this ordinance may have a structure erected upon it so long as:

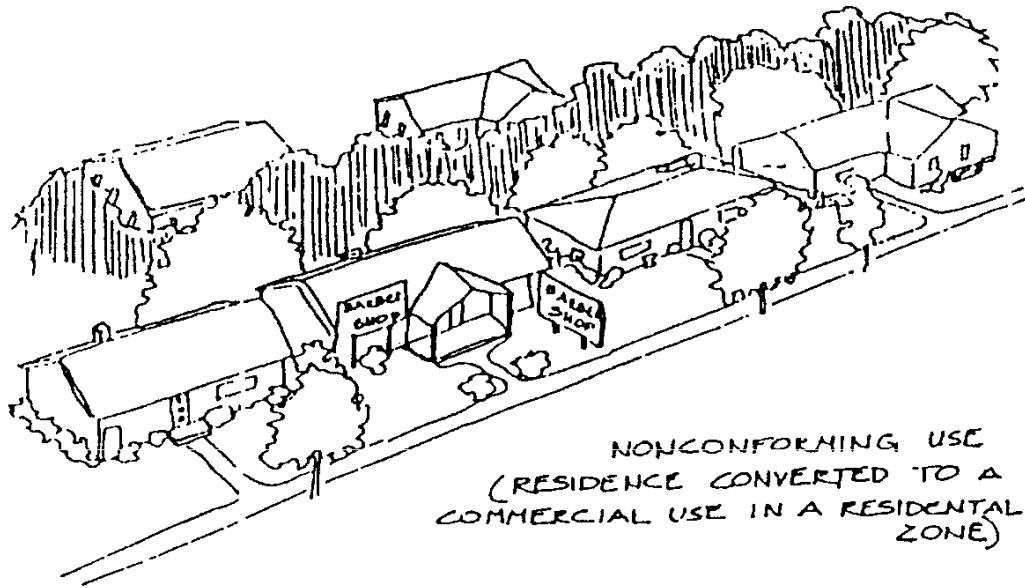
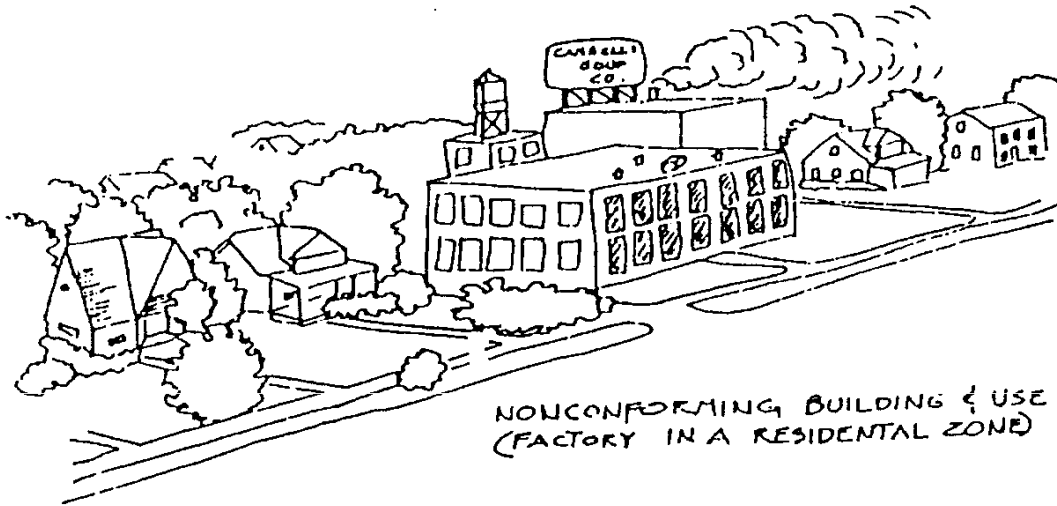
- A. The owner certifies in writing to the city that he or she does not own or have an interest in any adjacent open lot.
- B. The lot is undeveloped.
- C. That all other yard requirements shall be met.
- D. That all other regulations of the zoning district shall be met except those that constitute the nonconformity.

**1702.03 NONCONFORMING USES**

A legally existing use that becomes nonconforming as a result of the adoption of this ordinance or by a reclassification of its zoning district may continue:

- A. So long as the use is not enlarged, expanded or otherwise increased.
- B. So long as the use is not changed or altered.
- C. If the structure containing the nonconforming use is damaged or destroyed but repaired or reconstructed as provided for in subsection 1801.01, D. above.
- D. Reserved.
- E. If a nonconforming use is abandoned for more than two (2) years then such use shall not be re-established unless the Zoning Board of Appeals determines that two years is too restrictive given the particular situation of the property or if the ZBA determines that there is no other reasonable use for the property and continuation will not prevent neighboring property owners from reasonable use of their properties.
- F. If a nonconforming use is converted to either: a conforming use or a more conforming use then reversion to the previous nonconforming use or any other nonconforming use shall be prohibited.

# Illustration #7 - Non-conforming Use



### **1703 Home occupations**

It is the policy of the City of Allegan to encourage entrepreneurship and a reasonable, non-intrusive degree of activity within residential areas during normal business hours. Such activity contributes to the vitality of the community, economy and increases safety within neighborhoods. However, excessive commercial activity, such as traffic, odors, deliveries and signage, within a neighborhood may undermine its residential character. The intent of this section is to establish reasonable standards to regulate home occupation activities that are compatible with the residential character of a neighborhood.

- A. Minor home occupation: A minor-home occupation is a home occupation as defined herein, which would normally not be apparent to neighbors living in the vicinity, such as providing piano lessons to one student at a time. A minor home occupation shall be permitted in any residential district, subject to the following conditions. Minor home occupations:
1. Must be registered with the Zoning Administrator. Registration shall be provided on forms developed by the City and may require a fee as determined by the City Council. Such registration shall document that the minor home occupation shall be conducted in accordance with the terms of this section.
  2. Must be conducted entirely within a residential building or within an accessory structure, and must not be evident in any way from the street or from any neighboring premises.
  3. Must not change the character of the building in which it is conducted and must not constitute, create or increase a nuisance.
  4. Must be carried on only by the inhabitants of the building plus not more than one non-resident.
  5. Except as otherwise provided in subsection (15) below, must employ only mechanical equipment which is similar in power and type used for household purposes and hobbies.
  6. Must not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the home occupation shall not create an electrical interference with the transmission of television, cellular, wireless service, or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.
  7. Must provide sufficient solid waste receptacles sufficiently screened and maintain the property free of debris.
  8. Must not devote more than twenty-five (25) percent of the principal building to such home occupation, and an accessory building shall not be used for a minor home occupation
  9. Must not require parking spaces in excess two (2) spaces, located in the driveway, or if on-street parking is available, on the street directly adjacent to the property.

10. Must not generate vehicle trips in excess of ten (10) trips per day.
11. [reserved]
12. No more than two customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.
13. Visits by customers, clients, students or patients to a dwelling unit in which a home occupation is located shall be limited to between the hours of 7:00 am to 8:00 pm, local time.
14. All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.
15. A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health (the “General Rules”), the Michigan Medical Marihuana Act (the “Act”), and the requirements of this section, shall be allowed as a minor home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
  - a. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  - b. A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, and from any City park and the Allegan County fairgrounds, to ensure community compliance with federal “Drug-Free School Zone” requirements as such areas are commonly used to impart instruction to children in grades kindergarten through 12.
  - c. Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.
  - d. Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.

- e. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the City Building Official and the City Police Department.
  - f. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
  - g. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 pm to 7:00 am, local time, shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
  - h. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the City Fire Department to ensure compliance with applicable provisions of the fire code.
- B. Major home occupation: A major home occupation shall be a home occupation that cannot meet the requirements above and as defined herein; and shall be subject to the following standards.
- 1. The operator of a proposed major home occupation shall attach an operational plan for the home occupation to the application for zoning approval to the Zoning Administrator. A proposed major home occupation shall require Planning Commission approval. The operational plan shall provide the following information:
    - a. The hours the major home occupation will operate.
    - b. A description of employee parking and workforce staging plans.
    - c. A site plan with lot, building and parking lines and dimensions..
    - d. A description of the shipping and delivery requirements of the major home occupation.
    - e. A description of any material used in the major home occupation which will be stored on the premises.
  - 2. The on site activities associated with the major home occupation shall be fully conducted within the personal residence or accessory buildings of the person engaging in the major home occupation. Such activities shall not exceed 25% of the floor area of the dwelling nor more than 50% of the floor area of any accessory building.

3. The activities of the major home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be bothered by the existence of the major home occupation.
4. In addition to the occupants of the residence and not more than two (2) nonresident employees. A major home occupation may employ other persons, provided their work activities are undertaken at locations other than the location of the major home occupation.
5. The Planning Commission may establish limits on the outdoor storage, size and parking of equipment or vehicles to preserve the residential character of the neighborhood. No outdoor storage of materials or scrap is permitted.
6. Not more than one (1) automobile associated with the major home occupation may be parked on the street at any time. Any other parking shall be on the parcel where the major home occupation is taking place and parking for not more than two (2) automobiles may be constructed in addition to the area of the driveway in existence prior to the establishment of the major home occupation.
7. With the exception of material purchased over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, arts and craft supplies or heating fuel, the major home occupation shall not involve the generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 229.433 et. seq.), or use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910.2 (Dept. of Labor Regulations).
8. Any increase in the nature or activities of a major home occupation shall be regarded as a new major home occupation and shall require a new application and site plan review by the Planning Commission.
9. Failure to fulfill the terms of the approved major home occupation, the site plan, and its attachments, shall be grounds for the Planning Commission to review the major home occupation permit at a public hearing and, the Planning Commission may revoke the major home occupation permit. If a major home occupation permit is revoked any continuation of such use shall be considered a violation of the ordinance and a nuisance per se.

#### **1704 PRIVATE ROADS AND STREETS**

- A. All plats and lots not fronting on a public street must be accessible by a private drive. A private drive or street is required to have a minimum driveway right-of-way of sixty-six (66) feet and must be either owned or established by a driveway easement granted by the adjacent property owners.
- B. The layout of private streets in respect to their location, intersections, cul-de-sacs, etc., shall conform to the Allegan County Road Commission requirements for platted streets.



- C. The construction of the roadway shall conform to the Allegan County Road Commission standards for a local road.
- D. Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes and grades shall be determined using the County Road commission storm run-off calculations formula. Materials for culverts shall also conform to their requirements.
- F. Vertical street alignments, street grades, horizontal curves, curb openings at intersection streets, etc., shall conform to the County Road commission standards for platted streets.
- G. Maintenance and repair of private streets shall be the responsibility of the owner or people to whom the easement is intended and not the responsibility of the City of Allegan.

### **1705 PRIVATE SWIMMING POOLS**

The provisions of this section shall apply to any basin or other structure for the holding of water for use by the possessor, his family or guests, for swimming, diving and other aquatic sports and recreation. Private swimming pools, which contain 24 inches (610 mm) or more of water in depth at any point, are permitted in all residential districts provided all of the following regulations are complied with. Any plastic, canvas, or rubber pool temporarily erected, which is smaller than the above requirements, shall not apply.

- A. The pool shall be equipped with a filtration, circulation, clarification and chlorination system adequate to maintain the water in a clean and healthful condition in accordance with the health requirements of the city.
- B. The discharge pipe leading from any private swimming pool shall not exceed two (2) inches in diameter, and the discharge pipe of all such pools which may hereafter be constructed shall be composed of galvanized iron, or such other standard and durable material as may be approved by the city engineer. No private swimming pool shall be wholly or partially emptied in any manner that will cause water to flow upon the premises of another and no private swimming pool shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the pool is located. No private swimming pool shall be wholly or partially emptied into any sanitary system.
- C. No public water shall be used in connection with the operation of any private swimming pool during any time when restrictions are imposed upon the use of public water.
- D. Every private swimming pool shall have an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, shall be not less than four feet (1219 mm) above the underlying ground. All gates shall be self-closing and self-latching with latches placed four feet (1219 mm) above the underlying ground and otherwise made inaccessible from the outside to small children. The fence or gate shall be so designed,

constructed, and maintained as to prevent access to the pool at any time except when the pool is in use under the supervision of the possessor of the pool or by his permission. A natural barrier shall be an acceptable enclosure so long as the degree of protection afforded by the barrier is not less than the protection afforded by the enclosure, gate and latch described herein. This shall be determined by the enforcement officer.

- E. The swimming pool shall not be closer than fifteen (15) feet to any side or rear lot line of the premises, provided, on corner lots no part of any pool shall be constructed within the front yard of either street.
- F. No artificial lights above the surface of the water shall be used or maintained in connection with a private swimming pool, unless they are shielded to limit light projection onto the premises on which the pool is located.

### **1706 Industrial performance standards**

It shall be unlawful to conduct or permit any activity or operation or use of land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activities.

- A. *Sound.* The emission of measurable noise from the premises shall not exceed sixty-five (65) decibels as measured at the boundary property lines, except that where normal street traffic noises exceed such level, the measurable noise emanating from the premises may equal but not exceed such traffic noise. Within industrial districts, sound levels not exceeding seventy (70) decibels may be permitted. In addition, objectionable sounds of any intermittent nature, or characterized by high frequencies even if falling below the aforementioned decibel reading shall be controlled so as not to create a nuisance or hazard to adjacent properties. Above decibel rates refer to the commonly called A-Scale.
- B. *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of three thousandths (0.003) of one inch measured at any lot line of its source.
- C. *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- D. *Toxic gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- E. *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct

view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

- F. *Light.* All lighting shall be arranged to reflect light away from adjoining residential zones or uses,
- G. *Radio-active materials.* Radio-active materials shall not be emitted so as to be unsafe to human health or life.
- H. *Electromagnetic radiation.* The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and dissemination of electromagnetic radiation must be followed and are hereby made a part of this ordinance.
- I. *Drifted and blown material.* The drifting or airborne transmission beyond the lot line of soot, particles, or debris from any stockpile shall be unlawful and may be summarily caused to be abated.
- J. *Smoke, dust, dirt, and fly ash.* It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than three (3) minutes in any sixty (60) minutes which is:
  - 1. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines and which is hereby made a part of this ordinance. The Umbrascopes readings of smoke densities, however, may be used when correlated with the Ringelmann Chart; and
  - 2. More than forty (40) percent opacity which obscures an observer's view to a degree equal to or greater than the smoke described in (1) above, except when the emission consists of only water vapor.

The emission of particulates shall not exceed two-tenths (0.20) grains per cubic foot of the carrying medium at a temperature of five hundred (500) degrees Fahrenheit.
- K. *Liquid wastes.* No discharge shall be permitted at any point into any private sewage disposal system, or street, or into the ground of any materials in such a way or of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in accord with water quality standards of the Michigan Water Resources Commission, adopted by Michigan State Legislature and administered by the Michigan Department of Natural Resources; and with the standards of such other state commissions having jurisdiction thereof.
- L. *Solid wastes.* No on-site burial of solid wastes shall be permitted. Accumulation of recyclable material is possible, provided that the material is stored and screened in a non-nuisance manner, not detrimental to the public health, and is in accordance with the above provisions. Recycling must take place within sixty (60) days after storage or stock piling. Off-site disposal shall be made at a sanitary landfill or solid waste disposal site licensed by the State of Michigan.

## **1707 Design standards and conditions for specified uses**

This section sets forth regulations that apply generally in all Zoning Districts to all permitted uses and special uses listed.

### **1707.01 PLANNING COMMISSION MODIFICATION OF CONDITIONS:**

A. Modification of Conditions: Any requirement of this Section may be waived or modified by the City Council upon a recommendation by the Planning Commission, provided that the Planning Commission identifies characteristics of the site or site vicinity that would make the specific requirement(s) unnecessary or ineffective, or where it would impair general public safety.

### **1707.02 Adult Foster Care (7 or more clients)**

- A. Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
- B. The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.

### **1707.03 AIRPORTS, AIRCRAFT LANDING FIELDS (PUBLIC OR COMMERCIAL).**

- A. These regulations shall not apply to private air strips which are prohibited.
- B. Plans shall be approved by the Federal Aviation Agency and the Michigan Department of Aeronautics prior to submittal to the city for review or approval.
- C. The lot shall be so located as to abut a major thoroughfare and to provide public access and egress to and from said lot from said thoroughfare.

### **1707.04 BED AND BREAKFAST**

- A. Because many older, single-family homes are larger and represent sizeable maintenance and energy costs for a single family, it is feared that restriction to only single-family use may foster inadequate maintenance or even abandonment. The possible consequences may be a general appearance of blight which, if allowed to proceed in a downward trend, could erode the social stability of a neighborhood. Based upon the above, some areas are regarded as conducive for limited use for bed and breakfast purposes; but only when certain conditions as may be required by the planning commission in order to preserve the character, as well as health, safety and welfare of the neighborhood are met. A residence must contain a minimum of two thousand four hundred (2,400) square feet of living area to be eligible for conversion to a bed and breakfast.
- B. A residential structure shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this amendment [ordinance] and adequate living space must be preserved for manager or owner's

quarters. A common room for guest relaxation is required in these facilities. Unless owner occupied, the manager must reside on and have more than a nominal equity interest in the premises.

- C. Off street parking for one (1) vehicle for each bedroom to be rented must be available in addition to requirements for residential family vehicles.
- D. Bathrooms must be furnished for guestrooms - One (1) bathroom not to serve over four (4) guestrooms.
- E. No separate cooking facilities are required for bed and breakfast operation if continental breakfast is served.
- F. One (1) sign, in residential areas shall be permitted. Size, location and design to be authorized by planning commission.
- G. Inspection and approval by building official are required prior to occupancy of bed and breakfast. Health department approval is required if other than continental breakfast is planned. Thereafter, the building official shall conduct an annual inspection for compliance with city ordinances.
- H. Bed and breakfast shall be limited to short term occupancy not to exceed thirty (30) continuous days.
- I. A residence must contain a minimum of two thousand four hundred (2,400) square feet of livable floor space to be converted into a bed and breakfast.

#### **1707.05 BOARDING, LODGING OR ROOMING HOUSE**

- A. No separate cooking facilities shall be allowed in guestrooms.
- B. Lavatories and bathing facilities shall be provided for guests at the facility at a ratio of not less than one (1) bathroom per two (2) guest bedrooms.
- C. The permit holder shall secure and maintain all required state and local permits.
- D. The establishment shall have at least two (2) exits to the outdoors.
- E. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
- F. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
- G. The use shall not alter the residential character of the building or structure.

**1707.06 CELL, RADIO, TELEVISION, WIND ENERGY TOWERS, AND SOLAR PANELS (COMMERCIAL)**

- A. These uses may be located as permitted in Section 402.01.
- B. The lot shall be so located that at least one (1) property line abuts a major thoroughfare of not less than one hundred and twenty (120) feet of right-of-way and the ingress and egress shall be directly upon said thoroughfare.
- C. The setbacks for each tower or structure from adjacent rights-of-way and/or property lines shall be not less than one and one-half (1.1) times the height of each tower or structure above the ground.
- D. Unless specifically waived by the planning commission, an open air fence between four (4) and six (6) feet in height shall be constructed on the boundary property lines.
- E. For lots within a historic district, such structures shall not be placed within any street front yard, nor shall they be visible from the street unless the applicant can demonstrate both a need for such structure and that all alternatives have been exhausted.

**1707.07 Cemetery**

- A. No cemetery shall be established unless the water table is demonstrated to consistently exceed 6 feet below grade. Proof shall consist of a map prepared by a professional hydrologist or hydrogeologist containing the person's professional seal.
- B. The minimum parcel size shall be 5 acres.
- C. A 10-foot wide buffer containing screening plant materials is required adjacent to all exterior lot lines adjacent to residential uses.
- D. All facilities for ground burial areas shall be designed and constructed in accordance with requirements of the Allegan County Health Department and the State of Michigan.

**1707.08 "RESERVED"**

**1707.09 DAY CARE, COMMERCIAL; AND DAY CARE, GROUP (7-12 CLIENTS)**

- A. All required state and local licensing shall be maintained at all times.
- B. All outdoor areas used for care and play area shall be located in the rear or side yards only and shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
- C. Such facilities shall be located at least fifteen hundred (1,500) feet from any one of the following:
  - 1. A licensed or pre-existing operating group or commercial day-care home.
  - 2. An adult foster care facility.

3. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.
  4. A community correction center, resident home, halfway house, or similar facilities under jurisdiction of the County Sheriff or the Department of Corrections.
- D. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- E. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.

**1707.10 Events Facility**

- A. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
- B. Main buildings shall be set back a minimum of 100 feet from any residential district or use.
- C. For uses exceeding a seating capacity of 250 persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations, capacity and access on abutting and nearby streets which are likely to provide access to the site.
- D. Access driveways shall be located no less than 50 feet from the nearest part Of the intersection of any street or any other driveway.

**1707.11 Funeral Home**

- A. Minimum lot area shall be **0.4 acre** with a minimum lot width of 130 feet.
- B. A well designed and landscaped off-street vehicle assembly area shall be provided to be used for funeral procession activity.
- C. A caretaker’s residence may be provided within the principal building.

**1707.12 Heavy Industrial – Natural Resource Extraction**

The state legislature changed the zoning act to allow gravel mining in any district.

- A. No soil, sand, gravel, or other material shall be removed from any land within the city without special use approval except for the following situations:
  1. When the earth removal is incidental to an operation for which a building permit has been issued.
  2. When the earth removal involves normal landscaping, driveway installation/repairs, or other minor projects.
  3. When the earth removal will not alter drainage patterns or cause drainage impacts to adjacent properties.
  4. When the earth removal involves less than 100 cubic yards.

5. When the earth removal is for the purpose of constructing a swimming pool.
  6. When the earth removal will not be in violation of Part 31 - Soil Erosion & Sedimentation Control - of Michigan Public Act 451 of 1994
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- B. No machinery shall be erected or maintained within 50 feet of any street right-of-way line or of any property line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or any property line. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment or limits of excavation where the site is located within 200 feet on any residential zoning district.
  - C. Where determined by the Planning Commission to be a public hazard, all uses shall be enclosed by a chain-link fence 6 feet or more in height for the entire periphery of the property. Fences shall be adequate to prevent trespass, and shall be placed no closer than 50 feet to the top or bottom of any slope.
  - D. No slope shall exceed an angle from the horizontal of 45 degrees.
  - E. The Planning Commission shall recommend routes for truck movements to and from the site in order to minimize wear on public streets and to prevent damage to properties in the community. Access roads within the area of operations shall be provided with a dust-free surface and the entry road to the site shall be hard surface for a distance established by the Planning Commission to minimize dust, mud, and debris carried to the public street.
  - F. Proper measures, as determined by the Planning Commission, shall be taken to minimize noise and dust nuisance. Such measures may include limitations on the stockpiling of excavated material on the site.
  - G. When excavation and removal operations or either of them are completed, the excavated areas shall be graded to that no gradient shall be steeper than a slope of 3:1 (horizontal-vertical). A layer of arable topsoil, shall be spread over the excavated area to a minimum depth of 4 inches in accordance with the approved surface reclamation plan. The area shall be seeded with perennial rye grass and maintained until the area is stabilized.
  - H. The Planning Commission may require an environmental impact statement, engineering data, or other supporting documentation if the Planning Commission determines that the extraction may have adverse impacts on the community, and/or the natural environment.



### **1707.13 Heavy Industrial – Manufacturing Uses Involving Hazardous Chemicals or Hazardous Materials .**

Hazardous chemical and/or materials are defined as those chemicals and materials listed by the Michigan Department of Environmental Quality on

- A. The minimum lot area shall be **2.5 acres**.
- B. The lot shall be located to that at least one side abuts an arterial street and all access shall be from such arterial street.
- C. All buildings and storage facilities shall setback at least 300 feet from any residential zoning district or residential use.
- D. Proper containment facilities shall be constructed to ensure that accidental spills or ruptures are contained on site and will not cause contamination of any water source. To this end a copy of a state approved Pollution Prevention Plan shall be filed with the city prior to final site plan approval.

### **1707.14 HEAVY INDUSTRIAL: WASTE**

For this use, the following more restrictive provisions shall take precedent above all other provisions which may relate to setbacks, screening, etc. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less restrictive than those in applicable state statutes, the state requirements shall prevail.

- A. The site shall be a minimum of five (5) acres in size.
- B. There shall be a required yard setback of at least one hundred (100) feet from any public street and any lot line for any building or storage area. The front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored or accumulated in any required yard area.
- C. A solid fence or wall at least eight (8) feet in height shall be provided along the setback lines of the entire site in order to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
- D. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
- E. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
- F. Wherever a side or rear lot line of such use abuts residential use or a residential zoning district, the required yard shall be doubled and shall contain plant materials, grass, and structural screens to effectively minimize the appearance of the installation.

- G. The owner must demonstrate that procedures and systems shall be used in the day-to-day conduct of this business that will protect the land from any significant environmental damage.

**1707.15 Hospice, or Convalescent or Nursing Homes**

- A. Minimum lot area shall be one acre.
- B. Maximum structure floor area shall not exceed 6,000 square feet per acre.
- C. Ingress and egress for off-street parking facilities shall be directly to/from a paved street.
- D. Minimum main and accessory building setback shall be 50 feet from a street right-of-way line, and 30 feet from any side or rear lot line.

**1707.16 HOSPITALS**

- A. Minimum lot area shall be ten (10) acres.
- B. The lot location shall be such that at least one (1) property line abuts a major thoroughfare. The ingress and egress for off-street parking facilities for guests and patients shall be directly from said major thoroughfare.
- C. Minimum main and accessory building setback shall be one hundred (100) feet from any property line.
- D. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or by a masonry wall of six (6) feet or more in height.
- E. No power plant or laundry shall be located nearer than three hundred (300) feet to any adjacent residential use.

**1707.17 HOTEL, MOTEL, TRAVEL LODGE**

- A. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. No more than two (2) driveway openings from a major thoroughfare shall be permitted.
- B. Where the front yard is used to provide access, a twenty-five (25) foot wide greenbelt shall be provided within the front yard, except for driveway openings.
- C. Each unit of commercial occupancy shall contain a minimum of two hundred and fifty (250) square feet of gross floor area.
- D. Where adjacent to a residential district, refer to Section 1615 for lighting and screening requirements.
- E. No kitchen or cooking facilities are to be provided without the approval by the planning commission with the exception of units for use of the manager and/or caretaker.

### **1707.18 JUNK YARD**

- A. The Planning Commission may establish hours of operation for junk yards to protect the character of the land uses in the vicinity.
- B. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
- C. Dismantled, wrecked, or immobile vehicles, or other junk stored shall not be kept outdoors unless completely screened from any adjoining parcel or right-of-way.
- D. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
- E. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with Section 1705.09 hereof, and any applicable State or Federal requirements.
- F. All materials stored on site shall be located in the side or rear yards.
- G. No portion of the storage area shall be located within two hundred (200) feet of any residential district or residential lot line.
- H. All materials shall be screened with an eight (8) foot tall opaque fence.
- I. Stored materials shall not be stacked higher than eight (8) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
- J. A management office shall be provided on site. A residence may be permitted for security personnel or an on-site operator.
- K. The minimum size for all junk yard facilities shall be two (2) acres, maximum lot size shall be eight (8) acres.

### **1707.19 LAUNDRY**

- A. All storage tanks or other facilities used to store hazardous, toxic, odorous, explosive or flammable substances shall be equipped with appropriate containment structures or equipment; to prevent any migration of such substances into the groundwater or surface waters of the City; and to prevent said substances from being perceptible outside such containment.
- B. The Planning Commission reserves the right to require buffering, screening, setbacks and other elements that are greater than those otherwise required by this ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare.
- C. The applicant shall demonstrate and disclose the following:
  - 1. Potential environmental impacts on air, surface water, ground water, soils, and natural features. These potential impacts shall be minimized or fully mitigated.

2. Potential impacts on the health of residents of the City of Allegan and surrounding communities and on plant and wildlife communities in the vicinity. The Planning Commission shall not approve the proposed laundry use if potential impacts are significant.
3. The potential chemical constituents of all emissions to the air, groundwater and surface waters shall be disclosed. Impacts of these emissions shall be negligible.

#### **1707.20 MULTI-TENANT COMMERCIAL ESTABLISHMENT**

In order to provide for and encourage the development of long-term grouped retail sales and service establishments at logical and sound locations within the city, multi-tenant commercial establishments may be permitted as listed in Section 402.01, Table of Uses.

Multi-tenant commercial establishments having a gross sales floor area of 30,000 square feet or more shall comply with the following requirements.

- A. Applicant shall furnish a statement of economic justification and need for the establishment of a development of the type and size proposed by the applicant; to be submitted in a market analysis report by a recognized, reputable market analyst. The statement and report shall be based upon, but not limited to such factors as the trade area of the community, travel time from various parts thereof to the proposed site, general development trends, economic trends and disposable income characteristics of the area, anticipated sales volume to be captured, impact upon existing competing commercial facilities, and other data and analyses related to the need for and feasible success and stability of the proposed center. This requirement is intended to protect the community and its present area merchants from the untimely and overdevelopment of retail sales and service establishments which could prove highly injurious to the community welfare.
- B. A traffic study and analysis prepared by qualified experts indicating the circulation impact of the proposed development on adjacent streets and roads shall accompany the required site plan.
- C. Interior circulation and parking layout shall be shown on the site plan, along with the locations of traffic safety signs and accessory lighting structures.
- D. Architectural profiles of the development showing ground level perspectives, scale and massing from all road frontages shall be submitted.
- E. Proposed site shall derive access from a major thoroughfare only.
- F. Maximum lot coverage upon lot shall not exceed seventy (70) percent, including accessory uses and structures (off-street parking, etc.).
- G. The ratio of total floor area to lot area shall not exceed point three zero (0.30).

**1707.21 NEIGHBORHOOD ENTERTAINMENT, GENERAL ENTERTAINMENT**

- A. Driveway openings to the site shall be located at least seventy-five (75) feet from any intersection as measured from the intersecting street right-of-way lines to the edge of said driveway.
- B. The main and accessory buildings shall be located a minimum of one hundred (100) feet from any residential use.

**1707.22 OUTDOOR SALES LOT**

- A. When a permanent building is not located on the site, one temporary building less than 1,500 square feet is permitted but must be located adjacent to the rear setback line, a minimum of forty (40) feet from the front setback line.
- B. One (1) directly adjacent parcel may be utilized for additional display, storage or parking with no required building, provided it meets the following requirements:
  - 1. The additional parcel is not located on a corner lot.
  - 2. Only one curb cut per right-of-way frontage is permitted.
  - 3. Landscape planting as deemed appropriate and required by the Planning Commission shall be provided.
  - 4. The adjacent parcel is no greater than 50% larger than the parcel housing the principle structure.
  - 5. Maximum impervious site coverage of 70% permitted; an additional 20% may be Semi-Pervious.
  - 6. No additional signage is permitted associated with this accessory Lot.
- C. An Outdoor Sales Lot and associated adjacent parcel shall not be located adjacent to another Outdoor Sales Lot.
- D. Automobile and truck sales; automobile, truck and trailer rental; boat and recreational sales and rental; and manufactured home dealerships shall comply specifically with the following standards:
  - 1. *General conditions.*
    - a. All permanent storage of material, merchandise and equipment other than liquid fuel and automobiles for sale shall be within a building, except as otherwise permitted in this section.
    - b. Accessory buildings may be permitted provided they are in keeping with the general character of the main building as determined by the Planning Commission.
    - c. All lubrication, repair, and servicing equipment shall be within the building.
    - d. All repair work shall be done within the building.

- e. No floor drains in oil change area shall be connected to the sanitary sewer system.
  - f. All floor drains in repair, service or wash areas shall be equipped with separator systems that comply with federal and state regulations.
2. *Design requirements.*
- a. *Relation to certain land uses.* No buildings associated with automobile and truck sales; automobile, truck and trailer rental; boat and recreational sales and rental; and manufactured home dealerships shall be erected within twenty-five (25) feet of any residential zoning district or residentially-used lot; and not within three hundred (300) feet of any of the following uses or structures: a public or private school; a church or other place of worship; a hospital; a public library; public art museum or other public building; a theatre or other building or structure used or intended to be used for motion picture, theatrical or operatic productions, or for public entertainment; a public playground or civil center; or a fire house or fire station.
  - b. *Curb cuts.* Curb cuts shall be between twenty-four (24) and thirty (30) feet at the property line. (Driveway openings.)
  - c. *Lighting and screening (fences).* All lighting and screening shall comply with the requirements of Section 1615. Provided, however, where the nature of the business requires the storage of vehicles for repair and parts for more than ninety (90) days, then the following screening requirements shall apply. Storage areas for said vehicles shall be limited to side yards and rear yards and shall have an artificial wall or fence of sufficient density and compactness to screen the storage area from view of occupants of adjoining premises, and maintained in a neat and attractive manner, commensurate with the adjoining premises. The fenced in area shall not exceed fifty (50) percent of the side or rear yard available for such storage with a maximum storage area not to exceed two hundred (200) percent of the building area. Where the nature of the business is limited to work in process on vehicles which are repaired and made operable within ninety (90) days, then the only screening required shall be as set forth in Section 1615.
  - d. *Minimum frontage and area.* The minimum acceptable frontage shall be one hundred (100) feet and the average lot depth shall be at least one hundred (100) feet.
  - e. *Minimum setback.* The building shall be set back a minimum of forty (40) feet from the street right-of-way, and not less than twenty-five (25) feet from any side or rear lot line adjoining a residential district or use.
  - f. *Driveway location.* Driveways shall be a minimum of twenty (20) feet from street intersections; said distance to be measured from the point of intersection of

intersecting street right-of-ways. No driveway shall be located nearer than ten (10) feet to any abutting properties.

- g. *Pump islands.* Pump islands shall be located a minimum of twenty-five (25) feet from any public right-of-way and twenty-five (25) feet from any side or rear lot line.
- h. *Driveways, service areas, and parking areas.* [Driveways, service areas and parking areas] shall be provided with pavement having an asphaltic or cement binder so as to provide a permanent, durable, and dustless surface and shall be so graded and drained as to dispose of all surface water accumulated within the area.
- i. *Signs.* All signs shall conform to the requirements of the Allegan City Sign Ordinance [Code of Ordinances Chapter 23].

### **1707.23 Parking Lot**

- A. The lot area used for parking shall be hard-surfaced (asphalt or concrete) and the grading and drainage plan shall be reviewed by the city engineer.
- B. Ingress & egress shall be provided, where possible, from two intersecting streets and shall be at least 50 feet from an intersection.
- C. All lighting shall be shielded from adjacent residential areas.
- D. Parking areas shall have front, side and rear setbacks of 10 feet and all such setback areas shall be landscaped with trees and shrubs.
- E. Parking and maneuvering areas shall be fenced and screened from the view of any adjacent residential zoned property. A decorative wall or landscape hedge at least 5 feet high may be substituted for a fence.

### **1707.24 PLANNED INDUSTRIAL PARKS**

In order to facilitate the growth of employment, to ensure a viable tax base for the city and to prevent the conflicts of incompatible industrial uses, planned industrial parks are regulated in accordance with this section.

- A. In addition to a required site plan, all proposed planned industrial parks (public and private) shall first have an overall plan detailing the development concept, the spatial arrangement of site and structures and phased implementation and development, thereof.
- B. Exterior walls of adjacent buildings shall be located no closer than one point five (1.5) times the height of the higher building wall, but in no case closer than fifty (50) feet.
- C. The regulations of Section 1706, Industrial Performance Standards shall be observed.

- D. Maximum lot coverage shall not exceed fifty (50) percent, including accessory buildings and structures.
- E. The ratio of total floor area to lot area shall not exceed point five zero (0.50).

**1707.25 PRIVATE GATHERING FACILITY**

- A. Because many single-family homes, especially older and larger homes, represent sizeable maintenance and energy costs for a single family, it is feared that restriction to only single-family use may foster inadequate maintenance or even abandonment. The possible consequences may be a general appearance of blight which, if allowed to proceed in a downward trend, could erode the social stability in a neighborhood. Based upon the above, some areas are regarded as conducive for private gathering facility gatherings; but only when certain conditions as may be required by the planning commission in order to preserve the character, as well as health, safety and welfare of the neighborhood are met.
- B. The use of a dwelling unit as a private gathering facility shall be clearly incidental and subordinate to its use for a residence or a bed and breakfast facility. Unless owner occupied, the manager must reside on and have more than a nominal equity interest in the premises.
- C. The application for a special use permit must include: (a) a floor plan drawing of the entire building showing what areas are to be utilized as the gathering places and the square footage of each, (b) a written determination from the city fire chief indicating the maximum number of persons allowed in each gathering area of the proposed gathering facility.
- D. The application must include a diagram indicating space available for on-site parking and information as to available off-site parking showing that there is adequate parking available for the maximum number of allowable persons expected to utilize the facility. The private gathering facility will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- E. Catering of food shall be permitted for private gatherings.
- F. Inspection and approval by the building official are required prior to beginning use as a private gathering facility. Health Department approval is required if other than catering is planned. Thereafter, the building official shall conduct an annual inspection to determine that the facility is complying with city ordinances.
- G. Business hours shall not be earlier than 8 a.m. daily or no later than 10 p.m. Sunday through Thursday and 12 p.m. Friday and Saturday.
- H. Only one (1) sign in residential areas shall be permitted. Size, location and design are to be as authorized by the planning commission.



- I. There shall be no external alteration of the appearance of the property, the dwelling, or accessory building in which business is conducted which would reflect the existence of said business.
- J. This special use is required to be renewed annually. Abuses of the above controls, standards and requirements, can justify non-renewal. Once a special use is granted, once a year the business owner or his agent must appear before the planning commission for renewal. The planning commission shall apply the same controls, standards and requirements, of the zoning ordinance that are used for consideration of an original application. There will be no charge for the renewal review. The renewal decision will be made by the planning commission and further city council action is not required.

**1707.26 PROFESSIONAL OFFICE DEVELOPMENTS (TWO (2) OR MORE STRUCTURES)**

A special use permit is required with site plan approval by the planning commission. In order to facilitate innovative and attractive design of office uses, office developments with two (2) or more structures shall be subject to the following requirements:

- A. Exterior walls of adjacent buildings shall be located no closer than one point five (1.5) times the height of the higher building wall, but in no case closer than fifty (50) feet.
- B. Buildings shall be so located and arranged that all structures have access to emergency vehicles.
- C. Maximum lot coverage upon lot shall not exceed sixty (60) percent, including accessory uses and structures (off-street parking, etc.).
- D. The ratio of total floor area to lot area shall not exceed one point zero (1.0).

**1707.27 RELIGIOUS INSTITUTIONS; INCLUDING RECTORIES, PARSONAGES & ETC.**

- A. Minimum lot width shall be one hundred and fifty (150) feet.
- B. Minimum lot area shall be three (3) acres. A religious institution may be permitted on a lot less than three (3) acres, if it can be shown that all parking, setback, and other dimensional and similar requirements of this ordinance can be satisfied on the lot in addition to meeting occupancy limitations of any applicable building, fire or other code administered by the City of Allegan.
- C. For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be provided.
- D. The lot location shall be such that at least one (1) property line abuts a collector street, secondary thoroughfare, or major thoroughfare.

#### **1707.28 SENIOR ASSISTED LIVING FACILITY**

- A. The use shall be established and maintained in accordance with any and all applicable Local, State and Federal laws.
- B. Parking shall comply with the parking requirement for each specific use on the site, however, parking requirements may be reduced if the Planning Commission finds that such requirements may be modified due to varying hours of operation or other factors.
- C. Each individual, private dwelling unit, space or room shall consist of at least four hundred fifty (450) square feet of floor area.
- D. The total number of dwelling units shall not exceed eighteen (18) dwelling units per net usable acre of land.
- E. The owner shall file with the municipality, a covenant reviewed as to form by the City Attorney and approved by the City Council. The owner shall covenant on behalf of himself, his heirs, personal representatives, successors and assigns that occupancy of the development shall be limited to senior citizens, defined herein as those humans over the age of sixty (60). The covenant shall be executed and recorded with the County Register of Deeds, prior to issuance of a building permit.

#### **1707.29 SEXUALLY ORIENTED BUSINESS**

- A. *Intent and purpose.* The purpose and intent of this section of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the City and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics, which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of City residents or visitors. Further, it is necessary to ensure proper placement of such uses to protect those in the City under the age of 18; and therefore, these regulations are intended to restrict sexually oriented businesses to locations where youth are least likely to encounter them accidentally, particularly when walking. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by the Ordinances of the City, or state or federal law. If any portion of this Section, or the definitions pertaining to this Section, is found to be invalid or unconstitutional by a court of competent jurisdiction, the City intends that said portion be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law.

- B. *Regulations and conditions.* Sexually oriented businesses shall be subject to the following standards:
1. A sexually oriented business shall only be permitted as listed in Section 402.01, Table of Uses.
  2. The proposed sexually oriented business shall not be located within 350 feet of any residential zoning district.
  3. The proposed sexually oriented business shall not be located within 350 feet of another sexually oriented business.
  4. The proposed sexually oriented business shall not be located within 700 feet of a park; public or private school or educational facility; adult foster care, commercial day care, day care facility, group day care, parent cooperative preschool, play group, or drop-in center; or place of worship or church.
  5. The distance between a proposed sexually oriented business and the places listed above in subsections (2) through (4), shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is intended to be located to the nearest property line of the places listed in subsections (2) through (4) above.
  6. Entrances to the proposed sexually oriented business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering between 2 and 6 inches in height that states:
    - a. "Persons under the age of 18 are not permitted to enter the premises," and
    - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
  7. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, or any product or service which may be associated with a sexually oriented business shall be displayed so as to be visible from any road right-of-way or a neighboring property.
  8. Hours of operation shall be limited to 8:00 A.M. to 11:00 P.M., Mondays through Saturdays.
  9. Any dumpsters on site shall be enclosed on 4 sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
  10. All signs shall be in accordance with Chapter 23 of the City of Allegan Code of Ordinances; provided, that no sign visible from the parking area, any road right-of-way or a neighboring property shall display or depict any specified anatomical areas or specified sexual activities; and provided further, that no sign or building or any other part or appurtenance of the exterior of the sexually oriented business shall include blinking, flashing or intermittent illumination or moving parts.

11. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
12. As a condition of approval and continued operation of a sexually oriented business, such business shall acquire and comply with all pertinent federal, state and local requirements governing its operation and licensing.
13. Any booth, room, general public area or cubicle available in any sexually oriented business used by patrons for the viewing of any entertainment characterized as showing specified anatomical areas or specified sexual activities shall:
  - a. Be constructed in accord with the Michigan Building Code, as amended.
  - b. Be unobstructed by any door, lock or other entrance and exit control device.
  - c. Have at least one side totally open to an indoor public lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
  - d. Be illuminated by a light bulb of wattage not less than 60 watts.
  - e. Have no holes, windows or openings, other than doorways without windows, in any exterior walls.

#### **1707.30 Shooting & Archery Range in an M1 zoning**

- A. Any shooting range shall be located within a completely enclosed building with end-walls designed to contain high-power ammunitions.
- B. The building shall be designed to be sound-proof to the extent that no sound above 45 dB(A) shall be detectable at the lot line.

#### **1707.31 Trailer & RV Park (temporary/seasonal)**

For the purposes of this sub-section, “seasonal” shall mean temporary, and shall be limited to no more than 8 months in any calendar year.

- A. Minimum parcel area shall be 3 acres. The lot shall have direct vehicle access to a public street. The term “parcel” shall mean a campground or travel trailer park.
- B. Public stations containing adequate water outlet, waster container, toilet and shower facilities shall be provided.
- C. No commercial enterprise shall be permitted to operate on the parcel, except that a convenience shopping facility may be provided on a lot containing more that 80 sites. Such convenience store, excluding laundry and similar ancillary uses, shall not exceed a maximum floor area of 1,000 square feet (GFA).
- D. Each camping site shall provide hard-surface, dust-free vehicle parking areas for site occupants and guest parking. Such parking area shall be located within 400 feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).

- E. Each site shall contain a minimum of 1,500 square feet of area. Each site shall be setback at least 75 feet from any public or private street right-of-way line and from any exterior property line.
- F. Each site (except site specifically designated for tent camping only) shall have direct access to a hard-surface, dust-free roadway of at least 24 feet in width for two-way traffic and 12 feet in width for one-way traffic. Parking shall not be allowed on any such roadway.
- G. All sanitary facilities shall be designed and constructed in strict conformance to all applicable state and county health regulations.
- H. The operator or property owner shall obtain a campground license from the state of Michigan and shall keep the entire property in full conformance with such license.

### **1707.32 VEHICLE SERVICE/GAS STATION**

#### *A. General conditions:*

1. All permanent storage of material, merchandise and equipment other than liquid fuel and automobiles for sale shall be within the building.
2. Accessory buildings may be permitted provided they are in keeping with the general character of the main building.
3. All lubrication, repair, and servicing equipment shall be within the building.
4. All repair work shall be done within the building.
5. The storage of automobiles for a period in excess of twenty-four (24) hours, unless the vehicle is enclosed within the building, is prohibited.
6. No operator shall use the premises for the sale of used or new vehicles.
7. No floor drains in oil change area shall be connected to the sanitary sewer system,
8. All interior or exterior drains shall be equipped with separator systems that comply with federal and state regulations.
9. All underground storage tanks shall meet the current requirements of federal and state regulations for underground storage of gasoline station products.

#### *B. Design requirements:*

1. *Relation to certain land uses:* No service station building shall be erected within twenty-five (25) feet of any residential property line; and not within three hundred (300) feet of any of the following uses or structures: a public or private school; a church or other place of worship; a hospital; a public library; public art museum or other public building; a theatre or other building or structure used or intended to be used for motion picture, theatrical or operatic productions, or for public entertainment; a public playground or civic center; or a fire house or fire station.

2. *Curb cuts*: Curb cuts (or driveway openings) shall be between twenty-four (24) and thirty (30) feet at the property line.
  3. *Lighting and screening (fences)*: All lighting and screening shall comply with the requirements of Section 1615. Provided, however, where the nature of the business requires the storage of vehicles for repair and parts for more than ninety (90) days, then the following screening requirements shall apply. Storage areas for said vehicles shall be limited to side yards and rear yards and shall have an artificial wall or fence of sufficient density and compactness to screen the storage area from view of occupants of adjoining premises, and maintained in a neat and attractive manner, commensurate with the adjoining premises. The fenced in area shall not exceed fifty (50) percent of the side or rear yard available for such storage with a maximum storage area not to exceed two hundred (200) percent of the building area. Where the nature of the business is limited to work in process on vehicles which are repaired and made operable within ninety (90) days, then the only screening required shall be as set forth in Section 1615.
  4. *Minimum frontage and area*: The minimum acceptable frontage shall be one hundred (100) feet and the average lot depth shall be at least one hundred (100) feet.
  5. *Minimum setback*: The building shall be set back a minimum of forty (40) feet from the street right-of-way, and not less than twenty-five (25) feet from any side or rear lot line adjoining a residential district or use.
  6. *Driveway location*: Driveways shall be a minimum of twenty (20) feet from street intersections; said distance to be measured from the point of intersection of intersecting street right-of-ways. No driveway shall be located nearer than ten (10) feet to any abutting properties.
  7. *Pump islands*: Pump islands shall be located a minimum of twenty-five (25) feet from any public right-of-way and twenty-five (25) feet from any side or rear lot line.
  8. *Driveways, service areas, and parking areas*: [Driveways, service areas, and parking areas] shall be provided with pavement having an asphaltic or cement binder so as to provide a permanent, durable, and dustless surface and shall be so graded and drained as to dispose of all surface water accumulated within the area.
  9. *Signs*: All signs shall conform to the requirements of the Allegan City Sign Ordinance [Code of Ordinances Chapter 23].
- C. An abandoned or closed automobile service or filling station may be converted to a principal permitted use in the district in which such station is located, provided the following conditions are met:
1. The use shall not be out of architectural harmony with the surrounding neighborhood by reason of its character or quality of development.
  2. All gasoline pumps and signs shall be removed, and underground gasoline storage tanks shall be removed, or if environmental damage will result from such removal,

then said tanks shall be filled with material in conformance with required federal and state regulations and prescribed city and state fire safety provisions.

3. All buildings shall meet all applicable requirements of the city building code for safety and structural condition.
4. There shall be adequate off-street parking provided in accordance with Section 1612, Off-Street Parking and Loading.
5. No outside storage area shall be permitted.
6. The use shall meet all area, height, bulk and placement requirements of the district in which such use is located in accordance with Section 402.03.
7. The use shall comply with all other requirements of the applicable district unless otherwise provided in this ordinance.

### **1707.33 Light Assembly**

Light assembly uses are allowed in the C-1 and C-2 Zoning Districts as Special Land Uses, subject to the provisions of Chapter 1801 as well as the following:

#### **A. General Use Standards:**

1. The use shall occur in an existing building.
2. The total enclosed area of the use shall not exceed fifty (50) percent of the gross floor area of the building in which the activity takes place.
3. If occurring within a street level floor area the light assembly use must occur at least twenty five (25) feet from all public rights of way, or it shall be demonstrated that the use shall not be an intrusion into the pedestrian/shopping continuity of a commercial area and will not create a negative impact on adjacent residential uses.
4. All activities, including storage, shall be conducted entirely within the interior of the building. No outside storage is permitted.
5. The light assembly and associated accessory uses shall not produce any noise, vibrations, odors, or heat that are detectable beyond the property line.
6. The intent of these standards is to maintain the character of the district, and assure visual connectedness and public safety for those within and outside the business.

**B. Plan Review Standards:** The applicant shall concurrently submit a site plan for a light assembly use which shall comply with the requirements of Chapter 1800.

**C. Additional Standards for C-1 Zoning District:** Site plans for a light assembly use located in the C-1 Commercial District shall comply with the following requirements:

1. The exterior design of the building shall be compatible with the character of the Neighborhood Commercial District in which it is located, as perceived from the adjacent public sidewalks and streets.
2. Traditional storefront design, window area, display windows and the building character shall be compatible with neighboring commercial storefronts with no blank facades along the sidewalk exceeding twenty five (25) feet in length. The interior design shall not negate the traditional exterior storefront appearance.
3. The intend of these standards is to maintain the character of the district, and assure visual connectedness and public safety for those within and without the business.



## **Article XVIII Administration**

### **1800 SITE PLAN REVIEW AND APPROVAL**

#### **1800.01 Site Plan Review**

- A. Intent. Site plan review allows the city to review development activity on proposed parcels to ensure that it meets the provisions of this Ordinance.
- B. Applicability. Site plan review is required under the following circumstances:
1. All new development, except:
    - a. Construction of a single family dwelling on a lot.
    - b. Construction of accessory structures in accordance with this Ordinance.
  2. Prior to the physical alteration of an existing structure or building to the extent that the footprint is altered, except for:
    - a. A single family dwelling.
    - b. Expansion involving a stoop or unenclosed porch.
    - c. Minor changes to an existing site plan:
      - 1) Minor change(s) include physical changes to a site that:
        - i. Do not require any increase in the number of parking spaces
        - ii. Do not increase the estimated storm water discharge from the site
        - iii. Do not affect emergency services access to the site
        - iv. Involve the relocation of any surface or subsurface feature by less than 20 feet
        - v. Involve the relocation of essential public utilities or services as required by a public service agency in the interest of public safety, health, welfare or cost.
        - vi. Involve changes in landscaping, buffers or screening that, in the judgment of the zoning administrator continue to accomplish the Planning Commission's purpose in requiring such landscaping, buffers or screening.
      - 2) Minor change includes a change of use that:
        - i. Is an allowed use in the district but is not a Special Use
        - ii. Does not require additional parking

C. Eligible Applicants. The owner of the subject property or the owner's authorized representative may apply for site plan approval. If the proposed site plan requires

approval of a variance, this process must be completed prior to application is made for site plan review.

- D. Application. The Applicant shall submit the following to the Zoning Administrator
1. Application Form and Fee. The application and fee list can be obtained in City Hall.
  2. Site Plan. Twelve (12) copies of the site plan which shall be at a scale of one (1) inch equal to or less than one hundred (100) feet and include the date and north arrow, as well as the following information:
    - a. The names and addresses of the architect, planner, designer or engineer responsible for the preparation of the site plan.
    - b. Dimensioned lot and property lines, including those abutting the subject property and all rights-of-way and easements. Include all streets names.
    - c. The sitting of all existing structures on the subject property and abutting properties.
    - d. The location of all existing and proposed curb cuts, driveways and parking areas with the number of parking and/or loading spaces provided.
    - e. All pedestrian walks, malls and open space for parks and recreation, and provisions to accommodate non-motorized transportation.
    - f. Location of walls, fences and landscaping, including a general plan for the landscaping of the development and the method by which landscaping is to be accomplished and maintained.
    - g. Types of surfacing, such as paving, turfing or gravel to be used at the various locations.
  3. Additional Plans and Information. The Zoning Administrator may also request the applicant to provide the following:
    - a. Grading plan.
    - b. Zoning map.
    - c. Utility plan.
    - d. Stormwater management plan in accordance with sub-part H. below.
    - e. Phased construction plan.
    - f. Traffic circulation plan
    - g. Tree replacement plan.
    - h. Proposed signage.
    - i. Proposed lighting.
    - j. Exterior elevation and/or perspective drawings.

- k. Statement of Intent. Describe the intended use of the proposed development, including public and private uses, the number of new lots per block, the number of new residential units by type, the new commercial or industrial uses by square feet, number of employees and other users.
4. **Fees:** Upon the filing of an application for a zoning approval, special use permit, board of appeals review, variance or rezoning, an administrative fee shall accompany said application. The city council shall determine and set a schedule of fees to be charged. Fees shall be collected prior to processing of any requested approval, permit, variance, appeals, rezoning, etc.
- E. Review Criteria. The site plan application shall be reviewed using the following criteria.
1. The proposed site plan is in accordance with the comprehensive master plan, this Ordinance and other development policies of the city.
  2. The site plan is designed to be consistent with the intent and planning criteria of the Zoning District and will not adversely impact the intent and planning criteria of any adjacent Zoning Districts.
  3. The site is served by essential public facilities, such as vehicular and pedestrian access, open space and services such as emergency services and utilities and these public facilities and services have sufficient capacity to the site.
  4. The site plan is designed with regard to preserving Allegan's unique topography and environment, including areas of steep slope, riverbanks and existing vegetation, in conformance with all other regulations.
- F. Application Process. The following specific application process shall apply to site plan review applications.
1. Submit Application. Applicant shall submit the application, fees and twelve (12) copies of the plans to the Zoning Administrator a minimum of 30 days prior to the date of the desired planning commission meeting.
  2. Distribute Application. The Zoning Administrator shall distribute the application, within seven (7) days of the receipt of the complete application package, to staff, including the fire chief, police chief and engineer, and other applicable authorized agencies.
  3. Plan Review. Comments from staff and authorized agencies on the distributed site plan must be returned to the Zoning Administrator within fourteen (14) days of receipt of the plans for inclusion into the Zoning Administrator's report to the planning commission.
  4. Administrative Review. The Zoning Administrator shall review the plans and the comments received from staff and other review agencies using the standards of this Ordinance. The Zoning Administrator shall complete a report with recommendations for the Planning Commission.

5. Planning Commission Review. The Planning Commission shall review the Zoning Administrator's report and the application using the criteria in subsection E.
    - a. The Planning Commission shall render a decision on the application within ninety (90) days of the submission of the complete application.
    - b. The Planning Commission may extend the ninety (90) day period with the Applicant's consent.
    - c. The Planning Commission shall render a decision to approve or recommend approval, approve or recommend approval with conditions, or disapprove or recommend disapproval.
    - d. If the Planning Commission disapproves or recommends disapproval, the application may be withdrawn; a new application (including a new application form, fees and plan sets) may only be submitted after the recommended changes have been made.
    - e. The findings of the Planning Commission shall be enumerated in the minutes.
    - f. If disapproved, a new application (including a new application form, fees and plan sets) may be submitted after a period of one (1) year from the date the application was initially filed.
  6. Significant Site Plan Changes. Once approved, significant changes that alter the character of the plan, which can include changes to structure location or type or use, must be approved by the planning commission and/or the city council, whichever granted final approval.
  7. Minor Site Plan Changes. The Zoning Administrator may approve incidental or minor changes in the approved site plan provided that they do not affect the character and standard of the site plan.
- G. Enforcement. At least one (1) site inspection by the Zoning Administrator must be held before development is completed. During the development process, if unauthorized changes to the site plan are found, the permit shall be revoked and a revised site plan with the appropriate revisions must be submitted to the planning commission for review.
- H. Storm Water Management Plan Required for On-Site Storm Water Infrastructure
1. All stormwater BMPs (Best Management Practices) shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure.
    - a. Design Guidelines:
      - i. Retention is recommended wherever possible.
      - ii. Detention may be allowed provided it is highly recommended that decentralized, Low Impact Development approaches to storm water management be utilized, such as swales and rain gardens as opposed to large basins. Designs for redevelopment projects shall

maintain the pre-development rate and volume of storm water runoff for all rain events up to the 2-year, 24-hour storm – i.e. within a range of 0.01 to 0.05 cfs/acre. For areas of redevelopment where there is no increase in impervious area, the first 1” of rainwater shall require treatment typically to meet a standard of 80 mg/l Total Suspended Solids in order to remove contaminants from the first flush of runoff.

- b. Stormwater easements and covenants shall be provided by the property owner for access for facility inspections and maintenance. Easements and covenants shall be recorded with Allegan County Drain Commissioner or City of Allegan Department of Public Works prior to the issuance of a permit.
  - c. Final design shall be approved by Allegan County Drain Commissioner or City of Allegan Department of Public Works.
2. All stormwater BMPs (Best Management Practices) shall be maintained according to the measures outlined in the most recent version of *Development Standards for Stormwater Management Systems*, Allegan County Drain Commissioner, as updated, and as approved in the permit.
  3. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Options include
    - a. Property owner
    - b. Homeowner's association, provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements
    - c. Allegan County Drain Commissioner
  4. Maintenance agreements shall specify responsibilities for financing maintenance
  5. **Non-routine maintenance** includes maintenance activities that are expensive but infrequent, such as pond dredging or major repairs to stormwater structures.
    - a. Nonroutine maintenance shall be performed on an as-needed basis based on information gathered during regular inspections.
    - b. If nonroutine maintenance activities are not completed in a timely manner or as specified in the approved plan, City of Allegan Department of Public Works may complete the necessary maintenance at the owner's/operator's expense.
  6. **Inspections**
    - a. The person(s) or organization(s) responsible for maintenance shall inspect stormwater BMPs on a regular basis, as outlined in the approved Plan.
    - b. Authorized representatives of Allegan County Drain Commissioner or City of Allegan Department of Public works may enter at reasonable times to conduct on-site inspections or routine maintenance.

- c. For BMPs maintained by the property owner or homeowner's association, inspection and maintenance reports shall be filed with Allegan County Drain Commissioner or City of Allegan Department of Public Works, as provided for in the plan.
- d. Authorized representatives of Allegan County Drain Commissioner or City of Allegan Department of Public Works may conduct inspections to confirm the information in the reports filed under Section C.

#### **1800.02 Performance bonding for compliance (performance guarantees)**

In authorizing any zoning approval permit, special use permit or variance, the body or official which administers the respective request, as designated by this ordinance, may require that a cash or surety bond be deposited with the city clerk in order to: 1) insure compliance with the requirements, specifications and conditions imposed with the grant of such permit or variance; and 2) to insure the discontinuance of a temporary use by a stipulated time.

#### **1800.03 Return of performance bond**

Upon the satisfactory completion of specific improvements as attested to by the zoning administrator, the city council shall direct the city clerk to return any improvement or performance bond which may pertain to said specific improvement.

#### **1800.04 Withholding and partial withholding of performance bond**

- A. The city council may direct the city clerk not to return all or part of any bond; but to apply said bond or part, thereof, to the project in question when the improvements are not satisfactorily completed.
- B. Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed, the city council shall determine what amount of the bond or bonds are to be returned to the applicant and the amount to be applied to the improvements.

### **1801 SPECIAL USE PROCEDURES**

In order that this ordinance be flexible and reasonable, special uses are provided for in Section 402.01, Table of Uses and require special use permits granted by the city council after said body has received a written recommendation from the city Planning Commission. Conformance to special use standards is required in addition to all other requirements of this ordinance. All such uses are hereby declared to possess characteristics of such unique and distinct form that each specific use shall be considered on an individual case. The granting of a special use permit does not negate the requirements for

any other required permit(s). Notices to effected property owners and advertised public hearings shall be followed as prescribed by state statutes and local ordinances.

#### **1801.01 STANDARDS FOR THE CONSIDERATION OF SPECIAL USES**

The review of a special use shall consider the following:

- A. The general safety, health, and welfare of the community-at-large, this shall include:
  - 1. Accessibility of the property in question to fire and police protection;
  - 2. Traffic conditions creating or adding to a hazardous situation;
  - 3. Transportation design requirements if any, which will be needed to accommodate any traffic impact for the use intended; and
  - 4. Appropriateness of the location, nature and height of the proposed use to the size, type, and kind of buildings uses and structures in the vicinity and adjacent properties, including the safety and convenience of people there from.
- B. Any potential decrease in the market value of adjacent buildings, uses and structures which are permitted by right under current zoning, if the proposed use is granted;
- C. Harmony with the Comprehensive Planning Program of the City of Allegan. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets (giving access to it), parks and drainage systems will be in harmony with the Comprehensive Plan of the City of Allegan and the character of land use which is intended by said city Plan for the area or district in question;
- D. Impact from the applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures upon the appropriate character of development intended for the area as deemed desirable by the City of Allegan Comprehensive Plan;
- E. Any hazards arising from storage and use of flammable fluids; and
- F. That the operations in connection with any special use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, or lights to an extent which is more than would be the operations of any use permitted by right for that district wherein the special use is proposed.

#### **1801.02 CONDITIONAL APPROVAL**

As a condition of granting a special use permit, the City Council may require that certain development precautions and remedies be taken by the applicant in order to satisfy the special use review standards and the site plan review standards set forth in this ordinance; and which essentially are designed to protect the general health, safety and welfare, as well as to promote environmental preservation and nuisance abatement. Site development guidelines are provided in this ordinance. They include, but are not limited to, drainage, soil erosion, planning and design of site, fencing, screening, buffer strips, landscaping, on-

site lighting, signing and off-street parking. Said measures must be incorporated by the applicant onto the site plan and maintained at all times.

### **1801.03 COMPLIANCE WITH STANDARDS**

Compliance with standards for certain uses enumerated in Article XVIII is required.

### **1801.04 SITE PLAN APPROVAL REQUIRED**

Prior to site plan approval, a public hearing by the planning commission is required for all special use permits. Site plans are initially reviewed by Zoning Administrator

### **1801.05 TIME PERMIT IS VALID**

A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than twelve (12) months for any reasons. Initial development must begin in accordance with Section 1802.07.

### **1801.06 EXISTING VIOLATIONS**

No permit shall be issued for a special use for a property where there is an existing violation of this ordinance or an unlawful nonconformity.

### **1801.07 DECISIONS IN WRITING**

It is further provided that in granting or denying a special use permit, the city council shall specify in the written decision the particular reason relied upon and its relation to the proposed use as set forth in Section 1802.06.

### **1801.08 Application procedures for special use permits**

Prior to construction or physical development of a proposed special use, as specified by this ordinance, an application for a required special use permit must be obtained. An application for a special use permit must be made to the zoning administrator. The zoning administrator upon receipt of a complete application shall forward it to the Planning Commission.

### **1801.09 CONTENTS OF APPLICATION**

Among the data to be supplied by the applicant and which shall constitute the application package is 12 copies of a site plan on which the following shall be included:

- A. Name and address of applicant or applicants and owner of record;
- B. Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on a site plan);
- C. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvement;
- D. The proposed number of sleeping rooms, dwelling units, occupants, employees,



- customers, and other users;
- E. The yard, open space and location of parking space (as shown on a site plan);
- F. A required site plan in accordance with 1800.01 D, which must be approved before any granting of a special use permit.
- G. The required application fee as established by City Council.
- H. Note: When a site plan for a special use is recommended for approval to the City Council, the applicant shall submit 5 copies of the final site plan with all changes agreed to or required by the Planning Commission, to the Zoning Administrator.

### **1801.10 GENERAL PROCEDURAL STEPS**

Upon submission of an application for a special use permit:

- A. The zoning administrator:
  - 1. Reviews the application package:
    - a. To make sure that it is the proper application for the zoning action requested;
    - b. To see that all required information is submitted; and
    - c. To make sure that the proposed use is permitted in a particular district by special use permit.
  - 2. Takes one or more of the following actions:
    - a. Requests from the applicant that any omitted or pertinent and necessary information now be submitted;
    - b. If necessary, seeks ordinance interpretation from the board of appeals;
    - c. Makes advisory comments about the site plan based on site plan review standards; and/or
    - d. Forwards the complete application with comments to the planning commission for public hearing.
- B. The planning commission:
  - 1. Gives a public notice in a newspaper of general circulation of official receipt of an application for a special use permit which:
    - a. Describes the nature of the special use request;
    - b. Indicates the property in question;
    - c. States the time and place where the special use request will be considered;
    - d. Indicates when and where written comments will be received concerning the request; and
    - e. Indicates that a public hearing by the planning commission on the proposed special use is optional, but may be requested by any property owner or the

occupant of any structure located within three hundred (300) feet of the boundary of the property being considered for a special use permit.

This notice is also mailed or delivered to property owners and occupants within three hundred (300) feet of the property in question. These notices must be made fifteen (15) days before the date on which the application is to be considered. A record of mailing or delivery of notice must be maintained. All public input is considered and evaluated. A summary of the public comments should be retained for the record.

2. Advertises and holds a "public hearing", but only if requested by the planning commission, the applicant, or any owner of property (or the occupant of any structure) located within three hundred (300) feet of the boundary of the subject property. Proper notice of the public hearing shall be given in the same manner and content as described above Section 1804.
3. Reviews the site plan according to site plan review standards, as set forth in this zoning ordinance. See Section 1800.
4. Reviews the proposed special use according to standards for special use permits, as set forth in this ordinance. See Section 1801.14
5. Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this ordinance.

#### **1801.11 PLANNING COMMISSION REPORT AND RECOMMENDATION**

After thoroughly evaluating all factors in the application, the planning commission shall make a recommendation to council for one of the following actions:

- A. Recommendation to *Approve*
- B. Recommendation to *Approve with identified conditions*
- C. Recommendation to *Deny*: The recommendation shall be in writing and shall be submitted to council within sixty (60) days of having received the application.

#### **1801.12 FINAL APPROVAL, DENIAL, OR APPROVAL WITH CONDITIONS BY COUNCIL TO BE IN WRITING**

The city council shall consider the application in light of the planning commission's recommendations, and make its decision within forty-five (45) days of having received the recommendation.

When an application for a special use permit is finally approved, denied, or approved subject to conditions, the decision must be incorporated into an official written statement which contains the conclusions relative to the special use permit request. The decision shall specify the basis for the decision, and any conditions which may be imposed in the case of approvals. When conditions are imposed, they must be reasonable and address the following criteria:

- A. The proposed use will not adversely affect existing adjacent uses within three hundred (300) feet.
- B. There will be no adverse effect upon public health, safety or general welfare and that it will not impair the intent of this ordinance.
- C. The conditions will be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
- D. The conditions will be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- E. The conditions will be necessary to meeting the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- F. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the city council and the landowner. The approving council shall maintain a record of conditions which are changed.

**1801.13 VALID PERIOD**

An approved special use permit must be utilized within one (1) year during which time construction of the approved special use must begin. A valid special use permit is eligible for one additional one-year extension granted by the city council as a reasonable length of time within which to begin construction.

**1801.14 INSPECTION**

At least two (2) site inspections by the building inspector and/or zoning administrator must be held: one (1) during development, and one (1) before the use or structure is occupied. If development is phased or in stages, then two (2) inspections per phase or stage shall be made.

**1801.15 CANCELLATION OF SPECIAL USE PERMIT**

See Section 1803.

## **1802 Enforcement by zoning administrator**

This ordinance shall be administered and enforced by the zoning administrator being duly designated and appointed by the Allegan City Manager.

### **1802.01 Duties of the zoning administrator**

It shall be the responsibility of the zoning administrator to administer the provisions of this ordinance and in so doing shall perform the following duties:

- A. *Issue permits.* All applications for zoning approvals (prior to obtaining building permits), permits and special use permits shall be submitted to the zoning administrator, who may authorize the building official to issue such permits and certificates of occupancy when all applicable provisions of this ordinance have been met and approval has been granted by the proper body or official.
- B. *Record applications.* The zoning administrator, shall maintain and keep in an orderly, accessible manner files of all applications for all of the above permits, and for variances; and shall keep records of all such permits and variances issued. These shall be filed in the city administration office and shall be open to public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved.
- C. *Inspections.* The zoning administrator and/or the building inspector [official] shall be empowered' to make inspections of building or premises in order to properly carry out the enforcement of this ordinance.
- D. *Reports.*
  - 1. *Annual report to city council.* The zoning administrator shall report to the city council annually, summarizing for the period since the last previous report all permits, special use permits and variances issued; and all complaints of violation and the action taken.
  - 2. *Semi-annual report to planning commission.* The zoning administrator shall make a report to the planning commission on a semiannual interval, summarizing for the period since the last previous report all permits and variances, all complaints of violation and subsequent actions taken, and other actions taken under the authority of this ordinance.
- E. *Cancellation of approvals, permits, special use permits and variances.* The zoning administrator shall have the power to issue a stop-work order on any permit in case of failure or neglect to comply with any of the provisions of this ordinance, or in case of any false statement or misrepresentation made in the application. The provisions of Section 1803, Violations shall be invoked. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.
- F. *Restrictions.* Under no circumstances is the zoning administrator permitted to make changes in this ordinance, nor to vary the terms of this ordinance while carrying out

the duties prescribed herein. It shall be the responsibility of the city council to ensure that the zoning administrator is provided access to the city attorney to enforce the provisions of this ordinance.

### **1802.02 Application and procedure for zoning approval**

- A. Zoning approval shall be obtained prior to:
  - 1. The construction, physical development or razing of a proposed new or expanded use, structure or building; or
  - 2. The restoration and structural improvement of any existing use or structure (other than normal repairs and minor improvement); or
  - 3. A change of one use to any other use.
- B. Where a building permit is required, zoning approval shall be an eligibility requirement or prerequisite for such permit.
- C. Requests for zoning approval must be made to the zoning administrator. For uses permitted only by special use permit, see Section 1801.

### **1802.03 CONTENTS OF APPLICATION**

Among the information to be supplied by the applicant and which shall constitute the application package, the following shall be included:

- A. Name and address of applicant or applicants and owner of records.
- B. Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on a site plan);
- C. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvement;
- D. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users;
- E. The yard, open space and parking space dimensions (as shown on a site plan);
- F. A site plan, where required; and
- G. The required fee as established by City Council.

### **1802.04 GENERAL PROCEDURAL STEPS**

Upon submission of an application, the zoning administrator:

- A. Reviews the application package:
  - 1. To make sure that it is the proper application for the zoning action requested.
  - 2. To see that all required information is submitted.

3. To determine conformance with zoning regulations, unless waived by variance from the zoning board of appeals.
- B. Takes one or more of the following preliminary actions:
1. Requests from the applicant that any omitted or pertinent and necessary information now be submitted.
  2. If necessary, requests the board of appeals to interpret an unclear ordinance provision.
  3. Where required, reviews site plan according to site plan requirements as set forth in Section 1800.
  4. If necessary, discusses the application and site plan with the planning commission for advisory comments.
  5. Makes a site inspection to verify accuracy of the application and to gather additional information.

#### **1802.05 DENIAL OF ZONING APPROVAL**

If the application for zoning approval is denied by the zoning administrator the reason or cause for denial shall be stated in writing.

#### **1802.06 VALID PERIOD**

Zoning approval shall be valid for one (1) year and shall be eligible for one (1) additional one-year extension granted by the zoning administrator as a reasonable length of time within which to construct. Such extension shall be granted with demonstration of good cause.

#### **1802.07 INSPECTION**

At least one (1) site inspection by the zoning administrator must be held before development.

#### **1802.08 CANCELLATION OF APPROVALS/PERMITS**

See Section 1803.

### **1803 Violations**

Unless otherwise specifically provided, the violation of any provision, section, rule or regulation or order adopted or issued in pursuance thereof, of these Zoning Ordinances, shall be a municipal civil infraction. Persons determined responsible for a municipal civil infraction shall be punished in accordance with Section 1803.01.

#### **1803.01 General penalty for municipal civil infractions**

- A. A municipal civil infraction shall be punished by a fine of not less than twenty-five dollars (\$50.00) or more than twenty-five hundred dollars (\$2,500.00) and the costs of

prosecution of not less than nine dollars (\$9.00) or more than five hundred dollars (\$500.00). Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

- B. The penalty provided by this section shall be in addition to the abatement of the violating condition, any injunctive relief or revocation or any permit or license.
- C. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of the Zoning Ordinances.

### **1803.02 Separate offense**

Each day during which a violation continues shall be deemed a separate offense.

### **1803.03 Compliance required**

The imposition of any sentence shall not exempt an offender from compliance with the provisions of this ordinance.

### **1803.04 Other relief**

The foregoing penalties shall not prohibit the City of Allegan from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

## **1804 Publication and delivery of notice of public hearing**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the City.
- B. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

1. The applicant;
2. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
3. The occupants and owners of all structures within 300 feet of the property that is the subject of the application, provided, that for a building containing more than four (4) units, a notice can be provided to the owner(s) with a request that it be posted at the building.

If the above-described 300-foot radius extends outside of the City's boundaries, then notice must be provided outside of the City boundaries, within the 300-foot radius, to all persons in the above-stated categories.

C. The notice of public hearing shall include the following information:

1. A description of the nature of the application or request.
2. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if 11 or more adjacent properties are being proposed for rezoning.
3. State when and where the application or request will be considered.
4. Identify when and where written comments will be received concerning the application or request.

### **1805 Zoning board of appeals**

Zoning board of appeals (ZBA) is hereby authorized in accordance with Act 110 of the Public Acts of 2006 of the State of Michigan [MCL 125.3101 *et seq.*], as amended, to carry out the responsibilities provided below.

- A. Membership to the zoning board of appeals shall consist of five (5) members, each to be appointed by the city council for a term of three (3) years. Appointment of members to the initial board of appeals shall be staggered: two (2) members for a period of three (3) years, two (2) members for a period of two (2) years and one (1) member for a period of one (1) year. One (1) member of the zoning board of appeals shall be a member of the planning commission who holds no other municipal office. Members of the board of appeals, upon written charges and after a public hearing, may be removed by a majority vote of the city council for nonfeasance, malfeasance and misfeasance of office.
- B. Not more than two (2) alternate members to the ZBA may be appointed by the city council in the absence of regular members; provided that a regular member is unable to attend two (2) or more consecutive ZBA meetings or for a period of more than thirty (30) consecutive days. An alternate may also be called to serve in place of a regular member for the purpose of deciding on a case in which the regular member has



abstained for reason of conflict of interest. Alternates have the same voting rights as a regular member and must serve in a case until a final decision is made.

- C. The city council shall also have the power to appoint itself as the zoning board of appeals. If the council sets as the zoning board of appeals, its membership shall consist of the council's duly elected members.

#### **1805.01 POWER AND DUTIES**

The zoning board of appeals shall have all the power and duties prescribed by law and by this ordinance which are more particularly specified as follows:

- A. *Hear appeals.* The zoning board of appeals shall 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 by any other official or body in administering or enforcing any provisions of this ordinance. Upon appeal, the zoning board of appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination, as in its opinion ought to be made in the premises.
- B. *Interpretation.* The zoning board of appeals shall have the power to:
  - 1. Interpret, upon written request, the provisions of this ordinance in such a way as to carry out the intent and purpose of the ordinance.
  - 2. Determine the precise location of the boundary lines between zoning districts, where uncertainty exists.
- C. *Variances.* The board shall have the power to authorize variances from the specific requirements of this ordinance, such as lot area and width regulations, building height and bulk regulations, use regulations, off-street parking and loading space requirements, etc., provided all of the conditions listed in Section 1805.10 can be satisfied.

#### **1805.02 GENERAL ORGANIZATION AND PROCEDURES**

- A. *Rules of procedure and decision-making.* The zoning board of appeals (ZBA) shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The board shall elect annually its own chairman, and in his absence, an acting chairman. The ZBA shall formulate decisions based upon the standards and other various provisions of this ordinance, as well as a recommendation from the planning commission.
- B. *Meetings.* Meetings shall be held at the call of the chairman and at such times as the zoning board of appeals may determine. All meetings by the board shall be open to the public. The board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance. A quorum is required.

- C. *Records.* Minutes shall be recorded of all proceedings which shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the city administration office and shall be made available to the general public. The city clerk shall act as secretary to the zoning board of appeals and all records of the board's action shall be taken and recorded under the city clerk's direction.
- D. *Employees.* The board may employ such clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and then available for that purpose.
- E. *Counsel.* An attorney for the city shall act as legal counsel for the ZBA and shall be present at any meeting upon request, and as first approved by the city council.
- F. *Hearings.* Hearings shall comply with the requirements of Section 1804.
- G. *Decisions.* The zoning board of appeals shall return a written decision on a case within sixty (60) days after the hearing date, unless a further time is agreed upon with the parties concerned. Any decision of the board shall not become final until the expiration of five (5) days from the date of entry of such order, unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights, and shall so certify on the record. The ZBA must state the reasons, and facts surrounding their reasons, for any decision made.
- H. *Vote necessary for decision.* The final disposition of any matter by the zoning board of appeals shall require a simple majority vote except for a use variance where a two-thirds majority vote is required.
- I. *Report to city council.* At intervals of not greater than one (1) year, the zoning board of appeals shall, by written report to the city council, list all applications and appeals made to it since its last report, and shall summarize its decisions on such applications and appeals.

### **1805.03 CONDITIONS OF ZBA APPROVAL**

- A. Reasonable conditions may be required with the approval of a variance by the zoning board of appeals. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources, the health, safety and welfare, and the social and economic well being of those adjacent to proposed activity as well as to the community as a whole.

2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The Zoning Board of Appeals shall have no authority to review conditions imposed by the Planning Commission or City Council with respect to the approval of a special land use or planned unit development.
  - C. In the event the zoning board of appeals grants a variance, the individual or his successors in interest shall not use the property in question such that it would exceed those rights given by the zoning ordinance or the variance, or fail to follow any conditions placed thereon by said zoning board of appeals. In the event the use of the property exceeds those rights given by the zoning ordinance or the variance, or fails to follow the conditions placed upon the variance, the variance shall immediately terminate and it shall be deemed a violation of this ordinance.

#### **1805.04 TIME LIMIT**

If the variance is granted or the issuance of a permit is finally approved, or other action by the appellant or applicant is authorized, the necessary permit shall be secured and the authorized action begun within three (3) months after the date when the variance is finally granted or the issuance of the permit is finally approved or the other action by the appellant or applicant is authorized; and the structure, building, or alteration as the case may be shall be completed within twelve (12) months of said date. For good cause, the zoning board of appeals may, upon application in writing stating the reasons therefore, extend either the three (3) months or the twelve (12) month periods.

- A. Should the appellant or applicant fail to obtain the necessary permit or permits within such three (3) month period, or having obtained the same should he fail to commence work there under within such three (3) month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn and abandoned his appeal or his application, and all permissions, variances and permits to him granted shall be deemed automatically rescinded by said zoning board of appeals.
- B. Should the appellant or applicant commence construction or alteration within said three (3) month period, but should he fail to complete such construction or alteration within said twelve (12) month period, the ZBA may upon ten (10) days notice in writing rescind or revoke the granted variance, or the issuance of the permit or permits, or other action authorized to the appellant or applicant. If the ZBA finds that no good cause appears for the failure to complete within such twelve (12) month period and if it (ZBA) further finds that conditions have so altered or changed in the interval since the variance, permit or action was granted, that revocation or rescission of the action shall be justified.

#### **1805.05 FINAL ACTION OF APPEALS**

The decision of the zoning board of appeals shall not be final, and any person having an interest affected by any such decision shall have the right to the courts on questions of law and fact. The records of the zoning board of appeals shall be made available for the court's review.

#### **1805.06 EFFECT OF APPEALS PROCEEDINGS (STAY OF PROCEEDINGS)**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the board of appeals (after the notice of appeal shall have been filed with that officer or body), that by reason of facts stated in the certificate, a stay would cause immediate peril of life or property.

#### **1805.07 VALID APPEAL**

Appeals to the ZBA in any matter over which it has jurisdiction must be filed with the zoning administrator thirty (30) days from the date of the action being appealed, in order to be a valid appeal.

#### **1805.08 APPLICATION PROCEDURE FOR APPEALS/VARIANCES AND THE DECISION PROCESS**

When any order, requirement, decision or determination is subsequently appealed to the zoning board of appeals or when a variance is requested, as provided for in this ordinance, the appellant shall file a notice of appeal with fee to the building inspector [official] who shall forward all records and materials to the zoning board of appeals. If appealing a determination or order, the zoning administrator shall also send copies of all materials to the official or body of officials from whom the appeal is taken. Such body or official shall also make all records available to the ZBA for review.

#### **1805.09 GENERAL PROCEDURAL STEPS BY ZBA**

- A. If an appeal, it must be filed within thirty (30) days from the date of the action being appealed. If request is for a variance or interpretation, no time limit for filing is required.
- B. The ZBA reviews the appeal form to make sure that it is the proper form for the action requested, and to see that all required information is submitted, and also forwards the copy of the appeal to the planning commission.
- C. The city clerk shall place said appeal form on the calendar for hearing forty-five (45) days from the date of filing; and shall cause notice stating the time, place and purpose of the hearing to be served. Such notices shall be served personally or by mail at least fifteen (15) days prior to hearing upon the applicant or appellant, the building inspector [official] and all assessed owners of real estate within three hundred (300) feet and occupants of single and two-family dwellings within three hundred (300) feet of the premises in question. If by mail, such notice shall be addressed to the respective property owners of record at the address given in the last assessment roll. In the event property immediately adjacent to said premises shall be part of a different

governmental subdivision, the owner of any such property shall nevertheless receive notice and shall be entitled to be heard.

- D. At the hearing, rules and procedures for the conduct of the hearing as may be established in the By-laws of the ZBA shall be followed.
  - 1. Any party may be heard in person or by agent or attorney.
  - 2. The ZBA may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. If the hearing is adjourned, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing.
- E. Following the hearing, the ZBA shall formulate its decision.
  - 1. The ZBA shall consider the merits of the individual application or appeal within the context of any and all standards and considerations established in this ordinance. In the case of variances, the standards of Section 1805.10 shall control.
  - 2. The ZBA may reverse or affirm, wholly or part, or may modify the order, requirement, decision or determination of issue, as in its opinion ought to be made, and to that end shall have all the powers of the official or body of officials from whom the appeal was taken, and may direct the issuance of a permit.
  - 3. The written decision of the ZBA shall not be final until five (5) days after it is made unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights, and shall so certify on the record. In the written decision on the application or appeal, the ZBA must include the reasons, for decision and facts supporting such reasons.

#### **1805.10 STANDARDS FOR VARIANCES**

- A. Subject to the requirements in subsection B. below, and in addition to other duties and powers specified within this Ordinance, the ZBA, after public hearing, shall have the power to decide applications for variances:
  - 1. Where it is alleged that by reason of the exceptional narrowness, shallowness or shape of a specific parcel of property or by reason of exceptional topographic conditions or other extraordinary situation of the land or structure or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship, provided that the ZBA shall not grant a variance on a lot if the owner or members of his family own adjacent land which could, without undue hardship, be included as part of the lot.
  - 2. Where it is alleged that there is unnecessary hardship in carrying out the strict letter of this Ordinance and a request made to vary such regulations so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

3. Where it is alleged that the condition or situation of the specific property or the intended use of said property is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.
- B. No variance in the provisions or requirements of this Ordinance shall be effected by the ZBA unless it finds from reasonable evidence that such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or of the public health, safety and welfare, and, further, that two of the following facts and conditions exist:
1. That there are exceptional or extraordinary circumstances of conditions applying to the specific property that do not apply generally to other properties in the same zone.
  2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone, provided that increased financial return shall not be deemed sufficient to warrant a variance.
  3. That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

# **Article XIX Amendments**

## **1900 The city council may amend**

The regulations and provisions stated in the tables and text of this ordinance and the boundaries of zoning districts shown on the zoning map of the City of Allegan may be amended, supplemented, or changed by the city council in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

## **1901 Initiation of amendments**

Proposals for amendments, supplements or changes may be initiated by the city council on its own motion, by the planning commission, or by written request of (or petition of) one (1) or more owners of property to be affected by the proposed amendment.

## **1902 Amendment procedure**

### **1902.01 WRITTEN REQUEST OR PETITION TO CITY COUNCIL**

Except for those initiated by planning commission or city council all written requests by one (1) or more owners for an amendment shall be submitted to the city council.

### **1902.02 REFERRAL TO PLANNING COMMISSION/PUBLIC HEARING**

The city council shall refer every proposed amendment, supplement or change to the planning commission for the holding of a required public hearing thereon and for review and recommended action.

### **1902.03 PLANNING COMMISSION RECOMMENDATION**

The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of such proposal upon the City of Allegan Comprehensive Planning Program. The planning commission may recommend any additions or modifications to the original amendment proposal. The planning commission shall transmit a written report with recommendation within sixty (60) days to the city council setting forth the reasons for the acceptance, denial or modification of the amendment proposal.

### **1902.04 ACTION BY CITY COUNCIL**

If the city council deems any amendment, changes, additions or departures are advisable to the proposed text or district boundaries recommended by the planning commission, it shall refer the same back to the planning commission for a further report thereon within a time specified by the city council. Before any amendments shall become effective, the city council may on its own, conduct a public hearing on the proposed amendment.

Thereafter, the city council may adopt the amendment with or without any changes or may refer the same again to the planning commission for further report.

#### **1902.05 PUBLIC HEARING PROCEDURE AND NOTIFICATION**

Any required public hearing conducted by the planning commission or any additional public hearings by the city council on a proposed amendment to this ordinance shall comply with Section 1804.

#### **1905.06 EFFECT OF PROTEST TO PROPOSED AMENDMENT**

In case a protest against any proposed amendment to this ordinance is presented in writing to the city clerk prior to the public hearing thereon, duly signed either by: (1) the owners of at least twenty (20) percent of the area of land included in the proposed change; or (b) the owners of at least twenty (20) percent of the area of land included within an area extended outward one hundred (100) feet from any point on the boundary of the land included in the proposed change excluding public land and public rights-of-way, such amendment shall be passed by three-fourths (3/4) vote of all members of the city council.

#### **1905.07 RESUBMISSION**

No application for a rezoning which has been denied by the city council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the city council to be valid.

### **1903 Comprehensive review of zoning ordinance**

The planning commission shall, from time to time at intervals of not more than five (5) years, examine the provisions of this ordinance and the location of zoning district boundary lines and shall submit a report to the city council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.



## **Article XX - Miscellaneous**

### **2000 Interpretation of ordinance**

- A. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare.
- B. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or higher standard, shall control.
- C. This ordinance shall not abridge the provisions of a validly adopted building code, housing code, mobile home ordinance, subdivision or other regulation.

### **2001 Severability (separability)**

Should any provision of this ordinance be determined by a competent court to be unconstitutional, invalid or overboard, such determination shall not affect the validity or breath [breadth] of any other provision.

### **2002 Repeal of conflicting ordinances**

All ordinances or parts of ordinances which are in conflict with this zoning ordinance, or inconsistent with the provisions of this ordinance, are hereafter repealed to the extent of its inconsistency. The Zoning Regulations of the City of Allegan, and which is known as Ordinance No. 194 of 1982, and all amendments thereto are hereby repealed; provided, however, that the adoption of this ordinance shall not prevent or bar the continuation or institution of any proceedings for offenses heretofore committed in violation of any existing ordinance.

### **2003 Effective date**

This ordinance shall be effective immediately upon adoption and public notification in the manner prescribed by law.