

# *CITY OF GAYLORD*



# *ZONING ORDINANCE*

*"The CITY OF GAYLORD strongly encourages the use of the SWISS ALPINE MOTIF in the construction and/or renovation of all commercial buildings in the CITY OF GAYLORD to maintain, enhance and to promote "GAYLORD, THE ALPINE VILLAGE" and to symbolize the City's relationship with its sister-city, PONTRESINA, SWITZERLAND."*

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## CITY OF GAYLORD

### ZONING ORDINANCE

#### **PREAMBLE**

The Zoning Ordinance of the City of Gaylord is enacted to regulate and restrict the use of land and structures; to meet the needs of the residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility need; and to promote public health, safety and welfare; and for these purposes to divide the City into districts of the number, shape and area considered best suited to carry out said purposes; and to provide a method for its administration and enforcement and to provide penalties for its violation.

The City Council of Gaylord, Michigan does ordain as follows:

#### **I. SECTION 1. PURPOSE.**

AN ORDINANCE to establish zoning districts and provisions for Gaylord, Michigan, including the administration thereof, in accordance with the provisions of Act 207 of the Public Acts of 1921, as amended:

BE IT ORDAINED by the City Council of Gaylord, Michigan:

This ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Gaylord.

#### **II. SECTION 2. EXEMPTIONS.**

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water, distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical sub-stations, cable TV, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing or adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other ordinances of the City of Gaylord in any use district, it being the intention hereof to except such erection, construction, alteration, and

maintenance from the application of this Ordinance.

### III. SECTION 3. CONSTRUCTION OF LANGUAGE AND DEFINITIONS.

For the purpose of this Ordinance, certain terms and words are to be construed and are defined as follows:

- A. Words used in the present tense include the future; words in the singular include the plural number, and words in the plural number include the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not discretionary.
- B. Accessory Building - A subordinate building, the use of which is incidental to and customary in connection with the principal building or use, and which is located on the same lot with such principal building or use.
- C. Accessory Use - A subordinate use which is incidental to and customary in connection with the principal building or use, and which is located on the same lot with such principal building or use.
- D. Alley - A public or private thoroughfare which affords only a secondary means of access to abutting property.
- E. Alterations - Any change, addition or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".
- F. Automobile Repair - The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles or components, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.
- G. Basement - That part of a building having at least two (2) feet but not more than one-half (1/2) of its height below the average grade of the adjoining ground.
- H. Bed and Breakfast - A single family structure in which lodging and a morning meal are provided for compensation primarily to transients and for periods not to exceed fourteen (14) days and nights.
- I. Billboard - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.
- J. Boarding House - A building, other than a hotel, motel, apartment hotel or bed and breakfast, where, for compensation and by prearrangement for definite periods in excess of one (1) week, lodging, meals or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons.
- K. Body Art Facility - A location at which an individual performs one or more of the following for compensation: tattooing, branding, or body piercing as those terms are defined in Michigan Compiled Laws 333.13101.
- L. Building - Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of person, animals, chattels, or property of any kinds.
- M. Building, Height of - The vertical distance from the grade to (a) the highest point of a flat roof, (b) the average height between eaves and ridge for gable, hip and gambrel roofs, or (c) the

deck line of a mansard roof.

- N. Buildable Width - The width of the lot left to be built upon after the side yards are provided.
- O. Cellar - That part of a building having more than one-half (1/2) of its height below the average grade of the adjoining ground.
- P. Clinic - An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.
- Q. Club - Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.
- R. Commercial Wireless Telecommunication Services – Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
- S. Day Care Center - Shall include "Family Day Care Home" and "Group Day Care Home" as such three (3) terms are defined by P.A. 1973, No. 116, as amended, being MCL 722.111 et seq.
- T. District - Any section of the City of Gaylord within which the zoning regulations are uniform or various combinations thereof apply under the provisions of this Ordinance.
- U. Dwelling -A building or portion thereof designed or used primarily for residential purposes, but not including hotels, motels, boarding or lodging houses, tourist courts or tourist homes. (rev. eff. Jan. 2, 1994)
- V. Dwelling, Single-Family - A building designed for or occupied exclusively by one (1) family.
- W. Dwelling, Two Family - A building designed for or occupied exclusively by two (2) families.
- X. Dwelling, Multiple - A building designed for or occupied exclusively by three (3) or more families.
- Y. Dwelling Unit - A room or suite of rooms used as a single-family dwelling, including bath and culinary accommodations.
- Z. Family - An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.
- AA. Filling or Service Station - Any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils or accessories or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacing of motors, bodies, or fenders of motor vehicles or painting motor vehicles, and excluding public garages.
- BB. Floor Area - The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement or cellar when said basement or cellar space is used for storage or incidental uses.
- CC. Frontage - The distance along a street line from one intersecting street to another or from one intersecting street to the end of a dead end street.

- DD. Garage, Private - A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.
- EE. Garage, Public - A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing or parking motor-driven vehicles. The term repairing shall not include an automotive body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.
- FF. Grade - The average level of the finished surface of the ground for buildings more than five (5) feet from a street line. For buildings closer than five (5) feet to a street line, the grade is the sidewalk elevation at the center of the building. If there is more than one (1) street, an average sidewalk elevation is to be used. If there is no sidewalk, the City shall establish the sidewalk grade. The average level of the water where buildings or structures are erected thereon.
- GG. Home Occupation - Any occupation within a dwelling and clearly incidental thereto carried on by a member of the family residing on the premises; provided that no person not a resident on the premises is employed, no stock in trade is kept or commodities sold, no mechanical equipment is used, except such that is normally used for purely domestic or household purposes, no advertising sign is displayed other than a name plate not exceeding one square foot in area and there is no other exterior indication that the building is being used for any purpose other than a dwelling.
- HH. Hotel - A building or part of a building, with a common entrance, or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one (1) or more of the following services are offered: maid service; furnishing of linen; telephone, secretarial, or desk service; and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.
- II. Housekeeping Cabin Park - A parcel of land on which two (2) or more buildings, tents or similar structures are maintained, offered or used for dwelling or sleeping quarters for transients, but shall not include boarding and lodging houses, tourist homes or motels.
- JJ. Improvements - Those features and actions associated with a project which are considered necessary by the Municipality to protect 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 parking areas, landscaping, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is the subject of zoning approval.
- KK. Institution - A nonprofit establishment for public use.
- LL. Junk Yard - The use of premises for the open storage of old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons, and other kinds of vehicles and parts thereof, scrap building material, scrap contractors' equipment, tanks, cases, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material. A "Junk Yard" includes automobile wrecking yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk. A "Junk Yard" shall include any premise upon which two (2) or more motor vehicles, which cannot be operated under their own power, are kept or stored for a period of fifteen (15) days or more.
- MM. Kennel, Commercial - Any lot or premise on which three (3) or more dogs, cats or other household pets are either permanently or temporarily boarded or bred and raised for remuneration.



- NN. Lodging or Rooming House - Same as "Boarding House".
- OO. Lot -
1. A parcel of land adequate for occupancy by a use herein permitted, providing the yards, area and off-street parking herein required and fronting directly on a street.
  2. Land occupied or intended for occupancy by a use permitted in this ordinance, including one main building, together with its accessory buildings and the yards, loading and parking spaces required herein, and having its principal frontage upon a street or upon an officially approved place.
- PP. Lot, Corner - A lot abutting upon two or more streets at their intersection.
- QQ. Lot, Depth - The mean horizontal distance between the front and rear lot lines.
- RR. Lot, Interior - A lot other than a corner lot.
- SS. Lot Lines - The lines bounding a lot as defined herein:
1. Front Lot Line - In the case of an interior lot, is that line separating said lot from the street. In the case of a through lot, is that line separating said lot from either street.
  2. Rear Lot Line - That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
  3. Side Lot Line - Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- TT. Lot of Record - A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds of Otsego County; or a parcel of land, the deed of which was recorded in the Office of the Register of Deeds of Otsego County.
- UU. Lot, Through - Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.
- VV. Lot, Width - The width of a lot at the front yard line.
- WW. Main Building - A building in which is conducted the principal use of the lot upon which it is situated.
- XX. Manufactured Housing - A structure, transportable on wheels in one (1) or more sections, which is built and designed to be sold or used as a dwelling, with permanent foundation and steel support structure, when connected to the required utilities, and includes the plumbing, heating, air condition and electrical systems contained in the structure. Manufactured housing does not include recreational vehicles or equipment. Manufactured housing must be HUD or BOCA approved. (amend. eff. Jan 2, 1994)
- YY. Marihuana or Marijuana – The term as defined in the Michigan Taxation and Regulation of Marihuana Act, MCL 333.27951 *et seq.*
- Marihuana Establishment – a Marihuana Grower, Marihuana Safety Compliance Facility, Marihuana Processor, Marihuana Microbusiness, Marihuana Retailer, Marihuana Secure

Transporter, or any other type of marihuana-related business licensed by the marijuana regulatory agency. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*

- ZZ. Marihuana Licensee – A person holding a valid state license and municipal license issued pursuant to the Michigan Taxation and Regulation of Marihuana Act, MCL 333.27951 *et seq.*
- AAA. Mechanical Amusement Device - Any machine or device which, upon the insertion of a coin, slug, token, plate or disc, operates or may be operated as a game of contest of skill or amusement when the element of skill in such operation predominates over chance or luck. It shall include mechanical, electrical, or electronic video games; mechanical grabbing devices; pinball games; mechanical, electrical or electronic baseball, football, basketball, hockey and similar sports-type games; mechanical, electrical, or electronic cards games; shooting games, target games; or any other machine, device or apparatus which may be used as a game of skill and wherein the player initiates, employs or directs any force generated by such machine.
- BBB. Marihuana Grower – A Marihuana Licensee licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- CCC. Marihuana Microbusiness – A Marihuana Licensee licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- DDD. Marihuana Processor – A Marihuana Licensee licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- EEE. Marihuana Retailer – A Marihuana Licensee licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, is not a Marihuana Retailer for purposes of this ordinance.
- FFF. Marihuana Safety Compliance Facility – A Marihuana Licensee licensed to test marihuana, including certification for potency and the presence of contaminants.
- GGG. Marihuana Secure Transporter – A Marihuana Licensee licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- HHH. Mezzanine - An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story.
- III. Mobile Home - A structure, transportable in one (1) section, which is built on a chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. (amend. eff. Jan 2, 1994)
- JJJ. Mobile Home Park - Means a parcel or tract of land under the control of a person or entity upon which one (1) or more Mobile Homes or Manufactured Housing Units are located on a continual, nonrecreational basis and which is offered to the public for that purpose, with or without a charge therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a Mobile Home or Manufactured Housing unit and which is not intended for use as a temporary trailer park. (rev. eff. Jan 2, 1994)

- KKK. Modular Home - A structure, transportable in one (1) or more sections, which is built and designed to be sold or used as a dwelling, with permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Modular home does not include recreational vehicles or equipment. Modular homes must be BOCA approved. (amend. eff. Jan. 2, 1994)
- LLL. Motel - A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.
- MMM. Nonconforming Use - The lawful use of land or a building, or a portion thereof, which use does not conform with the use regulations of the district in which it is located.
- NNN. Nuisance Factors - An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to:
1. noise
  2. dust
  3. smoke
  4. odor
  5. glare
  6. fumes
  7. flashes
  8. vibration
  9. shock waves
  10. heat
  11. electronic or atomic radiation
  12. objectionable effluent
  13. noise of congregation of people, particularly at night
  14. passenger traffic
  15. invasion of nonabutting street frontage by traffic
  16. a burned out structure
  17. a condemned structure
- OOO. Nursery, Plant Materials - A space, building, or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping.
- PPP. Nursery School - A daytime facility which has as its main objective a development program for preschool children and whose staff meets the educational requirements established by the State.
- QQQ. Nursing Home - A home for the aged, or infirmed in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.
- RRR. "Outdoor Production" – Growing in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure.
- SSS. Parking Space, Off-Street For One And Two Family Dwellings - A minimum of a five (5) inches compacted gravel area not in a street or alley and having an area of not less than 180 square

feet, including driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley with a five (5) inches compacted gravel driveway, not less than eight feet in width, which affords ingress and egress for an automobile.

- TTT. Parking Space, Off-Street For Three Or More Family Dwellings And All Other Structures - An area comprised of a minimum of five (5) inches compacted gravel base or three (3) inches of deep asphalt base (MSHD 4:09 specification) covered with a surface of prime and double sealcoat asphalt or two (2) inches of MSHD specification for 4:11 or 4:12 asphalt mix or an alternate of six (6) inches of concrete not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a driveway constructed of the above specified materials and affords ingress and egress for an automobile without requiring another automobile to be moved.
- UUU. Porte-Cochere - A canopy attached to a building and extending over a driveway, open on all sides except for the wall of the main building.
- VVV. Premises - A lot together with all buildings and structures thereon.
- WWW. Planned Unit Development (PUD) - A development planned and built as a single entity which may contain a mix of housing types and non-residential uses and which is based upon an approved site plan which allows flexibility of design not available under normal zoning district requirements.
- XXX. Setback - The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.
- YYY. Sign - An identification, description, illustration, or device which is affixed to, or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business.
- ZZZ. State Licensed Residential Facility - A structure constructed for residential purposes that is licensed by the State pursuant to Act No. 287 of the Public Acts of 1972, as amended, being Sections 331.681 to 331.694 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services for six (6) or less persons under twenty-four (24) hour supervision or care for persons in need of that supervision or care.
- AAAA. Story - That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is not floor above, then the ceiling next above. A basement shall not be counted as a story.
- BBBB. Story, Half - A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartments or living quarters shall be counted as a full story.
- CCCC. Street - A public thoroughfare which affords the principal means of access to abutting property.
- DDDD. Street Line - A dividing line between a lot and a contiguous street.
- EEEE. Structure - Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing; advertising signs, billboards, backstops for tennis courts and pergolas.

FFFF. Structural Alteration - Any change except those required by law of ordinance, which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders, not including openings in bearing walls as permitted by other ordinances.

GGGG. Swimming Pool - Any structure with accessories, including preassembled units, which are designed and constructed for use either above or below ground level, used primarily for the purpose of recreational bathing or swimming but not including portable wading pools having a depth of less than twenty-four (24) inches.

HHHH. Temporary Use or Building - A use or building permitted by the Board of Appeals to exist during a specified period of time.

IIII. Tourist Home/Bed And Board - An establishment used for dwelling purposes in which rooms with or without meals are offered to transient guests for compensation.

JJJJ. Travel Trailer - A vehicle designed as a travel unit for occupancy as a temporary or seasonal vacation living unit.

KKKK. Trailer - A vehicle transportable on wheels, used for living purposes and designed to stand or standing on wheels. (rev. eff. Jan. 2, 1994)

LLLL. Trailer Park or Mobile Home Court - An area where one or more trailers can be or are intended to be parked, designed or intended to be used as living facilities for one or more families.

MMMM. Variance - A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are:

1. undue hardship
2. unique circumstances
3. applying to property.

A variance is not justified unless all three elements are present in the case.

NNNN. Yard - An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

OOOO. Yard, Front - A yard across the full width of the lot extending from the front line of the building to the front street line of the lot.

PPPP. Yard, Rear - A yard extending the full width of the lot between a principal building and the rear lot line.

QQQQ. Yard, Side - A yard on the same lot with the building between the main buildings and the adjacent side of the lot and extending from the front yard to the rear yard thereof.

#### IV. SECTION 4. INTERPRETATION AND CONFLICT.

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the people of the City of Gaylord, Michigan.

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations or permits previously adopted or issued pursuant to law; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are required by other rules, regulations or permits, or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

**V. SECTION 5. DISTRICTS.**

- A. In order to carry out the provisions of this Ordinance, the City of Gaylord is hereby divided into five districts which shall be known as:
1. R-1 Single-Family Residence District
  2. R-2 Multiple Residence District
  3. B-1 Central Business District
  4. C-1 General Commercial District
  5. C-2 Central Commercial District
  6. M-1 Manufacturing District
- B. The districts and boundaries of districts are shown on the maps attached hereto and made a part of this Ordinance. The map shall be designated as the "District Map". All notations and references shown on the "District Map" are as much a part of this Ordinance as though specifically described herein.
1. The district boundaries are either streets, highways or alleys unless otherwise shown, and where the designation on the "District Map" indicates that the various districts are approximately bounded by a section line, one-quarter section line, one-eighth section line, corporate limit line, street, highway, or alley line, such section line, one-quarter section line, one-eighth section line, corporate limit line, street, highway, or alley line shall be construed to be the district boundary line.
  2. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the "District Map" are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the district.
  3. Where boundaries obviously do not coincide with herein designated lines or where they are not located by dimensions on the "Zoning Map", they shall be deemed to the 125 feet back from the nearest street line parallel to which they are drawn.
  4. In the event any street, highway, alley, drainageway or other public way forming the boundary of a district is vacated, the new district boundary shall be the former center line of said vacated street, highway, alley, drainageway or other public way.
  5. All determinations relative to questions as to the exact locations of boundary lines of the districts shall be by a Board of Appeals as hereinafter created.
- C. All territory which may hereafter become a part of the City of Gaylord by incorporation shall automatically be classified in the R-1 Single Family Residence District until appropriately reclassified in accordance with the provisions of Section 17 of this Ordinance.
- D. In the event the "District Map" does not show the zoning of any area within the City of Gaylord, such area automatically shall be classified in the R-1 Single-Family Residence District until a reasonable time following discovery of the omission, the area shall be appropriately classified in accordance with the provisions of Section 17 of this Ordinance.

- E. All territory which has heretofore or may hereafter come within the jurisdiction of the City of Gaylord by virtue of or pursuant to Act 425 of the Public Acts of 1984, being MCL 124.21 through 124.29, shall automatically be classified in the C-2 Central Commercial District until reclassified in accordance with the provisions of Section 18 of this Ordinance.
- F. All territory which may hereafter become a part of the City of Gaylord by annexation shall automatically be classified in the District most similar to that within which the territory was classified immediately prior to annexation by the County or Township, or under this Ordinance, until reclassified in accordance with the provisions of Section 18 of this Ordinance. Provided, however, that territory coming into the City of Gaylord that was theretofore under the jurisdiction of the City pursuant to Act 425 of the Public Acts of 1984, shall continue to be classified in the C-2 Central Commercial District unless and until reclassified in accordance with the provisions of Section 18 of this Ordinance. Provided further that any territory that becomes a part of the City of Gaylord by annexation that was not subject to any zoning classification prior to annexation, shall automatically be classified in the R-1 Single-Family Residence District until appropriately reclassified in accordance with the provisions of Section 18 of this Ordinance.

**VI. SECTION 6. COMPLIANCE WITH THE REGULATIONS.**

Except as herein after specifically provided:

- 1. No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used, except for a purpose permitted in the district in which the building or land is located.
- 2. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height and bulk limit herein established for the district in which the building is located.
- 3. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, except in conformity with the yard, floor area, and lot area regulations of the district in which the building is located.
- 4. No building shall be erected, or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of the district in which the building is located.
- 5. The minimum yards, parking space, and other open spaces, including lot area per family, required by this Ordinance, for any building hereafter erected or structurally altered, shall not be encroached upon or considered as parking, yard, or open space or lot area requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this Ordinance.
- 6. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as specifically provided hereinafter in Section 15.

**VII. SECTION 7. R-1 SINGLE-FAMILY RESIDENCE DISTRICT.**

- A. The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section are the regulations in the R-1 Single-Family Residence District.
- B. Use Regulations.
  - 1. A building or premises shall be used only for the following purposes:

- a. Single-family dwellings.
- b. Public schools, elementary and high, or private or parochial schools having a curriculum similar to a public elementary school, public high school or nursery school.
- c. Parks, playgrounds and community buildings owned or operated by public agencies.
- d. Country Club or golf course, except a miniature course or practice driving tee operated for commercial purposes.
- e. Churches and temples.
- f. Accessory buildings and accessory uses customarily incident to the above uses, but not involving the conduct of a business. Accessory uses to a dwelling include, but are not limited to, a home occupation, private garage, a swimming pool for the use of the family and their guests.
- g. Home occupations.
- h. A State Licensed Residential Facility shall not be permitted when another State Licensed Residential Facility exists within a radius of 1,500 feet from the proposed location.
- i. Day Care Centers.
- j. Fences in accordance the Fence Ordinance of the City of Gaylord.
- k. A resident of a dwelling unit may have not more than one (1) motorized or recreational vehicle for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of such motorized or recreational vehicles. (ord. amend. eff. Aug. 15, 1993)

C. Height Regulations.

- a. Buildings and structures shall exceed neither thirty-five feet, nor two and one-half stories in height except as provided in Section 15 of this Ordinance.

D. Area Regulations.

1. Front Yard:

- a. There shall be a front yard having a depth of not less than twenty-five (25) feet, except as provided in Section 15 of this Ordinance.
- b. Where lots have double frontage, the required front yard shall be provided on both streets.
- c. On corner lots, there shall be a front yard on both streets. On corner lots that were under separate ownership on the effective date of this Ordinance, the buildable width shall not be reduced to less than thirty-five (35) feet, except that there shall be a yard along the side street side of such a lot, of at least ten (10) feet, as well as the required interior side yard.

2. Side Yard:

- a. Except as hereinafter provided in the following paragraph and in Section 15 of this Ordinance, there shall be a side yard on each side of a building having a width of not less than ten (10) feet.
- b. Wherever a lot of record on the effective date of this Ordinance has a width of less than sixty (60) feet, each side yard may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instance shall it be less than five (5) feet.

- 3. Rear Yard: Except as hereinafter provided in Section 15 of this Ordinance, there shall be a rear yard having a depth of not less than twenty-five (25) feet.



4. Minimum Lot Area and Lot Width:
  - a. Every lot shall have an area of not less than 8,500 square feet and a minimum width of sixty (60) feet.
  - b. Any lot which has less area or width than herein required and was held under separate ownership on the effective date of this Ordinance, may be occupied by any use permitted in this district.
5. Minimum Floor Area: Every dwelling shall have a minimum ground floor area of not less than 1,080 square feet of living area.
- E. Off-Street Parking: Off-street parking spaces shall be provided in accordance with requirements for specific uses set forth in Section 12 of this Ordinance.
- F. Building Regulations: (amend. eff. Jan. 2, 1994)
  1. Every dwelling, except for dwellings located in a Mobile Home Park, shall comply with all of the following:
    - c. Shall have wood floor joists or supports other than steel support beams.
    - d. Shall have a minimum four/twelve (4/12) roof pitch.
    - e. Have a minimum width along any exterior side elevation of twenty-four (24) feet and a minimum internal height of seven and one-half (7 1/2) feet.
    - f. Shall be firmly and permanently attached to a solid foundation constructed on the site in accordance with applicable building codes, which foundation shall be a fully enclosed basement or crawl space.
    - g. Shall not have exposed wheels, towing mechanism, undercarriage or chassis.
    - h. Shall contain storage area(s) either in a basement located under the Dwelling, in an attic area, in a closet area or in a separate fully enclosed structure on the site. Such storage area(s) for single family units shall, in the aggregate, be equal to not less than fifteen (15%) percent of the interior living area of the dwelling.
    - i. Shall contain no additions of rooms or other areas which are not constructed with similar materials and are similar in appearance and with similar quality of workmanship as in the original structure.
    - j. Shall be built and comply with all applicable building and fire codes.

**VIII. SECTION 8. R-2 MULTIPLE RESIDENCE DISTRICT.**

- A. The regulations set forth in this Section or set forth elsewhere in this Ordinance when referred to in this Section are the regulations in the R-2 Multiple Residence District.
- B. Use Regulations.
  1. A building or premises shall be used only for the following purposes:
    - a. Any use permitted in the R-1 Single-Family Residence District.
    - b. Two-family dwelling or multiple dwelling.
    - c. Lodging houses, boarding houses, and bed and breakfast.
    - d. Apartments.
    - e. Hospitals, nursing or convalescent homes, mortuaries and institutions, but not a penal or mental institution.
    - f. Private clubs, fraternities, sororities, or lodges.
    - g. A physician, surgeon or dentist may have office space within his residence for consultation or treatment of patients provided that no more than one-third of

the floor area of such dwelling unit is used for office space.

- h. Storage garage when accessory to a permitted building or use.
- i. Usual accessory uses.
- j. Deleted – Ord. Amend. Eff. 01/30/05
- k. A State Licensed Residential Facility shall not be permitted when another State Licensed Residential Facility exists within a radius of 1,500 feet from the proposed location.

C. Height Regulations.

- 1. Buildings and structures shall exceed neither thirty-five (35) feet, nor two and one-half (2 1/2) stories in height except as provided in Section 15 of this Ordinance.

D. Area Regulations.

- 1. Front Yard: The front yard regulations are the same as those in the R-1 District.
- 2. Side Yard: Except as hereinafter provided in the following paragraph and in section 15 of this Ordinance, there shall be a side yard on each side of a building, having a width of not less than five (5) feet. The sum of the two side yards shall not be less than fifteen (15) feet.
- 3. Rear Yard: The rear yard regulations are the same as those in the R-1 District.
- 4. Minimum Lot Area and Lot Widths: Every building hereafter erected or structurally altered for dwelling purposes shall comply with the following lot area requirements.
  - a. Single-family dwelling: 8,500 square feet and a minimum width of sixty (60) feet.
  - b. Two-family dwellings: 4,250 square feet per family and minimum width of sixty (60) feet.
  - c. Multiple dwellings: 2,900 square feet per family and a minimum width of sixty (60) feet.

Any lot which has less than herein required and was held under separate ownership at the effective date of this Ordinance may be occupied by any use permitted in this district.

5. Minimum Floor Area:

- a. Every dwelling shall have a minimum ground floor area of not less than 720 square feet of living area.
- b. Two or more family dwellings shall have not less than 400 square of living area per family unit.

E. Off-Street Parking: Off-street parking spaces shall be provided in accordance with requirements for specific uses set forth in Section 12 of this Ordinance.

F. Building Regulations: (amend. eff. Jan. 2, 1994)

- 1. Every dwelling, except for dwellings located in a Mobile Home Park, shall comply with all of the following:
  - a. Shall have wood floor joists or supports other than steel support beams.
  - b. Shall have a minimum four/twelve (4/12) roof pitch.
  - c. Have a minimum width along any exterior side elevation of twenty-four (24)

- d. feet and a minimum internal height of seven and one-half (7 1/2) feet. Shall be firmly and permanently attached to a solid foundation constructed on the site in accordance with applicable building codes, which foundation shall be a fully enclosed basement or crawl space.
- e. Shall not have exposed wheels, towing mechanism, undercarriage or chassis.
- f. Shall contain storage area(s) either in a basement located under the Dwelling, in an attic area, in a closet area or in a separate fully enclosed structure on the site. Such storage area(s) for single family units shall, in the aggregate, be equal to not less than fifteen (15%) percent of the interior living area of the dwelling. Multiple family units are required to have a minimum storage area(s) for each living unit of eight (8%) percent of the interior living area of the dwelling.
- g. Shall contain no additions of rooms or other areas which are not constructed with similar materials and are similar in appearance and with similar quality of workmanship as in the original structure.
- h. Shall be built and comply with all applicable building and fire codes.

G. Bed and Breakfast Operations and Regulations.

1. No person or entity shall operate a Bed and Breakfast as defined without having obtained a license as herein provided. These regulations shall not apply to hotels, motels, motor lodges, boarding houses, or rooming houses doing business within the City of Gaylord.
2. The annual fees for a Bed and Breakfast license shall be established by the Gaylord City Council. Fees shall be payable for the whole or any part of a year and shall be paid at the City Offices. Applicants for a license to operate a Bed and Breakfast shall complete and submit an application and shall submit a floor plan of the single family dwelling unit that illustrates that the proposed operation will comply with the terms of this Ordinance and any other applicable City Codes and Ordinances.
3. Bed and Breakfast operations shall be confined to the single family dwelling unit which is the principal dwelling unit on the property. Parking provided for a Bed and Breakfast operation shall be in compliance with all City Codes and Ordinances pertaining to parking regulations. No premises shall be utilized for a Bed and Breakfast operation unless the following conditions are met:
  - a. Minimum Exits: There shall be at least two (2) exits to the outdoors from such premises.
  - b. Size of Sleeping Rooms: Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants with an additional thirty (30) square feet for each additional occupant to a maximum of four (4) occupants per room.
  - c. Smoke Detectors: Each sleeping room used for the Bed and Breakfast operation shall have a separate smoke detector alarm, installed in accordance with the applicable building codes.
  - d. Lavatory Facilities: Lavatory and bathing facilities shall be available to all persons using any Bed and Breakfast operation.
4. The dwelling unit in which the Bed and Breakfast is located shall be the principal residence of the operator, and said operator shall live on the premises when the Bed and Breakfast operation is active. In addition, the Bed and Breakfast operation shall meet the following conditions:
  - a. A Bed and Breakfast operation shall be limited to five (5) sleeping rooms for use in the Bed and Breakfast operation.

- b. Guest Register: Every operator shall keep a list of the names of all persons staying at the Bed and Breakfast operation. The guest register shall be available for inspection by City Officials at any time.
  - c. Length of Stay: The maximum stay for any occupant of the Bed and Breakfast sleeping rooms shall be fourteen (14) consecutive days.
  - d. Public Nuisance: Bed and Breakfast operation shall not be permitted whenever the operation endangers, or offends or interferes with the safety or rights of others so as to constitute a public nuisance.
5. No license shall be issued for a Bed and Breakfast operation at a dwelling unit located within five hundred (500) feet of an existing licensed Bed and Breakfast operation.
  6. The City of Gaylord shall issue a license for a Bed and Breakfast operation if the City finds that the applicant can meet all requirements of this Ordinance and of any other applicable local, state or federal regulation. If the City finds that an applicant cannot meet a particular requirement of these licensing requirements, then the City shall have the authority to deny the applicant a license. The denial may be appealed to the City Council, which may then weigh the facts of the case and make a final decision.
  7. Any license issued hereunder shall be valid for a period of one (1) year from the date of issuance. The City may renew the license for any Bed and Breakfast Operation provided that the licensed operation shall meet the following conditions:
    - a. The Bed and Breakfast operation shall meet all conditions of this Ordinance as confirmed by an annual inspection of the premises by the City.
    - b. The license for the Bed and Breakfast operation shall not have lapsed for more than thirty (30) days beyond its expiration date.
    - c. The active operation of the Bed and Breakfast shall not have lapsed for more than nine (9) months.
  8. A Bed and Breakfast license may be renewed only as provided in Section (g) above. Such license shall not be transferable to any property other than the property for which it was approved.
  9. The City shall have the authority to refuse to renew a license or to suspend or revoke a license for continued and repeated violations of the provisions of this Ordinance. A decision to suspend, revoke, or refuse renewal of a license, may be appealed to the City Council by the applicant. Any license issued under the provisions of this Ordinance may be revoked by the City Council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto; in such investigation the compliance or noncompliance with the State law and local ordinances, the conduct of the licensee in regard to the public, and other consideration shall be weighed in determination of such issues.
  10. Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor.

H. Gas Wells:

1. Wells for the exploration for and production of gas (as defined in MCL 319.2) may be located in an R-2 District only in compliance with the regulations herein set forth. (Ord. amend. eff. July 11, 1994)
2. Prior to commencing any drilling operations, the lessee or owner of the gas or gas rights or the person or entity responsible for the drilling operations shall obtain a zoning permit from the City Clerk. (Ord. amend. eff. July 11, 1994)

3. Application for the required zoning permit shall be made on a form provided by the City Clerk and shall contain the following information: (Ord. amend. eff. July 11, 1994)
  - a. The name and address of the applicant.
  - b. The interest of the applicant in the proposed well and the gas to be produced therefrom.
  - c. The name of the record title owner of the surface of the property on which the well is to be drilled.
  - d. The date by which drilling will be completed, which date may not be more than twelve (12) months after the date when the DNR permit was issued.
  - e. A legal description of the property on which the well is to be drilled.
  - f. An agreement by the applicant to comply with all applicable statutes and the rules promulgated by the Supervisor of Wells pursuant to MCL 319.1, et seq.
  
4. Application for the required zoning permit shall be accompanied by the following, which shall be retained by the City Clerk. (Ord. amend. eff. July 11, 1994)
  - a. An accurate and to scale site plan, plot plan, drawing or sketch showing the exact location of the proposed well, the location of means of ingress and egress, all buildings within six hundred (600) feet of the well site and the location and name of all streets, highways and roads within six hundred (600) feet of the well site.
  - b. A statement setting forth the restoration that will be performed after drilling operations are completed.
  - c. A copy of a permit for the well issued by the Supervisor of Wells for the State of Michigan.
  - d. A statement as to the location of the processing facility to which the well is to be connected, including the legal description of the property, and the owner of the property.
  - e. A description of the location of all flowlines to or from such well and copies of documents establishing the right to place and maintain such flowlines.
  
5. A zoning permit shall be issued only if all of the following requirements are met. (Ord. amend. eff. July 11, 1994)
  - a. The applicant has complied with all of the foregoing requirements.
  - b. The proposed well is located not less than three hundred (300) feet from existing structures used for public or private occupancy, from existing sites maintained for public camping or gathering, or from the edge of the traveled portion of any existing public interstate highway or state highway.
  - c. After drilling operations are completed, the well head shall be screened from view so as not to be readily visible from the nearest structures used for public or private occupancy. Such screening shall consist of pine or fir trees, bushes or other vegetation sufficient to accomplish adequate screening.
  - d. Any zoning permit issued under this section shall be valid only for so long as the DNR permit is valid. The permittee shall notify the City at least five (5) days prior to commencing any drilling operations pursuant to any permit.
  
6. The following regulations shall apply to all drilling and wells within the City: (Ord. amend. eff. July 11, 1994)
  - a. Once commenced, drilling operations shall proceed with all due diligence and shall be completed as soon as reasonably possible.
  - b. No well shall use or have a pump jack (rocker arm) other than in an M-1 District.
  - c. Any artificial lift shall have only an electric motor and all wells shall employ

state of the art noise reduction technology.

7. No compressors or processing facilities shall be located within any zoning district other than an M-1 District. (Ord. amend. eff. July 11, 1994)
8. Any person who shall provide any false information on or in conjunction with an application for a zoning permit under this section shall be guilty of a misdemeanor punishable by a fine of up to \$100.00 and/or imprisonment for up to ninety (90) days. (Ord. amend. eff. July 11, 1994)
9. An person or entity who shall fail to comply with any of the terms or conditions of this ordinance or who shall violate or fail to comply with any applicable rule of the Supervisor of Wells or condition stated in any permit issued by the Supervisor of Wells shall be guilty of a misdemeanor punishable by a fine of up to \$100.00 and/or imprisonment for up to ninety (90) days. (Ord. amend. eff. July 11, 1994)
10. The foregoing regulations dealing with gas wells are not meant to invade or supersede the jurisdiction of the Supervisor of Wells provided for by statute. Wherever the statutes applicable to gas wells and production therefrom or where the rules established by the Supervisor of Wells or the DNR are more restrictive than these regulations, then the more restrictive regulations shall be deemed to apply. (Ord. amend. eff. July 11, 1994)

**IX. SECTION 9. C-1 GENERAL COMMERCIAL DISTRICT.**

- A. The regulations set forth in this Section, or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations of the C-1 General Commercial District.
- B. Use Regulations.
  1. A building or premises shall be used only for the following purposes:
    - a. Uses permitted in R-2 District, providing requirements of that district are met.
    - b. Advertising sign or billboard, when located at least fifty (50) feet from any "R" District.
    - c. Gasoline service stations, parking or public garages, and auto, truck, trailer, and boat sales, service, storage, parts, repair, washing or painting shop provided that any outdoor storage of parts, material or damaged autos, trucks, trailers or boats shall be suitably screened or fenced or enclosed and such storage shall not be conducted within a required yard.
    - d. Auto parking or sales lots for new or used cars provided that dismantled or junked cars unfit for operation on the highways shall not be stored on the premises unless within a building.
    - e. Business or commercial schools.
    - f. Dance halls, bowling alleys, and similar places of amusement or entertainment.
    - g. Restaurants and coffee shops, including drive-in restaurants.
    - h. The office and display room of the home repair contractors such as heating, painting, roofing and decorating contractors provided the business is entirely within a completely enclosed building, there is no storage of supplies or equipment on the premises outside the building, and no more than fifty (50) percent of the gross floor area is used for processing and fabricating.
    - i. Drive-in establishments offering foods or services to customers waiting in parked automobiles.
    - j. Theaters, including outdoor or drive-in theaters.

- k. Display rooms for merchandise to be sold at wholesale where merchandise is stored elsewhere.
- l. Printing shops having a sales office or retail outlet on the premises and having less than 10,000 square feet of floor area.
- m. Radio or television broadcasting stations, studios and offices.
- n. Repair services or businesses, including repairing of bicycles, radios, television sets, and other home appliances, typewriters, watches, clocks, and shoes, having a retail outlet on the premises and having no more than 10,000 square feet of floor area.
- o. Monument works having a retail outlet on the premises.
- p. General service and repair establishments similar in character to uses listed herein.
- q. Hotels and motels.
- r. Farm implement display and sales rooms.
- s. Tires sales and service.
- t. Marihuana Secure Transporters and Marihuana Safety Compliance Facilities, as defined and regulated by the City of Gaylord Marihuana Ordinance and also when approved as a Special Land Use in accordance with the application procedures and review standards for Special Land Use as set forth in Section 13 of the Gaylord Zoning Ordinance.
- u. Other retail stores and outlets similar in character to uses listed herein.
- v. Frozen food lockers.
- w. Accessory buildings and uses customarily incident to the above uses.
- x. Deleted – Ord. Amend. Eff. 01/30/05
- y. Body art facilities when granted a Special Use Permit pursuant to the procedures and standards of Section 13 of the Gaylord Zoning Ordinance.

C. Height Regulations.

- 1. Buildings and structures shall exceed neither thirty-five (35) feet, nor two and one-half (2 1/2) stories in height, except as provided in Section 15 of this Ordinance.

D. Area Regulations.

- 1. Front Yard: The front yard regulations are the same as those in the R-2 District.
- 2. Side Yard: A five (5) foot minimum side yard shall be required for nonresidential buildings except that a seven (7) foot side yard shall be required on the side of a lot or tract adjoining a residential district. Side yards for dwellings or for properties whose building(s) are used for both residential/commercial purposes shall conform to requirements of the R-2 District. (ord. amend. eff. May 3, 1992, amend. eff. July 11, 1994)
- 3. Rear Yard: The rear yard regulations are the same as those in the R-2 District.
- 4. Minimum Lot Area and Lot Width: The lot area regulations are the same as those in the R-2 District except that no minimum lot width is required.
- 5. Minimum Floor Area: Every dwelling in this district shall conform to R-2 requirements and housekeeping cabins shall have not less than 300 square feet of living area.

E. Construction and Construction Materials:

- a. All buildings constructed in this district shall be in accordance with BOCA Code.
- b. The outer wall coverings of all buildings in this district shall be brick, concrete,

stone, stucco or stucco-like material, tile, vinyl siding and/or wood. In addition, the same must comply with any applicable construction or building code. (ord. amend. eff. Feb. 16, 1992)

- F. Building Regulations: These are the same as in the R-2, Multiple Residence District. (amend. eff. Jan. 2, 1994)

**IX.A SECTION 9.A B-1 CENTRAL BUSINESS DISTRICT.**

- A. For the purpose of this Ordinance the B-1, Central Business District shall be identified as those properties which are north of First Street, south of Mitchell Street, east of the Detroit and Mackinac Railroad and west of Elm Avenue.

- B. The regulations set forth in this Section, or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations of the B-1, Central Business District.

- C. Use Regulations.

1. The following uses are permitted in the B-1 District:

- a. Uses permitted in an R-2 District for residential dwellings as long as requirements of that district are met.
- b. Apartments above business establishments are permitted. Apartments existing at the effective date of this Ordinance shall also comply with the following:

(1) A minimum of one (1) approved single-station or multiple-station smoke detector shall be installed in each separate unit in the immediate vicinity of the sleeping area. In addition, smoke detectors shall be required at the level of any story of each stairwell connecting the story on which any apartment is located to any lower story, in each furnace room located in the building and in a general area on each story of the building including the basement. All smoke detectors shall be installed in accordance with NFPA 74 and when activated shall provide an alarm suitable to warn the occupants within the individual room and dwelling unit.

(2) Each apartment unit shall be equipped with a minimum of one (1) portable fire extinguisher with a minimum 2A-10-B-C rating. The fire extinguisher shall bear the label of an approved agency and be installed in a location visible and accessible to the occupants.

(3) Each apartment unit altered, reconstructed or remodeled after the date of this Ordinance shall install a fire sprinkler suppression system in accordance with NFPA-13R.

(4) Each apartment unit shall be inspected on an annual basis by the Fire Enforcement Officer as defined in the Gaylord Ordinance Code, FIRE PROTECTION ORDINANCE, Section 22.100, to insure compliance with the requirements of this Ordinance and the BOCA National Fire Prevention Code.

- c. Any generally recognized retail business which offers commodities for sale on the premises within a completely enclosed building, such as, but not limited to: food, books, drugs, apparel, furniture, jewelry, floral, notions and/or hardware.

- d. Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: small repair shops whose principal trade is repair services, dry cleaners, barber shops, beauty parlors, interior decorators and photographers.



- e. Restaurants and taverns where the patrons are served while seated within the building occupied by such establishment. Drive-through facilities, services or sales shall only be permissible if authorized by Special Use Permit. The application, consideration, hearing and notice provisions of Section 13 of this Ordinance shall apply to all requests for drive-through facilities, services, or sales. (rev. 01/30/94)
- f. Banks and financial institutions. Drive-through services are prohibited.
- g. Medical and dental offices.
- h. Offices and office buildings of an executive, administrative, governmental, sales or professional nature.
- i. Theaters when completely enclosed.
- j. Printing establishments, newspaper offices and publishing services.
- k. Radio or television broadcasting stations, studios and offices.
- l. Deleted – Ord. Amend. Eff. 01/30/05
- m. Public and private parking lots.
- n. Offices and showrooms of plumbers, electricians or similar occupations, providing that not more than twenty-five (25%) percent of the floor area occupied by the business is used for making, assembling, remodeling, repairing, altering, finishing, or refinishing its products or merchandise, and provided that, the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of materials of any kind shall be within the confines of the building or part thereof occupied by said establishment.
- o. Sanitation collection dumpsters providing the dumpsters are located on the property occupied by the business.
- p. Fences are prohibited in this District.

D. Height Regulations.

- 1. Buildings and structures shall exceed neither thirty-five (35) feet, nor three (3) stories in height, except as provided in Section 15 of this Ordinance.

E. Area Regulations.

1. Properties Abutting Main Street:

- a. Side yards are not permitted for those properties located in this District which border Main Street.
- b. Front yards are not required. If provided, a front yard shall be not less than five (5) feet.
- c. Rear yards are not required. If provided, a rear yard shall be not less than five (5) feet.

2. Properties Which Do Not Abut Main Street:

- a. A five (5) foot minimum side yard is required.
- b. Front yards are not required.
- c. A five (5) foot minimum rear yard is required.

F. Construction Materials:

1. The outer load bearing walls including exterior walls of all commercial buildings in this District shall be constructed so as to comply with the provisions of the BOCA Code applicable to Mercantile Buildings. Party walls are prohibited.

2. The outer wall coverings of buildings in this District shall be brick, concrete, stone, stucco or stucco-like material and/or wood.

G. Parking Requirements:

- a. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, seating capacity or otherwise, to create a need for an increase of 10% or more in the number of existing parking spaces as required in Section 12, OFF-STREET PARKING REGULATIONS, the owners or operators of said businesses shall be required to submit in detail a parking plan to a "review committee" consisting of the City Manager, City Clerk and Chief of Police. The committee shall review the plan and document its findings regarding feasibility of the plan and public safety. The committee shall forward its findings to the owners or operators of the businesses. These findings shall include recommendations to the plan, and the committee's approval or denial of the plan. Any plan which is denied can be appealed before the Zoning Board of Appeals.
- b. Street parking is permitted by commercial establishments in this District for customer use only. Employers in this District shall provide or insure all employees are provided parking in areas such as permit parking lots or private lots.  
(Section 9.1 eff. Aug. 2, 1992)

H. Building Regulations: These are the same as in the R-2, Multiple Residence District. (amend. eff. Jan. 2, 1994)

X. **SECTION 10. C-2 CENTRAL COMMERCIAL DISTRICT.**

A. The regulations set forth in this Section, or set forth elsewhere in this Ordinance when referred to in this Section, are the regulations in the C-2 Central Commercial District.

B. Use Regulations.

1. A building or premises shall be used only for the following purposes:
  - a. Any use permitted in the C-1 General Commercial District, except outdoor theaters. Limitations as to floor area shall not apply when C-1 uses are located in the C-2 Central Commercial District.
  - b. Printing or engraving plants.
  - c. Candy manufacturing.
  - d. Wholesale establishments.
  - e. Testing and research laboratories.
  - f. Fabrication and repair of electric or neon signs or other commercial advertising structures, and the like.
  - g. Jewelry manufacturing.
  - h. Ice cream manufacturing.
  - i. Assembly and manufacture from prefabricated parts of household appliances, electronic products and similar products or the processing or assembling of parts for production of finished equipment.
  - j. Other processing and manufacturing establishments that are not objectionable because of smoke, odor, dust, or noise, but only when such processing and manufacturing is incidental to a retail business conducted on the premises.
  - k. Accessory buildings and accessory uses customarily incident to the above uses.
  - l. Deleted – Ord. Amend. Eff. 01/30/05
  - m. Adult businesses as defined and regulated by the City of Gaylord Adult Business Ordinance and also when approved as a Special Land Use in

accordance with the application procedures and review standards for Special Land Use as set forth in Section 13 of the Gaylord Zoning Ordinance. (Amended by ord. eff. Oct. 1, 1995)

- n. Marihuana Retailers and Marihuana Microbusinesses as defined and regulated by the City of Gaylord Marihuana Ordinance and also when approved as a Special Land Use in accordance with the application procedures and review standards for Special Land Use as set forth in Section 13 of the Gaylord Zoning Ordinance.

C. Height Regulations.

- 1. Buildings and structures shall exceed neither 100 feet, nor eight (8) stories in height, except as provided in Section 15 of this Ordinance.

D. Area Regulations.

- 1. Front Yard: Front yards for dwellings or for properties whose building(s) are used for both residential/commercial purposes shall conform to requirements of the R-2 District. No front yard is required for all other buildings. (ord. amend. eff. July 11, 1994)
- 2. Side Yard: Side yards for dwellings or for properties whose building(s) are used for both residential/commercial purposes shall conform to requirements of the R-2 District. A five (5) foot minimum side yard is required for all other buildings. (ord. amend. eff. May 3, 1992, amend. eff. July 11, 1994)
- 3. Rear Yard: Rear yards for dwellings or for properties whose building(s) are used for both residential/commercial purposes shall conform to requirements of the R-2 District. A five (5) foot minimum rear yard is required for all other buildings, except that a rear yard of twenty-five (25) feet shall be required on the rear of a lot abutting upon a residential district. (ord. amend. eff. May 3, 1992, amend. eff. July 11, 1994)
- 4. Lot Area Per Family: Every building hereafter erected or structurally altered for dwelling purposes shall comply with the R-2 District requirements.
- 5. Minimum Floor Area: Every dwelling shall have a minimum ground floor area of 720 square feet of living area.

E. Construction and Construction Materials:

- a. All buildings constructed in this District shall be in accordance with the BOCA Code.
- b. The outer wall coverings of all buildings in this district shall be brick, concrete, stone, stucco or stucco-like material, tile, vinyl siding and/or wood. In addition, the same must comply with any applicable construction or building code. (ord. amend. eff. Feb. 16, 1992)

F. Off-Street Parking: Off-street parking spaces shall be provided in accordance with requirements for specific uses set forth in Section 12 of this Ordinance.

G. Building Regulations: These are the same as in the R-2, Multiple Residence District. (amend. eff. Jan. 2, 1994)

**XI. SECTION 11. M-1 MANUFACTURING DISTRICT.**

- A. The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred

to in this Section are the regulations in the M-1 Manufacturing District.

B. Use Regulations.

1. A building or premises may be used for any purpose, except that:
  - a. No building shall be erected, converted, reconstructed, or structurally altered for residential purposes, except that each individual permitted use may provide accommodations for one resident watchman or caretaker.
  - b. The following uses are subject to special permit in accordance with the procedures and under the conditions set out in Section 13 of this Ordinance.
    - (1) Distillation of bones.
    - (2) Fat rendering.
    - (3) Junk and salvage yards.
    - (4) Manufacture of the following:
      - (a) Cement, lime, gypsum, plaster of Paris.
      - (b) Explosives.
      - (c) Fertilizer.
      - (d) Glue.
      - (e) Stockyard, feeding pen.
      - (f) Slaughter of animals.
      - (g) Tannery, curing of raw hides.
      - (h) Wool pulling or scouring.
      - (i) Chemicals.
      - (j) Oil refinery.
      - (k) Trailer park.
      - (l) Sanitary landfills and dumps.
    - (5) Marihuana Establishments as defined and regulated by the City of Gaylord Marihuana Ordinance.
  - c. Deleted – Ord. Amend. Eff. 01/30/05

C. Height Regulation.

1. Buildings and structures shall exceed neither 100 feet, nor eight (8) stories in height except as provided in Section 15 of this Ordinance.

D. Area Regulations.

1. Front Yard: Except as hereinafter provided in Section 15, the front yard regulations are the same as those in the C-1 District.
2. Side Yard: No side yard is required except on the side of a lot abutting an "R" District, in which case there shall be a side yard of not less than five (5) feet.
3. Rear yard: Except as hereinafter provided in Section 15, there shall be a rear yard having a depth of fifteen (15) feet.

E. Off-Street Parking: Off-street parking spaces shall be provided in accordance with requirements for specific uses set forth in Section 12 of this Ordinance.

## **X1.A. SECTION 11A. PUD-PLANNED UNIT DEVELOPMENT DISTRICT**

### **A. Intent.**

1. This section provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments. It is the intent of this section to authorize the consideration and use of Planned Unit Development regulations for the following purposes:
  - a. To encourage the use of land in accordance with its character and adaptability.
  - b. To promote the conservation of natural features and resources.
  - c. To encourage innovation in land use planning and development.
  - d. To promote the enhancement of housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the City.
  - e. To promote and ensure greater compatibility of design and use between neighboring properties.
  - f. To provide for the regulation of legal land uses not otherwise authorized within this Ordinance.
2. The provisions of this section are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this section are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this section to ensure appropriate, fair, and consistent decision-making. A Planned Unit Development must comply with this section.

### **B. PUD Authorization.**

1. A Planned Unit Development may be approved in any location within the City of Gaylord by the City Council. Any land use authorized in this Ordinance may be included in a Planned Unit Development, as a principal or accessory use, as well as any other legal land use not otherwise authorized in this Ordinance, subject to adequate public health, safety and welfare mechanisms being designed into the development, and the following.

### **C. Qualifying Conditions.**

1. In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of two acres except in the case of a two-family or multiple family dwelling project for which the minimum area requirement shall be one acre.
2. Public water and sanitary sewer shall be available to service the site.

### **D. Development Requirements.**

1. **DENSITY:** The density for residential uses shall not exceed the maximum density allowed for the zoning district in which the PUD is to be located. In each case, the maximum density for residential uses shall be determined by the City Council after review by the Planning Commission based on the following standards. The residential uses shall:
  - a. Be designed, constructed, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

- b. Be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer.
  - c. Not create excessive additional requirements at public cost for public facilities and services.
  - d. Be developed in accordance with the intent for a Planned Unit Development as contained herein.
2. DWELLING UNIT COMPUTATION: The density permitted by the City Council shall be applied to the net development area of the site in order to determine the maximum number of dwelling units permitted for the site. The net development area is determined by subtracting the following from the gross or total site area:
- a. Area within existing road rights-of-way
  - b. Land within the 100-year floodplain.
  - c. Areas permanently inundated by water.
  - d. Areas devoted to non-residential uses.
3. OPEN SPACE: Each PUD shall contain open space areas equal to a minimum of ten percent of the total site area which is devoted to residential use. Such open space shall be maintained by the developer or homeowner's association and shall be set aside for the common use of the home or lot owners within the PUD with written assurances that the required open space shall remain open and be properly maintained.

For purposes of this section, open space shall only be considered to be those areas having a minimum dimension 50 feet by 100 feet. Land in streets, sidewalks, and parking areas shall not be considered as open space.

4. MIXED USES: Residential and non-residential uses may be permitted within the same PUD district upon demonstration to the City Council that such uses meet the intent of this section and the standards of Section 11A(C) herein. It shall also be demonstrated that the non-residential uses will not negatively impact the residential uses and that the non-residential uses will be separated and buffered from residential uses in a manner consistent with good land planning principles.

The permitted density for residential uses in a mixed-use development shall be determined by the City Council upon recommendation of the Planning Commission.

E. Applicable Regulations.

- 1. Unless specifically waived by the City Council upon the recommendation of the Planning Commission through the provisions of Section 11A(E)2 below, all regulations of the underlying zoning district relative to lot size, lot width, yard area, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply.
- 2. Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined in the immediately preceding Section 11A(E)1 may be granted at the discretion of the City Council as part of the approval of a Planned Unit Development. Such departures may be authorized if there are features or planning mechanisms designed into the project which would achieve the objectives of each of the regulations from which a departure is being requested.

F. PUD Design Considerations.

1. A proposed Planned Unit Development shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.
  - a. Perimeter setbacks
  - b. Street drainage and utility design with respect to location, availability, ownership, and compatibility.
  - c. Underground installation of utilities.
  - d. Insulation of pedestrian ways from vehicular streets and ways.
  - e. Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
  - f. Noise reduction and visual screening mechanisms for adjoining residential uses.
  - g. Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
  - h. Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.
  - i. Screening and buffering with respect to dimensions and character.
  - j. Yard areas and other open space.
  - k. Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of buildings and other structures.
  - l. The preservation of natural resources and natural features.

G. Application and Processing Procedures.

1. EFFECTS: The granting of a Planned Unit Development rezoning application shall require an amendment of the Zoning Ordinance and the Zoning Map constituting a part of this Ordinance. An approval granted under this section, including all aspects of the final plan and conditions imposed shall constitute an inseparable part of the zoning ordinance.
2. PREAPPLICATION CONFERENCE: Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the City Manager and Zoning Administrator. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development, and the following information:
  - a. A legal description of the property in question;
  - b. The total number of acres to be included in the project;
  - c. A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units;
  - d. The approximate number of acres to be occupied and/or devoted to or by each type of use;
  - e. Departures from the regulations of the Ordinance which may be requested;
  - f. The number of acres to be preserved as open space or recreation space; and
  - g. All known natural resources and natural features.
3. PRELIMINARY DEVELOPMENT PLAN: Following the pre-application conference the applicant shall submit a Preliminary PUD Plan in accordance with the procedures and

requirements of Section 13A(E) of this Ordinance which pertain to preliminary site plans.

4. **FINAL DEVELOPMENT PLAN:** After receiving the recommendations of the Planning Commission, the applicant, within six months, shall submit the corrected plan to the Zoning Administrator. If the corrected plan is not submitted within this time period, the preliminary plan approval shall be voided and the applicant must re-commence the review process. The Planning Commission may extend the time for submission of the final site plan upon a showing by the applicant that no material change in the plan has occurred or that failure to submit the final plan was beyond the control of the applicant.
5. **CONTENTS OF FINAL PLAN:** The Final Development Plan shall contain the same information required for the Preliminary Development Plan and shall also contain the information required by Section 13A (F) of this Ordinance.
6. **PUBLIC HEARING:** Following its review of the Final Development Plan the Planning Commission shall determine a date for and hold a public hearing for consideration of the PUD and Final Development Plan. Notice shall be given as follows:
  - a. Notice shall be published within a newspaper which circulates within the City. An additional notice shall be sent by mail or by personal delivery to all owners of property as listed on the current tax assessment roll of the City and to all occupants of all structures with 300 feet of the boundary of the property that is the subject of the application and to the petitioner.
  - b. Such notice must be given no less than five days nor more than 15 days before the date the application will be considered.
  - c. The notice shall include the following:
    - (1) Describe the nature of the PUD use requested.
    - (2) Indicate the property which is the subject of the PUD request.
    - (3) State when and where the PUD use request will be considered.
    - (4) Indicate when and where written and oral comments will be received concerning the request.

H. Standards for Approval.

1. Following the public hearing, the Planning Commission shall either approve, deny, or approve with conditions the final development plan and make its recommendation to the City Council.

In making its recommendation, the Planning Commission shall find that the proposed PUD meets the standards for Final Site Plan approval in Section 13A and the following standards:

- a. Granting of the Planned Unit Development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
- b. In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land, property owners, occupants or the natural environment.
- c. The proposed development shall be compatible with the Master Plan of the City and shall be consistent with the intent and spirit of this section.



- d. In relation to underlying zoning, the proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
- e. The Planned Unit Development shall not change the essential character of the surrounding area.
- f. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.

I. Conditions.

- 1. In approving a Planned Unit Development, the City Council may impose reasonable conditions which include but are not limited to conditions necessary to: ensure 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; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  - a. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic wellbeing 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 Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- 2. The conditions imposed with respect to the approval of a PUD shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the City Council and the landowner. The approving City Council shall maintain a record of conditions which are unchanged. The final development plan, as approved, shall act as a restriction upon development. The development must conform with the final development plan.

J. City Council Approval.

- 1. After receiving the recommendation of the Planning Commission, the City Council shall either approve, deny, or approve with conditions the PUD application and Final Development Plan in accordance with the standards for approval and conditions for a PUD as contained herein. A building permit shall not be issued until City Council approval of the PUD Final Development Plan and rezoning.

Where provision of Michigan Public Act 288 of 1967 as amended shall apply, the applicant shall thereafter submit the information and plans as may be required by Act 288 and all other local procedures or regulations pertaining to platting approval.

K. Performance Guarantees.

- 1. The City Council, after recommendation from the Planning Commission or at its own discretion, may require a performance bond or similar guarantee in accordance with

Section 13A (K) as contained herein in order to ensure the completion of required improvements.

L. Phasing and Commencement of Construction.

1. PHASING: If a project is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the Planned Unit Development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall be such that at least 35 percent of all proposed residential units are completed concurrent with the first phase of any non-residential construction; completion of at least 75 percent of all proposed residential construction prior to the second phase of non-residential construction; and completion of 100 percent of all residential construction prior to the third or final phase of non-residential construction. The percentages shall be approximations and determined at the discretion of the City Council. The percentages may be significantly varied should the City Council determine that the applicant has presented adequate assurances that the residential components or components of the project shall be completed within a specified period.
2. COMMENCEMENT AND COMPLETION OF CONSTRUCTION: Construction shall be commenced within one year following final approval of a Planned Unit Development or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. If construction is not commenced within such time, approval of the final plan for the project shall expire. An extension for a specified period may be granted by the City Council upon good cause shown if such request is made to the City Council prior to the expiration of the initial period. Moreover, in the event a final plan has expired, the City Council may rezone the property in any reasonable manner. If, at the discretion of the Council, the property remains classified as Planned Unit Development, prior to the commencement of construction, a new application shall be required and shall be reviewed in light of the then prevailing conditions and applicable law and ordinance provisions.

M. Modification of a PUD.

1. Minor changes to a PUD site plan may be approved administratively by the Zoning Administrator provided the changes comply with all applicable requirements of this Zoning Ordinance and all other city regulations or state law. Minor changes subject to administrative review include dimension changes, building relocation, parking and driveways, change in landscaping, signs, lighting, decrease in building size and increase in building size that does not exceed 5,000 square feet or five percent of the gross floor area, whichever is smaller.

A major change to an approved PUD shall comply with the filing procedures for a PUD as contained herein. Major changes include but are not limited to increase in density or number of dwelling units, increase in land area or building size, except as noted above or addition of other uses not authorized by the original PUD approval. The Zoning Administrator shall determine if other similar changes constitute a major amendment.

Planned Unit Development District (PUD) Ordinance eff. April 28, 1996

## **XII. SECTION 12. OFF-STREET PARKING REGULATIONS.**

### **A. Off-Street Parking Requirements.**

1. In all districts, there shall be provided at the time any building or structure is erected or structurally altered (to the extent hereinafter provided), off-street parking spaces as defined in Section 3 in accordance with the following requirements:  
(Amended by ord. eff. Jan. 1, 1995)
  - a. Dwelling: Two parking spaces for each dwelling unit.
  - b. Boarding, Lodging House, and Bed and Breakfast: One parking space for each one sleeping room.  
(Amended by ord. eff. Jan 1, 1995)
  - c. Private Club or Lodge: One parking space for every ten members.
  - d. Church: One parking space for each six seats or seating spaces in the main auditorium.
  - e. School (except high school): One parking space for each ten seats in the auditorium or main assembly room or four spaces plus one additional space for each classroom whichever is greater.
  - f. High School: One parking space for each six seats in the main auditorium or three spaces for each classroom, whichever is greater.
  - g. Community Center, Library, Museum or Art Gallery: Ten parking spaces plus one additional space for each 200 square feet of floor area in excess of 2,000 square feet.
  - h. Hospital or Nursing Home: One parking space for every two beds.
  - i. Sanitarium, Home for the Aged or Similar Institution: One parking space for each three beds.
  - j. Theater or Auditorium (except school): One parking space for each five seats or bench seating spaces.
  - k. Motel, Hotel, Tourist Home or Guest Ranch: One parking space for each sleeping room or suite.
  - l. Sports Arena, Stadium or Gymnasium: One parking space for each five seats or seating spaces.
  - m. Restaurant, Night Club, Cafe, Dance Hall, or Similar Recreation or Amusement Establishment or an Assembly or Exhibition Hall without fixed seats: One parking space for each 100 square feet of floor area.
  - n. Bowling Alley: Four parking spaces for each alley/lane.
  - o. Business or Professional Office, Studio, Bank, or Clinic: Three parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000 square feet.
  - p. Mortuary: One parking space for each fifty (50) square feet of floor space in parlors or individual funeral service homes.
  - q. Furniture, Appliance or Implement Store, Hardware Store, Wholesale Establishments, Machinery or Equipment Sales and Service, Clothing or Shoe Repair or Service Shop: Two parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000 square feet.
  - r. Retail Store or Personal Service Establishment not otherwise specified herein: One parking space for each 200 square feet of floor area.
  - s. Printing or Plumbing Shop or Similar Service Establishment: One parking space for each three persons employed therein.
  - t. Manufacturing or Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse, or Similar Establishment: Two parking

spaces for each three employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.

B. General Rules For Determining Parking Requirements.

1. In computing the number of off-street parking spaces required, the following rules shall govern:
  - a. Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.
  - b. The parking space requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Building Official.
  - c. Whenever a building or use constructed or established after the effective date of this Ordinance is changed or enlarged in floor area, number of employees, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such space shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of fifty (50) percent or more in floor area, or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
  - d. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

C. Location and Improvement of Parking Areas.

1. All parking spaces required herein shall be located on the same lot with the building or use served, but not within the required front yard in R-1 and R-2 Districts, except that where an increase in the number of spaces is required by a change or enlargement of use or where the parking spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from any nonresidential building served. In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement to assure their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form and executed by the City Attorney and shall be filed with the application for a building permit.

D. Regulations for Driveway, Service and Parking Areas.

1. All driveways, driveway approaches, means of ingress and egress to and from parking areas, loading areas, vehicle storage areas, and the like shall be surfaced in the same manner as is required for parking spaces. Provided, however, that in the M-1 District only, the surface of loading areas, terminal areas and other areas not regularly used for the parking of vehicles, may be of gravel surface for that portion of such areas that is beyond the front face of the building and not having street frontage. Provided, further, that as to such areas in an M-1 District as are not surfaced as parking spaces, adequate and sufficient dust control measures shall be employed.  
(Amended by ord. eff. Jan. 1, 1995)

**XII.A. SECTION 12.A. LANDSCAPE REGULATIONS.**

A. Intent and Purpose.

1. The purpose of this section is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping in parking lots, as buffer zones between uses and along roadways. Landscaping is considered by the City to be an important element of land development which is a critical factor in maintaining an attractive community character and conserving the value of land and buildings in the City.

This ordinance is also intended to improve and enhance the character of the site; screen or filter views, where necessary; help unify the various parts of the site; blend inharmonious land uses; buffer incompatible uses; moderate harsh or unpleasant sounds; remove air pollutants; control glare and reflection; slow the effects of erosive winds or water and promote storm water retention, thereby helping to prevent flooding; assist in directing safe and efficient traffic flow at driveways and within parking lots; to insure adequate sight distance; to reduce the impacts of glare from headlights; and to distinguish and separate vehicular and pedestrian circulation.

The landscape standards of this section are considered the minimum necessary to achieve the objectives noted above. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

B. Applicability.

1. The standards contained in this section shall be applicable to any site plan, special land use request, condominium, subdivision plan or PUD which is submitted for review and approval under this Ordinance, subject to the following limitations:

For existing and proposed uses which require site plan approval to either expand or be built, landscaping as noted herein shall be installed insofar as practical. The Planning Commission in its review of the site plan has the authority to increase, decrease or otherwise modify the landscaping and screening requirements of this section. In doing so, the Commission shall consider the following criteria.

- a. The amount of space on the site available for landscaping.
- b. Existing landscaping on the site and on adjacent properties.
- c. The type of use on the site and size of the development
- d. Existing and proposed adjacent land uses.
- e. The effect which the required landscaping would have on the operation of the existing or proposed land use.

C. General Regulations.

1. Landscaping shall be installed within one hundred eighty (180) days of occupancy of the building or structure unless a longer period is permitted in writing by the Zoning Administrator.
2. All landscaping shall be hardy plant materials and maintained thereafter in a neat, healthy and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.
3. For the purpose of this section, a corner lot is considered as having a front yard along each street and the appropriate landscaping shall be provided for both.

4. All residential parcels shall have, as a part of the landscaping and in addition to other regulations herein set forth, lawn (grass) covering those portions of the front and side yards not covered by other landscaping. Such lawn shall be maintained in a reasonable manner.
5. The extensive use of cobble stones, crushed stones, or other non-living material as a ground cover should be minimized.

D. Buffer Zones Required.

1. Wherever a commercial or industrial zoning district abuts a residential zoning district, a buffer zone as required below shall be provided on the subject parcel along the boundary between the two adjoining properties.
2. The width of the buffer zone shall be at least 25 feet. A lesser width may be allowed by the Planning Commission, Site Plan Review Committee or Zoning Administrator as the case may be but only if increased landscaping or berming is provided or a solid fence installed in order to achieve the intent of the buffer zone width.
3. The following minimum plantings shall be provided within the buffer zone:
  - a. One canopy tree plus one additional canopy tree for each 50 feet in length of the buffer zone.
  - b. Two evergreen trees plus one additional evergreen tree for each 50 feet in length of the buffer zone.
  - c. One ornamental tree plus one tree for each 50 feet in length of the buffer zone.
  - d. Types of trees permitted to be planted within the buffer zone shall include but not be limited to the following:
    - (1) Canopy Trees: Maple, Ash, Locust, Sycamore, Oak, Linden, Ginkgo.
    - (2) Ornamental Trees: Redbud, Hawthorn, Crabapple, Dogwood, Plum, Russian Olive, Shadblow.
    - (3) Evergreen Trees: Norway Spruce, Austrian Pine, White Pine, Blue Spruce, Hemlock, Japanese Yew.
4. If a berm is used for all or part of the buffer zone, required plant material quantities may be reduced by 25 percent. The berm shall comply with minimum standards contained in this section. All plant materials shall be placed along the top and exterior side slope of the berm. The buffer zone width shall be increased as needed to accommodate maximum berm side slopes of one foot vertical rise to three feet horizontal.
5. A screen wall or fence may be used for all or part of the buffer zone. If a fence or screen wall is used as a buffer zone, then the following regulations shall apply.
  - a. Required quantities of plant materials may be reduced by 50 percent for that area abutting the fence or wall.
  - b. All required plant materials shall be on the exterior side of the screen wall or fence.
6. All areas of the buffer strip outside of planting beds shall be covered with grass or other living ground cover.

7. Landscape materials shall conform with all applicable standards in Section 12A (G).
8. Storm water detention/retention areas shall be permitted within buffer zones provided they do not reduce the screening effect.
9. Solid waste dumpsters may be located in buffer zones, provided they are screened on three sides by a continuous opaque wall or fence six feet in height.

E. Front Yard Landscaping.

1. Except for necessary driveways, frontage roads, service drives, or walkways, the front yard shall be landscaped according to the following minimum requirements. If the building is not setback sufficiently to allow adequate area for such landscaping, then the Planning Commission Site Plan Review Committee or Zoning Administrator as the case may be, shall determine the proper amount of plantings.
  - a. One canopy tree and two evergreen trees plus one additional canopy and evergreen tree for each 75 feet in length of road frontage.
  - b. One ornamental tree plus one for each 75 feet in length of road frontage.
  - c. Shrubs at a rate of one per each tree required.
2. Earthen berms may be permitted within the required front yard landscape area. Credit of up to 25 percent may be received against providing the required plantings through the use of berms three feet in height or greater.
3. Plantings and berms shall be located so as not to obstruct the vision of drivers entering or leaving a site.

F. Off-Street Parking Area Landscaping Requirements.

1. All parking areas having 20 or more parking spaces shall be landscaped according to the following minimum requirements.
  - a. One canopy tree for every 20 parking spaces, with a minimum of two trees, shall be planted adjacent to and within the parking area.
2. Trees shall be located to prevent damage by motor vehicles.
3. Landscaping islands shall be dispersed through the parking lot in order to break up large expanses of paved surfaces and improve traffic flow and line of sight for drivers. Each landscape island shall be a minimum of 120 square feet and six feet wide and shall contain at least one canopy tree.
4. Landscaping shall be arranged so as not to obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.
5. All landscape areas shall be protected by raised curbs, parking blocks or other similar methods.
6. Where any parking area, excepting areas serving one or two family dwellings, abuts or faces a public right-of-way, a three foot high continuous obscuring screen of at least three but no more than four feet high may be required between the parking area and the public road right-of-way line. The screen may be comprised of natural or man-made material or any combination of these elements. Such screening may be required

for parking lots across the street from residential uses where vehicle lights, noise, or appearance may create a nuisance or safety hazard for residents.

7. Landscaping required for buffer zones and front yard landscaping which abuts off street parking areas may substitute for up to 50 percent of the required parking lot landscaping.

G. Minimum Standards For Plantings And Berms.

1. Minimum plant size at time of planting:

Deciduous canopy tree:	2-1/2" caliper
Deciduous ornamental tree:	2" caliper
Evergreen tree:	7' height
Deciduous shrub:	2' height
Upright evergreen shrub:	2' height
Spreading evergreen shrub:	18" spread

2. Minimum Standards for Berms:

- a. Wherever a berm is used to meet the minimum requirements of this section, it shall have a minimum height of three feet and a maximum height of five feet above grade.
- b. Berms shall be constructed so as to maintain side slopes not-to-exceed a one foot vertical rise to three feet horizontal ratio.
- c. Berm areas shall be covered with grass or other living ground cover.
- d. Berms shall be constructed so as not to alter drainage patterns on-site or on adjacent properties.

Landscape Regulation Ordinance eff. June 2, 1996

**XIII. SECTION 13. SPECIAL USE REGULATIONS.**

- A. The City Council may, by Special Use Permit, and after review and approval as hereinafter provided, authorize and permit the location and operating of any of the following buildings or uses in any district from which they are prohibited by this Ordinance. Such uses which may be allowed by said special permit are as follows:

1. Cemetery, including columbarium, mausoleum, or crematory; provided, that any site for a new cemetery shall contain at least fifty (50) acres.
2. Commercial stables and riding academies in the R-1 and R-2 Districts; provided, they are located on sites containing not less than two and one-half (2 1/2) acres.
3. Golf course, commercial or private.
4. Privately or commercially operated ski facilities, with lodging facilities, provided, the site shall contain an area of at least five (5) acres.
5. Mobile home parks in all districts provided they comply with all applicable state statutes and regulations promulgated pursuant thereto, including, but not limited to, the provisions of MCL 125.1103 et seq.
6. Publicly-owned warehouse, garage, shop or storage yard in the R-1 and R-2 Districts.



7. Publicly owned or operated sewage treatment plant.
8. Real estate sales offices, in connection with a specific development for a period of not more than one (1) year.
9. Junk yard when located eighty (80) rods from any public road and provided that all parts of the use shall be enclosed by natural features, such as trees and terrains so as to obstruct from sight.
10. Warehousing.
11. Adult businesses as regulated and defined by the City of Gaylord Adult Business Ordinance, in C-2 Districts only.  
(Amended by ord. eff. Oct. 1, 1995)
12. Towers in excess of fifty (50) feet in height for Commercial Wireless Telecommunication Services in the C-1, B-1, C-2, and M-1 Districts, provided the following conditions are satisfied. (ord. amend. eff. December 17, 2006)
  - a. Antennas for Commercial Wireless Telecommunication Services shall be required to locate on any existing or approved tower within a two (2) mile radius of the proposed tower unless one (1) or more of the following conditions exists:
    1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and registered professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    2. The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer and the interference cannot be prevented at a reasonable cost.
    3. Existing or approved towers and buildings within a two (2) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.
    4. Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing tower or building.
  - b. Any proposed tower for Commercial Wireless Telecommunication Services shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two (2) additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights.
  - c. Towers for Commercial Wireless Telecommunication Services shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.
  - d. Any part of the structures or equipment placed on the ground pertaining to the

tower for Commercial Wireless Telecommunication Services shall be set back for a distance equal to the setbacks for main buildings for the district in which it is located, except that in no case shall such structures or equipment be located less than twenty-five (25) feet from any adjacent lot line or main building. This provision shall not apply to towers located on existing buildings, towers, or other existing structures. The Planning Commission may require such structures or equipment on the ground to be screened by a landscaped screen, fences, berms, or a combination of these elements.

- e. Towers for Commercial Wireless Telecommunication Services shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.
  - f. Towers for Commercial Wireless Telecommunication Services which are abandoned or unused shall be removed, along with any associated structures or equipment, within twelve (12) months of the cessation of operations, unless a time extension is granted by the Zoning Administrator. Only one (1) three (3) month extension shall be permitted and then only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure removal.
  - g. The Planning Commission shall not approve any tower for Commercial Wireless Telecommunication Services or any part of which that is located within two hundred (200) feet of any Residential District lot line.
13. Body art facilities in zoning districts other than R-1, R-2 and B-1.
14. Marihuana Establishments in zoning districts other than R-1, R-2, B-1, subject to the following:
- a. A Marihuana Establishment may be allowed only in the M-1 District, except that Marihuana Retailers and Marihuana Microbusinesses may be allowed in the C-2 District, and Marihuana Security Transporters and Marihuana Safety Compliance Facilities may be allowed in the C-1 District.
  - b. A Marihuana Establishment must be licensed by the State of Michigan and the City of Gaylord, and must comply with all local and state laws including all applicable state and local rules and regulations, as well as all conditions of a special use permit.
    - 1. Any uses or activities found by the State of Michigan or a court with jurisdiction to be illegal or unconstitutional are not permitted by the City of Gaylord. If a court of jurisdiction declares a use to be illegal or unconstitutional, the City of Gaylord may suspend the acceptance of applications for special use permits pending a resolution of the legal issue in question.
    - 2. The City of Gaylord may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, any other provision of an ordinance, or any term of the special use permit and approved site plan are not met.
  - c. A Marihuana Establishment, or associated licensed activities including but not limited to growing, processing, testing, transporting, or sales, may not be permitted as a home business or accessory use, nor may they include accessory uses except as otherwise provided in this ordinance.

- d. All Marihuana Establishments must comply with the City of Gaylord Sign Ordinance. Additionally, all Marihuana Establishments shall:
1. Prominently display warning signs within the building stating:
    - a) "No individual under the age of eighteen (18) years shall be permitted on this premises."
    - b) An accurate statement of federal law, such as: "Possession, use, or distribution of marihuana is a violation of federal law."
    - c) "It is illegal under State law to operate a motor vehicle or machinery while impaired or under the influence of marihuana."
    - d) "No marihuana products shall be smoked, ingested, or otherwise consumed on this premises."
  2. No advertising material shall contain the word "marihuana," "marijuana," "cannabis" or any other word, phrase, or symbol commonly understood to refer to marihuana, or use any advertising that would appeal to minors.
- e. All Outdoor Production of marihuana is prohibited. No marihuana or paraphernalia shall be displayed or kept such that it is visible from outside the premises.
- f. Light cast by light fixtures inside any building used for marihuana production or marihuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
- g. Marihuana Establishments shall be ventilated so that the odor of marihuana cannot be detected by a person with a normal sense of smell at the exterior of the business or at any adjoining use or property.
- h. Two or more Marihuana Establishments may be located in the same building only if each Marihuana Establishment can independently satisfy all local and state requirements for operation.
- i. A Marihuana Establishment must submit a comprehensive operation, safety and security plan indicating how it will comply with the requirements of this ordinance and all other applicable laws and regulations, and shall contain at a minimum:
1. Installment of cameras to monitor and record all areas where persons may access marihuana or cash, with details of how the recordings will be backed up and preserved. Cameras shall record business operations and capture all ingress and egress with sufficient detail to identify facial features and clothing. Access must be provided to the Gaylord City Police upon request. No recording of the public rights-of-way shall be permitted unless required by the State of Michigan.
  2. Use of locking devices, including safes, for storage of marihuana and cash on the premises while closed to the public.
  3. Installment of an alarm system continuously monitored by a company, with contact information for that company.

4. A procedure to notify the Gaylord City Police of any change in the security or alarm system on the premises.
  5. For Marihuana Growers and Marihuana Processors, the methods used to prevent growth of harmful mold and limitations on discharge wastewater into the City's wastewater systems.
  6. A lighting plan showing the outside lighting for security purposes.
  7. A plan for disposal of marihuana and marihuana infused products to prevent the ingestion by any person or animal.
  8. A description of all toxic, flammable, or other hazardous materials regulated by federal, state or local authorities that will be used or kept at the premises, with the location on the premises and a description of the proposed use.
  9. A statement of the projected daily average and peak electric loads anticipated to be used, with certification by a licensed electrician that the premises are equipped to safely accepted the anticipated load.
  10. Any proposed changes to the buildings with the proper local permits and approvals required for those changes.
  11. A fire suppression plan, detailing the location and method of fire alarm and extinguishment, with at least a one-hour fire separation wall between any adjoining business or residence.
  12. Any other information or requirements related to the operation, safety, and security of the establishment as determined by the planning commission.
- j. Marihuana Retailers and Marihuana Microbusinesses are subject to the additional following conditions:
1. The Marihuana Establishment shall only sell to customers and be open to the public between the hours of 9:00 a.m. and 10:00 p.m.
  2. All activities of the Marihuana Establishment, including transfers of marihuana, shall be conducted within a structure at the licensed location and out of public view.
  3. The exterior appearance of all structures shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
  4. The Marihuana Establishment shall not be located within 1,000 feet of any real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a licensed child care center or

preschool; a public playground, public swimming pool, public or private youth activity facility; a public park, public outdoor recreation area, or public recreation facility; a public library; or within 500 feet of a religious institution or residentially zoned property. Measurement shall be from the Marihuana Establishment's designated main public entrance door, along the shortest route to the centerline of the Marihuana Establishment's addressed road, then along the centerline of public roadways, utilizing the shortest centerline route, to the main entrance of the location containing the protected use.

- k. A Marihuana Safety Compliance Facility shall comply with all other provisions of this ordinance applicable to medical laboratories and medical testing facilities.
  - l. A Marihuana Secure Transporter shall comply with all other provisions of this ordinance applicable to transporters and warehouses.
- B. Before the issuance of any special use permit for any of the above buildings or uses, the application for such permit shall be made in writing on forms prescribed by the City Planning Commission. Each application shall be accompanied by an accurate site plan, plot plan, building development plan, sketch, program of development, or other related material and any other information required by the Planning Commission or this Ordinance.
- C. Such application shall be submitted to the City Planning Commission, together with a fee of \$25.00, which shall be payable to the City of Gaylord. When an application is withdrawn after scheduling and advertising for public hearing by the Planning Commission, the filing fee shall not be refunded to the applicant.
- D. Upon receipt of an application for a special land use or permit which requires a decision on discretionary grounds, one notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the City and 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, except that the notice shall be given not less than five (5) nor more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if the 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 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:
- 1. Describe the nature of the special land use request.
  - 2. Indicate the property which is the subject of the special land use request.
  - 3. State when and where the special land use request will be considered.
  - 4. Indicate when and where written comments will be received concerning the request.
  - 5. Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

- E. At the initiate of the Planning Commission, or upon the request of the applicant for special land use authorization, or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use approval as provided in subsection "D" shall be held before a decision on the special land use request which is based on discretionary grounds. If the applicant or the Planning Commission requests a public hearing, only notification of the public hearing need be made. A decision on a special land use request which is based on discretionary grounds shall not be made unless notification of the request for special land use approval, or notification of a public hearing on a special land use request is given as required herein.
- F. After the public hearing and consideration, the Planning Commission shall submit its recommendation to the City Council, together with a statement of conclusions relative to the special land use under consideration. The recommendation shall specify the basis for the same and any recommended conditions to be imposed.
- G. After receiving the recommendation of the Planning Commission, the City council may deny, approve, or approve with conditions, the request for special land use approval. The decision shall be incorporated 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.
- H. In considering any special land use request, the Planning Commission and the City Council shall consider the following matters:
  - 1. Whether the special land use will be consistent with, and promote the intent and purpose of the Zoning Ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.
  - 2. Whether the requested land use or activity will be consistent with the public health, safety, and welfare of the City.
- I. In considering and recommending conditions to be imposed, if any, and in determining to grant or deny the special land use, the following conditions may be considered:
  - 1. Conditions necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facilities loads caused by the land use or activity;
  - 2. Conditions necessary to protect the natural environment and conserve natural resources and energy;
  - 3. Conditions necessary to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner.
- J. Any conditions imposed in conjunction with the granting of a special use permit shall do all of the following:
  - 1. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic wellbeing of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - 3. Be necessary to meet the intent and purpose of the zoning regulations contained in this Ordinance; be related to the standards established in this Ordinance for the special

use or activity under consideration; and be necessary to insure compliance with such standards.

4. Any 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 land owner. The approving authority shall maintain a record of changes granted and conditions.

### **XIII.A. SECTION 13.A. SITE PLAN REVIEW.**

- A. Purpose. The purposes of Site Plan Review are: to determine compliance with the provisions of this ordinance; to promote the orderly development of the City; to prevent the depreciation of land value through uses or structures which do not give proper attention to site or area protection; to provide consultation and cooperation between the applicant and the City Planning Commission and City Council in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this zoning ordinance and achieve the purposes of the City of Gaylord Master Plan.
- B. Site Plan Review Required. A final site plan shall be submitted for review and approval prior to the issuance of a building permit for all new principal commercial, office industrial, business, public or institutional uses; for all new residential uses; and for all changes in existing uses which result in the need for more parking spaces, additional requirements or property limitations as may be determined by this Ordinance. In addition to any site plan review otherwise required by this ordinance, site plan review and approval to assure compliance with the regulations and requirements of Section N., below, is required as to any property, except one and two family dwellings, within the boundaries of the Downtown Development District (as defined in Section 40.102 of the Gaylord Ordinance Code) in the case of: 1) new construction; 2) alteration or remodeling that changes the exterior appearance of a building; or 3) exterior repair or renovation, except ordinary and routine maintenance as defined in Section N., below.

Site plans shall be submitted and reviewed as follows:

1. Planning Commission (Level 1 Review):
  - a. Any new principal commercial, office, industrial, business, public or institutional use or residential development having more than two dwelling units.
  - b. Special Land Use and Planned Unit Developments.
  - c. Reviews to assure compliance with the regulations and requirements of Section N., below.
  - d. Expansions of existing residential buildings in excess of two family dwelling units and all non-residential buildings and uses which are proposed to increase by 50% percent or more of the size of the existing building or use. The existing size shall be determined by the gross square footage of an existing building or if the principal use is primarily out of doors then the land area occupied by the use shall be used to determine the existing size.
  - e. Site Plans subject to Level 1 Review shall be submitted to the Zoning Administrator a minimum of two (2) weeks prior to the date of the Planning Commission review. Upon receipt of the Site Plan and application the Zoning Administrator shall forward a copy to the City Engineer for review and subsequent report to the Planning Commission. Fees established by the Planning Commission will be assessed to the applicant for Level 1 Review.
  - f. In cases where the Planning Commission deems it appropriate to refer a Site Plan to the City Engineer after the original review has been conducted and report presented to the Planning Commission for consideration, the applicant shall be responsible for all costs incurred in the additional review(s) by the Engineer.
2. Staff Review (Level 2 Review):

The Zoning Administrator shall review the following site plans or may refer such plans to the Planning Commission.

- a. Single or two family dwelling units.
- b. Expansion of an existing use or building which comprises less than 50 percent of a building or less than 50 percent of the land area occupied by a use which is principally outdoors.
- c. Construction of a building or structure that is accessory to the principal use or building.

C. Authorization. The Commission or Zoning Administrator as the case may be, shall have the power to approve, deny, modify, or approve with conditions all site plans submitted to it under this Ordinance. A building permit shall not be issued until a site plan has been approved as required herein.

D. Application and Procedures.

1. An application for site plan review along with fifteen sets of the site plan shall be submitted to the Zoning Administrator in accordance with the submittal schedule established by the Planning Commission along with a fee as set by the Planning Commission. The application shall at a minimum contain the following information:

- a. The applicant's name, address and phone number.
- b. Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
- c. The name, address and phone number of the owner(s) of record if different than the applicant.
- d. The address of the property.
- e. Legal description of property.
- f. Current zoning
- g. Project description.
- h. Size of the parcel.
- i. Signature of the applicant and owner of the property.

E. Preliminary Site Plan Review

1. If desired by the applicant a preliminary site plan may be submitted to the Planning Commission. The purpose of this procedure is to allow discussion between the applicant and the Planning Commission, to better inform the applicant of the acceptability of the project before significant engineering efforts are incurred which may be necessary for final site plan approval.

2. Applications for preliminary site plan review shall be made in accordance with the application procedures of this section.

3. Upon receipt of the preliminary site plan and application, the Zoning Administrator shall forward copies to the Fire Chief, City Police Chief, Superintendent of Public Works, City Engineer, and City Attorney as necessary for review and subsequent report to the Planning Commission. The Zoning Administrator shall also send the application and site plan to members of the Planning Commission prior to the meeting at which it will be considered.

4. The preliminary site plan shall be drawn at a scale of not more than one (1) inch equals one hundred (100) feet (1" = 100') and shall contain the following information unless specifically waived by the Planning Commission or Zoning Administrator.

- a. Vicinity sketch of adjacent properties.



- b. Existing adjacent street and proposed streets, public or private as well as development within 100 feet of the site.
  - c. Parking lots and access points.
  - d. Proposed buffer strips or screening.
  - e. Significant natural features and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
  - f. Existing and proposed building(s).
  - g. General topographical features including existing contour intervals no greater than ten (10) feet.
  - h. Proposed method of providing public utilities including storm drainage.
5. The Planning Commission shall review the preliminary site plan and may make recommendations to assist the applicant in preparing a final site plan which shall conform to the standards of this Ordinance.

F. Final Site Plan Review

- 1. If desired by the applicant, a Final Site Plan may be submitted for review without first receiving preliminary site plan approval. Application for final site plan review shall be made in accordance with the application procedures of this section and shall be reviewed in accordance with the same procedures for preliminary site plans.
- 2. Final site plans shall be drawn at a scale of not more than one inch equals 100 feet (1" = 100') and shall contain the following information unless specifically waived by the Planning Commission or Zoning Administrator.
  - a. Vicinity sketch of adjacent properties.
  - b. Date site plan was prepared.
  - c. Name, address and professional seal of architect, landscape architect, engineer or professional surveyor who prepared the plan.
  - d. North arrow and legal description.
  - e. Property lines, dimensions, and building setback distances from roof overhang or foundations to edge of public street right-of-ways or property lines and all structures, lot lines and wetlands within one hundred (100) feet of the site.
  - f. Existing and proposed topographic elevations at two foot intervals on the site and to a distance of 50 feet outside the boundary lines of the site.
  - g. Direction of storm water drainage and how storm water runoff will be handled as well as a statement describing where storm water will be ultimately discharged.
  - h. Location of existing and proposed buildings and their intended use, the length, width and height of each building, and the square footage of each building.
  - i. Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet on either side of the site. Also driveway width, curb radius and design of proposed deceleration lanes.
  - j. Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of storm retention/detention ponds. Storm retention/detention ponds with a maximum depth in excess of two (2) feet are permitted in the rear yard only and must be adequately fenced and screened.
  - k. Location and type of all sidewalks, bike paths, and other walkways.
  - l. Location, type and size of any walls, fences or other screening provisions.
  - m. Location of all proposed landscape materials, including size and type of plantings.
  - n. Location, size and height of all proposed accessory structures, storage sheds, transformers, dumpsters or trash removal areas or devices, and method of screening, signs, and existing and proposed utility poles. Rooftop or outdoor

equipment should also be indicated including proposed method of screening where appropriate.

- o. Proposed parking areas and access drives showing number and size of spaces and aisles, loading areas, and handicapped access ramps. Also note method of surfacing such areas.
  - p. Exterior lighting showing area of illumination and type of fixture as well as method of shielding from adjacent properties and roadways.
  - q. Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands. Vegetation that is to be retained on the site must be illustrated.
  - r. Zoning and use on adjacent properties.
  - s. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by this Ordinance or other state or federal agencies.
  - t. Architectural elevation drawing of the building(s) including type and color of outer wall coverings and cross-section drawings of the site.
  - u. For sites adjacent to a state trunkline written approval of the site plan from the Michigan Department of Transportation must be submitted.
3. Upon receipt of the final site plan and application, the Zoning Administrator shall forward copies to the Fire Chief, City Police Chief, Superintendent of Public Works, City Engineer, and City Attorney as necessary for review and subsequent report to the Planning Commission. The Zoning Administrator shall also send the application and site plan to members of the Planning Commission prior to the meeting at which it will be considered.
  4. The final site plan for developments, which have been proposed in phases, shall generally conform to the approved preliminary plan.
  5. The Planning Commission may require written statements relative to the effects on the existing traffic capacity of streets, and the proposed development's impact on schools, existing utilities, the environment or natural features.

In addition, the Commission may request additional studies, graphics or other written materials from the applicant in order to assist in determining the appropriateness of the site plan.

#### G. Final Site Plan Approval

1. The Planning Commission or Zoning Administrator as the case may be shall review the final site plan according to the general standards for site plan review as contained in this section and any other applicable regulations of this Ordinance. Based on these standards and regulations, the Commission or Zoning Administrator shall approve, deny or approve with conditions the final site plan.

If approved, with conditions, the applicant shall revise the site plan as necessary and submit the final site plan to the Zoning Administrator to insure that all revisions as required by the Planning Commission have been made.

2. Upon approval of the final site plan, three copies of this plan shall be stamped as approved, dated and signed by the Zoning Administrator. The applicant shall retain one copy of the approved plan; the Building Inspector as part of the building permit review process shall retain one, and the City Clerk shall keep one copy.
3. The Building Inspector shall issue a building permit upon receipt of an approved final

site plan providing all other applicable City regulations have been met including compliance with the building code.

4. A record of the decision made, the reason for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the meeting. Conditions imposed shall be detailed on a copy of the site plan presented to the Planning Commission and applicant is required to sign the site plan acknowledging his acceptance of conditions and intent to comply.
5. The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall constitute a violation of the site plan and the Zoning Administrator shall take the necessary steps to obtain compliance, including those actions authorized in Section 19 of the Gaylord Zoning Ordinance.

H. Standards For Approval

1. Prior to approving a site plan, the Planning Commission shall require that the following standards be satisfied: If these standards and the other requirements noted in this section or in other City ordinances are met, the site plan shall be approved.
2. Landscaping, landscape buffers and greenbelts shall be provided and designed in accordance with the City's landscape provisions.
3. All elements of the site plan shall be designed to take into account the site's topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
4. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. A development shall respect the natural resources of the City as recommended in the Gaylord Master Plan.
5. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
6. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, to accomplish these purposes.
7. All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
8. A pedestrian circulation system which is separated from the vehicular circulation system may be required. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, shopping areas and other uses which generate a considerable amount of pedestrian traffic.
9. The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern serving adjacent development shall be of a width appropriate to the traffic volume they

will carry.

10. All streets and driveways shall be developed in accordance with the City standards or Michigan Department of Transportation specifications.
11. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion particularly during construction, and the formation of dust. The use of detention/retention ponds may be required. Ponds with a maximum depth in excess of two feet are permitted in the rear yard only and must be adequately fenced and screened. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
12. Exterior lighting shall be arranged so that illumination is deflected away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets. Light fixtures shall have a bulb that is completely recessed within the fixture, and the lens shall be flush with the bottom of the fixture. Flashing or intermittent lights shall not be permitted.
13. All loading and unloading areas and outside storage areas including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height. The finished side of any wall, fence or other screen shall face adjacent properties.
14. Site plans shall conform to all applicable requirements of county, state and federal statutes and approval may be conditioned on the applicant receiving necessary county, state and federal permits before final site plan approval or an occupancy permit is granted.
15. Compliance with the regulations and requirements of Section N., below, when required by Section B., above.
16. Although not mandatory in areas outside of the Downtown Development District, use of and compliance with the regulations, requirements, standards and guidelines set forth in Section N., below, is strongly encouraged as to any building, structure or property (other than one and two family dwellings) undergoing site plan review.

I. Conditions Of Approval

1. As part of an approval of any site plan, the Planning Commission or Zoning Administrator as applicable, may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest.
2. Such conditions shall be related to and ensure that the review standards of Section 13A.H are met.
3. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
4. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.

J. Validity Of Final Site Plans

1. Approval of a final site plan is valid for a period of not longer than one year from the date the site plan is approved by the Planning Commission or Zoning Administrator unless extended as allowed herein. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the final site plan shall be null and void.
2. Upon written application, filed prior to the termination of the one year approval period, the Planning Commission or Zoning Administrator as the case may be may authorize a single extension of the time limit for approval of a final site plan for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that there is a likelihood of construction commencing within the one-year extension.

K. Performance Guarantee

1. The Planning Commission may require reasonable performance guarantees in order to assure the completion of required improvements. Such performance guarantees may include a performance bond, letter of credit or other written guarantees or assurances deemed satisfactory in the circumstances and authorized by law. The Planning Commission shall determine the amount of the performance guarantee. Such arrangements shall have such sureties or guarantors as are satisfactory to the Planning Commission and shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved site plan and construction and placement of all of the improvements therein. In its discretion, the Planning Commission may reduce a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate City official. Furthermore, the Planning Commission may recommend to the City Council the rebate or refund of a proportionate share of an escrow cash bond.

L. Amendments To Approved Site Plan

1. Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
2. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- a. Reduction of the size of any building and/or sign.
  - b. Movement of buildings and/or signs by no more than ten feet.
  - c. Similar types of landscaping may replace plantings approved in the site plan landscape plan.
  - d. Changes of building materials to a higher quality.
  - e. Changes in floor plans that do not alter the character of the use.
  - f. Internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
  - g. Changes required or requested by the City for safety reasons.
  - h. Changes that will preserve the natural features of the site without changing the basic site layout.
3. The Planning Commission shall have the authority to determine whether other changes proposed are minor in nature.

M. Expansion Of Existing Use, Structure, Or Building

1. It is recognized that there are existing land uses, buildings, and structures which do not conform to the current regulations of this Ordinance and as such do not achieve the intended purposes of this Ordinance. When additions to these uses, buildings, and structures are made so that a site plan review is required the following regulations shall apply.
2. The site development standards used in reviewing site plans shall be applied to existing uses, structures or buildings when they are affected by any expansions, enlargements or increases in intensity. These standards shall be applied if it is determined that as a result of such expansions, enlargements or increases in intensity that any of the following situations exist:
  - a. Existing stormwater drainage provisions on site are inadequate to protect nearby lakes, streams or creeks from runoff contaminants or to prevent drainage onto adjoining properties.
  - b. There is insufficient on-site parking to satisfy current Zoning Ordinance requirements and/or a hard surface parking area is needed to reduce dust and reduce gravel and dirt runoff into the public stormwater drainage system.
  - c. Existing driveways may result in hazardous vehicle movements.
  - d. Additional plantings are needed in order to comply with the intent of the City of Gaylord landscape regulations or replace trees and shrubs previously removed and screening is needed in the form of fencing or landscaping to provide a buffer between uses, particularly to screen materials stored outside.
  - e. Access to adjoining properties is inadequate and can be improved by way of parking lot connections or installation of a service drive to improve traffic circulation and reduce the number of turning movements onto the public street system.
  - f. Safety for pedestrians can be improved and better emergency vehicle access can be provided.
  - g. Better lighting conditions are needed to reduce or eliminate nuisance lighting situations for drivers and nearby properties.
  - h. Screening of dumpsters is needed to improve the appearance of a site and reduce the likelihood of windblown trash.
  - i. Sidewalks are needed to improve pedestrian safety.
3. In determining how to apply the site plan review standards to address the above deficiencies found on a site, the Planning Commission shall be guided by the following criteria:
  - a. Whether or not compliance would ensure safer on site conditions, protect the natural environment, improve traffic circulation, achieve compatibility with adjacent land uses, promote the use of the land in a socially and economically desirable manner and generally accomplish the purposes of site plan review as described in this section.
  - b. The practicality of requiring compliance with the applicable regulations of this Ordinance based on the existing design, layout, and operation of the existing use and size of the site.
  - c. Whether or not requiring compliance would have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area.

N. Swiss Alpine Motif.

1. In the interest of safeguarding and enhancing the Swiss Alpine Motif and distinctive appeal of the City of Gaylord as the "Alpine Village" it is the purpose of this section to establish certain standards for development to be used when constructing, altering,

remodeling, repairing or renovating any structure within the Downtown Development District of the City of Gaylord. It is the objective of this section to create certain elements of the cultural, social, economic, political and architectural history that has become the City of Gaylord; to stabilize and improve property values; to foster civic beauty; to strengthen the local economy; to promote the pleasure and welfare of the citizens of the City and visitors thereto; and to regulate and control the new construction, exterior alteration, remodeling, repair or renovation of structures within the Downtown Development District.

2. Definitions. For purposes of this section, the following definitions shall apply:
  - a. *Alteration or remodeling* means work that changes the exterior detail of a structure but does not change its basic size or shape.
  - b. *Building* shall be synonymous with structure for purposes of this section.
  - c. *Ordinary and routine maintenance* shall mean usual and customary measures to keep the exterior of a structure or building in good condition through ongoing minor intervention. Ordinary and routine maintenance does not change the external appearance of the structure except through the elimination of the usual and expected effects of weathering, specifically painting.
  
3. Purpose of Review. The purpose of the review under this section shall be to insure compliance with the Swiss Alpine Motif standards as herein set forth. Single family and two family residential structures are exempt from the provisions of this section.
  
4. Plan Review. In reviewing the plans, the Planning Commission shall give consideration to:
  - a. The architectural value and significance of the structure or site;
  - b. The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.
  - c. The general compatibility of exterior design, arrangement, texture and materials proposed to be used.
  - d. Any other factor, including aesthetic considerations, which it deems to be pertinent.
  
5. Application. If site plan review is required only under this Section N., then the application need contain all of the following information:
  - a. Name of applicant.
  - b. Address of property affected.
  - c. Description of proposed construction, alteration, etc.
  - d. Indication of existing and proposed structural materials.
  - e. Drawings showing elevations of existing and proposed exterior treatments. Elevation drawings shall be submitted for those exterior facades proposed to be changed.
  - f. Color sketches and architectural renderings.
  - g. Any other information, as in the opinion of the Board is required in order to enable proper review of the application.

Such application shall be filed with the Zoning Administrator who shall then notify the Planning Commission of its receipt and shall transmit it, together with all accompanying attachments and plans, to the Planning Commission for the review required under this Section N.

6. Appeals. Any person or persons feeling aggrieved by any decision of the Planning Commission as to a review under this Section N., have the same right of appeal to the Zoning Board of Appeals as any other decision made under the Gaylord Zoning Ordinance.

7. Penalty. Any person or entity who commences any new construction, exterior alteration, remodeling, repair or renovation as to which a review under this Section N. is required, without having first obtained an approval by the Planning Commission of the site plan, shall be guilty of a civil infraction and, upon a determination of responsibility, be liable for a fine not to exceed \$500.00. Provided, further, that each day that a person or entity proceeds with such new construction, exterior alteration, remodeling, repair or renovation without having obtained any necessary approval under this section, and each day following the completion of such new construction, exterior alteration, remodeling, repair or renovation without having obtained the necessary approval, shall be deemed a separate offense.
  
8. Plan Review. In reviewing plans, the Planning Commission shall give consideration to design standards that include the minimum criteria set forth below for the new construction, exterior alteration, remodeling, repair or renovation of structures within the Downtown Development District. It is the overriding purpose of this section to insure compatibility with the general appearance of the Alpine Motif within the Downtown Development District.
  
9. Required Alpine Design Standards. The following are the required minimum standards for all new construction, exterior alteration, remodeling, repair or renovation in the Downtown Development District.
  - a. Roof.

All new structures or expansions of existing buildings which are proposed to increase by 50% or more the size of the existing building shall provide a minimum roof pitch of no less than 6" of rise per 12" of run (6/12) where structural design allows. Roof structures providing a roof pitch of less than 6/12 shall install false facades indicating roof pitch variations of not less than 6/12. Such facades shall be constructed on all sides of buildings that are adjacent to streets, alleys that provide a public entrance, private service roads, parking lots and interstate I-75.
  
  - b. Roof Overhangs, Balconies and Porticos. All roofs must have either overhangs, balconies or porticos. The overhang of roofs, balconies and porticos shall be regulated as follows:
    1. Roofs: Minimum roof overhang of sixteen inches (16") inches and maximum roof overhang shall not exceed six feet (6'0").
    2. Balconies: Minimum balcony overhang of four (4') feet; maximum balcony overhang of nine (9') feet. Balconies shall be crosshatched beneath the top rail or filled in an alpine design.
    3. Porticos: Must be a gable design.
    4. Shed roofs are prohibited unless used as part of false front facades as described in item 9a.
  
  - c. Exterior Wall Façade and Trim. Trim for buildings shall be that which purports the Swiss Alpine or Bavarian motif. Fascia trim accents around windows, doors and at rooflines are required. Exterior wall treatments shall consist of the following:
    1. Approved exterior wall treatments
      - Stucco
      - Synthetic Stucco (EIFS)
      - Brick
      - Stone (Real stone products as well as cultured stone products)
      - Wood siding: Lap style, vertical and shake style siding products



- Vinyl siding: Lap style, vertical and shake style siding products
- Cement based siding products: Lap style, vertical and shake style siding products
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2. Wall treatments not permitted:

- Metal siding products
- Concrete block unless covered with stucco product as finish coating.
- Log siding

d. Lighting Standards. Exterior mounted lights may be of any type except neon. Except for gaslights, all other exterior lights shall be shielded to prevent direct lighting exposure to public view.

e. Approved Building Colors. Stucco products on building exteriors may be white or off-white or pastel colors including soft yellow, pink, rose, beige and gray.

Trim materials may be painted, stained or left natural in color if treated to insure lasting durability. Approved colors include dark browns, green (including hunter green) and maroon. Variations of these colors including softer shades and natural woods may be considered. Color charts or color renditions depicting building colors must be submitted to the Planning Commission for approval. Color selection may not be modified without Planning Commission approval.

f. Windows and Door Design. Exterior windows and doors will be regulated as follows:

1. Doors. Doors shall be provided with an arch style head. This shall be achieved by using either arch style doors or applied ornamentation to create the look of an arch style doorway. This elaboration shall be in either of two forms; decorative painting directly over the door head and down the doorjamb, or, by building up of a three-dimensional door head and/or jamb.

Glass doors are permitted for commercial food and retail businesses. Door treatments and the use of arches and ornamental features around doorways will be required where practical.

2. Windows. Basic window units are to consist of multi-panel sash of any type material with wood or wood like accent trim surround. The accents may be painted or white in color. Approved window types shall include casement, double hung, awning or fixed units. All units shall have mullion grilles either fixed or removable type.

(a) Commercial and retail area where multi-panel sashes would not be practical, the use of storefront aluminum glazing systems will be permitted. The approval of this type of glazing system will only be approved at the discretion of the Planning Commission.

(b) Windows offer fine appurtenances for embellishment. Shutters with jigsaw pattern, false balconies and decorative brackets may be used. Flower boxes are quite common. However, true Bavarian spirit reveals itself in painted or applied ornamentation. Often these applications are very elaborate and are either painted on or built-up as three-dimensional.

(c) Multi-panel sash windows will be a requirement for at least

one-third (1/3) of the windows being utilized in the design of a building. This requirement may be relaxed if ornamentation is adhered to. Application of window treatment will utilize both ornamentation and multi-panel sashes.

- g. HVAC Equipment and Utility Meters. Rooftop and HVAC equipment shall be screened from view by providing equipment screens. The screens shall be of similar materials to its surrounding locations. All meters and vents shall be placed in locations to be considered reasonably unobtrusive.
- 10. Suggested Alpine Design Standards For Greater Swiss Alpine Design. It is encouraged that Suggested Standards are used in conjunction with Required Standards to complement the exterior of all nonresidential buildings. Suggested Standards are subject to Site Plan Review approval.

  - a. Alpine Roof Treatments. A variety of elements are Alpine in nature and are encouraged in building design.

    - 1. Dormers. Dormers are found in Alpine Villages and towns where steep roofs are common. Two (2) types are most prevalent, the eyelid and the standard dormer. Both are well adapted for use on 12/12 slopes or steeper. Shed style dormers may also be utilized but are not as common.
    - 2. Dovecotes. Dovecotes are occasionally seen and are constructed of stucco with red tile roofs.
    - 3. Other. Chimneys are usually a simple element, made of stucco with a round top. Bell towers and observation towers are more prominent features of the roof and are used quite extensively.
    - 4. Towers. Towers are found throughout Europe and give beautiful vertical relief from otherwise lateral panoramas. Having evolved from watchtowers of thousands of years ago, they add much interest to the village scape. Onion shaped domes, cantilevered, steeples and typical Alpine high-pitched roofed towers are all Bavarian-Alpine in nature and are encouraged throughout the Alpine District.
    - 5. Balconies and Railings.

      - (a) Balconies. Balconies are eye-appealing adjuncts to buildings, which give mass, depth and the look of residence over business that exists in many Alpine Villages. The balcony or false balcony structures are encouraged because it is not only eye pleasing but also creates a more friendly building scale.
      - (b) Railings. Railings can be constructed of two (2) materials: wood and wrought iron. The wood rail can be of a variety of designs. Designs usually repeat for the entire length of the railing system. The typical railing profile consists of a plank style railing with jigsaw cut out patterns. The patterns may be as simple as a diamond shape or as elaborate as the mind can achieve.

Wrought iron railings are common in many parts of Bavaria. Again, designs can vary, but color is generally black. Wrought iron is also used as a medium to utilize frames and sign supports. It can also be utilized for accents to businesses where grab rails and fencing are desired.
  - b. Mural and Awnings.

    - 1. Murals. Murals can be a vital part of a building for large expanse of

empty walls. Murals can add to the beauty of both the building and the community. They are used as a feature of many buildings in Bavarian villages and towns. The desired types of murals are those that highlight the architecture of the buildings, the community and its woodlands and habitat that make our community special. The Planning Commission, prior to installation of any mural, shall require design approval.

All murals must first attain a sign permit prior to their placement on a wall or building. This should be done by contacting the City Zoning Administrator. Advertising or connotation of advertising a particular business through a mural will be discouraged and will be reviewed and considered signage for a business if so desired.

2. Awnings. Awnings are used on the front of most retail shops in Bavaria. Most awnings are retractable and made out of canvas or similar cloth materials. They provide shelter from precipitation as well as protection from the sun. If wording or symbols are used on an awning to identify the business and/or services offered on the property, then the wording and symbols shall constitute signage and compliance with the City of Gaylord Sign Ordinance, including a Sign Permit, is required. Awnings made out of solid fixed materials shall be considered a shed roof structure.

c. Paver Bricks and Cobblestones. Paver bricks and cobblestones are used often in Alpine and Bavarian communities. The City encourages new businesses to utilize brick pavers in and around the main entrances to their buildings. The surface should be smooth enough for wheelchairs and strollers and be level so as to provide no trip edges. A concrete walk to a building does very little to accentuate the fine architecture that will be created with an Alpine architecture utilized.

#### **XIV. SECTION 14. NONCONFORMING USES.**

##### **A. Nonconforming Buildings.**

1. Any lawful use of a building existing at the effective date of this Ordinance may be continued, even though such use does not conform to the provisions hereof, but no such building shall be enlarged or extended. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or to a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be extended throughout those parts, which were manifestly arranged or designed for such use at the time of adoption of this Ordinance.

a. Whenever the use of a building shall become nonconforming through a change in the zoning regulations or in the district boundaries, such use may be continued and if no structural alterations are made, may be changed to another nonconforming use of the same or of a more restricted classification.

b. Whenever a nonconforming use of a building or portion thereof is discontinued for a continuous period of the ninety (90) days, such nonconforming use shall be deemed to be abandoned, and any future use of such building or portion thereof, shall be in conformity with the regulations of the district in which such building is located.

c. A nonconforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 75 percent of its reproduction value at the time of damage, shall not be restored except in

conformity with the regulations of the district in which it is located. When damaged by less than 75 percent of its reproduction value, a nonconforming building may be repaired or reconstructed and used as before the time of damages provided such repairs or reconstruction are completed within one (1) year from the date of such damage.

2. Nonconforming Uses of Land.

- a. A non-conforming use of land existing at the effective date of this Ordinance may be continued; provided, however, that no such nonconforming use of land shall be in any way expanded or extended, either on the same or adjoining property. If such nonconforming use of land or any portion thereof is discontinued for a continuous period of ninety (90) days, any future use of such land shall be in conformity with the provisions of this Ordinance.
- b. No Marihuana Establishment operating or purporting to operate prior to January 1, 2021, shall be deemed to have been a legally existing use nor shall the operation of such facility be deemed a legal nonconforming use under this ordinance. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance. Discontinuation of a license issued under the Michigan Taxation and Regulation of Marihuana Act shall constitute prima facie evidence that a nonconformity has been discontinued.

**XV SECTION 15. SUPPLEMENTARY HEIGHT AND AREA REGULATIONS.**

A. The regulations set forth in this Section qualify or supplement the district regulations appearing elsewhere in this Ordinance.

B. Modification of Height Regulations.

- 1. The height regulations as prescribed in this Ordinance shall not apply to: belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flag poles, monuments, ornamental towers and spires, smoke stacks, stage towers, or scenery lofts, tanks and water towers.
- 2. Public, semi-public or public service buildings, hospitals, institutions or schools, when permitted in a district may be erected to a height not exceeding sixty (60) feet, and churches may be erected to a height not exceeding seventy-five (75) feet when the required side and rear yards are each increased by at least one foot for each foot of additional building height above the height regulations for the district in which the building is located.
- 3. All buildings and structures within 500 feet of an airport shall not exceed thirty-five (35) feet or two and one-half (2 1/2) stories in height irrespective of the requirements of the district in which the airport is located.

C. Modification of Area Regulations.

1. Yards, Generally:

- a. Whenever a lot abuts upon a public alley, one-half (1/2) of the alley width may be considered as a portion of the required yard.
- b. All parts of any required yards or open spaces shall be open to the sky, except as authorized by this Section, and except for accessory buildings in the rear yard, open or lattice-enclosed balconies opening upon fire towers which may project as much as ten (10) feet into the rear yard, and ordinary projections of

- skylights, sills, chimneys, belt courses, cornices and ornamental features which may project as much as twelve (12) inches into a required yard.
- c. In the event that a lot is to be occupied by a group of two (2) or more related buildings to be used for residential, institutional, hotel, or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having direct street access; provided however,
    - (1) That said court between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of thirty (30) feet for one-story buildings, forty (40) feet for two-story buildings, and fifty (50) feet for three-story buildings, and in no case may such buildings be closer to each other than fifteen (15) feet; and
    - (2) Where a court having direct access to a building is more than 50 percent surrounded by a building, the minimum width of the court shall be at least thirty (30) feet for one-story buildings, forty (40) feet for two-story buildings, and fifty (50) feet for three-story buildings.
  - d. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.
  - e. Front and side yards shall be waived for any dwelling, hotel or boarding or lodging house erected above the ground floor of a building when said ground floor is designed exclusively for commercial or industrial purposes.

2. Accessory Buildings and Structures.

- a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- b. Filling station pumps, pump islands and canopies may occupy the required yards; provided, however, that they are not less than twelve (12) feet from the nearest right-of-way line of a public street, road or highway.
- c. One directional or name sign or sign advertising products sold on the premises may occupy required yards in a district where such sign is permitted by the use regulations of this Ordinance; provided such sign does not contain flashing, moving, or intermittent illumination.
- d. Accessory, open and uncovered swimming pools and home barbecue grills may occupy a required rear yard; provided they are not located closer than five (5) feet to the rear or side lot line. Swimming pools must be enclosed by a four (4) foot minimum height chain link or similar fence equipped with toddler-proof safety devices on all access gates.
- e. Accessory Buildings which are detached from the main building (i.e., not connected by any above ground structure) may be constructed only in a rear yard. Provided, however, that such accessory building shall not occupy more than thirty (30%) percent of the area of the required rear yard and shall not be located closer than five (5) feet to the rear or side lot line. (ord. amend. eff. Mar. 28, 1993)

3. Front Yards:

- a. Where an official line has been established for the future widening or opening of a street upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- b. Garages detached or attached to the main building and entering on the side street of a corner lot shall maintain a yard of twenty (20) feet in front of the garage.
- c. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the

building, may extend or project into the front or side yard, not more than six (6) feet.

d. The front yards heretofore established shall be adjusted in the following cases:

- (1) Where 40 percent or more of the frontage on the same side of a street between two intersecting streets or on water frontage is developed with two or more buildings that have (with a variation of five (5) feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street or water's edge than the front yard so established by the existing building nearest the street line.
- (2) Where 40 percent or more of the frontage on one side of a street between two intersecting streets or on water frontage is developed with two or more buildings that have a front yard of less depth than herein required, then:
  - (a) Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent building on each side; or
  - (b) Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street or water's edge as the existing adjacent building.

## **XVI. SECTION 16. BOARD OF APPEALS.**

The Gaylord City Council shall serve as the Zoning Board of Appeals which is hereby created. The City Council while serving as the Zoning Board of Appeals shall perform its duties and exercise its powers as provided and in compliance with MCL 125.3601 through MCL 125.3607, as amended, and by the provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety, health, and general welfare secured and substantial justice done.

1. The Gaylord City Council may establish rules to govern its procedures as a zoning board of appeals. A member of the Zoning Board of Appeals shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the City Council. However, the member may consider and vote on other unrelated matters involving the same property.
2. The Zoning Board of Appeals shall conduct its meetings, whenever possible, at the same time as the regular City Council Meetings. All meetings shall be open to the public and conducted in accordance with the Open Meetings Act. The Zoning Board of Appeals shall keep minutes of its proceedings, including a record of the vote of each member on each action and such minutes shall be public records.
3. Powers and Duties: The Zoning Board of Appeals shall have the following powers:
  - a. The Zoning Board of Appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps. The Zoning Board of Appeals shall also hear and decide on matters referred to the Zoning Board of Appeals or upon which the Zoning Board of Appeals is required to pass under this Zoning Ordinance. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of the zoning ordinance.
  - b. The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under this zoning ordinance, or

to grant a variance in the zoning ordinance, all except as hereinafter otherwise provided.

4. Appeals:

- a. An appeal to the Zoning Board of Appeals may be taken by a person aggrieved by a decision or determination of an officer, department, board or administrative official of the City. In addition, a variance in the zoning ordinance may be applied for and granted under Section 4 of the Uniform Condemnation Procedures Act, 1980 P.A. 87, MCL 213.54, and as provided under MCL 125.3101 et seq. The Zoning Board of Appeals shall state the grounds for any determination made by it.
- b. An appeal under this section shall be taken within fourteen (14) days after the rendition, in writing, of the decision or determination being appealed. Such appeal shall be taken by the filing with the officer or body from whom the appeal is taken specifying the grounds for the appeal. The body or officer from whom the appeal is taken, shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
- c. An appeal under this section stays all proceedings in furtherance of the action appealed unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause eminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application and notice to the officer or body from whom the appeal is taken and on due cause being shown.
- d. Following receipt of a written request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and give notice as provided in MCL 125.3103.
- e. If the Zoning Board of Appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the Zoning Board of Appeals shall conduct a public hearing on the request. Notice shall be given as required under MCL 125.3103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in MCL 125.3103(1) and given to the person making the request as provided in MCL 125.3103(3).
- f. At a hearing under the foregoing section, a party may appear personally or by agent or attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed and may issue or direct the issuance of a permit.
- g. If there are practical difficulties in the way of carrying out the strict letter of the zoning ordinance for nonuse variances as provided in subsection i., below or unnecessary hardship for use variances as provided in subsection j., below, the Zoning Board of Appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. When granting any variance the Zoning Board of Appeals may impose such conditions as the Zoning Board of Appeals determines to be reasonable and necessary to preserve, to the extent possible, the objectives of this Ordinance and consistent with public safety, health, general welfare and substantial justice.
- h. The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse related standard in the ordinance.

- i. In determining nonuse variances the Zoning Board of Appeals shall consider the practical difficulties that will be encountered if strict compliance with the terms of the zoning ordinance is required, whether the practical difficulties are created by the applicant, whether there are reasonable alternatives to the variance, and whether the spirit and intent of the zoning ordinance will be essentially preserved.
- j. The Zoning Board of Appeals shall only grant a variance from uses of land prescribed under the zoning ordinance when the applicant demonstrates unnecessary hardship and the Zoning Board of Appeals finds on the basis of substantial evidence that:
  - i. The subject property cannot reasonably be used in a manner consistent with the zoning ordinance;
  - ii. The landowner's plight is due to unique circumstances and not to general conditions in the neighborhood that may reflect the unreasonableness of the current zoning;
  - iii. The use to be authorized by the variance will not alter the essential character of the given locality or neighborhood; and
  - iv. The hardship is not the result of applicant's own actions.
- k. The concurring vote of five (5) members of the Zoning Board of Appeals is required to approve a use variance.

5. Decision:

- a. The Zoning Board of Appeals shall render its decision within a reasonable time after the meeting at which the appeal is considered. The Zoning Board of Appeals may adjourn a hearing for a reasonable time for reasons stated on the record.
- b. The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Circuit Court of Otsego County as provided in MCL 125.3606.

**XVII. SECTION 17. BUILDING PERMIT.**

- A. No building permit shall be issued by the Building Official until he/she is satisfied that the proposed building structure complies with all of the regulations of this Ordinance. Where a building permit is not required for the use of land, a Zoning Certificate shall be issued by the official certifying that the use of such land complies with all the regulations of this Ordinance.
- B. Building Permit Fees: Shall be as determined by the City Council.
- C. Plats: All applications for building permits shall be accompanied by a drawing or plat of a scale not less than 1/8" per foot in duplicate showing, with dimensions, the lot lines, the building or buildings, the locations of building on the lot and such other information as may be necessary to provide for the enforcement of this Ordinance, including, if necessary, a boundary survey and the staking of the lot by a competent surveyor and complete construction plans. The drawings shall contain suitable notations indicating the proposed use of all land and buildings. A record of the original copy of such applications and plats shall be kept in the office of the Building Official and a duplicate copy shall be kept at the Building at all times during construction.
- D. Certificate of Occupancy and Compliance:
  - 1. No vacant land shall be occupied or used, except for agricultural purposes, until a



Certificate of Occupancy and Compliance shall have been issued by the office of the Building Official.

2. No premises shall be used and no building hereafter erected or structurally altered shall be used, occupied, or changed in use until a Certificate of Occupancy and Compliance shall have been issued by the office of the Building Official, stating that the building or premises complies with the provisions of this Ordinance.
3. All siding on buildings shall be of wood, brick, stucco, cement block, imitation brick or lime materials, or other standard siding material; provided that tar paper, insulation board, or rolled roofing shall not be permitted as siding. No Certificate of Occupancy shall be issued and no building shall be occupied until the exterior is completed as shown on the building permit and for residential buildings the interior equipped with toilet and water facilities.
4. Certificates of Occupancy and Compliance shall be applied for coincident with the application for a building permit or a zoning certificate and shall be issued within ten (10) days after the erection or structural alterations of such buildings shall have been completed in conformity with the provisions of this Ordinance. A record of all certificates shall be kept on file in the office of the Building Official.

#### **XVIII. SECTION 18. AMENDMENTS.**

- A. The City Council may, by Ordinance, amend, supplement or change this Ordinance.
- B. At least one public hearing shall be held by the Planning Commission before any amendment, supplementation or change of this Ordinance becomes effective. Not less than fifteen (15) days notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the City, and not less than fifteen (15) days notice of the time of the public hearing shall first be given by mail to each public utility company and to such railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the City for the purpose of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted a person interested at the time and place specified in the notice.
- C. After review of the proposed amendment, supplementation or change of this Ordinance, and after the public hearing specified above, the Planning Commission shall make a tentative report to the City Council. A summary of the comments submitted at the public hearing shall be transmitted with the report of the Planning Commission to the City Council. The City Council may hold additional public hearings if it considers it necessary, or as may be required by charter.
- D. After receiving the report of the Planning Commission, the City Council may adopt the proposed amendment, supplementation or change, with or without additional amendments, or may refer the proposed amendment, supplementation or change to the Planning Commission for a further report.
- E. If an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of property in question at least fifteen (15) days before the public hearing.
- F. Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a Zoning Ordinance which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the City Council. The protest petition shall be presented to the City Council before final action on the amendment, and shall be signed by one of the following:
  1. The owners of at least 20 percent of the area of land included in the proposed change.

2. The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- G. Following adoption of any amendment, supplementation or change to this Zoning Ordinance, one notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice shall contain that information required by MCL 125.584 (7).

**XIX. SECTION 19. PENALTIES.**

- A. Buildings erected, altered, razed or converted, or uses carried on in violation of this Ordinance or regulations made pursuant hereto, are declared to be a nuisance per se. Any person, firm, partnership, corporation or other organization which violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Ordinance shall be guilty of a misdemeanor.
- B. The City Council, the Board of Appeals, or any owner or owners of real estate within the Zoning District in which such building, structure or premises is situated may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, alteration, maintenance, or use. The rights and remedies provided herein are cumulative, and in addition to all other remedies provided by law.

**XX. SECTION 20. ADMINISTRATION AND ADMINISTRATIVE OFFICER.**

- A. The City Clerk is designated as the Building Official and is hereby authorized and directed to enforce all the provisions of this Ordinance. He/She may delegate the enforcement of this Ordinance to any administrative official of the City. The administrative official shall be directly under the control of the City Clerk and shall for the purposes of this Ordinance have the powers of a police officer.
- B. Whenever building operations requiring a permit are being performed without a permit, or contrary to any provisions of the permit, or in the absence of a notice of permit being properly posted, the Police Department shall order the work stopped at once and shall post a written statement to that effect upon the premises. Any person found working upon such building or other structure after such notice is placed shall be deemed in violation of this Ordinance.

**XXI. SECTION 21. VALIDITY.**

- A. This Ordinance and all parts thereof are hereby declared to be severable. If any part is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.