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## Memorandum

**To:** City of Mackinac Island Planning Commission

**From:** Adam Young, AICP, Planning Consultant

**Date:** July 1, 2025

**Subject:** Housing Readiness Zoning Amendments – Project Update

Over the last two months, special Planning Commission meetings have been held to discuss the Housing Readiness Zoning Amendments project. We are providing this memorandum and enclosure as a project update. We look forward to continued discussion of this project at the July 8<sup>th</sup> special Planning Commission meeting.

### Proposed Zoning Ordinance Amendments

Enclosed is a 2<sup>nd</sup> draft of proposed zoning ordinance amendments, dated July 1, 2025. Proposed new language is shown in red font, while language proposed to be deleted is identified in red font with strikethroughs. For your reference, changes from the prior draft are highlighted in yellow. Finally, we have also included commentary, where appropriate, to help explain the rationale behind the proposed changes.

The 1<sup>st</sup> draft included amendments that are based on our professional review of the following:

- Definitions article
- Uses allowed within all zoning districts
- Use requirements outlined in the General Provisions article
- Planned Unit Development (PUD) Overlay article

This 2<sup>nd</sup> draft includes a few changes requested by the Planning Commission during the June special meeting. Additionally, this 2<sup>nd</sup> draft includes new recommendations based on our professional review of the city's nonconforming uses and structures regulations (Article 5). (The Planning Commission requested at the May special meeting that we conduct a review of this article and consider whether changes are necessary.)

To aid in our review of the Mackinac Island Zoning Ordinance, we have prepared a "table of residential uses" which outlines all allowable uses within each zoning district. This table is included in the front few pages of the packet.

### Topics for Future Consideration

Although not included in the initial package of amendments, we expect to explore the following topics for discussion at future meetings:

- Zoning recommendations identified in the recently adopted City of Mackinac Island Master Plan, including potential Zoning Map changes, where appropriate.
- Exploration of potential incentives to encourage developers to provide year-round workforce housing.

## Plan to Engage Citizens and Stakeholders

At the June special meeting, you asked us to outline a plan to engage citizens and stakeholders during the Housing Readiness Zoning Amendments project. The original MSHDA grant application indicated that we would facilitate study sessions with housing stakeholders and host a community workshop. For the stakeholder engagement, we propose conducting one-on-one phone/virtual interviews. Here is our initial suggestion for the stakeholders to be interviewed:

- City Building Inspector – representing the city’s perspective on zoning and development requirements
- City Attorney – representing the city’s perspective on zoning and development requirements
- Member of the City Housing Committee – preferably someone who is also generally familiar with zoning
- Real estate professional – someone active in the local housing market
- Builder/developer – preferably someone who has gone through the site plan/development review process for a project that included housing
- Business owner – someone who can speak to the housing needs of their employees
- Other suggestions?

The stakeholder interviews will be conducted in July/August.

We suggest facilitating the community workshop after a complete draft of zoning ordinance amendments has been developed. The workshop should be advertised to the general public, along with specific invitations sent to stakeholders (see above), city officials, and similar active persons and groups. We suggest a September or October timeframe for the workshop, possibly the second Tuesday of the month. The workshop would be approximately two hours in length.

If you have any questions, please do not hesitate to reach out to me at [ayoung@wadetrim.com](mailto:ayoung@wadetrim.com) or 313.961.3651.

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Enclosures: Zoning Ordinance Amendments Packet, 2<sup>nd</sup> Draft, Dated July 1, 2025

# **ZONING ORDINANCE CITY OF MACKINAC ISLAND, MICHIGAN**

Ord. No. 479, eff. November 12, 2013  
Amended Through Ord. No. 589, eff. March 10, 2021

## **Potential Zoning Ordinance Updates**

Prepared by Wade Trim  
First Draft, June 5, 2025  
Second Draft, July 1, 2025

### Key:

Text proposed to be added

~~Text proposed to be deleted~~

Change from the previous draft

*Wade Trim commentary, if appropriate*

## City of Mackinac Island Table of Uses

**Key:** P = Permitted Use by Right ; SLU = Special Land Use; E = Exempt

Potential Revisions, July 1, 2025

CATEGORY/USES	R-1	R-3	R-4	HB	C	MD	CD	ROS	RS	M	L	ADDTL. REQS.
<b>Residential Uses</b>												
Single-family residential dwellings	P	P	P	P		P	P		P			
Two-family residential dwellings	P	P	P	P		P						
Multiple-family residential dwellings		P	SLU	P	P	P						7A.03,(A) 9.02,(B)
Boardinghouses		SLU	SLU	P	P	SLU						7.03,(B) 7A.03,(B) 9.02,(B) 10.03
Mobile homes	P	P	P	P		P	P		P			4.07
Accessory dwelling units	P	P	P	P		P	P					4.12,(G)
<b>Human Care Facilities</b>												
Adult foster care family home (6 or less adults)	P	P	P	P		P	P		P			4.23,(A)
Adult foster care small group home (6 or less adults)	P	P	P	P		P	P		P			4.23,(A)
Adult foster care small group home (7 to 12 adults)	SLU	SLU	SLU									4.23,(B)
Adult foster care large group home (13 to 20 adults)					SLU							4.23,(C)
Adult foster care congregate facility (20 or more adults)					SLU							4.23,(C)
Child care family homes (6 or less children)	P	P	P	P		P	P		P			4.24,(A)
Child care group homes (7 to 12 children)	SLU	SLU	SLU									4.24,(B)
Child care centers		SLU	SLU	SLU	SLU							4.24,(C)
Convalescent homes, nursing homes, and assisted living facilities					SLU							4.31
Foster family homes (3 or less children)	P	P	P	P		P	P		P			4.24,(A)
Foster family group homes (4 to 6 children)	P	P	P	P		P	P		P			4.24,(A)
<b>Public, Semi-Public, Recreation, and Similar Institutional Uses</b>												
Churches and places of worship	P	P	P	P	P	P						
Institutional uses		SLU	SLU	P	P	P						7.03,(A) 7A.03,(D)
Outdoor recreation, both public and private, including parks, golf courses, tennis courts, softball diamonds, and open spaces								P				

CATEGORY/USES	R-1	R-3	R-4	HB	C	MD	CD	ROS	RS	M	L	ADDTL. REQS.
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## Waterfront and Marina Related Uses

Commercial docks									P		15.03,(C)
Marinas									P		15.03,(B)
Private docks									P	P	15.03,(A) 16.03

## Commercial Uses

Bed and breakfasts		SLU	SLU	SLU	P							4.19
Commercial uses					P	P						
Commercial stables and corrals	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU			4.10
Commercial storage			SLU									7A.03,(C)
Home occupations	P	P	P	P		P	P		P			4.22
Hotels				P	P	P						
Hotel-related commercial (those commercial uses designed to service hotel uses and are located on the same property as the hotel use, such as restaurants and gift shops)				P								
Kennels					SLU							9.03,(A)
Tasting rooms					SLU							9.03,(B)

## Miscellaneous Uses

[illegible]



**ZONING ORDINANCE  
CITY OF MACKINAC ISLAND, MICHIGAN  
Ord. No. 479, eff. November 12, 2013  
Amended Through Ord. No. 589, eff. March 10, 2021**

An ordinance to establish zoning districts and regulations governing the use and development of land within the City of Mackinac Island, County of Mackinac, State of Michigan. This ordinance is adopted pursuant to Act 110, Public Acts of 2006, as amended, and Act 59, Public Act of 1978, as amended.

The People of the City of Mackinac Island Ordain:

<u>Article</u>	<u>Title</u>	<u>Page No.</u>
ARTICLE 1	Title and Purpose	3
ARTICLE 2	Definitions	4
ARTICLE 3	Mapped Districts	16
ARTICLE 4	General Provisions	17
ARTICLE 5	Nonconforming Uses and Structures	34
ARTICLE 6	"R-1" Low Density Residential	36
ARTICLE 7	"R-3" High Density Residential	37
ARTICLE 7A	"R-4" Harrisonville Residential	39
ARTICLE 8	"HB" Hotel/Boardinghouse	42
ARTICLE 9	"C" Commercial	43
ARTICLE 10	"MD" Market	45
ARTICLE 11	"CD" Cottage	47
ARTICLE 12	"ROS" Recreation/Open Space	48
ARTICLE 13	[Reserved.]	49
ARTICLE 14	"RS" Shoreline Residential	50
ARTICLE 15	"M" Marine	51
ARTICLE 16	"L" Lake	53
ARTICLE 17	[Reserved].	54
ARTICLE 18	Architectural Review	55
ARTICLE 19	Special Land Uses	62
ARTICLE 19A	Planned Unit Development (PUD) Overlay	65
ARTICLE 20	Site Plan Review	70
ARTICLE 21	Administration and Enforcement	75
ARTICLE 22	Board of Zoning Appeals	78
ARTICLE 23	Changes and Amendments	82
ARTICLE 24	Condominium Subdivision Projects	87

**ZONING ORDINANCE  
CITY OF MACKINAC ISLAND, MICHIGAN  
Ord. No. 479, eff. November 12, 2013**

**List of Text Amendments**

<b>Ord. No.</b>	<b>Effective Date</b>	<b>Ord. Name/Topic</b>
486	December 14, 2014	Amendment to Section 4.25 (Non-Motorized Marine Vessel Liveries)
537	July 26, 2016	Relating to the definition of a structure
538	July 26, 2016	Relating to the definition of a setback
539	July 26, 2016	Relating to architectural review, site plan review, and issuance of zoning permits for tents and other temporary buildings
540	September 28, 2016	To define and regulate the use of tents and other temporary buildings
542	November 29, 2016	Relating to Article 18, Architectural Review (Chimneys)
547	May 16, 2017	Relating to permitted uses and density requirements for hotel use in the MD Market District
550	September 13, 2017	Amendment to Section 4.12 (Accessory Buildings to Residential Uses)
551	September 13, 2017	Amendment to Section 4.22 (Home Occupations)
552	September 13, 2017	Amendment to Section 11.03 (Area, Bulk, Height, Lot Coverage, and Density Requirements)
564	January 30, 2019	New Section 4.30 (Seasonal Enclosures)
583	July 15, 2020	New Section 2.75A (Tasting Room) and addition of tasting rooms as a special land use in the C District
587	March 10, 2021	Amendment to Section 4.09 (Landscape Buffers)
588	March 10, 2021	Amendment to Section 2.08 (Boarding house / Rooming House / Employee House) and Section 2.45 (Hotel)
589	March 10, 2021	Amendment to Sections 20.04 and 20.06 relating to the review of any impact that a proposed development may have on a public right-of-way, utility, or adjoining property



## **ARTICLE 1 TITLE AND PURPOSE**

### **Section 1.01 Short title.**

This ordinance shall be known and may be cited as the Zoning Ordinance of the City of Mackinac Island.

### **Section 1.02 Purpose.**

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare of the community. These provisions are intended to serve, among other purposes, the following: to provide for adequate light, air, and convenience of access; to assure safety from fire and other dangers; to prevent overcrowding and congestion; to facilitate the efficient provision of sewer, water, recreation, education, police, fire, and other public services; to protect natural resources; and to preserve, maintain, and enhance the historic and natural character of the Island.

## ARTICLE 2 DEFINITIONS

### Section 2.01 Access (fire, delivery).

A means by which emergency and fire vehicles can enter a parcel. Also, a means by which delivery or pick-up vehicles (or drays, carriages, etc.) can enter and leave a parcel.

### Section 2.02 Accessory (use, structure).

Both subordinate and incidental to a principal use or structure. Accessory uses to residential use include; private barns and stables, swimming pools, tool and garden sheds, gazebos, and the like.

### Section 2.03 Adult foster care facility.

~~A governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.~~

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

~~B. Adult Foster Care Small Group Home: An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection, in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks for compensation.~~

~~A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, Act 218 of 1979, as amended. The following additional definitions shall apply in the application of this ordinance.~~

~~A. Adult Foster Care Congregate Facility: An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.~~

~~B. Adult Foster Care Family Home: A private residence with the approved capacity to receive six or fewer adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.~~

- C. Adult Foster Care Large Group Home: A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week, and for two or more consecutive weeks.
- D. Adult Foster Care Small Group Home: An owner-occupied facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

*Wade Trim Commentary: These proposed amendments bring the adult foster care definitions into compliance with recent changes in the Adult Foster Care Facility Licensing Act, PA 218 of 1979.*

#### **~~Section 2.04 Agriculture.~~**

~~The use of land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.~~

*Wade Trim Commentary: Agriculture is defined here but there is no other reference to agriculture within the zoning ordinance. This definition can be deleted.*

#### **Section 2.04 Apartment.**

See dwelling, multiple-family.

#### **Section 2.05 Assisted living facility.**

An unlicensed residential facility providing housing, two (2) or more group meals a day for compensation, incidental nursing or medical services and some or all of the following services: transportation, ambulatory assistance, prescription scheduling, laundry, housekeeping or shopping. Such facilities are designed and generally limited to residents over the age of 55, who because of physical or other limitations need special care and other services and where 24 hour personal care and congregate meals are provided. Facilities contain congregate kitchens, dining and living areas and separate sleeping rooms for residents..

*Wade Trim Commentary: This term is not currently included within the zoning ordinance and should be added. An assisted living facility does not require State licensing.*

#### **Section 2.06 Bed and breakfast.**

An establishment where overnight lodging and breakfast is offered for compensation by resident owners of private single-family homes to unrelated transient individuals and families.

#### **Section 2.07 Bluff.**

A steep headland, promontory, or cliff.

## **Section 2.08 Boardinghouse/rooming house/employee house.**

The terms shall be considered synonymous for purposes of this ordinance. They are defined as a building, or portion thereof, with or without cooking facilities or access thereto, occupied by persons not consisting of a family, as defined in section **2.39 2.24 as defined herein this Article 2 of Definitions**, as their residence. Tourist accommodations, such as a hotel or bed and breakfast, are excluded from this definition.

*Wade Trim Commentary: This revision fixes an incorrect section reference.*

## **Section 2.09 Board of zoning appeals.**

This term shall mean the Board of Zoning Appeals of the City of Mackinac Island, Mackinac County, State of Michigan. Such board being a quasi-judicial body for making determinations on zoning questions and appeals, and not to act in an executive or legislative capacity.

## **Section 2.10 Building.**

Any structure, either temporary or permanent, having; a roof or other covering and designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, garages, stables, greenhouses, or awnings.

## **Section 2.11 Building line.**

A line established, in general, parallel to the front street line between which said building line and the front street line no building shall project, except as otherwise provided by this ordinance.

## **Section 2.12 Carriage.**

Any horse-drawn passenger vehicle.

## **Section 2.13 Child care center facilities.**

The following definitions shall apply in the application of this ordinance.

- A. **Child Care Center:** A state-licensed facility, other than a private residence, receiving one (1) or more preschool or school-age children for periods of less than twenty-four (24) hours a day, and where parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. May also be referred to as a child care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

## **~~Section 2.14 Child care family home.~~**

- B. **Child Care Family Home:** A state-licensed, owner-occupied private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods 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. ~~Care is given for more than four (4) weeks during a calendar year. It includes a home~~

that gives care to an unrelated child for more than four weeks in a calendar year. A child care family home includes a private home with “increased capacity,” as defined and regulated in the Child Care Organizations Act, Act 116 of 1973, as amended.

#### **~~Section 2.15—Child care group home.~~**

- C. Child Care Group Home: A **state-licensed, owner-occupied** private home in which more than six (6) but not more than (12) minor children are given care and supervision for periods 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. Care is given for more than four (4) weeks during a calendar year. **A child care group home includes a private home with “increased capacity,” as defined and regulated in the Child Care Organizations Act, Act 116 of 1973, as amended.**
- D. Foster Family Home: A private home of an individual who is licensed by the State in accordance with the Child Care Organizations Act, Act 116 of 1973, as amended, to provide 24-hour care for 1 but not more than 4 minor children who are placed away from their parent, legal guardian, or legal custodian in foster care.
- E. Foster Family Group Home: A private home of an individual who has been licensed by the State in accordance with the Child Care Organizations Act, Act 116 of 1973, as amended, to provide 24-hour care for more than 4 but fewer than 7 minor children who are placed away from their parent, legal guardian, or legal custodian in foster care.

*Wade Trim Commentary: These proposed amendments to the child care facility definitions are proposed to bring them into compliance with recent changes in the Child Care Organizations Act, PA 116 of 1973. New definitions for foster care homes, taken from the Act, have also been added.*

#### **Section 2.14 [Reserved]**

#### **Section 2.15 Church or Place of Worship.**

A building wherein persons regularly assemble for religious worship and used only for such purpose and reasonably closely related activities or uses. **This definition shall not include buildings used exclusively for residential, educational, recreational, or other uses not normally associated with worship.**

*Wade Trim Commentary: This proposed revision clarifies uses of buildings that are not considered part of a place of worship.*

#### **Section 2.16 Clinic.**

A building where human patients are admitted, but not lodged overnight, for examination and treatment by more than one professional, such as a physician, dentist, and the like.

#### **Section 2.17 Cluster.**

A type of land development in which structures are built close together to maximize open space.

### **Section 2.18 Commercial use.**

A use of land involving the exchange of money for goods and/or services, and may include production of tourist and other goods, including fudge shops, craft stores, gift shops, restaurants, and the like. **Commercial use shall also include a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations (offices).**

*Wade Trim Commentary: This proposed revision expands commercial use to include office uses.*

### **Section 2.19 Commercial dock.**

The use of land and/or water which is used primarily for commercial uses of a marine nature such as passenger, ferries and freight delivery.

### **Section 2.20 Commercial unit.**

A clearly defined interior area enclosed by vertical partitions of at least seven feet in height for the purpose of ~~displaying and selling of goods and/or services conducting a commercial use, as defined herein~~, and under the exclusive control of the owner/operator.

### **Section 2.21 Commercial stable.**

Any building or structure used for the shelter and/or feeding of horses or other large domestic animals that are used for commercial purposes such as renting or leasing for riding or pulling drays or carriages; or for the rental of stall space; and any building or structure used for the shelter and/or feeding of more than six horses, or other large domestic animals. Any private stable containing more than six horses shall be considered a commercial stable for purposes of this ordinance.

### **Section 2.22 Commercial storage.**

A use of land to store, or keep, personal property for individuals or entities other than the owners or residents of the land in exchange for **monetary** consideration.

### **Section 2.23 Condominium act.**

Michigan Public Act No. 59 of 1978, as amended (MCL 559.101 et seq.).

### **Section 2.24 Condominium structure.**

The principal building or structure intended for or constructed upon a lot or condominium unit, together with any attached accessory buildings. In a residential development, the condominium structure would refer to the house and any accessory buildings.

### **Section 2.25 Condominium subdivision project.**

A condominium project developed under Public Act 59 of 1978, as amended (MCL 559.1010 et seq.), comprising more than two condominium units which is not subject to the provisions of the Subdivision Control Act [now Land Division Act], Public Act No. 288 of 1967, as amended (MCL 560.101 et seq.).

### **Section 2.26 Condominium unit.**

That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, including the condominium structure and the contiguous limited common element under and surrounding the condominium structure, being the counterpart of a "lot" as defined in this ordinance.

### **Section 2.27 Convalescent or nursing home.**

A facility, including a county medical care facility, that provides short-term or long-term organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity. As used in this definition, "medical treatment" includes treatment by an employee or independent contractor of the nursing home who is an individual licensed or otherwise authorized to engage in a health profession under the Public Health Code, Public Act 368 of 1978, as amended.

*Wade Trim Commentary: This term is not currently included within the zoning ordinance and should be added. A convalescent or nursing home requires State licensing.*

### **Section 2.28 Corral.**

Any fenced or enclosed area used to confine horses or livestock.

### **Section 2.29 Commercial corral.**

Any fenced or enclosed area used to confine more than six horses or other large domestic animals.

### **Section 2.30 Private corral.**

Any fence or enclosed area used to confine six or less horses or other large domestic animals, for personal use only.

### **Section 2.31 Dray.**

Any horse-drawn cart or wagon used for hauling.

### **Section 2.32 Dwelling unit.**

Any house or portion thereof having cooking facilities which is occupied usually as a home, residence or sleeping place of one family, either permanently or transiently. In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for purposes of this ordinance and shall comply with the provisions thereof relative to dwellings. **In recognition of their objectionable operational characteristics and deleterious effect on the character and function of neighborhoods, any dwelling unit occupied on a transient basis which is for a rental period of less than 30 continuous days shall be considered a hotel, as defined and regulated herein.**

*Wade Trim Commentary: This proposed revision clarifies that short-term rentals are not allowed within Mackinac Island, working in conjunction with the existing definition of "hotel."*

### **Section 2.33 Dwelling, multiple-family.**

A building or portion thereof, used or designed as a residence for three or more families living independently of each other having their own cooking facilities therein. This definition includes three-family houses, townhouses, four-family houses and apartment houses.

### **Section 2.34 Dwelling, single-family.**

A detached dwelling, designed for or occupied exclusively by one family.

### **Section 2.35 Dwelling, two-family.**

A detached building, designed for or occupied exclusively by two families living independently of each other, such as a duplex dwelling unit.

### **Section 2.36 Dwelling unit, accessory**

A subordinate dwelling unit incorporated within a single-family dwelling. Accessory dwelling units may not be subdivided or otherwise segregated in ownership from the primary residence structure.

### **Section 2.37 Essential services.**

The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities, authorities or commissions of underground, surface or overhead, gas, electrical, steam, or water transmission or distribution systems, collections, communication, supply or disposal system, including mains, drains, sewers, pipes, conduits, wires, cable, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or authorities or commissions for the public health or safety or general welfare, but not including buildings other than such buildings as are primarily enclosures of shelters of the above essential service equipment.

### **Section 2.38 Extractive use.**

Any use of land which involves the extraction of materials from the ground for commercial purposes, such as an excavation for a gravel pit operation.

### **Section 2.39 Family.**

- A. One or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or
- B. A collective number of individuals living together in one house under one head, whose relationship is one of a permanent and distinct domestic character, and cooking as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization, which is not a recognized religious order, nor shall it include a group of individuals whose association is temporary and resort/seasonal in character or nature.



#### **Section 2.40 Floor area.**

- A. The floor area in a noncommercial unit is the total gross area of all floors measured from the inside surface of exterior walls and including area occupied by interior partitions and stairwells and excluding crawl spaces, attics without floors, and open porches, balconies, and patios.
- B. The floor area for commercial units shall be the total gross area of the floor on the level where business is conducted, measured from the inside surface of exterior walls and including all contiguous areas on that level over which the owner/operator has exclusive control.

#### **Section 2.41 Greenhouse**

A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products.

#### **Section 2.42 Ground coverage.**

The percentage of lot area covered by buildings and other impervious surfaces, such as roofs, paved areas, patios, etc.

#### **Section 2.43 Height of building.**

Building height is the vertical distance between the following two points:

- A. In all districts, except the C district on Main Street, the beginning point shall be the top of the foundation. In the C district on Main Street, the beginning point shall be where the sidewalk meets the front of the building.
- B. In all districts, the ending point shall be the highest part of the building or any attachment thereto, including facades and parapets.

#### **Section 2.44 Home occupation.**

A use conducted entirely within an enclosed dwelling and/or accessory building, which is clearly incidental and secondary to residential occupancy and does not change the character thereof.

#### **Section 2.45 Hotel.**

A building, or portion thereof, occupied as a temporary abiding place of individuals, who are lodged with or without meals, in which the rooms are occupied singly for hire, in which no provision is made for cooking in any individual room, including tourist and rooming homes, and any other occupation of a building, or portion thereof, meeting the definition in this ordinance of a boardinghouse or apartment usage or by any other title intended to identify them as providing lodging, for compensation on a transient basis which is for a rental period of less than 30 continuous days shall be considered a hotel usage.

#### **Section 2.46 Impermeable surface.**

Any surface covering the ground which cannot be penetrated by rain water, including asphalt, cement, and the roofs of buildings.

#### **Section 2.47 ~~Industrial~~ [Reserved].**

~~A use of land which involves primarily the production of goods for commercial sale off the premises.~~

*Wade Trim Commentary: Industrial is defined here but there is no other reference to industrial within the zoning ordinance. This definition can be deleted.*

#### **Section 2.48 Institutional.**

A use of land by public, quasi-public, or public service organizations and agencies, such as governmental agencies, schools, parks, clinics and the like, for providing educational, recreational, governmental, or medical services to the public, excluding churches or places of worship.

#### **Section 2.49 ~~Junk yard~~ [Reserved].**

~~A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled in open yards. Excluded are such uses when conducted entirely within a completely enclosed building.~~

*Wade Trim Commentary: Junk yard is defined here but there is no other reference to junk yard within the zoning ordinance. This definition can be deleted.*

#### **Section 2.50 Kennel.**

Any building or buildings and/or land used, designed, or arranged for the boarding or care of dogs and cats for profit.

#### **Section 2.51 Landscape buffer.**

A landscaped area composed of living material, a fence, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.

#### **Section 2.52 Loading area or space.**

That area lying adjacent to a building or structure used for the transfer of material between a horsedrawn or other vehicle, and the building or structure.

#### **Section 2.53 Lot.**

A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this ordinance. Provided that the owner of any number of contiguous lots may have as many of said contiguous lots considered as a

single lot for the purpose of this ordinance as he so elects, and in such case the outside perimeter of said group of lots shall constitute the front, rear and side lot lines thereof. A lot shall be equivalent to a condominium unit.

- A. A "corner lot" is one which lies at the intersection of two streets which intersect at an angle not exceeding 135 degrees.
- B. An "interior lot" is one, other than a corner lot, with only one lot line fronting on a street.
- C. A "through lot" is an interior lot that fronts on two streets.

#### **Section 2.54 Lot area.**

The term "lot area" means the total land area within lot lines, as defined, of a lot. For lots fronting or lying adjacent to private roads, lot area shall be interpreted to mean that area within lot lines separating the lot from the private road and not the centerline of said private road.

#### **Section 2.55 Lot line.**

The line bounding a lot as defined herein.

#### **Section 2.56 Marina.**

A use of land and/or water to provide public docks, moorings and facilities for private watercrafts such as sailboats, powerboats and the like.

#### **Section 2.57 Master deed.**

The legal document recording a condominium project to which are attached as exhibits and incorporated by reference the approved by-laws for the project and the approved condominium subdivision plan for the project.

#### **Section 2.58 Mobile home.**

A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

#### **Section 2.59 Nonconforming use or structure.**

A use or structure lawfully existing at the time of adoption of this ordinance, or any amendment thereto, which does not conform to the regulations of the district in which it is located.

#### **Section 2.60 Planned unit development (PUD).**

A land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. A planned unit development shall be available as an overlay development

option within certain zoning districts in accordance with the provisions of article 19A of this ordinance.

#### **Section 2.61 Planning Commission.**

The Planning Commission of the City of Mackinac Island, as created under City Ordinance Number 266, and as authorized under the Michigan Planning Enabling Act, Public Act No. 33 of 2008, as amended (MCL 125.3801 et seq.).

#### **Section 2.62 Principal use.**

The principal use to which the premises are devoted and the principal purpose for which the premises exist.

#### **Section 2.63 Private dock.**

A use of land and/or water which provides mooring or private watercraft of the owner of the upland property and owner's guests, not involving any commercial or public mooring, or other commercial use.

#### **Section 2.64 Private stable.**

Any building or structure used for the shelter and/or feeding of up to six horses; or other large domestic animals, for personal use only.

#### **Section 2.65 Public utility.**

Any persons, firm, corporation, municipal department, board, or commission duly authorized to furnish and furnishing, under federal, state or municipal regulations, to the public, electricity, gas, steam, communications, television, telegraph, water services or sewage disposal.

#### **Section 2.66 Recreational vehicle.**

A vehicle, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle which is self powered, or drawn by horse; such as travel trailers, camping trailers, motor homes and truck campers. A snowmobile is not a recreational vehicle.

#### **Section 2.67 Setback.**

The minimal horizontal distance between the wall of a building, said wall being the surface of the cladding on the exterior of the building, whether it's siding, brick or other material, and the boundary of the lot area as set forth in Section 2.54. Steps and unenclosed structures are exempt from consideration provided the exemption results in a minimum of five feet of open space on side yards and ten feet of open space on front and rear yards. Also exempt from consideration are portions of the building that protrude horizontally from the wall, including but not limited to eaves, overhangs and window trim, provided said protrusions do not extend more than two feet as measured horizontally from the wall.

**Section 2.68 Single ownership.**

Ownership of a parcel of property wherein the owner does not own adjoining vacant property, provided that the owner of any number of contiguous lots of record may have as many of said contiguous lots of record considered as a single lot of record for the purpose of this ordinance as he so elects, and in such case the outside perimeter of said group of lots or record shall constitute the front, rear and side lot line thereof.

**Section 2.69 Street or road.**

A public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, boulevard, highway, road and other thoroughfare, except an alley.

**Section 2.70 Story.**

That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above, or if there be no floor above it, then the space between the floor and the ceiling next above it.

**Section 2.71 Story, half.**

The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half the floor area of said full story.

**Section 2.72 Structure.**

Anything constructed or erected, that is located on the ground, or attached to something located on the ground.

**Section 2.73 Structural change or alteration.**

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

**Section 2.74 Swale.**

Defined contour of land with gradual slopes that transport and direct the flow of stormwater.

**Section 2.75 Swimming pool.**

Any structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing. A swimming pool shall be considered as an accessory building for the purpose of determining required yard spaces and maximum lot coverage.

### **Section 2.75A Tasting room.**

A use of a location on or off the manufacturing premises of the following Michigan Liquor Control Commission Licensees where the Licensee may provide samples of or sell at retail for consumption on or off premises the alcohol products it manufactures.

- A. A licensed Brewer or Microbrewer.
- B. A licensed Wine Maker or Small Wine Maker.
- C. A licensed Distiller or Small Distiller.
- D. A licensed Mixed Spirit Drinks Manufacturer.
- E. A licensed Brandy Manufacturer.

### **Section 2.76 Unenclosed structures.**

Unenclosed structures are structures, or portions thereof, that have not less than three sides fully open to the elements, including open porches, decks, porticos and similar structures. Glass, screens, shutters, blinds and the like will be considered features that enclose a structure.

### **Section 2.77 Use.**

The purpose for which land or premises of a building thereon is designed, arranged, or intended, or which it is occupied, or maintained, let, or leased.

### **Section 2.78 Variance.**

A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulties to circumstances unique to the individual property of which the variance is granted.

### **Section 2.79 Vegetative disturbance.**

The act of adversely impacting natural plant materials, including trees, shrubs, and ground cover on a site.

### **Section 2.80 Wetland.**

A wetland as defined in Part 303 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

### **Section 2.81 Yard.**

An open space of prescribed width or depth on a lot with a building or group of buildings, which lies between the building or group of buildings, and the nearest lot line, and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- A. Front yard. The minimum horizontal distance between the front line of the building, excluding steps and unenclosed porches and the front lot line, and extending the full width of the lot.

- B. Rear yard. A space unoccupied except by an accessory building as hereinafter permitted, extending for the full width of the lot between any building other an accessory building and the rear lot line.
- C. Side yard. An open unoccupied space on the same lot with the building, between the building and the side lot line, extending from the front yard to the rear yard.

**Section 2.82 Zoning administrator.**

The administrative official appointed by the city council who is responsible for the enforcement of this ordinance.

**Section 2.83 Zoning district.**

A zoning district is a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established by this ordinance.

## **ARTICLE 3    MAPPED DISTRICTS**

### **Section 3.01   Zoning districts.**

For the purpose of this ordinance, the City of Mackinac Island is hereby divided into 11 zoning districts known as:

R-1	Low density residential
R-3	High density residential
R-4	Harrisonville residential
HB	Hotel/boardinghouse
C	Commercial
MD	Market
CD	Cottage
ROS	Recreation/open space
RS	Shoreline residential
M	Marine
L	Lake

### **Section 3.02. - Zoning map.**

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Mackinac Island, Michigan," which accompanies and is made part of this ordinance.

### **Section 3.03. - Zoning district boundaries.**

Except where referenced on said map to a street line or other designated line by dimensions shown on said map, the zoning district boundary lines follow lot lines or the center lines of streets as they existed at the time of the adoption of this ordinance.

### **Section 3.04. - Areas not included within a district.**

In every case where property has not been included within a district on the zoning map, the same is hereby declared to be in the R-1 low density residential district, except for properties which include frontage on Lake Huron, that are hereby declared to be in the RS shoreline residential district.

### **Section 3.05. - Interpretation of boundaries.**

Questions or uncertainty concerning the exact location of zoning district boundary lines shall be determined by the board of zoning appeals. The board of zoning appeals in interpreting the zoning map shall apply the standards included in sections 3.03 and 3.04 of this article.



## **ARTICLE 4    GENERAL PROVISIONS**

### **Section 4.01    Zoning affects every structure and use.**

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

### **Section 4.02    Relationship to other laws.**

Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this ordinance shall govern. Regardless of any other provisions of this ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution or environmental protection law or regulation.

### **Section 4.03    Severability.**

This ordinance, and the various articles, sections, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, sentence or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. If any article, section, paragraph, sentence, or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, it is hereby provided that the application of such portion of the ordinance to other properties, buildings, or structures shall not be affected thereby.

### **Section 4.04    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 planning commission, the zoning administrator or other public officials acting in the scope of their authority.

### **Section 4.05    Height exemptions.**

The height requirements of all zoning districts shall not apply to simple antennas, dish antennas less than four feet in diameter, chimneys, flagpoles, lightning rods, elevator or roof access enclosures, and mechanical equipment such as fans and air conditioning units. The height requirements of all zoning districts shall also not apply to turrets, steeples, cupolas and similar structures that have square footage less than 20 percent of the square footage of the highest floor below the turret, steeple, cupola or similar structure, provided that no portion of such excluded structure be more than six feet above the maximum height of the nonexcluded portion of the building.

### **Section 4.06    Historic structures.**

Buildings or structures designated as "historic" by the state and/or national registers of historic places, if maintained as historic structures, are exempt from the area, bulk, height, and lot coverage requirements of this ordinance. If the use of such historic buildings or structures is for museum purposes, such use shall be exempt from the use provisions of this ordinance. For historic buildings or structures used for non-museum purposes, the use provisions of this ordinance still apply.

#### **Section 4.07 Mobile homes.**

Mobile homes are recognized as single-family dwelling units and are subject to the following provisions:

- A. To maintain the integrity of historic structures and the historic character of the city, no mobile **home** shall be located within 1,000 feet of a state or federally designated historic building or structure.
- B. Mobile homes are allowed in zoning districts where single-family dwelling units are permitted, and are subject to the regulations of the district in which they are located.
- C. All mobile homes must meet the following standards: The appearance of a mobile home must be compatible with the appearance of surrounding residential structures as determined pursuant to **section article** 18; all mobile homes must be situated on permanent foundations (such as concrete or cinderblock); and space that exists between the floor of a mobile home and the ground, including the foundation, shall render an appearance similar to a permanently constructed single-family home; and the roof of a mobile home must be pitched at an angle similar to that of surrounding residential structures. The city council, upon recommendation of the planning commission, may require the applicant to post a guarantee to insure conformance with these standards.
- D. The applicant for zoning approval for a mobile home shall submit additional information along with the application and site plans as required in article 20, showing how the mobile home complies with the standards outlined in section 4.07C.

#### **Section 4.08 Extractive uses.**

No excavation activity larger than 5,000 square feet in size and deeper than three feet in depth (except for basement excavations) shall be commenced without the issuance of a zoning permit for such activity. Excavation activities shall be permitted only as a special land use in the R-1 district. Such activity will be permitted only if the criteria outlined in article 19 are met. Site plan review requirements, as stated in article 20, apply to extractive uses, except that two separate site plans will be required, (a) an operational site plan, and (b) a reclamation site plan. Each site plan will contain the information required in article 20 plus the following: the operational site plan will show the limits of excavation, the methods of excavation, dray or truck routes in and out of the site, and barriers used for safety around the hole; the reclamation site plan will show how the site will be restored and revegetated to condition suitable for development or other uses. The city council, upon recommendation of the planning commission, may require the applicant to post a guarantee to insure conformance with the standards in this ordinance.

#### **Section 4.09 Landscape buffers.**

Upon any improvement for which a site plan is required, a landscape buffer shall be constructed along all adjoining boundaries between (i) a property zoned C or HB District and any property zoned R-1, R-3, R-4 or CD District and (ii) any property zoned MD which also meets the definition of commercial use, hotel use or boardinghouse use and any property that meets the definition of single-family or two-family residential use. A landscape buffer may also be required as a condition of approval for site plans, special land uses, planned unit developments, or as directly stated as a requirement of a particular zoning district. The following requirements shall apply:

- A. Landscape buffers shall have a minimum width of ten feet and shall be planted with grass, ground cover, shrubbery, or other suitable plant material. The location, placement, spacing and types of plant materials will be such that an efficient horizontal and vertical obscuring or screening effect between land uses will be achieved.
- B. All plants comprising the buffer will be continuously maintained in a sound, healthy, vigorous growing condition, free of diseases, insect pests, refuse and debris.
- C. Minimum sizes of trees and shrubs planted as a part of a landscape buffer are as follows:
  - 1. Deciduous shrubs. Minimum two feet in height.
  - 2. Deciduous trees. Minimum two inches in caliper (diameter).
  - 3. Evergreen shrubs. Minimum two feet in height.
  - 4. Evergreen trees. Minimum five feet in height.
- D. The choice and selection of plant materials will be such that the root system will not interfere with public utilities and that fruit and other plant debris (except leaves) will not constitute a nuisance within public rights-of-way, or to abutting property owners.
- E. All plant materials must meet current recommended minimum standards of the American Association of Nurserymen.
- F. Landscape buffers shall be in place at the date of occupancy approval, as provided in section 21.06, unless an extension of up to six months is granted by the Planning Commission and a performance guarantee is deposited to ensure completion of the improvements in accordance with section 4.18.
- G. Berms (earthen mounds) and/or certain types of fences may be installed in lieu of a landscape buffer for the purposes of screening when the planning commission determines, based upon a particular situation, that a fence and/or berm would effectively achieve the public purposes and private benefits inherent in this provision. Fences installed in lieu of or in conjunction with a landscape buffer will be constructed of wood, stone or brick to provide an effective screen and to maintain the natural and historic character of the Island. Chain link or other wire mesh type fences may be permitted only if covered with wood strips or plant materials.

#### **Section 4.10 Commercial stables and corrals.**

Commercial stables and corrals shall be permitted only as special land uses in any district, provided that the following standards have been complied with:

- A. No commercial stable structure shall exceed 40 feet in height.
- B. No commercial stable structure shall be located within 100 feet of any adjacent building used for residential purposes (see City Ord. No. 127).
- C. All commercial stables shall have a floor area of at least 40 square feet per horse per stall and a total ground floor area of at least 150 square feet per horse.

- D. Commercial corrals shall be allowed only as an accessory use to a commercial stable.
- E. Where a commercial stable or corral use borders a residential use, a landscape buffer shall be installed according to the provisions of section 4.09 of this ordinance.
- F. The means of ingress and egress of horses, drays, carriages and bicycles between a commercial stable or corral, and a public street shall be designed as to minimize congestion on the public streets. The means of ingress and egress shall be shown on the site plan required under article 20.
- G. Commercial stables and corrals shall meet all other regulations of the district in which it is situated.

#### **Section 4.11 Private corrals and stables.**

Private stables are considered an accessory use to any residential use, may be attached or detached to the residential building, and shall be subject to the following regulations:

- A. A private stable shall not be constructed prior to the completion of the primary residential building.
- B. No portion of a private corral shall be closer than five feet from any neighboring property.
- C. No private corral shall be occupied until an inspection is completed by the Zoning Administrator.
- D. A detached private stable and any portion of a private stable which is attached to a residence, shall have side setbacks of 20 feet and a rear setback of 20 feet, and shall not be located closer than 30 feet from any primary residential dwelling on adjoining property.
- E. Private stables shall not exceed 24 feet in height.
- F. Private stables shall be located in the rear or side yard of the property and no portion of the private stable shall extend beyond the front of the residence facing a street.

#### **Section 4.12 Accessory buildings to residential uses.**

Where residential uses are permitted, accessory buildings, except as otherwise permitted in this ordinance, shall be subject to the following regulations:

- A. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to the main building. Detached accessory buildings shall not be erected in any front yard. Detached accessory buildings located on corner lots shall not be erected in any area that can be designated as a front yard.
- B. An accessory building not exceeding one story or 14 feet in height may not occupy more than 25 percent of a rear yard; provided that in no instance shall the accessory building exceed the ground floor area of the main building.

- C. An accessory building or structure of less than 100 square feet or area shall not require a zoning permit provided that said building or structure meets all yard requirements for accessory buildings.
- D. No detached accessory building shall be located closer than ten feet to any principal building nor shall it be located closer than five feet to any side or rear lot line; provided however, no accessory building shall be located closer than 20 feet from the principal building on any adjacent property.
- E. Any accessory building shall not be constructed prior to the completion of the primary residential dwelling.
- F. Accessory dwelling units are allowed only within the R-1, R-3, R-4, HB, MD, and CD districts.
- G. Only one accessory dwelling unit, as defined in this ordinance, shall be permitted per lot, subject to the following:
  - 1. The owner of the lot shall occupy either the principal or accessory dwelling unit.
  - 2. The floor area shall not exceed 50% of the floor area of the principal dwelling unit.
  - 3. The accessory dwelling unit shall not be less in floor area than 400 square feet.
  - 4. The accessory dwelling unit shall have the same architectural style as the principal dwelling unit.
  - 5. An accessory dwelling unit within or attached to the principal dwelling shall have an interior entry. An exterior entry to an accessory dwelling unit shall not be visible from a street.
  - 6. The accessory dwelling unit shall comply with the density requirements of the district in which it is located.
  - 7. The accessory dwelling unit shall comply with all other requirements for principal structures for the district in which it is located.

**Section 4.13 Sewage disposal, solid waste disposal and other public services.**

Upon any improvement for which a site plan is required, the applicant must supply information demonstrating the following:

- A. That sewage waste generated on the property will be treated properly in accordance with City and/or LMAS District Health Department standards.
- B. That adequate arrangements are made for the storage and disposal of solid waste, ensuring that it does not cause undue odor, unsightliness, be accessible to animals, or attract animals or flies.
- C. That a safe means of fire escape is provided for all inhabited buildings and structures meeting the requirements of NFPA 1 and NFPA 101.

- D. That a minimum sixteen foot (16') wide and thirteen foot six inches (13' 6") high access way capable of servicing the largest fire apparatus shall be constructed from the nearest public street to each building and structure located more than one-hundred (100) feet from such public street to provide an adequate means of access for fire and emergency vehicles.
- E. That an approved water supply capable of the required fire flow for the structures shall be provided in accordance with NFPA 1 section 18.3
- F. That adequate maneuvering space is provided to allow access by delivery or pick-up vehicles (or drays, carriages, etc.).
- G. That adequate arrangements are made for the provision of utility services, including water and sewer supply, electric, phone, cable, propane tanks and similar equipment.

#### **Section 4.14 Essential ~~services~~ public-service facilities.**

Except with respect to the location, construction and use of buildings and building sites, the development and use of land by public utilities to provide essential public services is exempt from regulation under this ordinance.

#### **Section 4.15 Recreational vehicles prohibited.**

To protect the historic and natural character of the island, the storage of, or residence within, a recreational vehicle is prohibited within the city.

#### **Section 4.16 Bicycle spaces.**

For the uses listed below, a minimum number of off-street bicycle parking spaces shall be provided. Each bicycle space shall be at least one foot by six feet in area, or a standard space in a bicycle rack.

- A. Multiple-family dwellings shall require at least two (2) bicycle spaces per each dwelling unit.
- B. Boardinghouses shall require at least one (1) bicycle space per each occupant.
- C. Hotels and bed and breakfast establishments shall require at least one (1) bicycle space per each bedroom.
- D. Institutional uses shall require at least one (1) bicycle space per each building occupant, based on the average number of building occupants.
- E. Churches or places of worship shall require at least one (1) bicycle space per each six (6) seats or twelve (12) feet of pew space in the main unit of worship.

#### **Section 4.17 Conditions.**

Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development or other land uses or activities permitted by discretionary decision (i.e., variances). The conditions may include; 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 do all [of] the following:

- A. Be designed to protect natural resources, the health, safety, and welfare, as well as 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.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning regulations; 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.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

#### **Section 4.18 Guarantees.**

To ensure compliance with the terms of this ordinance and any conditions imposed upon the approval of a site plan for a proposed use, the planning commission or city council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the developer to the City. Such guarantee shall be deposited with the city clerk at the time of the issuance of the approved permit. In fixing the amount of such performance guarantee, the planning commission or city council shall limit it to reasonable improvements required to meet the standards of this ordinance and to protect the natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval, nor to improvements for which a performance guarantee has been deposited pursuant to Public Act No. 288 of 1967, as amended. The planning commission/city council and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the permit.

#### **Section 4.19 Bed and breakfast.**

Bed and breakfasts shall be permitted in the MD, R-3, R-4, HB and C zoning districts, but a bed and breakfast shall be allowed in an MD, R-3 or R-4 zoning district only as a special land use subject to all of the requirements and limitations set forth in article 19 of this ordinance.

Bed and breakfasts shall not be permitted in any other zoning district. Bed and breakfasts shall conform to the following conditions:



- A. Not more than 35 percent of the total floor area nor more than five sleeping rooms of the dwelling unit shall be used for bed and breakfast sleeping rooms.
- B. There shall be no separate cooking or kitchen facilities used for the bed and breakfast guests.
- C. There shall be at least two exits to the outdoors from such establishments.
- D. Sleeping rooms used for bed and breakfast guests shall have a minimum size of 120 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.
- E. Lavatory facilities. Lavatory and bath facilities shall be available to all guests using a bed and breakfast.
- F. Length of stay. The maximum stay for a guest of a bed and breakfast shall be 14 days.
- G. Signs. Sign located on the premises of the bed and breakfast shall conform to the following limitations:
  - (1) Signs shall be no more than six square feet in area.
  - (2) No sign shall be placed on the roof of a bed and breakfast.
  - (3) Illumination of signs in an MD, R-3 or R-4 district shall only be by indirect light and no sign shall be self-illuminating.
  - (4) No more than one sign per bed and breakfast is permitted.
  - (5) Portable signs are prohibited.

#### **Section 4.191 Use of docks, wharves, piers, etc.**

Docks, wharves, piers and all other man-made projections which extend into or over Lake Huron are subject to all of the terms of this zoning ordinance.

#### **Section 4.20 Foundation height limitations.**

Foundations in all zoning districts, except within the CD district, shall be limited to the following height restrictions:

- A. On level lots, the top of the foundation shall not be more than three feet above the highest point where the grade meets the footprint of the building (excluding decks, porches and stairs).
- B. On sloping lots, the top of the foundation shall not be more than an average of five feet above the grade as measured around the perimeter of the entire foundation, unless the planning commission determines that the natural terrain makes compliance reasonably impossible.



- C. For purposes of these foundation height measurements, back filling around the perimeter of the foundation shall be uniform in depth as it relates to the natural undisturbed grade, unless otherwise approved by the Planning Commission.
- D. In the CD district, foundations shall be subject to the restrictions set forth within section 4.20 A, B, and C, or may be of a height equal to the average of the heights of the adjacent home foundations.

#### **Section 4.21 Fences.**

Fences, as defined herein, are subject to site plan review and the following provisions:

- A. **Definition.** A fence means a structure forming a barrier, generally designed to prevent entrance or to depict a boundary or to enclose an area. This definition shall not include hedges or other vegetative barriers, free standing entrance structures such as trellises, garden fences and fences that are required as screening of trash sites and equipment on commercial premises.
- B. **Location**
  - 1. Fences must be located on the applicant's property.
  - 2. No fence may be placed in the public right-of-way.
  - 3. Fences on a common property line may be approved provided the adjoining owner provides written consent to such location.
  - 4. The fence shall not be located in a place or manner that interferes with drainage or the maintenance of any utility.
  - 5. No fence shall be allowed in a location or of a height that impedes clear vision of any drive, sidewalk or street.
- C. **Material.** Fences shall be constructed of materials of wood, stone, metal, or other historically appropriate materials upon determining the same by the Planning Commission.
- D. **Height.**
  - 1. Fences in front yards shall be no higher than four feet except for entrances consisting of decorative gateways or trellises, which may be constructed as high as ten feet.
  - 2. Fences in side and rear yards shall be no higher than six feet.
- E. **Design.**
  - 1. Fences shall be properly constructed to be structurally sound, secure, safe and properly maintained.
  - 2. The finished side of a fence shall face outward from the property on which it is located, any necessary bracing shall be on the inside of the fence.

3. Any gate shall swing into the property being fenced.
- F. Colors.
1. Any fences painted or stained shall use colors that are compatible with the architecture of the main building on the property.
  2. Iridescent or day-glow colors are not allowed.
- G. Prohibited Types of Fences.
1. Barbed wire, razor wire, concertina wire, or other hazardous type.
  2. Single-strand wire
  3. Chicken wire.
  4. Wood stockade with the exception of the same when utilized in an appropriately historical location, setting and context.
  5. Electric fencing with the exception of animal containment and invisible pet fences.
  6. Chain link fences in the front yard, except within the R-4 District.

#### **Section 4.22 Home occupations.**

A home occupation shall be allowed when conducted entirely within an enclosed dwelling and/or assessor building, and shall not require a zoning permit, conditioned upon the following requirements being met:

- A. The person(s) engaged in the home occupation must reside on the premises;
- B. The home occupation shall be clearly incidental and secondary to residential occupancy and shall not change the character of the residential nature of the premises;
- C. All activities shall be carried on within enclosed structures. There shall be no outside display of any kind. A small announcement sign not to exceed two square feet in area and attached to the front wall of the principal structure shall be permitted. All other signs are prohibited.
- D. The home occupation shall not create a nuisance, endanger the health, safety, welfare or enjoyment of any other person in the area by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.
- E. The home occupation shall not otherwise create customer or client traffic that exceeds that normally created by residential use.

A home occupation that is compliant with the standards of this section shall not require a business license, nor shall any business license be issued. Provided however, business activities requiring licensing under the Michigan Occupational Code shall require a city business license as a home occupation.

#### **Section 4.23 Adult foster care facilities.**

It is the intent of this section to establish standards for adult foster care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood. The following regulations shall apply to adult foster care facilities.

- A. A State licensed Adult Foster Care Small Group Home serving six persons or less and Adult Foster Care Family Home shall be considered a residential use of property and a permitted use in all residential districts.
- B. The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Adult Foster Care Small Group Homes serving ~~between 6 and 7~~ to 12 persons in the R-1, R-3, and R-4 zoning districts. Such uses shall be subject to the following standards:
  - 1. A site plan, prepared in accordance with article 20, shall be required to be submitted.
  - 2. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of one thousand-five hundred (1,500) square feet per adult, excluding employees and/or care givers.
  - 3. The property shall be maintained in a manner that is consistent with the character of the neighborhood.
  - 4. At its discretion, the Planning Commission may require a landscape buffer in accordance with section 4.9.
  - 5. Appropriate licenses with the State of Michigan shall be maintained.
- C. The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Adult Foster Care Large Group Homes serving between 13 and 20 persons and Adult Foster Care Congregate Facilities serving more than 20 persons in the C District, subject to the following standards:
  - 1. A site plan, prepared in accordance with article 20, shall be required to be submitted.
  - 2. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of one thousand-five hundred (1,500) square feet per adult, excluding employees and/or care givers.
  - 3. The property shall be maintained in a manner that is consistent with the character of the neighborhood.

4. At its discretion, the Planning Commission may require a landscape buffer in accordance with section 4.9.
5. Appropriate licenses with the State of Michigan shall be maintained.

*Wade Trim Commentary: Adult foster care large group homes and adult foster care congregate facilities were not previously addressed in the zoning ordinance. It is necessary to at least define and regulate these state-licensed facility types within the zoning ordinance. This amendment allows and regulates them as a special land use in the C District only.*

#### **Section 4.24 Child care facilities.**

It is the intent of this section to establish standards for child care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood. The following regulations shall apply to child care facilities.

- A. A State licensed Child Care Family Home, Foster Family Home, or Foster Family Group Home shall be considered a residential use of property and a permitted use in all residential districts.

*Wade Trim Commentary: Because foster family homes and foster family group homes are allowed and addressed per State law, they should be addressed in the zoning ordinance.*

- B. The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Child Care Group Homes in the R-1, R-3, and R-4 zoning districts. Such uses shall be subject to the following standards:
  1. A site plan, prepared in accordance with article 20, shall be required to be submitted.
  2. The property is maintained in a manner that is consistent with the character of the neighborhood.
  3. An outdoor play area of at least 500 square feet shall be provided on the premises. Said play area shall not be located within the front yard setback.
  4. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.
  5. The hours of operation do not exceed 16 hours within a 24 hour period.
  6. Appropriate licenses with the State of Michigan shall be maintained.
- C. The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Child Care Centers in the R-3, R-4, HB and C zoning districts. Such uses shall be subject to the following standards:
  1. A site plan, prepared in accordance with article 20, shall be required to be submitted.

2. The property is maintained in a manner that is consistent with the character of the neighborhood.
3. An outdoor play area of at least 1,000 square feet shall be provided on the premises. Said play area shall not be located within the front yard setback.
4. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.
5. Appropriate licenses with the State of Michigan shall be maintained.

#### **Section 4.25 Commercial unit size and area of operation**

Any commercial use shall be conducted within any commercial unit, which shall have a minimum floor area of 400 square feet. Rental bicycle liveryes, rental non-motorized marine vessel liveryes, freight docks, ferry docks, and horse drawn vehicle businesses shall be specifically exempted from this requirement.

#### **Section 4.26 Environmental Protection**

Environmental protection standards are established to protect the short and long-term health, safety, and welfare of the City by preventing erosion and flooding and protecting water quality. All uses and activities established after the effective date of this ordinance shall comply with the following standards. Site alternations, re-grading, filling or the clearing of vegetation, or any other activity deemed detrimental to any environmentally sensitive area or resource prior to the submission of plans for subdivision or land development shall be a violation of this ordinance.

- A. Stormwater management standards. Where it is determined that the public storm drainage system lacks sufficient capacity to control drainage to off-site properties and drainageways, the City may require on-site detention storage of storm water. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site. Stormwater management shall comply with the following standards:
  1. The design of storm sewers, detention facilities, and other stormwater management facilities shall comply with all applicable standards of the City of Mackinac Island.
  2. Where required by Public Act 451 of 1994, as amended, a Soil Erosion and Sedimentation Control (SESC) permit shall be obtained from the LMAS District Health Department. Additionally, the Planning Commission shall have the authority to require the submittal of a Soil Erosion and Sedimentation Control plan where it is determined that the natural conditions of the site and/or the complexity of the proposed development so warrant.
  3. Stormwater management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff and soil erosion from the proposed development.

4. The use of swales and vegetated buffer strips is encouraged in cases where it is safe as a method of stormwater conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.
5. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downgradient property owners.
6. Discharge of runoff from any site, which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the Michigan Department of Environmental Quality and/or the City of Mackinac Island, based upon professionally accepted principles, such a proposal shall be submitted and reviewed by the City, with consultation of appropriate experts.
7. Drainage systems shall be designed to protect public health and safety and to be visually attractive, taking into consideration viable alternatives.
8. Maintenance of detention basins shall be the responsibility of the property owner in accordance with applicable standards established by the City of Mackinac Island and/or County and State agencies.

B. Steep slope development standards.

1. General design standards.
  - a) Structures shall be designed in a manner that requires a minimum amount of alteration to any steep slopes on the site. Except where a geologic hazard investigation report recommends otherwise, multi-level building design and/or terracing shall be used in steep slope areas. Otherwise, structures shall be sited on existing level areas of the site.
  - b) Particular caution shall be taken to prevent increases in the rate of stormwater runoff and erosion downgradient of any steep slope development site. Additionally, the Planning Commission shall have the authority to require the submittal of a Soil Erosion and Sedimentation Control plan where it is determined that the natural conditions of the site and/or the complexity of the proposed development so warrant.
2. Specific Design Standards.
  - a) Any site disturbance of slopes exceeding fifteen (15%) percent shall be minimized.
  - b) No site disturbance shall be allowed on slopes exceeding twenty-five (25%) percent, except under the following circumstances.
    - i) Grading for a portion of a driveway accessing a single family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding twenty-five (25%) percent is possible.

- ii) Upon submission of a report by a certified soil or geotechnical engineer indicating that the steep slope may be safely developed and execution of a provision agreeing to hold the City of Mackinac Island harmless from any claims of damages due to approval of such development. If development is allowed to proceed under this subsection, no more than (15%) percent of such areas shall be developed and/or re-graded or stripped of vegetation.
- c) Finished slopes of all cuts and fills shall not exceed three-to-one (3:1), unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.

C. Shoreline development standards.

- 1. The following regulations shall apply to all properties having frontage on the Lake Huron shoreline.
  - A. No natural vegetation occurring on a lot shall be unnecessarily removed or disturbed during the construction of a building or structure. As much of the natural plant material existing on the lot shall be left as undisturbed as possible on all sides of the building or structure.
  - B. Shoreline landscape buffers may be required by the planning commission to reduce water pollution caused by stormwater runoff. The width and composition of such landscape buffers shall be determined by the planning commission. All plantings shall consist of native trees and shrubs and herbaceous vegetation.
  - C. Landscape buffers required by this section shall be continuously maintained in a sound, healthy, vigorous growing condition, free of diseases, insect pests, refuse and debris.
  - D. Landscape buffers shall be in place at the date of occupancy approval, as provided in section 21.06, unless an extension of up to six months is granted by the Planning Commission and a performance guarantee is deposited to ensure completion of the improvements in accordance with section 4.18.

D. Wetland protection standards.

- 1. Any activities undertaken within a regulated wetland shall require a permit from the Michigan Department of Environmental Quality in accordance with the Part 303 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended. Such permit must be obtained prior to the issuance of a zoning permit from the City.
- 2. Should available sources of wetland information, consultants report or the MDEQ determine the potential or known presence of a wetland, the Planning Commission may require a wetland determination by a recognized expert prior to approving a site plan.



#### **Section 4.27 Exterior lighting**

- A. To the extent feasible, all outdoor lighting in all use districts shall be directed toward and confined to the ground areas of the site, and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.
- B. Lighting in nonresidential districts, used for the external illumination of buildings, may be allowed so as to feature said buildings, but shall be arranged and shielded so as not to interfere with the vision of persons on adjacent streets or adjacent property.
- C. All illumination of any outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
- D. Decorative lighting for holidays and special Island events shall be exempt from the provisions of this section for the duration of the holiday and special event.

#### **Section 4.28 Airport Approach Protection Plan Area**

The erection or modification of any structure within an adopted airport approach protection plan area shall require a permit from the Michigan Department of Transportation Bureau of Aeronautics.

#### **Section 4.29 Tents and Other Temporary Buildings**

For purposes of this ordinance section, Tents are described as a building used for commercial purposes, constructed, assembled or erected with the intent of being taken down or moved at a future time, the walls and roof thereof typically consisting of canvas, vinyl, plastic or other non-structural material.

- A. **Short Term Tents.** A tent may be used for commercial purposes in districts where such commercial use is allowed without prior site plan approval or a zoning permit, provided, all of the following are met: (i) the city zoning administrator, or designee, is notified in advance of the construction or erection of the tent; (ii) the tent does not stay erected for more than 72 continuous hours; (iii) the tent is otherwise compliant with all requirements applicable to the zoning district.
- B. **Special Events Tents.** A tent may be used for commercial purposes in districts where such use is allowed without prior site plan approval or a zoning permit, provided, all of the following are met: (i) the city zoning administrator, or designee, is notified in advance of the construction or erection of the tent; (ii) the tent does not stay erected for more than seven consecutive days; and (iii) the tent is used during, and in association with, any of the following special events: Chicago Yacht Club Race, Bayview Yacht Club Race, Detroit Regional Chamber of Commerce, Grand Hotel Jazz Fest and Republican Leadership Conference or other similar events approved by the city council; (iv) the tent is otherwise compliant with all requirements applicable to the zoning district.
- C. **Seasonal Tents.** A tent may be used for commercial purposes on a seasonal basis in districts where such commercial use is allowed, commencing May 1st and continuing through October 31st of any given year upon issuance of site plan approval and a zoning permit authorized by the Planning Commission based on the following criteria. (i) Whether the tent has been previously used in the proposed location; (ii) whether any



negative impact on the surrounding area created by the commercial activity to be conducted within the tent is unreasonably increased by the use of a tent as opposed to a permanent structure; (iii) any other reasons why a tent is being proposed for use in lieu of a permanent structure in light of the public policy favoring history and architecture on Mackinac Island; (iv) the tent is otherwise compliant with all requirements applicable to the zoning district; (v) any other reason relating to the health, safety and welfare of the residents and visitors to Mackinac Island.

- D. Contractor's Tents. A tent may be used by licensed contractors for temporary storage of their tools, or weather protection, while working on a construction project. No site plan approval or zoning permit is required for this type of use.
- E. Any tent used for commercial purposes, unless specifically approved herein, is prohibited.

#### **Section 4.30 Seasonal enclosures.**

- A. Definition. Seasonal enclosures, for purposes of this ordinance, mean enclosures attached to an existing primary structure on a parcel of land that is erected and maintained only during a time period after November 1st and before May 1st of any given year, specifically excluding various tents as defined in Ordinance No. 540, City of Mackinac Island Code section 4.29. Provided said enclosure is otherwise fully compliant with all provisions of the City of Mackinac Island Zoning Ordinance.
- B. No Permit Required. Seasonal enclosures may be constructed or maintained in all zoning districts without a zoning permit and shall be exempt from site plan and architectural review.

#### **Section 4.31 Convalescent homes, nursing homes, and assisted living facilities.**

The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of convalescent, nursing homes, or assisted living facilities within the C District. Such uses shall be subject to the following standards:

- A. A site plan, prepared in accordance with article 20, shall be required to be submitted.
- B. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of one thousand-five hundred (1,500) square feet per bed in the facility.
- C. The property shall be maintained in a manner that is consistent with the character of the neighborhood.
- D. At its discretion, the Planning Commission may require a landscape buffer in accordance with section 4.9.

*Wade Trim Commentary: These facilities are not presently addressed in the zoning ordinance. This amendment allows and regulates them as a special land use in the C District only.*

## ARTICLE 5 NONCONFORMING USES AND STRUCTURES

### Section 5.01 Intent.

It is the intent of this article to provide for the regulation of legally nonconforming uses, structures, and lots of record, and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this ordinance that those nonconformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction. The continued existence of nonconformities is frequently inconsistent with the purposes of which such regulations are established, and thus the gradual elimination of such nonconformities is generally desirable. The regulations of this article permit such nonconformities to continue without specific limitation of time but are intended to restrict further investments which would make them more permanent.

*Wade Trim Commentary: This is an important statement that clarifies how the establishment of limitations on nonconforming uses, structures, and lots achieves a legitimate governmental interest.*

### Section 5.02 Definition of nonconforming uses.

Nonconforming uses are those which are not allowed by the existing provisions of the zoning ordinance but were lawfully established prior to the time the ordinance or any amendment thereto made such use unlawful.

### Section 5.03 Definition of nonconforming structures.

Nonconforming structures are those which do not conform to a dimensional provision or requirement of the zoning ordinance but were lawfully established prior to the time the ordinance or any amendment thereto caused the structure to be unlawful.

### Section 5.04 Regulations pertaining to nonconforming structures.

A nonconforming structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

- A. This ordinance shall not prohibit the repair, improvement or modernization of a nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed a value equal to 50 percent of the structure's replacement cost. However, the replacement cost limitation shall not apply to a nonconforming structure occupied by or intended to be occupied by a single-family dwelling.

*Wade Trim Commentary: The Planning Commission expressed a desire to ease the restrictions on nonconforming single-family housing units.*

- B. Any nonconforming structure damaged or destroyed by fire, explosion, flood, erosion or other means, shall not be repaired or reconstructed in such fashion that it exceeds the present size, shape, location, design or other specifications and measurements currently existing or currently approved in said structure.

- C. Structural changes, including enlargement or extension of a nonconforming structure, may be permitted by the planning commission, provided the enlargement or extension meets all current zoning requirements and does not increase any existing nonconforming condition, with the following exception: approved additions to structures which are nonconforming due to height may be allowed up to the height of the existing structure.

#### **Section 5.05 Determination of replacement cost.**

The determination of the current construction cost for replacement of an existing building or structure, or portion thereof, shall be made on the basis of an appraisal by an individual prequalified by the City Assessor. The cost of such determination shall be borne by the applicant.

#### **Section 5.06 Nonconforming lots of record.**

Any nonconforming lot or record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this ordinance or an amendment thereto, shall be used only for a use permitted in this ordinance. If the permitted use of a nonconforming lot requires a variation of the setback or yard requirements of this ordinance in excess of 15 percent of the requirements, than such uses shall only be permitted if a variance is granted by the board of zoning appeals under the terms of this ordinance. The reduction by 15 percent or less of dimensional requirements for lawful nonconforming lots may be granted by the zoning administrator in a manner consistent with the spirit and intent of the setback provisions in the district in which the lot is located. When the minimum dimensional requirements of this ordinance can be met by the combination of two or more nonconforming contiguous lots owned by the same person, said lots may be combined for use and no variance is necessary.

#### **Section 5.07 Regulations for nonconforming uses.**

- A. A nonconforming use shall not change in the type or nature of the original nonconforming use, including, but not limited to, expansion of the structure in which the use is conducted, unless the owner demonstrates to the zoning board of appeals that the change will not materially change the nonconformity of the use.

~~B. The nonconforming use is allowed to continue until it has been voluntarily surrendered by the owner as evidenced by a written notice of surrender or by the discontinuance of the use for a period of two years.~~

*Wade Trim Commentary: Due to recent case law pertaining to the abandonment of nonconforming uses, the above provision is proposed to be deleted and replaced with the new language below...*

- B. If a nonconforming use is discontinued for a period of two years, where there is an intent demonstrated by the property owner to remove, discontinue, or abandon the nonconforming use, such use shall not thereafter be established except in conformance with the regulations of the district in which it is located. Determination of discontinuance or abandonment shall be made by the board of zoning appeals upon a finding that one (1) or more of the following conditions exist:

1. Local, county, or state government files or records show that the nonconforming use has ceased. Such evidence may include, but shall not be limited to, permits, inspection reports, dated photographs or notarized statements of government officials, agents, representatives, or employees.
2. Dated records that provide information about the occupants or uses located on a street by address or lot number, show that the nonconforming use has ceased. Such evidence may include, but shall not be limited to, entries that show the address associated with the use as vacant or occupied by another use, or show the phone or internet service associated with the use as disconnected or in use at another location.
3. Utility records, including, but not limited to, providers of water, sewer, electric, natural gas, or telecommunications service, show that the nonconforming use has ceased. Such evidence may include, but shall not be limited to, records indicating that the address of the use is vacant or occupied by another use, the utility service associated with the use has been disconnected or the business, organization or individual associated with the use has moved to another location.
4. Dated advertising or other information included on the internet or published in a newspaper or magazine show that the nonconforming use has ceased. Such evidence may include, but shall not be limited to, websites, social media pages, advertisements, articles, features, or photographs that address the use of the land in question.
5. Dated aerial photographs from public, governmental, or other sources that show that the nonconforming use has ceased.
6. Other relevant information showing that the nonconforming use has ceased. Such evidence may include, but shall not be limited to, date-stamped photographs, diary or log entries, affidavits, or notarized statements.

*Wade Trim Commentary: Michigan courts have relied on a higher standard to prove abandonment of a nonconforming use – that the property owner must have shown intent to abandon the use. Given this, new language is proposed which outlines a formal procedure to prove abandonment, along with various factors that the city can cite as evidence of abandonment.*

- C.** A nonconforming use ~~shall not be affected by any damage or destruction of the structure in which it is located~~ located in a structure that is damaged or destroyed by fire, explosion, flood, erosion or other means shall be permitted to continue upon the repair or reconstruction of such structure in accordance with the requirements of this ordinance.

*Wade Trim Commentary: The current language is somewhat vague. This revised language has the same intent but is more clearly written.*

- D. Any structure, or structure and land in combination, in or on which a nonconforming use is later replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

*Wade Trim Commentary: This is an important provision indicating that, once changed to a conforming use, a nonconforming use cannot be re-established.*

- E. There may be a change in tenancy, ownership, or management of any existing nonconforming use provided there is no change in the nature or character of such nonconforming use.

*Wade Trim Commentary: This is important language clarifying that a nonconforming use is not impacted by a change in tenancy, ownership, or management.*

## ARTICLE 6 “R-1” LOW DENSITY RESIDENTIAL

### Section 6.01 Purpose.

To establish and preserve quiet, low density residential neighborhoods, safe and free from congestion by pedestrians, bicycles and horses, and free from other uses except those which are both compatible with and convenient to the residents of such a district.

### Section 6.02 Permitted uses R-1.

Single- and two-family residential dwellings ~~and accessory buildings/uses thereto, and~~ churches or places of worship, ~~and accessory buildings/uses thereto,~~ are permitted in this district.

*Wade Trim Commentary: This minor change ensures that accessory buildings/uses may be allowed for any principal use allowed in the district, not just residential dwellings. Similar revisions are proposed in the other zoning districts as noted later.*

### Section 6.03 Area, bulk, height, lot coverage, and density requirements.

- A. Lot size. The lot size for this district shall not be less than 15,000 square feet, nor less than 100 feet wide at the building line.
- B. Buildings and structures shall be setback from property lines as follows (except as noted below):
  - 1. Front yard. Minimum 25 feet or in line with the adjacent residences.\*
  - 2. Side yard. Minimum five feet on one side and ten feet on the other.
  - 3. Rear yard. Minimum 25 feet.
  - 4. On the secondary streets of McGulpin, French Lane, Mahoney and Mission, setbacks are:
    - a. Side yard. Five feet minimum.
    - b. Rear yard. Fifteen feet minimum.
- \* "In line" determined by zoning administrator averaging existing setbacks of all structures within 150 feet of proposed structure on the same side of the street, within the same zoning district.
- C. No principal building shall be less than 12 feet in height, nor shall any building exceed 35 feet, or 2½ stories, in height.
- D. The maximum permitted lot coverage by impervious surfaces (such as roofs, cement and asphalt areas, etc.) shall be 35 percent.
- E. The maximum permitted density shall be three dwelling units per acre.

**Section 6.04. - Accessory buildings in residential districts.**

[Repealed.]

## ARTICLE 7 “R-3” HIGH DENSITY RESIDENTIAL

### Section 7.01 Purpose.

To establish and preserve quiet neighborhoods of single- and multiple-family homes, free from other uses except those which are both compatible with and convenient to the residents of such a district, and to provide adequate housing opportunities for permanent and seasonal residents.

### Section 7.02 Permitted uses R-3.

Multiple-family, two-family and single-family residential dwellings ~~and accessory buildings/uses thereto~~, and churches or places of worship, ~~and accessory buildings/uses thereto~~, are permitted in this district.

### Section 7.03 Special land uses.

The following uses, ~~and accessory buildings/uses thereto~~, are permitted by special land use approval of the planning commission, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:

A. Institutional, provided:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking be provided in accordance with the requirements of section 4.16.
3. That the institutional use and/or structure complies with all other district regulations.

B. Boardinghouse, provided;

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking be provided in accordance with the requirements of section 4.16.
3. That the boardinghouse use and/or structure complies with all other district regulations.

### Section 7.04 Area, bulk, height, lot coverage, and density requirements.

- A. Lot size. The lot size for this district shall not be less than 5,000 square feet, nor less than 50 feet wide at the building line.
- B. Buildings, and structures shall be setback from property lines as follows:
1. Front yard. Twenty-five feet minimum or in line with adjacent residences.\*



2. Side yard. Minimum five feet on one side and ten feet on the other.
3. Rear yard. Twenty-five feet minimum.
4. On the secondary streets of McGulpin, Church, Bourisaw, French Lane, Mahoney and Mission, setbacks are:
  - a. Side yard. Five feet minimum.
  - b. Rear yard. Fifteen feet minimum.

\* "In line" determined by zoning administrator averaging existing setbacks of all structures within 150 feet of proposed structure on the same side of the street, within the same zoning district.

- C. No principal building shall be less than 12 feet in height, nor shall any building exceed 35 feet, or 2½ stories, in height.
- D. The maximum lot coverage by impervious surfaces shall be 40 percent.
- E. The maximum permitted density for family residential use shall be 20 dwelling units per acre. For use as a boardinghouse, the maximum allowable density shall be one occupant per 500 square feet of lot area within which the building is placed. An occupant is a person who occupies a bed or sleeping area within the building for one or more overnight periods. In the event the building contains both family residential use and boardinghouse use (nonfamily residential use), the one occupant per 500 square feet of lot area density limitation shall apply to the entire building.

## ARTICLE 7A “R-4” HARRISONVILLE RESIDENTIAL

### Section 7A.01 Purpose.

To establish and preserve a quiet neighborhood of primarily single- and two-family homes within the area of the Island commonly known as Harrisonville, free from other uses except those which are both compatible with and convenient to the residents of Harrisonville, and to provide adequate housing opportunities for permanent and seasonal residents.

### Section 7A.02 Permitted uses R-4.

Single-family and two-family residential dwellings ~~and accessory buildings/uses thereto,~~ and churches or places of worship, ~~and accessory buildings/uses thereto,~~ are permitted in this district.

### Section 7A.03 Special land uses.

The following uses, ~~and accessory buildings/uses thereto,~~ are permitted by special land use approval of the planning commission, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:

#### A. Multiple-family residential, provided:

1. That a landscape buffer is provided along all property boundaries, which abut single-family or two-family residential uses, in accordance with the requirements of section 4.09.
2. That the multiple-family use and/or structure complies with all other district regulations.

#### B. Boardinghouse, provided;

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking be provided for each tenant or guest residing at or visiting the boardinghouse during the tourist season (Memorial Day through Labor Day).
3. That the boardinghouse use and/or structure complies with all other district regulations.

#### C. Commercial storage, provided;

1. The minimum lot size is 10,000 square feet.
2. Commercial storage is the only use of the property.
3. All items stored are kept within a building and not visible from outside the building.
4. No building shall exceed 24 feet, or one story, in height.

5. The maximum lot coverage by impervious surfaces shall be forty (40%) percent.
6. Buildings and structures shall be setback from property lines as follows:  
Front: 25 feet  
Rear: 25 feet  
Side: 5 feet and 10 feet
7. The storage property must be accessed by its own driveway used exclusively for the storage facility.
8. The hours of operation, being the time that the storage area may be accessed by customers, shall be from 8:00 a.m. to 9:00 p.m.
9. The lighting of the storage facility and area must be approved by the Planning Commission to minimize the effect of the lighting on the neighboring properties and general area.
10. A landscape buffer shall be provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.

D. Institutional, provided:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking is provided in accordance with the requirements of section 4.16.
3. That the institutional use and/or structure complies with all other district regulations.

**Section 7A.04      Area, bulk, height, lot coverage, and density requirements.**

- A. Lot size. The lot size for this district shall not be less than 10,000 square feet, nor less than 75 feet wide at the building line.

B. Buildings, and structures shall be setback from property lines as follows:

1. Front yard. Twenty-five feet minimum or in line with adjacent residences.\*
2. Side yard. Minimum five feet on one side and ten feet on the other.
3. Rear yard. Twenty-five feet minimum.

\* "In line" determined by zoning administrator averaging existing setbacks of all structures within 150 feet of proposed structure on the same side of the street, within the same zoning district.

- C. No principal building shall be less than 12 feet in height, nor shall any building exceed 35 feet, or 2½ stories, in height.

- D. The maximum lot coverage by impervious surfaces shall be 40 percent.
- E. The maximum permitted density for family residential use shall be 10 dwelling units per acre. For use as a boardinghouse, the maximum allowable density shall be one occupant per 500 square feet of lot area within which the building is placed. An occupant is a person who occupies a bed or sleeping area within the building for one or more overnight periods. In the event the building contains both family residential use and boardinghouse use (nonfamily residential use), the one occupant per 500 square feet of lot area density limitation shall apply to the entire building.

## ARTICLE 8 “HB” HOTEL/BOARDINGHOUSE

### Section 8.01 Purpose.

To establish areas for the housing of seasonal employees and visitors and for the provision of adequate overnight accommodations for tourists, free from other uses except those which are compatible with and convenient to the residents of such district.

### Section 8.02 Permitted uses.

Hotels, boardinghouses, multiple-, two- and single-family residential dwellings ~~and accessory buildings/uses thereto~~, institutional, hotel-related commercial (those commercial uses designed to service hotel uses and are located on the same property as the hotel use, such as restaurants and gift shops), ~~and~~ churches or places of worship, ~~and accessory buildings/uses thereto~~, are permitted in this district.

### Section 8.03. - Area, bulk, height, lot coverage, and density requirements.

- A. Lot size. The lot size for this district shall not be less than 7,500 square feet, nor less than 60 feet wide at the building line.
- B. Buildings and structures shall be setback from property lines as follows:
  - 1. Front yard. Thirty feet minimum.
  - 2. Side yards. Ten feet minimum.
  - 3. Rear yard. Thirty feet minimum.
- C. No principal building shall be less than 12 feet in height, nor shall any building exceed 40 feet, or 3½ stories, in height.
- D. The maximum lot coverage by impervious surfaces shall be 40 percent.
- E. The maximum permitted density shall be as follows:
  - 1. Hotels. Sixty bedrooms per acre.
  - 2. Boardinghouse (nonfamily residential units). One occupant per 300 square feet of lot area maximum.
  - 3. Family residential units. Twenty dwelling units per acre maximum.

### Section 8.04 Other provisions.

- A. Off-street bicycle parking shall be provided in accordance with the requirements of section 4.16.
- B. Within the HB District, where a hotel, boardinghouse, institution, church or place of worship, or hotel-related commercial use is located adjacent to a single-family residential use, a landscape buffer shall be provided along all property boundaries which abut such single-family residential use, in accordance with the requirements of section 4.09.

## ARTICLE 9 “C” COMMERCIAL

### Section 9.01 Purpose.

To establish and preserve a cohesive business district suited to the needs of travelers, tourists, vacationers, and seasonal and permanent residents.

### Section 9.02 Permitted uses.

The following uses, and accessory buildings/uses thereto, are permitted in this district:

- A. Commercial, hotel, and institutional uses, and churches or places of worship ~~are permitted in this district.~~
- B. ~~Apartment units~~ Multiple-family residential dwellings and boardinghouses ~~located in commercial structures~~ shall be permitted provided that they are in compliance with the following standards:
  - 1. The minimum usable floor area per ~~residential apartment~~ multiple-family residential dwelling unit shall be 250 square feet.
  - 2. Off-street bicycle parking shall be provided in accordance with the requirements of section 4.16.
  - 3. That the ~~boardinghouse~~ use and/or structure complies with all other district regulations.

*Wade Trim Commentary: The Planning Commission indicated that multiple-family residential dwellings and boardinghouses may be appropriate within the C District regardless of whether they are “located in commercial structures.” This revised language reflects this change.*

### Section 9.03 Special land use.

The following uses, and accessory buildings/uses thereto, are permitted by special land use approval of the planning commission, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:

- A. Kennels, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:
  - 1. The minimum lot size is 15,000 square feet.
  - 2. No building or enclosure holding animals shall be located closer than 100 feet from any dwelling unit and 30 feet from any lot line.
  - 3. Where a kennel use borders a residential use, a landscape buffer shall be installed according to the provisions of section 4.09 of this ordinance.
- B. Tasting Rooms, provided they are in compliance with the standards that follow and the procedures and standards in Article 19:

1. A Tasting Room may not be located less than 1,000 feet from an existing Tasting Room. This distance shall be measured from the intersection of the customer access to the Tasting Room and the public street.
2. Operating hours of the Tasting Room business shall be conducted between 10 a.m. and 10 p.m. only.
3. Of the area devoted to the Tasting Room business, not less than 50% shall be utilized for retail sales, including non-alcohol products and alcohol products sold for off-premises consumption. Only alcohol products manufactured by the licensee may be sold by the Tasting Room business, whether for on-premises consumption or off-premises consumption.
4. No use shall be made of the licensed premises that would require a dance permit or entertainment permit from the Michigan Liquor Control Commission.
5. A site plan shall be submitted to the Planning Commission with all information necessary to show compliance with the standards required in this ordinance. Any future change in the site plan shall require a submission of a revised site plan and approval by the Planning Commission.
6. The Tasting Room must remain in compliance with all laws, rules and requirements of the Michigan Liquor Control Commission, and all city, state and federal ordinances, laws or regulations that relate directly or indirectly to the Tasting Room business.

**Section 9.04 Unit size, bulk, height, and density requirements.**

- A. Where a commercial district borders a residential district or use, the structure shall be setback a minimum of 15 feet from the abutting lot line.
- B. No principal building shall be less than 12 feet in height, nor shall any building exceed 40 feet, or three stories, in height.
- C. The following density requirements apply in this district:
  1. Hotel. Minimum of 230 square feet per room is to be determined by the total square feet of the hotel divided by the total number of hotel rooms.
  2. Boardinghouse (nonfamily residential units). One occupant per 250 square feet of lot area maximum.
  3. Family residential units (apartment). Thirty dwelling units per acre.

## ARTICLE 10 “MD” MARKET

### Section 10.01 Purpose.

To establish and preserve a district (formerly called the Historic District) containing several historically significant structures and other buildings primarily fronting Market Street, which together form a neighborhood with unique historic character.

### Section 10.02 Permitted uses.

Single-, two-, and multiple-family residential dwellings ~~and accessory buildings/uses thereto~~, churches or places of worship, commercial, hotel, and institutional uses, ~~and accessory buildings/uses thereto~~, are permitted in this district.

### Section 10.03 Special land use.

Boardinghouses, ~~and accessory buildings/uses thereto~~, are permitted by special land use approval of the planning commission provided they are in compliance with the standards that follow and comply with the requirements of article 19:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking be provided in accordance with the requirements of section 4.16.

### Section 10.04 Area, bulk, height, lot coverage, and density requirements.

- A. Lot size. The lot size for this district shall not be less than 5,000 square feet, no less than 50 feet wide at the building line.
- B. Buildings and structures shall be set back from property lines as follows;
  1. Front yard. Ten feet minimum.
  2. Side yards. Ten feet minimum.
  3. Rear yard. Fifteen feet minimum.
- C. No principal building shall be less than 12 feet in height, nor shall any building exceed 30 feet, or 2½ stories, in height.
- D. The maximum permitted lot coverage by impervious surfaces shall be 35 percent.
- E. The following density requirements apply in this district:
  - A. Family residential uses. The maximum density for family residential uses shall be seven dwelling units per acre.
  - B. Boarding House (Non-family Residential Use). The maximum density for boarding house (non-family residential use) shall be one occupant per 500 square feet of lot area.



- C. Hotel. The total number of rooms shall not exceed the number resulting from the following formula: Total Square Footage of the Hotel area (excluding porches, decks and other exterior areas) divided by 450.

## **ARTICLE 11 “CD” COTTAGE**

### **Section 11.01 Purpose.**

To establish and preserve areas of large residential estates characterized by unique Victorian or other style architecture, large landscaped yards, and quiet low density residential use.

### **Section 11.02 Permitted uses.**

Single-family residential dwellings and accessory buildings/uses thereto are permitted in this district.

### **Section 11.03 Area, bulk, height, lot coverage, and density requirements.**

- A. Lot size. The lot size in this district shall not be less than one acre.
- B. Buildings and structures shall be setback from property lines as follows:
  - 1. Front yard. Twenty-five feet minimum.
  - 2. Side yards. Fifteen feet minimum.
  - 3. Rear yard. Twenty-five feet minimum.
- C. No primary dwelling building shall be less than 24 feet and two stories nor higher than 40 feet and three stories, in height.
- D. The maximum permitted lot coverage by impermeable surfaces shall be 30 percent.
- E. The maximum density permitted in this district is one principal dwelling unit per acre.

### **Section 11.04 Accessory buildings.**

Accessory buildings in the cottage district shall be subject to the regulations set forth in section 4.12 except that the accessory buildings in the cottage district shall be allowed to have a height not exceeding 14 feet or one-half the height of the primary dwelling, whichever is greater.

## **ARTICLE 12 “ROS” RECREATION/OPEN SPACE**

### **Section 12.01 Purpose.**

To establish and preserve public and private areas for outdoor recreation and open space purposes, to provide recreation opportunities for residents and visitors, and to preserve scenic views to Lake Huron which serve to enhance the historic and natural character of the island.

### **Section 12.02 Permitted uses.**

Outdoor recreation, both public and private and related uses, including parks, golf courses, tennis courts, softball diamonds, and open spaces, and facilities customarily related thereto, are permitted in this district.

### **Section 12.03 Setback, height, and lot coverage requirements.**

- A. Setbacks. Any outdoor recreation building, structure, accessory structure, or impervious surfaces shall not be located any closer than 20 feet from a public street.
- B. No building or structure shall exceed 20 feet, or one story, in height.
- C. The maximum permitted lot coverage by impermeable surfaces shall be ten percent.

**ARTICLE 13 [Reserved.]**

## **ARTICLE 14 “RS” SHORELINE RESIDENTIAL**

### **Section 14.01 Purpose.**

To establish a district which allows for low density residential use in a manner which protects, and is compatible with, the unique characteristics of the Lake Huron shoreline.

### **Section 14.02 Permitted uses.**

Single-family residential dwellings and accessory buildings/uses are permitted in this district.

### **Section 14.03 Area, bulk, height, lot coverage, and density requirements.**

- A. Lot size. No lot in this district shall be less than 10,000 square feet in size.
- B. Buildings and structures shall be setback from property lines and the shoreline as follows:
  - Shoreline setback. Sixty feet minimum from the water's edge.
  - Side yards. Twenty feet minimum.
  - Street setback. Forty feet minimum.
  - (If there is no shoreline edge on the lot, the setback from the property line opposite the street side property line shall be 40 feet).
- C. No primary dwelling building shall be less than 12 feet in height, nor exceed 20 feet, or 1½ stories, in height.
- D. The maximum permitted lot coverage by impervious surfaces shall be 30 percent.

## **ARTICLE 15 "M" MARINE**

### **Section 15.01 Purpose**

To establish a zoning district for the historic harbor area of Mackinac Island encompassing the entire area between the east and west breakwaters lakeward from the ordinary high water mark. To regulate the necessary uses thereof with recognition of historical uses and further recognizing that this harbor provides the transportation link for most goods and passengers being transported to and from Mackinac Island.

### **Section 15.02 Permitted Uses**

Private docks, marinas, and commercial docks, as defined in this ordinance, and other commercial and residential uses are permitted in this district dependent upon the zoning district of the upland adjoining the water area in question. For areas adjoining uplands zoned residential, private docks only will be permitted. For areas adjoining uplands that are zoned commercial, commercial docks, marinas, private docks and all uses permitted in commercial districts shall be permitted. For areas adjoining uplands zoned ROS or HB, private docks and marinas shall be permitted.

### **Section 15.03 Permitted use regulation.**

Regulations for permitted uses in "M" District:

#### **A. Private dock regulations.**

1. No building or structure greater than four (4) feet in height or 10 percent of the dock area, permanent or temporary, shall be allowed to be placed on any private dock within this district.
2. No deck of a dock shall extend more than four feet above the ordinary high water mark and no other portion of the dock shall extend more than ten feet above the ordinary high water mark.
3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.
4. Construction or alteration shall follow the procedure set forth in article 20 for required site plan review, the same as other construction or alterations on shore.

#### **B. Marina regulations.**

1. No building or structure greater than four (4) feet in height or 10 percent of the dock area, permanent or temporary, shall be allowed to be placed on any marina dock within this district.
2. No deck of a dock shall extend more than four feet above the ordinary high water mark and no other portion of the dock shall extend more than ten feet above the ordinary high water mark.

3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.
4. Construction or alteration shall follow the procedure set forth in article 20 for required plan review, the same as other construction or alterations on shore.
5. No part of the marina structure shall unreasonably impede the circulation of water within the harbor.

C. Commercial dock and commercial use regulations.

1. Every commercial use within the "M" Marine District shall comply with all requirements set forth for the Commercial District in the Zoning Ordinance unless said requirements are inconsistent with the specific requirements of this section.
2. Buildings and structures shall not exceed 25 feet in height above the surface of the deck, or the height of any existing building that is being replaced, shall not be more than one and one-half stories, and shall not exceed more than 40 percent of the dock area.
3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.
4. Construction or alteration shall follow the procedure set forth in article 20 for required plan review, the same as other construction or alterations on shore.

## **ARTICLE 16 "L" LAKE**

### **Section 16.01 Purpose**

To establish a zoning district to regulate uses and structures in the water area surrounding Mackinac Island which are outside the historic harbor area ("Marine District"), said water area to be considered those areas lakeward from the ordinary high water mark, recognizing the historical uses, the need for open viewing areas and scenic atmosphere of Mackinac Island.

### **Section 16.02 Permitted uses.**

Private docking only is permitted in this district.

### **Section 16.03 Private dock regulations.**

1. No building or structure, permanent or temporary, shall be placed on any private dock within this district.
2. No deck of a dock shall extend more than four feet above the ordinary high water mark and no other portion of the dock shall extend more than ten feet above the ordinary high water mark.
3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.
4. Construction or alteration shall follow the procedure set forth in article 20 for required site plan review, the same as other construction or alterations on shore.



**ARTICLE 17 [Reserved].**

## **ARTICLE 18 ARCHITECTURAL REVIEW**

### **Section 18.01 Intent.**

The regulations set forth in this article are adopted to promote and protect the public health, safety and welfare, particularly in view of the following facts:

1. One of the great scenic islands of the Great Lakes area lies within the borders of the city, rich in Indian lore and historic interest dating back to the year 1670.
2. Because of this history and the natural beauty of the island, the city has become a world renown recreational resort.
3. The city is, in effect, the steward for mankind for the preservation of both its natural beauty and its historical monuments.
4. The welfare of the city requires the protection and enhancement of the attractiveness of the city as a recreational resort, as contributing to the economic soundness of the city and the economic and social welfare of its inhabitants.

### **Section 18.02 Purpose.**

For the reasons set forth in Section 18.01 above, this article establishes procedures and standards for architectural review for certain structures, developments, site, grading and improvements within the City of Mackinac Island.

### **Section 18.03 Definitions.**

The following definitions shall apply for purposes of this article only.

1. Commercial structure shall mean a building and structure used for solely commercial purposes, mixed commercial and residential purposes, hotels, churches or places of worship, and institutional buildings.
2. Noncommercial structures shall mean all other buildings or structures including single family residences, duplexes, multifamily residential dwellings (apartments), bed and breakfast establishments, and boardinghouses.

### **Section 18.04 Architectural review required.**

All plans for new construction, additions, or exterior alterations to a property in a historic district as provided in the Mackinac Island Code of Ordinances shall comply with the requirements for approval of a certificate of appropriateness from the Mackinac Island Historic District Commission in lieu of the Architectural Review requirements contained in this article.

Within all other parts of the city of Mackinac Island, no building shall be constructed or structurally altered in exterior appearance, including site grading of the surrounding grounds, unless and until the architectural plans have been submitted to the city and have been reviewed in accordance with the requirements of this article.

### **Section 18.05 Information to be submitted.**

When architectural review is required by section 18.04, applications shall be accompanied by the following information:

- A. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.
- B. A legal description of the property.
- C. Drawings, sketches and plans showing the architectural exterior features, heights, appearance, color and texture of the materials of exterior construction and the placement of the structure on the lot, and any additional information determined necessary by the planning commission to determine compliance with the requirements of this article.
- D. Photographs of existing site conditions, including site views, existing buildings on the site, streetscape views in all directions, and neighboring buildings within 150 feet of the site.
- E. For projects requiring site plan review, a site plan shall also be submitted in accordance with article 20.

### **Section 18.06 Standards for review.**

In reviewing the architectural design of projects, consideration should be given to the architectural exterior features, heights, appearance, color and texture of the materials of exterior construction and the placement of the structure on the lot such that the same are congruous and in harmony with those of the structures within and contiguous to the district in which the property is located and the historical character of the island, and further that the structure would not be unsightly grotesque or detrimental to the stability of the value and welfare of the surrounding property, structures, residence and to the general and economic welfare and happiness of the community as a whole.

The following is a list of architectural review standards that shall be applied when considering a project for zoning approval, or when architectural review is otherwise required by section 18.04. The purpose of these standards is to ensure that any construction will be harmonious to its surrounding neighborhood and to the historic character of Mackinac Island. It is recognized that Mackinac Island has several unique neighborhoods each with a distinct architectural character, which are important to preserve for future generations to appreciate, enjoy and foster. All design, construction and materials must satisfy appropriate State of Michigan construction codes adopted by the City of Mackinac Island.

In consideration of the architectural style of existing buildings within 150 feet of the subject property, the planning commission may modify or waive certain requirements outlined below, provided that any such modification is in keeping with the intent of this article, and that such modification will result in an architectural design which is more compatible with the historic character of the surrounding neighborhood and Mackinac Island as a whole.

- A. Non-commercial structures in all areas except the R-4 District.

1. *Foundations.* Foundation materials shall in some way be treated (painted, parged, stuccoed or otherwise detailed) to provide a finished appearance. Natural and synthetic stone native to, or characteristic of, the Great Lakes basin are excepted.
2. *Walls.* The majority of all exterior wall surfaces shall be covered with materials that provide the appearance of wood shingles, horizontal lap siding, vertical board and batten siding, or natural stone native to the Great Lakes basin. Accent panels and window or door trim may be of any material. Log exteriors may be allowed where consistent or congruous with the character of the surrounding neighborhood.
3. *Windows.* The maximum glass area for any of the exterior wall surfaces (excluding approved attached or detached greenhouse type structures and fully enclosed porches) is 50 percent. A minimum of 70 percent of the individual window units shall be either the single hung or double hung type, or single hung or double hung in appearance. Mirrored or dark tinted glass with visible light transmittance of less than 60 percent shall not be allowed. The replacement of windows identical in appearance to existing windows does not require architectural review. The installation of new windows or the replacement of existing windows with a new window type shall be required, as determined appropriate by the Planning Commission, to match the type (i.e., single hung, double hung) and appearance (i.e., with muntins) of the original windows or what would have been typical historically.
4. *Doors.* Doors shall be the hinged type, or at a minimum shall look like hinged doors. On residential or residential accessory buildings, horizontal tracked doors shall be allowed, but roll-up or tilt-up style garage doors shall not be allowed.
5. *Roofs.* All roofs shall be in keeping with the roofs of surrounding buildings and the historic nature of Mackinac Island. The minimum pitch for the main portion of the roof shall be 6 vertical and 12 horizontal. Roof coverings for the main portion of the roof shall have an individual unit shingled appearance and be of materials such as wood, asphalt, fiberglass, or metal. Ribbed or standing seam metal roofs may also be allowed, as determined appropriate by the Planning Commission.
6. *Porches.* Front porches or stoops, when provided, shall be covered with a roof that is compatible with, but does not necessarily match, the structure's main roof.
7. *Colors.* When architectural review is required by this ordinance, colors shall be reviewed and shall be in keeping with surrounding buildings and the historic nature of Mackinac Island. Neon, florescent or iridescent colors are prohibited. Changing the color of a building or structure (re-paint) does not require architectural review but any such repaint is subject to the prohibition against neon, florescent or iridescent colors and shall be in keeping with the colors of surrounding buildings and the historic nature of Mackinac Island.

8. *Monotony of design.* For new construction or additions involving multiple units, monotony of design shall be avoided. Variation of detail, form and siting shall be used to provide visual interest.
9. *Chimneys.* All chimneys shall be stylistically consistent with the appearance of the building. Existing chimneys that are stylistically significant shall be preserved.

B. Non-commercial structures located within the R-4 District.

1. *Foundations.* For foundations that have in excess of 24 inches above grade on average of exposed block, the material shall in some way be treated (painted, parged, stuccoed or otherwise detailed) to provide a finished appearance. If the exposed foundation is less than 24 inches on average above grade, this requirement shall not apply. Natural and synthetic stone native to, or characteristic of, the Great Lakes basin on the exterior of the foundation are also exempt from this requirement.
2. *Walls.* The majority of all exterior wall surfaces shall be covered with materials that provide the appearance of wood shingles, ~~or~~ horizontal lap siding, vertical board and batten siding, or natural stone native to the Great Lakes basin. Accent panels and window or door trim may be of any material. Log exteriors may be allowed where consistent or congruous with the character of the surrounding neighborhood.
3. *Windows.* The maximum glass area for any of the exterior wall surfaces (excluding approved attached or detached greenhouse type structures and fully enclosed porches) is 50 percent. A minimum of 70 percent of the individual window units shall be either the single hung or double hung type, or single hung or double hung in appearance. Mirrored or dark tinted glass with visible light transmittance of less than 60 percent shall not be allowed.
4. *Doors.* Doors shall be the hinged type, or at a minimum shall look like hinged doors. On residential or residential accessory buildings, horizontal tracked doors shall be allowed, but roll-up or tilt-up style garage doors shall not be allowed.
5. *Roofs.* All roofs shall be in keeping with the roofs of surrounding buildings and the historic nature of Mackinac Island. Roof coverings for the main portion of the roof shall have an individual unit shingled appearance and be of materials such as wood, asphalt, fiberglass, or metal. Ribbed or standing seam metal roofs may also be allowed, as determined appropriate by the Planning Commission.
6. *Porches.* If front porches or stoops are covered with a roof, said roof shall be compatible with the structure's main roof.
7. *Colors.* When architectural review is required by this ordinance, colors shall be reviewed and shall be in keeping with surrounding buildings and the historic nature of Mackinac Island. Neon, florescent or iridescent colors are prohibited. Changing the color of a building or structure (re-

paint) does not require architectural review but any such repaint is subject to the prohibition against neon, florescent or iridescent colors and shall be in keeping with the colors of surrounding buildings and the historic nature of Mackinac Island.

8. *Monotony of design.* For new construction or additions involving multiple units, monotony of design shall be avoided. Variation of detail, form and siting shall be used to provide visual interest.

C. Commercial structures in all areas.

1. *Siding.* The surface of all exterior walls accessible to the public or exposed to public views shall be clad in wood to reflect a traditional/historic appearance. Materials having the appearance of wood or other historically appropriate materials may be allowed, as determined appropriate by the Planning Commission.
2. *Windows.*
  - a. Windows on the street level for display purposes shall be framed in wood or like material with a minimum trim width of 3½ inches, must be a minimum of 18 inches above the walking surface, and the top of the window shall not be more than 12 feet above the walking surface.
  - b. The maximum glass area for upper level exterior wall surfaces is 50 percent. A minimum of 70 percent of the individual window units shall be either of single or double hung type, or single hung or double hung in appearance. Mirrored or dark tinted glass with a visible light transmittance of less than 60 percent shall not be allowed.
  - c. The replacement of windows identical in appearance to existing windows does not require architectural review. The installation of new windows or the replacement of existing windows with a new window type shall be required, as determined appropriate by the Planning Commission, to match the type (i.e., single hung, double hung) and appearance (i.e., with muntins) of the original windows or what would have been typical historically.
  - d. The requirements of this subsection shall not apply to approved attached or detached greenhouse type structures.
3. *Building entryways.* Entryways shall be recessed into the building walls. No doors shall be opened directly onto the public right-of-way. No sliding, revolving, roll-up, tilt-up or overhead garage style doors shall be allowed.
4. *Roofs.* All roofs shall be consistent with types and appearance of those on surrounding architecture.
5. *Overhangs.* Overhangs, canopies, and projecting elements extending over the public right of way shall have prior municipal approval from the

City Council. All such elements shall be compatible with the architecture of the building. No access to the roof of an overhang, canopy or the like will be allowed.

6. *Awnings.* The style of awnings shall be appropriate to the architecture of the building and be in keeping with the traditional shed or sloped style found historically. No backlit awnings shall be allowed. The City of Mackinac Island sign ordinance (Ordinance No. 351, as amended) must be followed in regards to lettering. Color choices shall meet the commercial "colors" standard as set forth in the following paragraph.
7. *Colors.* When architectural review is required by this ordinance, colors shall be reviewed and shall be in keeping with surrounding buildings and the historic nature of Mackinac Island. Neon, florescent or iridescent colors are prohibited. Changing the color of a building or structure (re-paint) does not require architectural review but any such repaint is subject to the prohibition against neon, florescent or iridescent colors and shall be in keeping with the colors of surrounding buildings and the historic nature of Mackinac Island.
8. *Utility features.* Placement of such features as venting, central air/heating, satellite dishes, ATM and vending machines and the like will be reviewed for visibility and noise impact. Such features shall be disguised or shielded from view and muffled to suppress noise levels. No window mounted heating/ventilating/air conditioning (HVAC) units shall be allowed.
9. *Lighting.* Exterior lighting and fixtures, as well as interior lighting intended to be viewed from the outside, shall be appropriate to the architecture of the building and to the historic nature of the neighborhood. Architectural outlining, flashing, strobe, neon or the like shall not be allowed. Decorative lighting for holidays and special Island events shall be allowed only for the duration of the event.
10. *Chimneys.* All chimneys shall be stylistically consistent with the appearance of the building. Existing chimneys that are stylistically significant shall be preserved.

#### **Section 18.07 Exemptions from review standards.**

If a specific application of the architectural review standards set forth in this article is determined by the planning commission to be inappropriate, or to serve no useful purpose, or is contrary to any other applicable law or regulation, including but not limited to building, fire or mechanical codes, the contrary or inappropriate architectural review standards shall not apply.

#### **Section 18.08 Review process.**

Where required or requested in accordance with section 20.03, preliminary plan review shall occur prior to architectural review. In matters involving single-family residences less than 3,500 square feet in size, the zoning administrator or planning commission may refer the application for architectural review to the city architect for comment and recommendations. For all other matters, the application shall be referred to the city architect for comment and

recommendations. The recommendations of the city architect shall be submitted to the zoning administrator, who shall present the recommendations along with the application and site and architectural plans to the planning commission for action. Final review and approval will be by the planning commission.



## **ARTICLE 19 SPECIAL LAND USES**

### **Section 19.01 Purpose.**

The development and execution of this ordinance is based upon the division of the city into districts within which the permitted uses of land and buildings and the bulk and location of buildings and structures in relation to the land are uniform. It is recognized, however, that there are special land uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land, of the public need for the particular use, and/or particular location.

### **Section 19.02 Application.**

An application for a special land use shall be filed with the planning commission on a form prescribed by the commission that shall contain as a minimum such plans and data required for a site plan review in article 20. The application shall also include a statement in writing by the applicant and adequate evidence showing that the proposed special land use will conform to the standards set forth in this article. The application shall also be accompanied with a fee to cover expense for public hearings. Four copies of the application form and the necessary attachments shall be submitted to the planning commission.

### **Section 19.03 Hearing on application.**

Upon receipt in proper form of the application and statement referred to in this article, one (1) notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the City. The publication shall occur not less than fifteen (15) days before the date the application will be considered. The notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice to such persons shall also be given not less than fifteen (15) days before the date 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 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned and leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas 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 special land use request.
- B. Indicate the property which is the subject of the special land use request.
- C. State when and where the special land use request will be considered.
- D. Indicate when and where written comments will be received concerning the request.

#### **Section 19.04 Determination.**

For each application for a special land use, the planning commission shall make determination to approve, approve with conditions, or deny the application. Final decision on the special land use application shall be made within 125 days of receipt of application by the planning commission, unless an extension is agreed upon by the applicant and planning commission.

#### **Section 19.05 Basis for decision.**

The planning commission shall incorporate their decision in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

#### **Section 19.06 Standards.**

All special land uses authorized in this ordinance shall not be approved by the planning commission unless the commission finds that the requirements specified in the particular zoning district for such special land use have been met and that the following standards are met:

1. That the establishment, maintenance or operation of the special land use will not be detrimental to or endanger the public health, safety or general welfare.
2. That the special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.
3. That the establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and necessary facilities are being or will be provided.
5. That adequate measures are being or will be taken to provide ingress or egress so designed to minimize congestion in the public streets.
6. That the special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedure as specified in article 20.

#### **Section 19.07 Conditions and guarantees.**

Reasonable conditions and guarantees may be attached to the final approval of a special land use consistent with the provisions of sections 4.17 and 4.18.

#### **Section 19.08 Effect or denial of a special land use.**

No application for a special land use which has been denied wholly or in part by the planning commission shall be resubmitted for a period of one year from the date of said order, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the planning commission.

**Section 19.09 Durations, voiding and extensions of special land use.**

Unless otherwise specified by the planning commission, any special land use granted under this article shall be null and void unless construction and/or use is commenced within one year from the date of the granting of the permit. The planning commission, upon application by the owner, may grant an extension thereof for good cause for a period not to exceed one year.

**Section 19.10 Appeal.**

Upon denial of an application for a special land use determination by the planning commission, the applicant may appeal to the board of zoning appeals.

## ARTICLE 19A PLANNED UNIT DEVELOPMENT (PUD) OVERLAY

### Section 19A.01 Purpose.

The purpose of this section is to ~~permit coordinated development of sites with unique conditions~~ encourage excellence in land use planning and design that will achieve a recognizable and material benefit to the ultimate users of the project and to the community as a whole, where such benefit would otherwise be unfeasible or unlikely without application of the PUD overlay. ~~such as significant natural features or open space, land that exhibits development constraints, the opportunity to mix compatible uses and types of structures, or the opportunity to cluster units to preserve open space and natural features.~~ The PUD overlay standards are provided as a design option within the R-1, R-3, R-4, HB, C, and MD, and CD districts to encourage: flexibility in the regulation of land development; innovation in land use; variety in the design, layout and type of structures utilized; the preservation of significant natural features and open spaces; the efficient provision of public services and utilities; the provision of adequate housing; the compatibility of design between neighboring properties; and, the use and improvement of existing sites when the regulations contained in the underlying district do not provide adequate flexibility.

*Wade Trim Commentary: This expanded purpose statement further clarifies the purpose of the PUD overlay option. The revised language would also allow for PUD projects to be proposed within the R-1 and CD Districts.*

### Section 19A.02 Permitted uses.

Permitted uses may include those uses allowed in the underlying zoning district to which the PUD overlay is applied, in addition to single-family, two-family and multiple-family residential dwellings, boardinghouses, hotels, commercial uses, ~~recreational~~ institutional uses and accessory buildings/uses thereto.

### Section 19A.03 Area, bulk, height, lot coverage and density requirements.

All requirements set forth in the regulations of the underlying district to which the PUD overlay is applied shall remain in effect unless flexibility is allowed in this section as follows:

- A. Lot size. The lot size utilized may be reduced to provide flexibility necessary to meet the purpose of this section.
- B. Setbacks. The setbacks applied in this district may be reduced to provide the flexibility necessary to meet the purpose of this section.
- C. Impervious surface. If necessary to provide the flexibility necessary to meet the purpose of this section, the impervious surface may be determined on the entire parcel designated as PUD overlay regardless of the number of lots contained therein.
- D. Density. The density requirements in the underlying zoning district may be increased up to an additional 35 percent upon a determination that open space or natural features will be preserved and city services can accommodate the increased density. If necessary to provide flexibility necessary to meet the purpose of this section, the density ~~surface~~ may be determined on the entire

parcel designated as PUD overlay regardless of the number of lots contained thereon.

- E. Landscape buffer. A landscape buffer may be required by the planning commission/city council along the perimeter of the development where necessary to minimize noise and light impacts on adjoining property.

#### **Section 19A.04 Application for PUD overlay.**

An application for a planned unit development overlay shall be filed with the zoning administrator along with a site plan conforming to the requirements of section 20.04. **Any condominium subdivision proposed under the PUD overlay shall additionally provide the information required under article 24.** Following receipt of a complete application, a public hearing before the planning commission shall be scheduled preceded by the public notice detailed below. Within a reasonable time following the public hearing, the planning commission shall submit a report to the city council stating its conclusions, recommendations and basis for any conditions that should be imposed on the application for the planned unit development overlay. Additionally, the planning commission shall submit a copy of the minutes of every meeting at which the application was considered, including a summary of the comments received at the public hearing and all documents related to the planned unit development overlay application. Upon receipt of these documents, the city council may schedule a public hearing on the application and after deliberation may move to deny, approve, or approve with conditions the request. Such action shall specify the council's conclusions on the request, the basis for its decision, the decision, and any conditions relating to an affirmative decision. The city council may move to adopt the planning commission's report as its own or prepare a separate report.

*Wade Trim Commentary: This revision clarifies what must be submitted when condominium subdivisions are proposed under the PUD option.*

Any public hearing conducted on a planned unit development overlay application shall be preceded by public notice which meets the following requirements:

- (1) The notice shall be published in a newspaper of general circulation not less than 15 days in advance of such hearing.
- (2) Notice shall be sent not less than 15 days before the hearing by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. 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 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other district spatial areas 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 planned unit development overlay application.

- (b) Indicate the property which is the subject of the planned unit development overlay application.
- (c) State when and where the planned unit development overlay application will be considered.
- (d) Indicate when and where written comments will be received concerning the application.

### Section 19A.05 Eligibility and standards for approval.

Planned unit developments may be allowed as an overlay in zoning districts where permitted, upon determination that **all of** the following criteria or standards are met:

- (1) The planned unit development overlay site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- (2) The site size shall be **not less than 15,000 square feet** ~~a minimum of two acres of contiguous land.~~

*Wade Trim Commentary: This minimum lot size requirement is fairly stringent when considering the compact nature of the island and limited number of properties that would qualify. This proposed revision would allow for a much greater opportunity for development under the PUD option. 15,000 square feet is the minimum lot size of the R-1 District, the most restrictive residential district.*

- (3) The site has open space, natural features or historic features which will be preserved through development under the PUD overlay standards, or the PUD overlay ~~will provide a variety of uses and designs which preserve common open space.~~ **will result in design innovation which achieves the purpose of this article.**

*Wade Trim Commentary: Preserving open space is not the only goal of the PUD overlay. This revised language allows for PUD projects which achieve other innovative design goals.*

- (4) **Where present,** natural features and unique site characteristics located on a tract shall be preserved or enhanced wherever and whenever possible. Natural features and unique site characteristics include, but are not limited to: free-flowing springs, significant stands of trees, individual trees of significant size and rock formations, as well as visual amenities such as of Lake Huron, neighboring islands, the city harbor, and the Mackinac Bridge.
- (5) All required open spaces within a planned unit development overlay shall be arranged to provide easy access and benefit to the maximum number of lots and/or dwelling units and shall be on the same tract of land. If open space is proposed to be deeded to the City of Mackinac Island, it must be acceptable to the city with regard to size, shape, location, improvements and purpose of use. Additionally, planned unit development open space not dedicated for public use shall be preserved in perpetuity by the leasing or conveyance of title (including beneficial ownership) to a corporation, association, or legal entity, or by the reservation by means of a deed restriction. The terms of such lease or other

instrument must include provisions guaranteeing the continued use of such land for the intended purposes and continuity of proper maintenance for those portions of the open space land requiring maintenance. The developer shall file with the county register of deeds and the city council legal documents embodying the aforesaid guarantees ensuring the use of the common open space for the designated purposes. If the development is to be subdivided, the aforementioned restrictions shall be recorded at the time of final plat approval.

- (6) The PUD overlay site will result in a recognizable benefit to the ultimate uses of the project and to the community.
- (7) In relation to development permitted in the underlying zoning district, the proposed type and density of use does not result in an unreasonable use of public services, facilities and utilities. In addition, the PUD overlay does not place an unreasonable burden upon the site or surrounding land.
- (8) The proposed use will not adversely effect the present or planned surrounding land uses, including the public utility and circulation system, surrounding properties, or the environment.
- (9) That there is compatible relationship between the existing streets within the vicinity further defined as: adequate service drives, entrance and exit driveways and parking areas to ensure the safety and convenience of pedestrian, bicycle and horse traffic and emergency vehicles.
- (10) The PUD overlay site is generally consistent with the goals, objectives and future land use of the city's master plan.
- (11) The PUD overlay is designated to protect and preserve significant natural and historical features, open space, surface and groundwater bodies, and the integrity of the land.
- (12) Public water, sanitary sewer (or other approved waste system), and storm drainage facilities are available or will be provided as part of the site development.
- (13) Compliance with all requirements set forth in section 19A.03.
- (14) The PUD overlay shall be consistent with the **purpose of this article** and intent and spirit of this ordinance.

#### **Section 19A.06 Effective approval.**

Upon approval of the PUD overlay, the site plan submitted with the application shall be the final approved PUD overlay site plan. No use of the site shall be permitted inconsistent with said plan.

#### **Section 19A.07 Amendments and deviations from final approved PUD overlay site plan.**

- (1) Notice. Deviations from the approved final PUD Overlay Site Plan may occur only when an applicant or property owner notifies the zoning administrator of the



proposed amendment, accompanied by a site plan illustrating the proposed change.

- (2) Procedure. Within 14 days of receipt of a request to amend the final PUD overlay site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission and city council, or minor, allowing administrative approval, as noted below.
- (3) Minor changes. The zoning administrator may approve the proposed revision upon finding the change would not alter the basic design or any conditions imposed upon the original plan approved by the city council. The zoning administrator shall inform the planning commission and city council of such approval in writing.
- (4) Major changes. Where the zoning administrator determines the requested amendment to the approved final PUD overlay site plan is major, or if there is a request to expand the land area included within the PUD overlay, resubmittal to the planning commission and city council shall be required, which shall follow the procedure outlined in section 19A.04.
- (5) Violations. Any deviation from the approved final PUD overlay site plan, except as authorized in this ordinance, shall be considered a violation of this ordinance.

#### **Section 19A.08 Mission Point Planned Unit Development District**

The Mission Point Planned Unit Development District, as noted on the official zoning map and approved by the city council, shall remain in effect and shall be granted all rights and privileges under the terms of its original approval in accordance with the former R-4 Planned Unit Development District, which was repealed by Ord. No. 479, effective November 12, 2013.

All future planned unit development applications to the city shall be made in accordance with the requirements and procedure as outlined in this article 19A.



## **ARTICLE 20 SITE PLAN REVIEW**

### **Section 20.01 Purpose.**

The purpose of this article is to provide for coordination and cooperation between the landowner and the planning commission in order that the owner may accomplish his objectives in the utilization of this land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and on existing and future uses in the immediate area and vicinity.

This article shall also apply to any construction and/or modifications of any structures, docks, marinas, or uses on land or in water within the "M" Marine District and "L" Lake District.

### **Section 20.02 Scope.**

Except as set forth below, the zoning administrator shall not issue a zoning permit for construction of any buildings, structures or uses until a site plan, submitted in accordance with the city zoning ordinance, shall have been reviewed and approved by the planning commission and city council in the case of planned unit development; and the planning commission only for all other area, on land or in water, used for which a site plan is required by this ordinance.

The following buildings, structures, or uses shall be exempt from the site plan review procedure:

- i. Interior, accessory and subordinate buildings requiring no new additional means of access thereto from adjoining public streets and complying with all zoning ordinance requirements.
- ii. Buildings or structures otherwise specifically exempted from site plan review in other sections of this zoning ordinance.

### **Section 20.03 Optional preliminary plan review**

An applicant may, at his or her discretion, submit preliminary sketches of proposed site and development plans to the planning commission for review prior to final approval. Additionally, the zoning administrator shall have the authority to require the submittal of preliminary sketches of proposed site and development plans to the planning commission for review prior to final approval where, in his or her opinion, the complexity and/or scale of the site or the proposed development so warrants. The purpose of such procedure is to allow discussion between the applicant and the planning commission to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

Applications for preliminary plan review shall be made by filing with the zoning administrator. Preliminary plans shall include as a minimum the following:

- A. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.
- B. A legal description of the property.

- C. Sketch drawings showing tentative site plans, property boundaries, placement of structures on the site, and nature of development.

#### **Section 20.04 Applicable procedure.**

Requests for final site plan review shall be made by filing with the zoning administrator the following:

- A. The application shall be accompanied with a fee to cover the cost of processing the review.
- B. Copies of the completed application form for site plan review, in a number as determined by the City, which shall contain, as a minimum, the following:
  - 1. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.
  - 2. The legal description of the subject parcel of land.
  - 3. The area of the subject parcel of land.
  - 4. The present zoning classification of the subject parcel.
  - 5. A general description of the proposed development.
  - 6. Condominium subdivision project site plans shall also include the name and address of the planner, design engineer or surveyor who designed the project layout and any interest he holds in the land.
- C. Copies of the proposed site plan, in a number as determined by the City, which shall include, as a minimum, the following:
  - 1. The plan shall be drawn to [a] scale of not greater than one inch equals 20 feet for a development of not more than three acres and a scale of not less than one inch equals 100 feet for a development in excess of three acres with north point and scale shown on the plan drawing.
  - 2. The plan shall show an appropriate descriptive legend. North arrow, scale, date of preparation and the name and address of the individual or firm preparing the same.
  - 3. The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.
  - 4. The topography of the site with at least two- to five-foot contour intervals and all natural features such as wood lots, streams, wetlands, unstable soils, bluff lines, rock outcroppings, and similar features shall be shown.

5. Existing manmade features upon the site and within 100 feet of the same shall be identified.
6. The location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be disclosed. Site plans for multiple family residential development shall also include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each such units.
7. All proposed and existing streets, driveways, sidewalks and other bicycle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size and number of on site parking areas, service lanes thereto, and parking and delivery or loading areas.
8. The location, use and size of open spaces together with landscaping, screening, fences, walls and proposed alterations of topography or other natural features shall be indicated.
9. The proposed operations on the site shall be described, in writing, in sufficient detail to indicate the effect, if any, upon adjoining lands and occupants with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. Any potential demands for future community services will be described, together with any special features which will assist in satisfying such demands.
10. Any earth-change plans required by state law shall also be submitted with the application.
11. On site lighting, surface water drainage for the site, proposed sanitary sewage disposal, water supply, solid waste storage and disposal, other utility services (i.e., propane tanks, electrical service, transformers), and utility easements shall be included in the plans.
12. A general description and location of stormwater management system shall be shown on the grading plan, including pre- and post-site development runoff calculations used for determination of stormwater management, and location and design (slope) of any retention/detention features.
13. Such other information as may be determined to be necessary by the planning commission because of any peculiar features of the proposed development.
14. Any feature of the proposed development that would directly or indirectly impact a public right-of-way, public utility, or adjoining property.

#### **Section 20.05 Action on application and plans.**

- A. The zoning administrator or Planning Commission secretary shall record the date of the receipt of the application and plans, and transmit copies thereof to the

planning commission, and place the request on the next available planning commission agenda.

- B. The planning commission shall have the authority to approve, disapprove, modify, or alter the proposed plans in accordance with the purpose of the site plan review provisions of the city zoning ordinance and the criteria contained thereon. Any required modification or alteration shall be stated in writing, together with the reasons for such modification, and delivered to the applicant. The planning commission may either approve the plans contingent upon the required alterations or may require a further review after the same have been included in the revised site plan by the applicant. The decision of the planning commission shall be made within 100 days of the date of receipt of plans by the zoning administrator.
- C. Copies of the approved final site plan, in a number as determined by the City, including required modifications or alterations shall be maintained as part of the city records for future review and enforcement.

#### **Section 20.06 Criteria for review.**

In reviewing the application and site plan and approving, disapproving or modifying same, the planning commission shall be governed by the following standards:

- A. That all requirements pertaining to the district in which development is proposed are adequately met.
- B. That there is a compatible relationship between the existing streets within the vicinity further defined as: adequate service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian, bicycle and horse traffic.
- C. That the buildings and structures to be located upon the premises are so situated to minimize adverse effects upon owners and occupants of adjacent properties, in relationship to lighting, loading activities, noise producing activities, erosion and flooding, and site access.
- D. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the character of the area.
- E. That the adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures and entryways.
- F. That the lot layout and individual building design is harmonious with the historic and natural character of the island to insure an optimal relationship between the proposed development and existing contiguous land uses.
- G. That the proposed development will be adequately served by essential public facilities and services, such as streets, police and fire protection, water, sewer (if appropriate), stormwater management, and refuse disposal.

- H. That all provisions of the city zoning ordinance are complied with unless appropriate variance therefrom has been granted by the board of zoning appeals.
- I. That all structures and objects associated with utilities including but not limited to electrical transformers, telephone boxes and wires be underground, covered or addressed as to minimize the visual or adverse effects on the surrounding areas.
- J. That the site plan is in compliance with all applicable local, state and federal laws.
- K. That the proposed development will not encroach upon or interfere with a public right of way, public utility or adjoining property.

#### **Section 20.07 Conformity to approved site plan.**

Any property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the planning commission. The site plan, as approved, shall become a part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan.

#### **Section 20.08 Violation of site plan approval.**

Sites not developed in conformance with an approved site plan are in violation of this ordinance.

#### **Section 20.09 Commencing construction.**

Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development activity actually commenced within one year, the site plan approval shall be null and void. The planning commission, upon application by the owner, may grant an extension thereof for good cause for a period not to exceed one year.

#### **Section 20.10 Amendment to site plan.**

The zoning administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The zoning administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing is submitted showing such minor changes, for purposes of record.

#### **Section 20.11 Performance bond.**

The city council, upon recommendation of the planning commission, shall have the right and authority to require the developer to file with the city clerk following approval of the site plan and at the time of the application for a building permit, a performance bond or bank letter of credit in such amounts as may be determined by the said commission to insure installation of improvements in accordance with the approved site plan, including but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. Such bond, if required shall continue for the duration of the construction and development of the site and any cash deposits shall be rebated in a reasonable proportion to the ratio of work completed on the required improvements.

## **ARTICLE 21 ADMINISTRATION AND ENFORCEMENT**

### **Section 21.01 Zoning Administrator.**

The duty of administering and enforcing the provisions of this ordinance shall be executed by the city zoning administrator. The candidate for this appointed position shall be selected by the city council as an official annual appointment. The zoning administrator shall be reimbursed for services rendered in an amount determined by the city council. The city council can remove the zoning administrator from office for misfeasance, malfeasance, or nonfeasance in office.

### **Section 21.02 Duties of the zoning administrator.**

It shall be the duty of the zoning administrator to: receive zoning applications and site plans (as required under article 20) from applicants, coordinate any required architectural reviews with the city architect, present zoning applications and site plans to the planning commission for a determination of compliance with this ordinance, issue zoning permits and denial notices to applicants, to enforce the requirements of this ordinance, and any permit or violation notice issued under it, and other related duties as may be assigned by the city council. The zoning administrator shall develop forms for carrying out the procedures required by this ordinance and procedures for handling suspected violations of this ordinance. Said forms and procedures shall become official upon adoption by the planning commission. In preparing these forms and procedures, the zoning administrator shall seek assistance from the planning commission and city attorney.

### **Section 21.03 Zoning permits.**

Unless otherwise exempted elsewhere in this Zoning Ordinance, it shall be unlawful for any person to commence excavation for, or construction of any building or structure, or to make any additions to or change the use of any existing building or structure, without first obtaining a zoning permit from the zoning administrator. No zoning permit shall be issued for the construction, alteration or remodeling of any building or structure until an application and site plan have been submitted, reviewed and approved in accordance with the provisions of this article.

The applicant for the zoning permit must be either the owner of the parcel(s) in question, a lessee with at least a 20-year term interest in the land, or an agent authorized to act on the owner's behalf. Proof of the applicant's interest in the parcel(s) shall be produced upon the request of the planning commission.

If the zoning permit is issued, the approved work must be commenced within one year of the date of issuance or the permit will expire, unless said permit has been extended upon request of the applicant and approval of the planning commission. Any such extension shall not exceed one year and shall not be granted if the applicable zoning and building standards relating to the permitted work have changed.

If the approved work does commence within one year of the issuance, or extension, of the zoning permit, the permit shall remain in effect until the approved work is complete, provided however, if the approved work is not completed within two years of the date of issuance, or extension, of the zoning permit, the permit shall expire, and all construction that was done pursuant to the zoning permit shall be removed by the owner of the property and the premises restored to the condition existing prior to the issuance of the zoning permit. If any such

construction is not removed, it shall constitute a public nuisance and be subject to immediate abatement.

After the zoning permit has been issued, the parcel in question shall be inspected on three occasions: (1) when the proposed structure is staked out on the property; (2) when the footings for the foundation are found; and (3) when construction is completed. The applicant shall notify the zoning administrator of the proposed inspection dates, and shall not begin a later stage of work until the previous stage has been approved. After the final inspection has been completed, if the applicant is found to be in compliance with this article, the zoning administrator shall issue an occupancy permit as authorized in section 21.06.

Every zoning permit is conditioned upon the applicant and owner agreeing to all the terms and provisions set forth on the permit and the terms and provisions of this article. In addition, the planning commission may impose other conditions, including but not limited to, a cash deposit, a certified check, an irrevocable letter of credit or surety bond to cover the estimated costs of improvement and/or to cover the actual costs incurred by the city in enforcing any necessary abatement of a public nuisance resulting from the issuance of the zoning permit.

#### **Section 21.04 Relation to building permit.**

No building permit required under the city construction code (Ord. No. 210) shall be issued until first, the applicant obtains a zoning permit from the zoning administrator, indicating that the proposed construction activity is in compliance with this ordinance.

#### **Section 21.05 City architect.**

A city architect shall be appointed by the mayor subject to confirmation by the city council. The city architect shall review all applications and site plans in accordance with the procedures and criteria in article 18 and article 20, and advise the city on other matters as may be requested. Reimbursement for services rendered by the city architect will be determined by the city council.

#### **Section 21.06 Occupancy.**

It shall be unlawful to use, or permit the use, of any structure or premises hereafter altered, extended, or erected, until the zoning administrator has made an inspection of the premises and has found that the structure complies with all provisions of this ordinance. Upon a finding of compliance, the zoning administrator shall issue an occupancy permit to the applicant.

#### **Section 21.07 Violations and penalties.**

Any person who violates any provision of this ordinance or any amendment thereto, who fails or refuses to comply with any of the regulatory measures or conditions adopted hereto, including but not limited to approved zoning permits, site plans, special use permits, planned unit developments, shall, upon conviction, be guilty of a misdemeanor and be punished for each offense by a fine of not less than \$100.00 or more than \$500.00 and the costs of prosecution, or in the case of default payment thereof, by imprisonment in the county jail for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.



The use of land, dwellings, buildings, or structures used, erected, altered, razed or converted in violation of any provision of this ordinance, are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such land, dwelling, building, or structure shall be adjudged guilty of maintaining a nuisance per se. The costs of abating such nuisance shall become a lien upon the land.



## **ARTICLE 22 BOARD OF ZONING APPEALS**

### **Section 22.01 Creation and membership.**

A board of zoning appeals is hereby established having the powers authorized in Public Act No. 110 of 2006, as amended. The board of zoning appeals shall consist of the city council.

### **Section 22.02 Officers.**

The board shall elect from its membership a chairman, a vice-chairman and such other officers as it may deem necessary. The city clerk shall be the secretary of the board, without vote.

### **Section 22.03 Rules of procedure.**

The board shall adopt rules of procedure. Copies of such procedures shall be made available to the public at the office of the board.

- A. Meetings of the board shall be held at the call of the chairperson, and at other times as the board in its rules of procedure may specify. The time of regular meetings shall be specified in the rules of procedure. There shall be a fixed place of meeting and all hearings shall be open to the public.
- B. A quorum shall be the same as required for the city council.
- C. The board shall keep minutes of its proceedings, showing the action of the board and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the office of the board and shall be a public record. Such records shall include the findings of fact and conclusions reached by the board on all matters upon which it passes judgement.
- D. The board may call on any other city departments for assistance in the performance of its duties, and it shall be the duty of such other department to render assistance to the board as may reasonably be required.

### **Section 22.04 Jurisdiction.**

The board of zoning appeals, in conformity with the provisions of this ordinance and of Act No. 110 of 2006, as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination appealed from, and shall make such order, requirements, decisions or judicial determination as in its opinion ought to be made in the premises, and to that end shall have the powers to hear and decide all matters referred to it or upon which it is required to act under this ordinance. This includes action on requests for variances, appeal from administrative decisions, and requests for ordinance interpretation.

### **Section 22.05 Variances.**

Subject to the provisions of section 22.06, the board, after public hearing, shall have the power to decide applications filed as hereafter provided, for variances:

- A. Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of this ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building or structure, or of the use of development of property immediately adjoining the property in question, the literal enforcement of the requirements would involve practical difficulties; provided, that the board shall not grant a variance on a lot of less area than the requirements of its zone district, even though such lot existed at the time of passage of this ordinance if the owner or members of his immediate family owned adjacent land which would without practical difficulties be included as part of the lot.
- B. Where there are practical difficulties in the way of carrying out the strict letter of such ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, so that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.
- C. For the vertical extension of a building existing at the time of enactment of this ordinance of such height as the original drawings of said building indicated, provided such building was actually designed and constructed to carry additional stories necessary for said height limit.
- D. To permit the erection or structural alteration, in a district where such use is permitted, of a structure to a height above the limit specified for such district.

Nothing herein contained shall be construed to give or grant to the board of zoning appeals the power or authority to alter or change the text or stated intent of any part of this ordinance. The board of zoning appeals shall not have the power to alter or change the zoning district classification of any property, nor to permit any use in a district in which it is not permitted.

#### **Section 22.06 Criteria for variances.**

No variance in the provisions or requirements of this ordinance shall be authorized by the board unless the board finds from reasonable evidence that all the following facts and conditions exist:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- C. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purposes of this ordinance or the public interest.
- D. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought is not of a general or recurrent nature as

to make reasonably practicable the formulation of a general regulation for such conditions or situation.

#### **Section 22.07 Conditions of approval.**

In authorizing a variance, the board may, in addition to the specific conditions of approval called for in this ordinance, and pursuant to standards in section 4.17, attach thereto such other conditions regarding the location, character, landscaping or maintenance reasonable necessary to the furtherance of the intent and spirit of this ordinance and the protection of the public interest.

#### **Section 22.08 Variance and appeal procedure.**

The following procedure shall be required:

- A. An appeal from any ruling of the planning commission or administrative officer administering any portion of this ordinance may be taken by any person aggrieved or any governmental department affected.
- B. The board of zoning appeals shall not consider any application for ordinance interpretation, variance or appeal without the payment by the applicant or appellant to the city treasurer of a fee. Such application or appeal shall be filed with the zoning administrator, who shall transmit the same, together with all plans, specifications and other papers pertaining to the application or appeal, to the board of zoning appeals.
- C. When an application or appeal has been filed in proper form and with the required date, the secretary of the board shall immediately place the said application or appeal upon the board's calendar for its next meeting. Before granting any appeal the board shall hold a public hearing. A notice of the time and place of such public hearing shall be published in a newspaper of general circulation in the city at least 15 days prior to the hearing. Additionally, notices of the public hearings shall be served personally or by mail at least 15 days prior to the date of such hearing, upon the applicant or the appellant, the owners of record of property within 300 feet of the premises in question; which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. The notice shall contain the address, if available, and location of the property for which the ruling by the board of zoning appeals is sought, as well as a brief description of the nature of the appeal. Any party may appear at such hearings in person or by an agent or by an attorney.
- D. Upon the day for hearing any application or appeal, the board may adjourn the hearing in order to permit the obtaining of additional information, or to cause 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. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the board so decides.

### **Section 22.09 Decisions of the board.**

The board shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the board's decision shall be transmitted to the applicant or appellant, and to the planning commission by the zoning administrator. Such decision shall be binding upon the zoning administrator and observed by him and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the board. A decision of the board shall not become final until the expiration of five days from the date such decision is made unless the board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify of the record.

### **Section 22.10 Stay of proceedings.**

An appeal shall stay all proceedings in the furtherance of the action appealed from, unless the zoning administrator certifies to the board of zoning appeals after notice of appeal shall [have] been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, or due cause shown, be granted by the board of zoning appeals or by the circuit court on application, after notice to the planning commission.

## **ARTICLE 23 CHANGES AND AMENDMENTS**

### **Section 23.01 Amendment.**

The city council may, from time to time, amend, supplement, or change by ordinance, the boundaries of districts or regulations herein established, pursuant to procedures outlined in Public Act No. 110 of 2006, as amended.

### **Section 23.02 Petitions.**

Petitions submitted to the council for any change of district boundaries shall include a legal description of the property proposed to be changed, together with names of abutting streets and the street numbers of the property. There shall also accompany the petition a sketch fully dimensioned to correspond with the legal description of the property proposed to be changed.

### **Section 23.03 Public hearing.**

A public hearing shall be held by the planning commission before a recommendation is made on any proposed amendment, supplement or change, notice of which hearing shall be given by publishing said notice at least once in a newspaper of general circulation in the City of Mackinac Island, stating the time and place of such hearing, not less than 15 days from the date of such hearing. A summary of the hearing, along with a recommendation for action, and the reasons for recommendations, shall be prepared by the planning commission and submitted to the city council. City council may hold additional public hearings if deemed necessary, before making a final decision on a rezoning or zoning amendment request.

### **Section 23.04 Factors for review.**

In reviewing an application for any change to the zoning district map, factors that should be considered by the planning commission and the city council shall include the following:

- A. Whether the requested zoning district change is consistent with the goals, policies and future land use map of the Mackinac Island Master Plan.
- B. The compatibility of all the potential uses allowed in the requested zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values.
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning district. Consideration of impact on drains and roads is specifically required.
- D. Whether the uses allowed under the requested zoning district would be equally or better suited to the area than uses allowed under the current zoning of the land.

### **Section 23.05 Conditional rezoning.**

- A. Intent. It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property

owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Zoning Enabling Act, Public Act 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and offer of conditions.

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

C. Planning commission review. The planning commission, after public hearing and consideration of the standards for approval set forth in section 23.04, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. City council review. After receipt of the planning commission's recommendation, the city council shall deliberate upon the requested rezoning and may approve or

deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in section 23.04. Should the city council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city council shall, in accordance with the Public Act 110 of 2006, as amended, refer such amendments to the planning commission for a report thereon within a time specified by the city council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval.

1. If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a. Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the city council.
  - b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded with the Register of Deeds of Mackinac County by the owner with a copy of the recorded document provided to the city within 45 days of its recording.
  - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.



3. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The city clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of Mackinac County. The owner shall provide a copy of the recorded document to the City within 45 days of the date of its recording. The city council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this zoning ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time period for establishing development or use. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the city council if: (1), it is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and (2), the city council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and (3), the written request shall be made to the city council requesting the extension within 6 months of the end of the 36 month period.

H. Reversion of zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection G above, then



the land shall revert to its former zoning classification. The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

- I. Subsequent rezoning of land. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.
- J. Amendment of conditions.
  - 1. During the time period for commencement of an approved development or use specified pursuant to subsection G above or during any extension thereof granted by the city council, the council shall not add to or alter the conditions in the Statement of Conditions.
  - 2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- K. City right to rezone. Nothing in the Statement of Conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and Public Act 110 of 2006, as amended.
- L. Failure to offer conditions. The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

## **ARTICLE 24 CONDOMINIUM SUBDIVISION PROJECTS**

### **Section 24.01 Purpose.**

To permit condominium subdivision projects to be constructed according to the spirit and intent of this ordinance, and to provide certain minimum standards to protect the health, safety and welfare of the public.

### **Section 24.02 Compliance with regulations.**

A condominium subdivision project shall comply with all regulations applicable to the zoning district in which it is situated, in addition to the requirements in this article 24. **A condominium subdivision project may be allowed under the Planned Unit Development (PUD) Overlay option and is subject to flexibility allowances granted in accordance with article 19A.**

*Wade Trim Commentary: This revision clarifies that condominium subdivisions may be allowed and can be granted flexibility under the PUD overlay option.*

### **Section 24.03 Specifications for private street.**

Each private street in a condominium subdivision project shall have a paved driving surface of asphalt or other approved material.

### **Section 24.04 Maintenance plan.**

The developer of a condominium subdivision project shall provide the city with a maintenance plan for all private streets within the condominium subdivision project.

### **Section 24.05 Lot width, lot area, and setback requirements.**

Any subdivision of an individual condominium unit shall conform to the requirements of this ordinance for minimum lot width, lot area and building setback requirements.

### **Section 24.06 Subdivision of a lot.**

Subdivision of a condominium unit shall be subject to the same limitations and requirements as the subdivision of a lot.

### **Section 24.07 Easements.**

The developer of a condominium subdivision project shall provide the City of Mackinac Island with all easements necessary for the purposes of construction, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including conveyance of sewage, water and storm water run-off across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.