

COPY

Buchanan City Police Department

720 E. Front Street, Suite A, Buchanan, Michigan 49107 - Office phone # 269-695-5120

NOTICE OF ZONING VIOLATION

**NOTICE TO ABATE AND COMPLY WITH BUCHANAN CITY ZONING
ORDINANCE**

DATE: Dec. 28, 2020

TO: Property Owner - Person in Control

James C. Kennedy
419 W. Front Street
Buchanan, MI 49107

FROM: Buchanan City Police Department

NOTICE:

The Buchanan Police Department has received a complaint concerning your property at 419 W. Front Street, City of Buchanan, County of Berrien and State of Michigan, property number 11-58-3150-0004-00-5. The property is in violation of the City of Buchanan Zoning Ordinances pertaining to the parking of vehicles. City Zoning ordinances are available online.

You are not allowed to park vehicles on the front yard.

You have vehicles parked on the west side of your front yard with two tires on a sidewalk and two tires on the front yard grass. This is not allowed. The area is not a driveway and it cannot become a driveway. Driveways are not allowed to be any closer than four (4) feet to the side yard property line unless it abuts a driveway located on the adjoining property.

City Zoning Ordinances that apply are as follows:

Section 19.04 – Schedule of Parking Requirements, Item A1 Single-Family Dwellings. “A minimum of two (2) parking spaces shall be provided per dwelling, with one car parking enclosure, covered parking space or garage, **location of which shall be limited to the side or rear yard**, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress as approved by the Zoning Administrator City Engineer.”

A permit is required for Rear Yard parking and parking areas are to be of concrete, asphalt other paving material.

Section 19.03 – Parking Requirements and Standards.

9. Permit Required for Residential Rear Yard Parking. “Off-street parking required for uses permitted in residential districts may be located on driveways or **an approved area within the rear yard, upon issuance of a permit by the Zoning Administrator.** Driveways may be located no closer than four (4) feet to the side yard property line unless the driveway abuts the driveway located on the adjoining property. All access ways (curb cuts) to city streets shall be approved by the Zoning Administrator or City Engineer.”

11. Design and Maintenance Standards. All parking spaces and areas herein after constructed in conformance with ordinance shall comply with the following standards:

A. Screening and Landscaping. *“All open vehicle parking areas containing more than three (3) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district by a wall, fence or densely planted compact hedge no less than four (4) feet nor more than six (6) feet in height. Such required screening shall conform with the front yard requirements of the district in which the parking is located.”*

B. Pavement and Surfacing. *“All open off-street parking areas shall be of concrete, asphalt other paving material according to standards established by the City Engineer.”*

ORDER:

Please remove the vehicles from the front yard within seven (7) days from the date of this order. Vehicles should be parked on the driveway or in the garage. Vehicles can be parked on the rear lot, but you cannot park vehicles in the rear yard without first obtaining a permit from the City Zoning Administrator. Failure to comply with this order can result in the issuance of a citation to you that will require your appearance in court.

FAILURE TO COMPLY IS A MISDEMEANOR VIOLATION

Please take this notice seriously and remedy the situation immediately. If there are any questions pertaining to this issue, feel free to contact the City Zoning Administrator at city hall (695-3844) or Code Enforcement at the Buchanan Police Department (695-5120). The Zoning Ordinances that apply are listed above.

APPEALS:

Appeals to this ORDER are to be made to the Zoning Board of Appeals. Information on making appeals to the Zoning Board of Appeals is available at City Hall.

Officer Issuing Notice

Date

Copies to: City Manager
Plan Commission

COPY

Buchanan City Police Department

720 E. Front Street, Suite A, Buchanan, Michigan 49107 - Office phone # 269-695-5120

NOTICE OF ZONING VIOLATION

NOTICE TO ABATE AND COMPLY WITH BUCHANAN CITY ZONING
ORDINANCE

DATE: February 8, 2021

TO: Property Owner - Person in Control

James C. Kennedy
419 W. Front Street
Buchanan, MI 49107

FROM: Buchanan City Police Department

NOTICE:

On December 28, 2020 you were issued an order to remove vehicles from the front yard of your property at 419 W. Front Street within seven days of the date of the order. You then appealed the order to the City Manager. After a review, the decision has made that the vehicles are in violation and will have to be removed from the front yard. Presently the property is in violation of the City of Buchanan Zoning Ordinances pertaining to the parking of vehicles. NOTE: City Zoning ordinances are available online and are described below.

Under the City Zoning Ordinance, you are not allowed to park vehicles on the front yard.

You have vehicles parked on the west side of your front yard with two tires on a sidewalk and two tires on the front yard grass. This is not allowed. The area is not a driveway and it cannot become a driveway. Driveways are not allowed to be any closer than four (4) feet to the side yard property line unless it abuts a driveway located on the adjoining property.

City Zoning Ordinances that apply are as follows:

Section 19.04 – Schedule of Parking Requirements, Item A1 Single-Family Dwellings. *“A minimum of two (2) parking spaces shall be provided per dwelling, with one car parking enclosure, covered parking space or garage, location of which shall be limited to the side or rear yard, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress as approved by the Zoning Administrator City Engineer.”*

A permit is required for Rear Yard parking and parking areas are to be of concrete, asphalt other paving material.

Section 19.03 – Parking Requirements and Standards.

9. Permit Required for Residential Rear Yard Parking. *“Off-street parking required for uses permitted in residential districts may be located on driveways or an approved area within the rear yard, upon issuance of a permit by the Zoning Administrator. Driveways may be located no closer than four (4) feet to the side yard property line unless the driveway abuts the driveway located on the adjoining property. All access ways (curb cuts) to city streets shall be approved by the Zoning Administrator or City Engineer.”*

11. Design and Maintenance Standards. All parking spaces and areas herein after constructed in conformance with ordinance shall comply with the following standards:

A. Screening and Landscaping. *“All open vehicle parking areas containing more than three (3) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district by a wall, fence or densely planted compact hedge no less than four (4) feet nor more than six (6) feet in height. Such required screening shall conform with the front yard requirements of the district in which the parking is located.”*

B. Pavement and Surfacing. *“All open off-street parking areas shall be of concrete, asphalt other paving material according to standards established by the City Engineer.”*

ORDER:

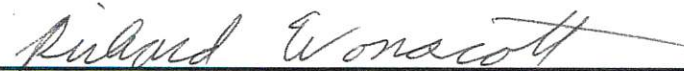
Please remove the vehicles from the front yard within seven (7) days from the date of this order. Vehicles should be parked on the driveway or in the garage. Vehicles can be parked on the rear lot, but you cannot park vehicles in the rear yard without first obtaining a permit from the City Zoning Administrator. Failure to comply with this order can result in the issuance of a citation to you that will require your appearance in court.

FAILURE TO COMPLY IS A MISDEMEANOR VIOLATION

Please take this notice seriously and remedy the situation immediately. If there are any questions pertaining to this issue, feel free to contact the City Manager at city hall (695-3844). The Zoning Ordinances that apply are listed above.

APPEALS:

Appeals to this ORDER are to be made to the Zoning Board of Appeals. Information on making appeals to the Zoning Board of Appeals is available at City Hall.



Officer Issuing Notice

2-8-2021

Date

Copies to: City Manager
Plan Commission

ARTICLE XXIV

ZONING BOARD OF APPEALS

Section 24.01 - Creation and Rules of Procedure. There is hereby created a five-member Zoning Board, hereinafter referred to as the Zoning Board of Appeals or BZA, which shall perform its duties and exercise its powers and jurisdiction according to the provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety and general welfare secured, and substantial justice done. The Zoning Board of Appeals shall fix rules and regulations to govern its procedures.

Section 24.02 - Membership. Members of the Zoning Board of Appeals shall be appointed by the Mayor of the City of Buchanan subject to confirmation by the City Commission. The membership shall serve at the pleasure of the City Commission for three year terms. The City Commission may appoint two alternate members who shall serve in the absence of any member(s) or serve in the instance that a member must be recused from any matter before the Board.

Section 24.03 - Jurisdiction. In addition to the duties and powers prescribed in other sections of this Ordinance, the Zoning Board of Appeals shall hear and decide on all matters relating to the following:

1. **Appeals From Administrative Decisions.** The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by Zoning Administrator and shall act upon all questions as they may arise in the administration of this Ordinance.
2. **Interpretation of Zoning District Boundaries.** The Zoning Board of Appeals shall interpret the boundary of any zoning ordinance district as depicted on the Official Zoning Map should a question of interpretation arise.
3. **Issue Variances From the Strict Terms of the Ordinance.** The Zoning Board of Appeals shall upon written application in specific cases may issue a variance from the terms of this Ordinance or vary the strict interpretation of the terms of this Ordinance as shall not be contrary to the public interest owing to special conditions where a literal enforcement of the provision of this Ordinance would result in hardship to the applicant.
4. **Issue Variances From the Strict Terms of Yard Setback Requirements.** The Zoning Board of Appeals shall upon written application in specific cases vary from the strict interpretation issue a variance from the terms of this Ordinance as shall not be contrary to the public interest owing to special conditions, a literal enforcement of the provision of lot and yard setback requirements .
5. **Hear and Decide Appeals Concerning Issuance of Special Use Permits.** The Board of Zoning Appeals shall hear and decide any appeal from any decision made concerning issuance or denial of a Special Use Permit made by the Planning Commission.

Section 24.04 - Public Notification and Public Hearing Requirements. Whenever the approval of an application is required by the Zoning Board of Appeals under the provisions of this Ordinance, the Zoning Board of Appeals will set a date for public hearing on such application and give public notice thereof not less than seven (7) nor more than fifteen (15) days prior to the date of such meeting by publication in a newspaper of general circulation within the City and shall be sent by mail or personal general delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet,

except that the notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial area owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- A. Describe the nature of the proposed amendment requested;
- B. Indicate the property which is the subject of the rezoning or nature of the change on the zoning ordinance text, as applicable;
- C. State when and where the public hearing will be held;
- D. Indicate when and where written comments will be received concerning the request.

Any person who is interested in such application or the determination thereof may appear before the Zoning Board of Appeals in person or by attorney and shall be permitted to state the reasons for approval or disapproval of such application.

Section 24.05 - Standards for Approvals

The Zoning Board of Appeals, in rendering a decision, shall base their decisions on the general and when applicable the specific standards for interpretation or variance, as set forth below:

- 1. **General Standards for Approval.** In reaching its determination on an application or appeal, the Zoning Board of Appeals shall consider the following:
 - A. Whether the location, use, nature, intensity of operation, and congestion and density of population will be in conflict with the principal permitted uses of the district or with the purposes of this Ordinance.
 - B. Whether the available sewage disposal and water supply facilities will be adequate and safe.
 - C. Whether the lot size and yard area will be in harmony with the orderly and proper development of the district.
 - D. Whether adequate access to the building or use will be provided by either existing roads or other roads to be constructed.
 - E. Whether the building or use will be objectionable to nearby properties and their owners by reason of traffic, noise, vibration, dust, blowing sand and erosion, disposal of waste or sewage, fumes, smoke, air pollution, fire hazard, or bright flashing lights.
 - F. Whether the building or use will discourage or hinder the appropriate development and use of lands and buildings in the general vicinity.
- 2. **Standards for Zoning Boundary Interpretation.** When the exact boundary of a district is uncertain and upon the filing of an application for an interpretation is filed, the Zoning Board of Appeals shall first consider the boundary location based on the scale of the zoning map and secondly the intended purpose of the Plan Commission in placing the boundary in a location not within a property line, geographic feature or other easily

identifiable geographic identifier.

3. **Standards for Approval of Variances.** In approving a variance the Zoning Board of Appeals shall consider the following standards with respect to the application:
- A. That the application demonstrated special conditions and circumstances which exist that are particular to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 - B. That under the terms of this Ordinance, the literal interpretation of the provisions of this Ordinance would deprive the applicant of right commonly enjoyed by other proprietors in the same district;
 - C. That the special conditions and circumstances do not result from the actions of the applicant;
 - D. An existing nonconforming use of land, structures or buildings, shall not be considered grounds for the issuance of a variance;
 - E. That the variance requested is the minimum variance which would make possible reasonable use of the land, buildings or structures.;
 - F. That the Zoning Board of Appeals may issue a statement of positive findings that the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - G. The Zoning Board of Appeals has established such appropriate conditions and safeguards to assure conformity with the terms of this Ordinance which shall be attached as conditions of the variance.

Section 24.06 - Abandonment Or Recision of A Zoning Board of Appeals Action. If any appeal or variance is not put into effect within six (6) months of the date of approval by the Zoning Board of Appeals is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of six (6) months, the variance shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this Ordinance; however, the Zoning Board of Appeals, for good cause, may grant an extension of time, not to exceed six (6) months, to comply with or to continue the variance, if in its judgment, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.

Section 24.07 - Procedure of Appeals, Meetings and Public Notice. The following rules of procedure will govern the operation and decision making of the Zoning Board of Appeals:

- 1. Upon receiving an application with any fee established by the terms of this Ordinance (See Article XXVI, Section 26.04) for an appeal from any order, requirement, determination or decision of the Zoning Administrator, such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule by the filing with the City Clerk and with the Zoning Board of Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals, all the papers constituting the record upon which the action appealed from was taken.
- 2. A concurring vote of a simple majority of the entire Zoning Board of Appeals shall be necessary to reverse any order, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which they are required to pass under this Ordinance or to affect any variation of the Ordinance.
- 3. Upon receiving an application for an appeal, the Zoning Board of Appeals shall fix a reasonable time for a hearing

and give notice as required by law as set forth in Article XIV, Section 24.04.

4. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of the rules, regulations or provisions relating to the construction, erection or alteration of buildings or structures so that the spirit of this Ordinance shall be observed, public health and safety secured, and substantial justice is accomplished.

Section 24.08 - Appeals From the Zoning Board of Appeals. In the event the Zoning Board of Appeals fails to reach a decision on any matter within thirty (30) days after the hearing thereon, the person affected shall have the right to first appeal to the Board of Zoning Appeals and then thereafter the appropriate Berrien County Trial Court on question of law and fact.

ARTICLE XXVI

ADMINISTRATION, FEES AND VIOLATIONS

Section 26.01 - Zoning Administrator. The provisions of this Ordinance shall be administered by the Zoning Administrator appointed by the City Manager. Said Zoning Administrator's duties shall be the administration of this Ordinance as prescribed by this Ordinance, including issuance of all zoning compliance permits whether as an individual permit or as part of the issuance of a building permit pursuant to the Michigan Construction Code, acceptance of any and all applications required in the administration of the Ordinance any other duties assigned or delegated to the Zoning Administrator by the City Manager or any other law regulation or Ordinance of the State of Michigan or the City of Buchanan.

Section 26.02 - Code Enforcement Officer. The enforcement of this ordinance shall be administered and enforced by the City Manager or by the Code Enforcement Officer designated by and responsible to the City Manager.

Section 26.03 - Duties and Powers - Zoning Administrator and Code Enforcement Officer. The Zoning Administrator and Code Enforcement Officer shall have the following powers in addition to those set forth in Section 26.01 above:

- 1. Form of Application, Permits and Certificates.** The Zoning Administrator may prescribe the form of all applications, permits, and certificates required under the terms of the ordinance. If no form is prescribed, a written document in the form of a letter requesting permission, in the case of an application stating precisely what permission is requested, or granting permission, in the case of a permit, stating precisely what permission is granted will suffice.
- 2. Receive Applications.** The Zoning Administrator will receive and examine and certify completeness of all applications for permits, certificates, variances, and all other applications required under the terms of this ordinance.
- 3. Refer Applications to the Plan Commission or Zoning Board of Appeals.** The Zoning Administrator shall upon a finding that an application is complete must refer all applications for permits, certificates, variances, special use permits and any other applications to the appropriate body within twenty (20) days upon making determination that the submission is complete.
- 4. Issue or Refuse Permits.** The Zoning Administrator must issue permits for constructions, alternation, and occupancy of those uses which comply with the requirements of this Ordinance, within thirty (30) days after the receipt of the application. The refusal of a permit must be in writing and shall state the reasons for the denial.
- 5. Issue Notice of Violation.** The Zoning Administrator or Code Enforcement Officer must issue a written notice of violation to each violator of this Ordinance, stating the nature of the violations. Duplicate copies of the notice must be sent to the Plan Commission and City Manager.
- 6. Make Recommendations.** The Zoning Administrator or Code Enforcement Officer may make recommendations to the Plan Commission, Zoning Board of Appeals and City Manager for any action deemed necessary.
- 7. Records.** The Zoning Administrator must keep records of applications, permits, or certificated issued,

of variances and special use permits granted, inspections made, any reports, notices or orders issued.

8. **Additional Duties and Powers.** The Zoning Administrator or Code Enforcement Officer must preform all other duties, and may exercise all other powers and privileges, as may be provided or made necessary by the terms of this Ordinance.

Section 26.04 - Fees. A schedule of fees necessary to cover the cost of processing an application and administration of this Ordinance is required at the time of application for a Cluster Development, (Section 15.06), Planned Unit Development (Section 10.04), a Special Use Permit (Section 20.02), Home Occupation Special Use Permit (Section 20.05), Site Plan Approval (Section 22.03), action of the Zoning Board of Appeals (Section 24.07(1), or Amendment (Section 25.02(1) shall, from time-to-time, be established by resolution of the City Commission. No part of any fee shall be refundable.

Section 26.05 - Violations and Penalties. Buildings erected, altered, razed or converted for use carried on in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court having jurisdiction shall order such nuisances to be abated and the person in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se. Any person that commits a violation, takes part in or assists in any violation of any provisions of the Ordinance shall be guilty of misdemeanor. Upon conviction thereof before any court of competent jurisdiction the person shall be punished by a fine of not less than twenty-five (\$25.00) and no dollars nor more than one hundred (\$100.00) and no dollars for each offence, or shall be punished by imprisonment in the Berrien County Jail for a period not to exceed ninety (90) days, or both, such fine and imprisonment at the discretion of the court, each day that a violation is permitted to exist after conviction shall constitute a separate offence.