

**AMENDMENT TO ZONING ORDINANCE,  
BEING ORDINANCE NO. 479, AS AMENDED  
CITY OF MACKINAC ISLAND  
HOUSING FOCUSED ZONING AMENDMENTS  
Ord. No. \_\_\_\_\_, Eff. \_\_\_\_\_**

An ordinance amending the City of Mackinac Island Zoning Ordinance, being Ordinance No. 479, as amended, primarily pertaining to housing.

**THE CITY OF MACKINAC ISLAND ORDAINS:**

**Section 1. Purpose.** The purpose of this ordinance is to amend the City of Mackinac Island Zoning Ordinance, being Ordinance No. 479, as amended, pertaining to the following sections and topics: revisions to Article 2 (Definitions); revisions to Section 4.07 (Mobile homes); revisions to Section 4.12 (Accessory buildings to residential uses) including amendments related to accessory dwelling units; revisions to Section 4.14 (Essential public service facilities); revisions to Section 4.23 (Adult foster care facilities); revisions to Section 4.24 (Child care facilities); proposed new Section 4.31 (Convalescent homes, nursing homes, and assisted living facilities); revisions to Article 5 (Nonconforming Uses and Structures); revisions to the R-1, R-3, R-4, HB, C, and MD Districts pertaining to permitted and special uses allowed, as well as area, bulk, height, lot coverage, and density requirements; revisions to Article 19A (Planned Unit Development Overlay); revisions to Section 21.03 (Zoning permits); and, revisions to Section 24.02 (Condominium subdivision projects compliance with regulations).

**Section 2. Amendment of Article 2.** Article 2 (Definitions) is hereby repealed and replaced to read as follows:

**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).**

A use or structure that is both subordinate and incidental to a principal use or structure. Uses and structures accessory to residential use include: private barns and stables, swimming pools, tool and garden sheds, gazebos, non-commercial agricultural structures and activities, and the like.

**Section 2.03 Adult foster care facility.**

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.

#### 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.

#### Section 2.05 Apartment.

See dwelling, multiple-family.

#### Section 2.06 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..

#### Section 2.07 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 2.08 Bluff.

A steep headland, promontory, or cliff.

Section 2.09 Boardinghouse.

A use located within a building, or portion thereof, occupied by persons not consisting of a family, as defined in section 2.37, as their residence. The building, or portion thereof, dedicated to a boardinghouse use, may or may not include shared cooking facilities. The terms rooming house and employee house shall be considered synonymous for the purposes of this ordinance. Tourist accommodations, such as a hotel or bed and breakfast, are excluded from this definition.

Section 2.10 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 2.11 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 2.12 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 2.13 Carriage.

Any horse-drawn passenger vehicle.

Section 2.14 Child care 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.

- 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. 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.
- 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.

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.

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).

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 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.

Section 2.28 Corral.

Any fenced or enclosed area used to confine horses or livestock. The following definitions shall further apply in the application of this ordinance.

- A. Commercial Corral: Any fenced or enclosed area used to confine more than six horses or other large domestic animals.
- B. Private Corral: Any fence or enclosed area used to confine six or less horses or other large domestic animals, for personal use only.

Section 2.29 Dray.

Any horse-drawn cart or wagon used for hauling.

Section 2.30 Dwelling unit.

Any building, or portion thereof, providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, which is occupied usually as a home, residence or sleeping place, 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. 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.

Section 2.31 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 2.32 Dwelling, single-family.

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

Section 2.33 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 2.34 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 2.35 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 2.36 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 2.37 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 2.38 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 2.39 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 2.40 Ground coverage.

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

Section 2.41 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 2.42 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 2.43 Hotel.

A use located within 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, or any other temporary occupation of a building, or portion thereof, meeting the definition in this ordinance of a boardinghouse or dwelling unit, which is for a rental period of less than 30 continuous days shall be considered a hotel usage.

Section 2.44 Impermeable surface.

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

Section 2.45 Industrial.

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

Section 2.46 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 2.47 Junk yard.

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.

Section 2.48 Kennel.

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

Section 2.49 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 2.50 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 2.51 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 2.52 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 2.53 Lot line.

The line bounding a lot as defined herein.

Section 2.54 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 2.55 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 2.56 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 2.57 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 2.58 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 2.59 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 2.60 Principal use.

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

Section 2.61 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 2.62 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 2.63 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 2.64 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 2.65 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 2.52. 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 2.66 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 2.67 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 2.68 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 2.69 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 2.70 Structure.

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

Section 2.71 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 2.72 Swale.

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

Section 2.73 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 2.74 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 2.75 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 2.76 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 2.77 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 2.78 Vegetative disturbance.

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

Section 2.79 Wetland.

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

Section 2.80 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 2.81 Zoning administrator.

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

Section 2.82 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.

**Section 3. Amendment of Section 4.07.** Section 4.07 (Mobile Homes) of Article 4 (General Provisions) is hereby repealed and replaced to read as follows:

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 a state or federally designated historic district nor nearer than 1,000 feet of a state or federally designated historic district, building, or structure.
- B. Except where prohibited by Subsection A, 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 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. Amendment of Section 4.12.** Section 4.12 (Accessory buildings to residential uses) of Article 4 (General Provisions) is hereby repealed and replaced to read as follows, inclusive of a new Section 4.12A (Accessory dwelling units):

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. The placement and use of any cargo container as an accessory building or structure shall be prohibited. For the purposes of this subsection, a cargo container shall be defined as a reusable vessel that was originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, which is capable of being mounted or moved by rail, truck or ship, including any other portable containers or pods used for storage with similar appearance and characteristics of cargo containers. This provision shall not apply to the temporary use of storage containers for construction activities on properties with an active building permit and/or where a Trailer Permit has been issued by the City of Mackinac Island.

Section 4.12A Accessory dwelling units.

Accessory dwelling units, as defined in this ordinance, are allowed within the R-1, R-3, R-4, HB, MD, and CD districts, subject to the following requirements.

- A. Only one accessory dwelling unit shall be permitted per lot.
- B. The owner of the lot shall occupy either the principal or accessory dwelling unit.
- C. The floor area shall not exceed 50% of the floor area of the principal dwelling unit.
- D. The accessory dwelling unit shall not be less in floor area than 400 square feet.
- E. The accessory dwelling unit shall have the same architectural style as the principal dwelling unit.
- F. 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.
- G. The accessory dwelling unit shall comply with the density requirements of the district in which it is located.
- H. The height of an accessory dwelling unit shall not exceed 24 feet. The accessory dwelling unit shall comply with all other requirements for principal structures for the district in which it is located.

**Section 5. Amendment to Section 4.14.** Section 4.14 (Essential public service facilities) of Article 4 (General Provisions) is hereby repealed and replaced to read as follows:

Section 4.14 Essential services.

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 6. Amendment to Section 4.23.** Section 4.23 (Adult foster care facilities) of Article 4 (General Provisions) is hereby repealed and replaced to read as follows:

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 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.

**Section 7. Amendment to Section 4.24.** Section 4.24 (Child care facilities) of Article 4 (General Provisions) is hereby repealed and replaced to read as follows:

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.
- 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. At its discretion, the Planning Commission may require a landscape buffer in accordance with section 4.9.
  - 7. 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 8. New Section 4.31.** A new Section 4.31 (Convalescent homes, nursing homes, and assisted living facilities) of Article 4 (General Provisions) is hereby added to read as follows:

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.

**Section 9. Amendment of Article 5.** Article 5 (Nonconforming Uses and Structures) is hereby repealed and replaced to read as follows:

#### 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.

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 as or intended to be occupied as a single-family dwelling.
- 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. 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.
- C. A nonconforming use 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.
- 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.
- 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.

**Section 10. Amendment to Section 6.02.** Section 6.02 (Permitted uses R-1) of Article 6 (R-1 Low Density Residential) is hereby repealed and replaced to read as follows:

Section 6.02 Permitted uses R-1.

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

**Section 11. Amendment of Article 7.** Article 7 (R-3 High Density Residential) is hereby repealed and replaced to read as follows:

#### 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, 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 minimum usable floor area for any single-family or two-family residential dwelling unit shall be 600 square feet. The minimum usable floor area for any multi-family residential dwelling unit shall be 400 square feet
- F. The maximum permitted density shall be as follows:
  - 1. The maximum permitted density for family residential use shall be 20 dwelling units per acre.
  - 2. For use as a boardinghouse (nonfamily residential use), 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, provided all other requirements of this Article are complied with.
  - 3. Regardless of the types or combinations of uses on the property or within a building, the total number of dwelling units, as defined in this ordinance, on the property shall not exceed the maximum density specified herein under family residential use.

**Section 12. Amendment of Article 7A.** Article 7A (R-4 Harrisonville Residential) is hereby repealed and replaced to read as follows:

#### 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, 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. 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 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.

\* "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 minimum usable floor area for any single-family or two-family residential dwelling unit shall be 600 square feet. The minimum usable floor area for any multi-family residential dwelling unit shall be 400 square feet
- F. The maximum permitted density for family residential use shall be 10 dwelling units per acre.

**Section 13. Amendment of Article 8.** Article 8 (HB Hotel/boardinghouse) is hereby repealed and replaced to read as follows:

#### 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, 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), 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 minimum usable floor area for any single-family or two-family residential dwelling unit shall be 600 square feet. The minimum usable floor area for any multi-family residential dwelling unit shall be 400 square feet
- F. The maximum permitted density shall be as follows:
  - 1. Hotels. Sixty rooms per acre.
  - 2. For use as a boardinghouse (nonfamily residential use), the maximum allowable density shall be one occupant per 300 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.
  - 3. The maximum permitted density for family residential use shall be 20 dwelling units per acre.
  - 4. Regardless of the types or combinations of uses on the property or within a building, the total number of dwelling units, as defined in this ordinance, on the property shall not exceed the maximum density specified herein under family residential use.

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.

**Section 14. Amendment of Article 9.** Article 9 (C Commercial) is hereby repealed and replaced to read as follows:

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.

- B. Multiple-family residential dwellings and boardinghouses shall be permitted provided that they are in compliance with the following standards:
  - 1. The minimum usable floor area per multiple-family residential dwelling unit shall be 400 square feet.
  - 2. Off-street bicycle parking shall be provided in accordance with the requirements of section 4.16.
  - 3. That the use and/or structure complies with all other district regulations.

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. The total number of rooms shall not exceed the number resulting from the following formula: Total Square Footage of the Hotel area (excluding any portions of the building dedicated to non-residential, family residential, boardinghouse, porches, decks and other exterior areas) divided by 230.
  2. For use as a boardinghouse (nonfamily residential use), the maximum allowable density shall be one occupant per 250 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.
  3. The maximum permitted density for family residential use shall be 30 dwelling units per acre.
  4. Regardless of the types or combinations of uses on the property or within a building, the total number of dwelling units, as defined in this ordinance, on the property shall not exceed the maximum density specified herein under family residential use.

**Section 15. Amendment of Article 10.** Article 10 (MD Market) is hereby repealed and replaced to read as follows:

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, 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 minimum usable floor area for any single-family or two-family residential dwelling unit shall be 600 square feet. The minimum usable floor area for any multi-family residential dwelling unit shall be 400 square feet
- F. The following density requirements apply in this district:
  1. The maximum density permitted for family residential use shall be seven dwelling units per acre.

2. For use as a boardinghouse (nonfamily residential use), 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.
3. Hotel. The total number of rooms shall not exceed the number resulting from the following formula: Total Square Footage of the Hotel area (excluding any portions of the building dedicated to non-residential, family residential, boardinghouse, porches, decks and other exterior areas) divided by 450.
4. Regardless of the types or combinations of uses on the property or within a building, the total number of dwelling units, as defined in this ordinance, on the property shall not exceed the maximum density specified herein under family residential use.

**Section 16. Amendment of Article 19A.** Article 19A (Planned Unit Development PUD Overlay) is hereby repealed and replaced to read as follows:

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

##### Section 19A.01 Purpose.

The purpose of this section is to 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. The PUD overlay standards are provided as a design option within the R-3, R-4, HB, C, and MD 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.

##### 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, 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.
- F. Building height. The building height applied in this district may be increased to provide the flexibility necessary to meet the purpose of this section.

#### 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.

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 a minimum of one acre of contiguous land.
- (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 result in design innovation which achieves the purpose of this article.
- (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.

**Section 17. Amendment of Section 21.03.** Section 21.03 (Zoning permits) of Article 21 (Administration and Enforcement) is hereby repealed and replaced to read as follows:

Section 21.03 Zoning permits.

Unless otherwise exempted elsewhere in this Zoning Ordinance, it shall be unlawful for any person to commence construction of any building or structure, including excavation associated with construction, 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 18. Amendment of Section 24.02.** Section 24.02 (Compliance with regulations) of Article 24 (Condominium Subdivision Projects) is hereby repealed and replaced to read as follows:

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.

**Section 19. Effective Date.** This ordinance shall become effective **seven (7) days after publication.**

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Margaret Doud, Mayor

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Danielle Leach, Clerk

Adopted: \_\_\_\_\_

Effective: \_\_\_\_\_