



Agenda: Battle Creek City Commission

Meeting Date: April 2, 2024- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

Title: Battle Creek City Hall - City Commission Chambers - 3rd Floor

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATIONS AWARDS

Proclamation for National Public Safety Telecommunicators Week 2024

Proclamation for the Battle Creek Optimist Club's Excellence in Arts Week 2024

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

PETITIONS COMMUNICATIONS REPORTS

INTRODUCTION OF ORDINANCES

04-2024 A Proposed Ordinance #04-2024 seeking to amend the Historic Preservation Code of the City of Battle Creek.

ADOPTION OF ORDINANCES

397 A Resolution seeking to adopt Ordinance #02-2024, an Ordinance to amend the Zoning Code of the City of Battle Creek.

398 A Resolution seeking to adopt Ordinance, #03-2024, an Ordinance to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

PUBLIC COMMENTS REGARDING CONSENTAGENDAAND RESOLUTIONS NOT ON CONSENTAGENDA

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

CONSENTAGENDA

Minutes:

Minutes for the March 19, 2024 City Commission Regular Meeting

Minutes for the March 19, 2024 City Commission Closed Session

Petitions, Communications, Reports:

City Manager's Report for April 2, 2024

Ambulance Report for February 2024

Resolutions:

- 399 A Resolution seeking authorization for the sale of two vacant, tax-reverted properties. Parcel Number 1530-00-003-0 and 1750-04-011-0.
- 400 A Resolution seeking acceptance of the proposal of best value for janitorial services for the Department of Public Works Building from Blu Perspective, LLC in an not-to exceed, first-year amount of \$23,842.80.
- 401 A Resolution seeking acceptance of the proposal of best value from Shouldice Industrial Manufacturers and Contractors, Inc., for two contracted journeyman electricians to fill staffing gaps at the Wastewater Treatment Plant and Verona Pumping Station for six months, at a base rate of \$99.41 per hour.

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

- 402 A Resolution seeking authorization for the City Manager to enter into an agreement with the Municipal Employees Retirement System (MERS) to administer a grant of service credit for employees who meet certain criteria and were previously employed in a position covered by a City non-MERS Police and Fire retirement plan.
- 403 A Resolution seeking authorization for the City Manager to enter into a Concessions Agreement with Cereal City Concessions, LLC. and to amend the CO Brown Stadium lease agreement.
- 404 A Resolution requesting approval of a new polling location for newly consolidated precinct 22 at Westlake Presbyterian Church, 415 S. 28th Street.
- 405 A Resolution seeking approval to follow the recommendation of the City Attorney Evaluation-Salary Review Committee regarding the search for a new City Attorney.

GENERAL PUBLIC COMMENT

(Limited to three minutes per individual)

COMMISSION COMMENTS**ADJOURNMENT**

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules

concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(f) Applicants or Appellants, as defined below, or an attorney retained to represent them, are not bound by the specific time limitations set out above but may have the amount of time deemed reasonably necessary by the Mayor or presiding official to present their case to the City Commission without violating the rules set out below in sub-section 4(a) through (g), with which they are obligated to comply.

(i) Applicant is defined an individual or business entity seeking a City Commission final decision on a matter for which the individual has made application to the City based upon a specific provision in a City Ordinance or state statute for permission to take a specific action;

(ii) Appellant is an individual appealing a decision of a City official or an inferior body based upon a specific provision in City ordinances entitling the individual to appeal the decision to the City Commission.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who

has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

- (a) Becomes repetitive or speaks longer than the allotted time;
- (b) Attempts to yield any unused portion of time to other speakers;
- (c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;
- (d) Uses obscene or profane language;
- (e) Engages in slanderous or defamatory speech;
- (f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or
- (g) Engages in conduct that interrupts or disrupts the meeting.

(5) Individuals attending City Commission meetings or workshops, excluding City staff, shall not pass the commission chambers bar upon which the podium is affixed (and which divides the audience section from the well of the chambers) without having been invited to do so by the Mayor or official presiding over the meeting, or after requesting and explicitly being granted permission to do so. Any individual violating this sub-section will be ruled out-of-order by the Mayor or presiding official and the individual may be required to leave the meeting for a breach of the peace committed at the meeting as permitted by the OMA.



General Detail

NO.

Proclamation for National Public Safety Telecommunicators Week 2024

BATTLE CREEK, MICHIGAN -

Battle Creek City Commission

Action Summary

Staff Member: Patti Worden, Executive Assistant

Department: City Manager

SUMMARY

Proclamation for National Public Safety Telecommunicators Week 2024

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
 National_Public_Safety_Telecommunicators_Week_-_2024.pdf	Proclamation for National Public Safety Telecommunicators Week 2024

Proclamation

WHEREAS, emergencies can occur at any time that require police, fire or emergency medical services; and,

WHEREAS, when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and,

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from neighbors who telephone contact the Calhoun County Consolidated Dispatch Authority; and,

WHEREAS, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and,

WHEREAS, Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and ensuring their safety; and,

WHEREAS, Public Safety Telecommunicators of the Calhoun County Consolidated Dispatch Authority have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and,

WHEREAS, we truly appreciate each of our Public Safety Telecommunicators who have exhibited compassion, understanding and professionalism during the performance of their job in the past year;

NOW, THEREFORE, I, Mark A. Behnke, Mayor of the City of Battle Creek, do hereby proclaim the week of April 14 through 20, 2024, to be

“National Public Safety Telecommunicators Week”

in the Greater Battle Creek Area in honor of the men and women whose diligence and professionalism as Public Safety Telecommunicators keep our City, staff and neighbors safe.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 2nd day of April 2024.



Mark A. Behnke, Mayor





General Detail

NO.

Proclamation for the Battle Creek Optimist Club's Excellence in Arts Week 2024

BATTLE CREEK, MICHIGAN - 4/2/2024

Battle Creek City Commission
4/2/2024

Action Summary

Staff Member: Patti Worden, Executive Assistant

Department: City Manager

SUMMARY

Proclamation for the Battle Creek Optimist Club's Excellence in Arts Week 2024


BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
 Proclamation_for_the_Battle_Creek_Optimist_Club_s_Excellence_in_Arts_Week_2024.pdf	Proclamation for the Battle Creek Optimist Club's Excellence in Arts Week 2024

Proclamation

WHEREAS, the Battle Creek Optimist Club's motto is to bring out the best in youth; and

WHEREAS, one way they look to pursue this goal is by supporting area art teachers with a creative outlet for their students and by helping these same teachers obtain the much needed art supplies for their classrooms; and

WHEREAS, the Battle Creek Optimist Club is partnering with Kendall College of Art and Design of Ferris State University in Grand Rapids, the Art Center of Battle Creek and Kellogg Community College to host the 4th Annual Optimist Excellence in Art Competition starting on Sunday, April 21 at 9am concluding on Friday, April 26th at 7:00pm at the Lakeview Square Mall; and

WHEREAS, this event will provide area students with the opportunity to showcase their talents and encourage students to work with others on a creative project. The goal is to help students develop a positive attitude toward themselves and their creative abilities, and foster an interest in art in the community and those programs within the Calhoun County Intermediate School Districts; and

WHEREAS, cash prizes will be given to students in age and group categories and also presented to educators. Kendall College of Art and Design of Ferris State University will also be awarding scholarships.

NOW, THEREFORE, I, Mark A. Behnke, Mayor of the City of Battle Creek, Michigan, do hereby proclaim the week of *April 21 through April 26, 2024*, as

"EXCELLENCE IN ARTS WEEK"

in the City of Battle Creek and thank the Battle Creek Optimist Club, Kendall College of Art and Design of Ferris State University, the Art Center of Battle Creek and Kellogg Community College for providing an occasion for art students to share their talents, encouraging students in the area of art, and offering educators an opportunity to showcase the importance of art in the classroom.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek, Michigan, to be affixed this 2nd day of April 2024.



Mark A. Behnke, Mayor





Ordinance

NO. 04-2024

A Proposed Ordinance #04-2024 seeking to amend the Historic Preservation Code of the City of Battle Creek.

BATTLE CREEK, MICHIGAN - 4/2/2024

The City of Battle Creek Ordains:

Section 1. An Ordinance to amend Section 1470.03(a)(2)(E)(4) of Chapter 1470 Historic Preservation, to eliminate the restriction preventing members from serving more than two consecutive terms and to amend various other sections to correct typographical, punctuation, grammatical, and title corrections, as are attached and made a part hereof.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

Section 3. All Ordinances or parts of Ordinance in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this Ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. This Ordinance shall take effect ten (10) days from the date of its adoption, in accordance with the provisions of Section 4.3(B) of Chapter 4 of the City Charter.

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Darcy Schmitt, Planning Supervisor

Department: Planning

SUMMARY

A Proposed Ordinance #04-2024 seeking to amend the Historic Preservation Code of the City of Battle Creek.

BUDGETARY CONSIDERATIONS

There is no budgetary consideration needed for the amendment.

HISTORY, BACKGROUND and DISCUSSION

Staff has recognized that periodically, the City encounters difficulties with appointing a full roster of members for its various boards and commissions. With particular regard to the Historic District Commission (HDC), a specific set of knowledge and expertise is required of a majority of the members sitting on the Commission, further increasing the difficulty in filling vacancies.

Chapter 1470 provides for a limit of two consecutive three-year terms for members of the HDC. This limit on terms is fairly unique to the HDC, as the majority of the City's boards and commissions are not bound by limits on the number of consecutive terms served by an individual. The proposed amendment to Chapter 1470 would eliminate this provision from the ordinance, allowing for the continued reappointment of commissioners following the completion of two terms of service.

DISCUSSION OF THE ISSUE

POSITIONS

While the purpose of the current limit on terms is intended to provide for the eventual turnover in commissioners (encouraging a more diverse set of voices on the commission), a practical reality also exists which limits the potential numbers of volunteers willing and able to serve. The elimination of the consecutive term limit would allow for knowledgeable, experienced members of the Commission to continue their service to the City uninterrupted if they so choose.

ATTACHMENTS:

File Name	Description
❏ 1._Staff_Report.pdf	Staff Report
❏ Chapter_1470_Historic_Preservation_Mark_Up.pdf	Chapter 1470 Historic Preservation_Mark Up
❏ Chapter_1470_Historic_Preservation_Clean_Copy.pdf	Chapter 1470Historic Preservation_Clean Copy
❏ 02.12.2024_Historic_District_Meeting_Minutes.pdf	Draft Minutes HDC_2024.2.12



Battle Creek Historic District Commission

Staff Report

Chapter 1470 (Historic Preservation) Updates

Meeting: February 12, 2024

To: Historic District Commission

From: Travis Sullivan, Planning and Zoning Administrator

Date: January 19, 2024

Subject: Chapter 1470 (Historic Preservation) amendments

Summary

The Battle Creek Historic District Commission (HDC) was established by the City in 1981 for the purpose of safeguarding the heritage of the City and preserving Historic Districts and historic resources within the City which reflect significant historic, cultural, or architectural value.

Chapter 1470 (Historic Preservation) provides the standards by which projects impacting the exterior of resources located within the City of Battle Creek's local historic districts are to be evaluated for approval. Additionally, Chapter 1470 provides for the establishment and membership requirements of the Commission, including prescription for the length of terms, as well as limits on consecutive terms served by an individual.

Staff has recognized that periodically, the City encounters difficulties with appointing a full roster of members for its various boards and commission. With particular regard to the HDC, a specific set of knowledge and expertise is required of a majority of the members sitting on the Commission, further increasing the difficulty in filling vacancies.

Chapter 1470 provides for a limit of two consecutive three-year terms for members of the HDC. This limit on terms is fairly unique to the HDC, as the majority of the City's boards and commissions are not bound by limits on the number of consecutive terms served by an individual. The proposed amendment to Chapter 1470 would eliminate this provision from the ordinance, allowing for the continued reappointment of commissioners following the completion of two terms of service. While the purposed of the current limit on terms is intended to provide for the eventual turnover in commissioners (encouraging a more diverse set of voices on the commission), a practical reality also exists which limits the potential numbers of volunteers willing and able to serve. The elimination of the consecutive term limit would allow for knowledgeable, experienced members of the Commission to continue their service to the City uninterrupted if they so choose.

The remainder of the proposed amendments to Chapter 1470 are of a non-material nature, and consist mostly of grammatical and/or punctuation changes, as well as the relabeling of "*Community*

Development Department” to “*Zoning Division*” in order to more accurately identify staff responsible for assisting the HDC in its duties.

Recommendation

For the reasons stated in this memo, staff recommends that the HDC recommend to the City Commission approval of the proposed amendments to Chapter 1470 (Historic Preservation), which would eliminate the limit of two consecutive terms for Commissioners, as well as complete various “clean-up” items needed to Chapter 1470.

Support Material

Proposed Chapter 1470 amendments (redline)

Proposed Chapter 1470 amendments (clean copy)

CHAPTER 1470 Historic Preservation

1470.01 DEFINITIONS.

As used in this chapter:

(a) "Adaptive reuse" means the process of converting a building to a use other than that for which it was designed, such as changing a factory into housing or a residential structure into an office or retail store. Such conversion typically involves altering both the interior and exterior of the structure or building.

(b) "Addition" means any construction, which increases the height or area of an existing resource or adds to it.

(c) "Alteration" means work that changes the detail of a resource but does not change its basic size or shape.

(d) "Certificate of appropriateness" means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

(e) "City" means the City of Battle Creek, a Michigan municipal corporation, acting by and through its officers and agents.

(f) "Construction" means the assemblage of materials in any definite pattern for the purpose of erecting or modifying a resource, as well as any significant change of the existing ground level.

(g) "Demolition" means the razing or destruction, whether entirely or in part, of a resource, and includes, but is not limited to, demolition by neglect.

(h) "Demolition by neglect" means neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

(i) "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

(j) "Historic" refers to a resource, which has significant historic, cultural or architectural value in the context of the development of the City, or that has significant historic or architectural value to the overall appearance of a Historic District. There is no minimum age implied by the use of the term "historic"; however, in most instances the term shall apply to a resource, which is approximately fifty years of age or more.

(k) "Historic District" means an area, or group of areas not necessarily having contiguous boundaries, created or proposed ~~to be created~~ by the City for the purposes of this chapter, which contains one resource or a group of resources that are related by history, architecture, archeology, engineering or culture. The City may establish more than one Historic District and a District may consist of a single historic resource unrelated to its surroundings in historic, architectural or cultural significance.

(l) "Historic District Commission" or "Commission" means the seven-member body created by the City pursuant to Act 169 of the Public Acts of 1970, as amended, and this chapter.

(m) "Historic preservation" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archeology, engineering or culture.

(n) "Historic resource" means a publicly or privately owned building, structure, site, object, feature or open space, that has significant historic, cultural or architectural value.

(1) "Building" means a residential, commercial, industrial or institutional resource created to support or shelter any use or occupancy. This definition also includes accessory buildings such as garages or sheds.

(2) "Feature" means a prominent or distinctive aspect, quality or characteristic of a designated Historic District, including, but not limited to, landscaped boulevards, brick paving or other paved surfaces such as driveways and sidewalks, and distinctive trees or patterns of trees.

(3) "Object" means a resource, which cannot be defined as a building or structure but has functional, aesthetic, cultural, historic, architectural, archeological or scientific value that may be, by nature or design, moveable, yet related to a specific setting or environment such as, but not limited to, statues, monuments, fountains, lighting fixtures or sundials.

(4) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area, that provides a connective link or a buffer between other resources.

(5) "Site" means a resource that is related to important historic events or to a prehistoric or historic occupation or activity, or the location of an institution, an organization or an architectural property that is ruined or vanished, where the location itself maintains historic or archeological value regardless of any presently existing conditions.

(6) "Structure" means a resource made up of interdependent and interrelated parts in a definite pattern of organization, constructed or erected so as to require a permanent location on the ground or attached to something having a permanent location on the ground, including, but not limited to, signs, billboards, porches, decks, railings, fences, pergolas and other above-grade structures.

(o) "Notice to proceed" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 1470.09(e).

(p) "Ordinary maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute "work" for purposes of this chapter.

(q) "Person" means an individual, firm, partnership, association, corporation, institution or agency of government.

(r) "Plans" means those documents, drawings, sketches and samples of materials that accompany an application for a permit as required by this chapter.

(s) "Reconstruction" means the process of reproducing by new construction the exact form and detail of a vanished historic resource, or part thereof, as it appeared at a specific time.

(t) "Rehabilitation" means the process of returning an historic resource to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property, which are significant to its historic, architectural or cultural value.

(u) "Repair" means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes "work" for purposes of this chapter.

(v) "Resource" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features or open spaces located within a Historic District.

(w) "Restoration" means the process of accurately recovering the form and details of a resource as it appeared at a particular period of time by removing later work, replacing missing work and enhancing original work.

(x) "Significant historic, cultural or architectural value" means an historic resource that is associated with any of the following:

(1) A pivotal event or person in Michigan's, Battle Creek's or the United States' archaeological, historic or cultural past.

(2) An important phase of growth or decline of a neighborhood or the community.

(3) A contribution to or example of science, technology, politics, art or humanitarian causes.

(4) Representative of a recognized major style of architecture or engineering or a particular architect; the unusual use of materials, workmanship or function; or an outstanding example of vernacular architecture.

(y) "Study Committee" or "Historic District Study Committee" means an ad hoc body created by the City Commission pursuant to Act 169 of the Public Acts of 1970, as amended, and this chapter, for the purpose of recommending the creation of, amendment to, or elimination of, Historic Districts and the boundaries thereof.

(z) "Work" means construction, addition, alteration, repair, moving, excavation or demolition.

1470.02 PURPOSE.

Historic preservation is declared to be a public purpose and this chapter is enacted to regulate the construction, addition, alteration, repair, moving, excavation and demolition of resources in Historic Districts within the City of Battle Creek. The purpose of this chapter is to:

(a) Safeguard the heritage of the City by preserving Historic Districts and historic resources within the City, which reflect significant historic, cultural, or architectural value.

(b) Stabilize and improve property values within any Historic District and surrounding areas.

(c) Foster civic beauty.

(d) Strengthen the local economy.

(e) Recommend the establishment, creation and promotion of a City historic registry and Historic Districts for the education, pleasure and welfare of the residents of the City and the State of Michigan.

(f) To encourage property owners and residents to participate in preservation activities.

1470.03 HISTORIC DISTRICT COMMISSION.

(a) Establishment; Membership.

(1) Pursuant to Act 169 of the Public Acts of 1970, as amended, a Commission, to be known as the Battle Creek Historic District Commission, is hereby established.

(2) The Historic District Commission membership shall consist of seven (7) persons who reside in the City, the majority of whom shall have a clearly demonstrated interest in or knowledge of historic preservation.

A. One member, if available, shall be a graduate of an accredited school of architecture, shall have two years of architectural experience or shall be is an architect registered in the State.

B. If no architect is available meeting the qualifications of paragraph (a)(2)A. hereof, then one member, if available for appointment, shall be an architect, an archeologist, an historian, or an architect and historian, or a combination thereof, and shall meet the professional qualifications specified in 36 C.F.R. 61, as amended.

C. Two members shall be appointed from a list of residents submitted by one or more duly organized local historic preservation organizations.

D. To the extent available, members of the Commission shall include persons from the disciplines of architecture, history, archeology, planning or other historic preservation-related disciplines such as urban planning American studies, American civilization, cultural geography, cultural anthropology or landscape architecture.

E. Remaining members of the Commission shall be appointed from among persons who have backgrounds in law, business, real estate, government, banking, finance and community organization and who have a demonstrated interest, competence or knowledge in historic preservation.

(3) Members shall be appointed by the Mayor, with the approval of the City Commission. Appointments shall be for three-year terms, except that the initial appointments shall provide for three three-year terms, two two-year terms and two one-year terms.

(4) All terms shall terminate on January 1, except that a member shall continue in office until a successor is appointed and takes office. Members shall be eligible for reappointment, ~~however, members may not serve more than two consecutive terms.~~ When a vacancy on the Commission occurs, within sixty calendar days an interim appointment shall be made by the Mayor, with the approval of the City Commission, to complete the unexpired term.

(b) Election and Terms of Officers. The Historic District Commission shall elect from its membership a Chairperson and Vice-Chairperson whose terms of office shall be fixed by the Historic District Commission. The Chairperson shall preside over the Historic District Commission and shall have the right to vote. The Vice-Chairperson shall, in case of the absence or disability of the Chairperson, perform the duties of the Chairperson. The Planning

and ~~Zoning Division Community Development Department~~ shall provide clerical and staff assistance sufficient to carry out the intent of this chapter.

(c) Meetings, Regulations and Records.

(1) The Historic District Commission shall hold regularly scheduled monthly meetings in an appropriately designated room at City Hall.

(2) All meetings shall be open to the public and conform to the Michigan Open Meetings Act, being Act 267 of the Public Acts of 1976, as amended. Any person shall be entitled to appear and be heard on any matter before the Commission before it reaches its decision. Public notice of the time, date and place of the meeting shall be given in the manner required by the Open Meetings Act. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.

(3) The Commission shall keep a record of its resolutions, proceedings and actions, including minutes of all decisions of the Commission, which shall include reasons for making those decisions. Records of the Commission shall be available to the public in compliance with the Michigan Freedom of Information Act, being Act 442 of the Public Acts of 1976, as amended. The Commission shall submit an annual report of its activities to the Planning Commission and the City Commission each January.

(4) The provisions of Contracts of Public Servants with Public Entities Act, being Act 317 of the Public Acts of 1968, as amended, shall govern the conduct of Commission members concerning any conflict of interest or possible conflict of interest regarding a public contract. The provisions of Standards of Conduct for Public Officers and Employees Act, being Act 196 of the Public Acts of 1973, as amended, shall govern the conduct of Commission members regarding the ethical standards to be observed in carrying out their public duties under this chapter.

(5) The Historic District Commission shall adopt by-laws providing for its organization and conduct of business. The concurring vote of four members of the Commission shall be necessary to issue a certificate of appropriateness. Other actions of the Commission shall require a simple majority of members present constituting a quorum.

(d) Duties and Powers.

(1) The Historic District Commission shall:

A. Administer in conformance with this chapter and the Local Historic Districts Act, being Act 169 of the Public Acts of 1970, as amended, the Historic Districts within the City.

B. Maintain a City Historic Register.

C. Adopt design review standards for resource treatment to carry out its duties.

D. Review all applications and plans for which a permit is required by City ordinance regarding the construction, alteration, repair, moving or demolition affecting the exterior appearance of a historic or nonhistoric resource within a Historic District.

E. Maintain an on-going survey and inventory system to document all historic resources of significant historic, cultural or architectural values.

F. Make recommendations to the City Commission regarding acquisitions of historic resources pursuant to Section 1470.19.

G. Contract, with City Commission approval, with persons, firms, corporations or organizations to enlist the aid of experts to carry out its duties pursuant to this chapter or State and Federal legislation.

H. Adopt rules of procedure subject to the approval of the City Commission.

(2) The Historic District Commission may:

A. Act as the agent to accept and administer State or Federal grants for historic restoration purposes, accept public or private gifts for historic preservation purposes, and participate in State and Federal programs that benefit historic preservation, as the duly appointed agent of the City Commission.

B. Maintain publicly-owned historic resources using its own funds, if not specifically earmarked for other purposes, or those public funds committed for this use by the City Commission.

C. Assist private and public concerns in the registration and marking of historic resources and in the application of State and Federal grant-in-aid programs for the revitalization of those properties.

D. Encourage and cooperate with civil and fraternal groups and other organizations in promoting the City's history, traditions and customs through participation in public historic activities, patriotic celebrations and other special events.

E. Encourage and cooperate with local organizations in developing historic material to promote the historic heritage of the City.

F. Represent or serve as a liaison between the City Commission and other organizations interested in the history of Battle Creek.

G. Serve in a management, administrative, advisory or research capacity for the City Commission in historic matters, or for projects with significant historic, cultural or architectural value.

H. Prepare recommendations to the City Commission regarding the acceptance of gifts of resources having significant historic, cultural or architectural value and assist in receipt of such resources.

I. Encourage adaptive re-use of historic resources.

J. Disseminate information and offer technical assistance or referrals to the public and encourage and advise property owners in historic preservation or adaptive re-use of historic resources.

1470.04 RECOMMENDATIONS FOR THE CREATION AND BOUNDARIES OF HISTORIC DISTRICTS.

(a) The City may at any time establish by ordinance additional Historic Districts, including proposed Districts previously considered and rejected, may modify boundaries of an existing Historic District, or may eliminate an existing Historic District. Before establishing, modifying or eliminating a Historic District, a Historic District Study Committee shall be appointed by the City Commission to consider only specified proposed or modified Districts or the proposed elimination of Districts, and shall then be dissolved.

(b) The Study Committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation and shall contain representation from one or more duly organized local historic preservation organizations. In conducting its activities, the Study Committee shall consider any previously written Committee reports pertinent to the proposed action.

(c) Recommendations of the Study Committee shall be made after it does all of the following:

(1) Conducts a photographic inventory of resources within each proposed Historic District following procedures established or approved by the Bureau of History of the Michigan Department of State (hereinafter: the "Bureau of History").

(2) Conducts basic research of each proposed Historic District and the historic resources located within that District.

(3) Determines the total number of historic and non-historic resources within a proposed Historic District and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 C.F.R. Part 60, and criteria established or approved by the Bureau of History, if any.

(4) Prepares a preliminary Historic District report that addresses, at a minimum, each of the following:

A. The charge of the Committee;

B. The composition of the Committee membership;

C. The proposed Historic District or Districts studied;

D. The boundaries of each proposed Historic District in writing and on maps;

E. The history of each proposed Historic District;

F. The significance of each proposed District as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the proposed District, relative to the evaluation criteria.

(5) Transmits copies of the preliminary report for review and recommendations to the Planning Commission, the Bureau of History, the Michigan Historical Commission and the State Historic Preservation Review Board.

(6) Make copies of the preliminary report available to the public pursuant to the Michigan Freedom of Information Act.

(d) Not less than sixty calendar days after the transmittal of the preliminary report, the Study Committee shall hold a public hearing in compliance with the Michigan Open Meetings Act, being Act 267 of the Public Acts of 1976, as amended, after giving public notice of the time, date and place of the hearing in the manner required by Act 267. Written notice shall be mailed by first class mail not less than fourteen calendar days before the hearing to the owners of properties within the proposed Historic District as listed on the tax rolls of the City.

(e) After the date of the public hearing, the Study Committee and the City Commission shall have not more than one year, unless otherwise authorized by the City Commission, to take the following actions:

(1) Upon receipt of substantial evidence showing significant historic, cultural or architectural value of a proposed Historic District, the City Commission may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed Historic District be referred to the Historic District Commission as prescribed in Sections 1470.08 and 1470.09. The Commission shall review permit applications with the same powers that would apply if the proposed Historic District ~~was~~were an established Historic District. The review may continue in the proposed Historic District for not more than one year, or until such time as the City Commission approves or rejects the establishment of the Historic District by ordinance, whichever occurs first.

(2) The Study Committee shall prepare and submit a final report with its recommendations, and the recommendations, if any, of the Planning Commission, to the City Commission. If the recommendation is to establish a Historic District or Districts, the final report shall include a draft of a proposed ordinance or ordinances.

(3) After receiving a final report that recommends the establishment of a Historic District or Districts, the City Commission, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the City Commission passes an ordinance or ordinances establishing or amending the boundaries of one or more Historic Districts, the City Clerk shall file a copy of that ordinance or those ordinances, including a legal description of the property or properties located within the Historic District or Districts, with the Calhoun County Register of Deeds. The City Commission shall not pass an ordinance establishing a contiguous Historic District less than sixty days after a majority of the property owners within the proposed Historic District, as listed on the tax rolls of the City, have approved the establishment of the Historic District pursuant to a written petition.

(f) The City Commission may hold additional public hearings as it considers necessary prior to the introduction or adoption of an ordinance or ordinances establishing or amending the boundaries of a Historic District. The City Commission may adopt the proposed ordinance or ordinances, with or without amendments, or return the ordinance or ordinances to the Study Committee for further review and report.

(g) Any writing prepared, owned, used, in the possession of, or retained by, a Study Committee in the performance of an official function shall be made available to the public in compliance with Act 442 of the Public Acts of 1976, as amended.

1470.05 ELIMINATION OF HISTORIC DISTRICTS.

When considering the elimination of a Historic District, the Study Committee shall follow the procedures set forth in Section 1470.04 for issuing a preliminary report, holding public hearings and issuing a final report, but with the intent of showing one or more of the following:

(a) The Historic District has lost those physical characteristics that qualified it for establishment as a Historic District.

(b) The Historic District was not significant in the way previously defined.

(c) The Historic District was established pursuant to defective procedures.

1470.06 REVIEW OF APPLICATION FOR CITY HISTORIC REGISTER DESIGNATION.

(a) The owner of an historic resource seeking designation on the City Historic Register shall file an application with the Planning and ~~Zoning Division~~Community Development Department. The application, with any supporting documentation, will be presented to the Historic District Commission within sixty days following its receipt by the Planning and ~~Zoning Division~~Community Development Department.

(b) The Historic District Commission may, on its own initiative, recommend the designation of an historic resource for the City Historic Register.

(c) The Historic District Commission shall meet within sixty days of its receipt of the application seeking designation on the City Historic Register to review the application and recommend or deny its addition to the local Historic Register.

(d) If an addition to the City Historic Register is recommended by the Commission, a report of such approval will be sent to the City Commission for that body's approval. Once approval has been given by the City Commission, a notice of such approval shall be sent in writing by the Historic District Commission to the owner of the resource.

(e) If an addition to the City Historic Register is denied by the Historic District Commission, notification in writing of such denial shall be sent to the resource owner by the Historic District Commission detailing the reasons for the denial. Nothing in this subsection shall be deemed to limit an owner's opportunity to re-apply for designation to the City Historic Register.

1470.07 REMOVAL OF PROPERTIES FROM HISTORIC REGISTER.

(a) ~~A~~An historic resource may be removed from the City Historic Register as follows:

(1) If the owner wishes to have ~~a~~an historic resource removed from the City Historic Register, a request in writing must be submitted to the Planning and ~~Zoning Division~~Community Development Department for presentation to the Historic District Commission at its next regularly scheduled meeting. Such a request shall detail the owner's reasons for the desired removal. The Historic District Commission, within sixty days following receipt of the request for removal, shall work with the resource owner to find solutions to problems, which may be influencing the desire to be removed. If at the end of the time prescribed in this section the Historic District Commission deems it to be in the best interests of the community to remove the resource from the City Historic Register, the owner and the City Commission shall be notified in writing of the removal.

(2) If the Historic District Commission deems it to be in the best interests of the community to remove ~~a~~an historic resource from the City Historic Register, it shall notify the owner of the resource of the Historic District Commission's intent, in writing, listing the reasons for removal. The written notice shall give the owner until the next regularly scheduled meeting of the Historic District Commission, but in no case less than thirty days, in which to respond. If no response is received, the historic resource shall be removed from the City Historic Register by the Historic District Commission after notification of the owner and the City Commission in writing. If the owner desires that the historic designation be retained, the owner will be given time, not to exceed sixty days, to make noticeable improvement in the resource and show a willingness to work with the Historic District Commission. If at the end of the sixty days satisfactory improvement has not been made, the historic resource will be removed from the City's Historic Register.

(b) The term "best interests of the community" includes, but is not limited to, the following:

(1) A desire to make major changes to the exterior of the resource, which would detract from its historic significance.

(2) The deterioration of a historic resource to the point where there is a loss of structural integrity.

1470.08 APPLICATION FOR WORK AFFECTING A RESOURCE.

(a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a Historic District or, if required under subsection (c) hereof, before work affecting the interior arrangements of a resource is performed within a Historic District. The person proposing to do that work shall file an application for a permit with the ~~Building-Inspections Division~~ ~~Department~~ of the City.

(b) The ~~Building-Inspections Division~~ ~~Department~~ shall transmit the application and accompanying plans and other information to the Planning and ~~Zoning Division Community Development Department~~ for review. The Planning and ~~Zoning Division Community Development Department~~ staff shall review the plans for compliance with the preservation standards adopted by the Historic District Commission and the considerations set forth in Section 1470.17. Where plans are not in conformity with such preservation standards, the Planning and ~~Zoning Division Community Development Department~~ shall consult with the resource owner to insure that proper modifications are made. The Planning and ~~Zoning Division Community Development Department~~ shall immediately transmit the completed application with all supporting materials to the Historic District Commission.

(c) In order to expedite the timely issuance of permits, the ~~Building-Inspections Division~~ ~~Department~~, the Planning and ~~Zoning Division Community Development Department~~ and the Historic District Commission may review preliminary plans in advance of completion of final plans and specifications to determine the appropriateness of alterations, additions, repairs or new construction to resources within Historic Districts.

1470.09 REVIEW OF APPLICATIONS.

(a) In reviewing plans, the Historic District Commission shall follow the U. S. Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. Part 67. Design review standards and guidelines that address special design characteristics of Historic Districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of the Interior's standards and guidelines and are established or approved by the Bureau of History.

(b) The Commission shall also consider all of the following:

(1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(2) The relationship of any architectural features of the resource to the rest of the resource and the surrounding area.

(3) The general compatibility of the design, arrangement, texture and materials proposed to be used.

(4) Other factors, such as aesthetic value that the Commission finds relevant.

(c) The Historic District Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Commission or unless interior work will cause visible change to the exterior of the resource.

(d) The Historic District Commission shall not disapprove an application due to considerations not prescribed in this section.

(e) Work within a Historic District shall be permitted through the issuance of a notice to proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Historic District Commission to be necessary to substantially improve or correct any of the following conditions:

(1) The resource constitutes a hazard to the safety of the public or to the structures and occupants.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community, and the applicant proposing the work has obtained all necessary planning and zoning approvals and financing and environmental clearances.

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God or other event beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the Historic District, have been attempted and exhausted by the owner.

(4) Retaining the resource is not in the interests of the majority of the community.

(f) The Historic District Commission shall meet within sixty calendar days after a complete application is filed with the Commission to review and consider the permit application. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed, as prescribed in this chapter.

(g) If the Historic District Commission approves the application, it shall issue a certificate of appropriateness or notice to proceed, which is to be signed by the Chairperson of the Commission and filed with the ~~Building Inspections Division~~ Department.

(h) If the Historic District Commission disapproves the application, its decision is binding upon the ~~Building Inspections Division~~ Department and the Planning and ~~Zoning Community Development Department Division~~. A denial and the reasons therefor shall be in writing and filed with the ~~Building Inspections Division~~ Department and furnished to the applicant. The denial shall also include notification of the applicant's rights of appeal to the State Historic Preservation Review Board and to the Circuit Court.

(i) If appropriate, a denial may contain a notice that an application may be re-submitted for Historic District Commission review when suggested changes have been made.

(j) Failure of the Historic District Commission to approve or disapprove an application for a certificate of appropriateness or written modification thereto, as provided for in this section, within sixty days from the date such application or modifications are filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be deemed to constitute approval.

1470.10 DELEGATION OF AUTHORITY.

The Historic District Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to the ~~Building-Inspections Division~~ ~~Department~~ or Planning and ~~Zoning Division~~ ~~Community Development Department~~. The Commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this section. On at least a quarterly basis, the Commission shall review the certificates of appropriateness, if any, issued for work by the authorities delegated pursuant to this section to determine whether ~~or not~~ the delegated responsibility should be continued.

1470.11 DEMOLITION BY NEGLECT.

Upon a finding by the Historic District Commission that ~~a~~ historic resource within ~~an Building Inspection Department~~ Historic District or proposed Historic District is threatened with demolition by neglect, the Commission may require the owner of the resource to repair all conditions contributing to demolition by neglect. If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The cost of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. The ~~C~~ommission or its agents may enter the property for purposes of this section upon obtaining an order from the Circuit Court.

1470.12 APPEALS.

(a) An applicant aggrieved by a decision of the Historic District Commission concerning a permit application may file an appeal to the State Historic Preservation Review Board of the Michigan Historical Commission within the Department of State. The appeal shall be filed within sixty days after the decision of the Commission is furnished to the applicant.

(b) Any citizen or duly organized historic preservation organization in the City, as well as resource property owners, jointly or severally aggrieved by a decision of the Historic District Commission, may appeal the decision to the Calhoun County Circuit Court, except that a permit applicant aggrieved by a decision rendered pursuant to Section 1470.09 may not appeal to the Circuit Court without first exhausting the right to appeal to the State Historic Preservation Review Board.

1470.13 PERMIT FEES.

Fees charged ~~by the Building Inspection Department~~ for an application for a permit made pursuant to this chapter shall be approved by the City Commission from time to time. Nothing in this chapter shall be construed to prohibit the charging and collection of fees for permits and inspections pursuant to the Building and Housing Code of these Codified Ordinances.

1470.14 ORDINARY MAINTENANCE AND EMERGENCY REPAIRS.

Nothing in this chapter shall be construed to prevent routine maintenance of any resource within ~~a~~ Historic District or to prevent emergency repairs made necessary by natural or man-made disaster.

1470.15 PLANS FOR PRESERVATION OF RESOURCES.

If an application is made for work that will adversely affect the exterior of a resource the Historic District Commission considers valuable to the City, the State or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the City, the State or the nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

1470.16 ACQUISITION OF RESOURCES.

If all efforts by the Historic District Commission to preserve a resource fail, or if it is determined by the City Commission that public ownership is most suitable, the City Commission, if it is considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Historic District Commission. The Historic District Commission shall be responsible for maintaining ~~publicly-owned~~publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds permitted for that use by the City Commission. Upon recommendation of the Historic District Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

1470.17 PRESERVATION OF HISTORIC FEATURES.

(a) Every reasonable effort shall be made to provide a compatible use for a resource, which requires minimal alteration of the building, structure or site and its environment, or to use the resource for its originally intended purpose.

(b) The distinguishing original qualities or character of a resource and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided when possible.

(c) All resources shall be recognized as products of their own time. Alterations that have no historic basis and which seek to create an earlier appearance shall be discouraged.

(d) Changes which may have taken place in the course of time are evidence of the history and development of a resource and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship, which characterize a resource shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other resources.

(g) The surface cleaning of resources shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

(i) Contemporary design for alterations and additions to existing resources shall not be discouraged when such alterations and additions do not destroy significant historic, architectural or cultural material and when such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(j) Whenever possible, new additions or alterations to resources shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the resource would be unimpaired.

1470.18 POWERS OF COUNTY HEALTH DEPARTMENT.

This chapter shall not be construed as limiting the powers of the County Health Department in reference to sanitary or environmental health conditions in the City.

1470.19 CREATION AND BOUNDARIES OF HISTORIC DISTRICTS.

Pursuant to Act 169 of the Public Acts of 1970, as amended, the following Historic Districts are hereby created and bounded as follows:

(a) The Historic District of the Central Business District. Beginning at the intersection of the centerline of Division Street North and the centerline of State Street East and running thence easterly along the centerline of State Street East to the centerline of Jay Street; thence southerly along the centerline of Jay Street to the center of Michigan Avenue East; thence westerly along the center of Michigan Avenue East to the center of Jackson Street East/Loop Road; thence southwesterly along the centerline of said Jackson Street East to the centerline of Main Street; thence northwesterly along the center of Main Street to a line perpendicular to the southwesterly line of Lot 1 of the Assessor's Plat of Southeast Battle Creek, said line extending from the western most corner of said Lot 1, thence southwesterly along said line to the point of intersection with a line which lies eleven feet east of and parallel with the west line of South Avenue (now vacated), as shown in said Assessor's Plat of Southeast Battle Creek; thence south along said line to the center of Jackson Street East; thence westerly along the center of Jackson Street, as situated and shown on the plat of original Battle Creek, and the extension thereof, to the centerline of the Battle Creek River; thence easterly and southeasterly along the center of the Battle Creek River to the centerline of Division Street North; thence southerly along the center of Division Street North to the centerline of State Street East and the place of beginning.

(b) The Old Advent Town Historic District. Beginning at the intersection of the centerlines of Barney Street and Jackson Street West and running thence westerly along the center of Jackson Street West to the centerline of Washington Avenue South; thence northerly along the centerline of Washington Avenue South to the centerline of Michigan Avenue West; thence westerly along the centerline of Michigan Avenue West to the southerly extension of a line which lies ten feet east of the westerly line of Lot 36, Range of Blocks 5, of the plat of original Battle Creek, and parallel with said lot line; thence northerly 133 feet along said line to a point distant southerly thirty-two feet from the north line of said Lot 36; thence westerly 176 feet, parallel with the north line of Lots 36, 35, 34 and 33 of said Range of Blocks 5, to a point thirty-four feet westerly of the easterly line of Lot 33; thence northerly 32 feet, parallel with the east line of Lot 33 to the north line thereof; thence westerly along the south line of Lot 16 of Range of Blocks 5, to the southwesterly corner thereof; thence northerly along the westerly line of Lot 16 and the extension thereof to the centerline of Van Buren Street West; thence westerly along the centerline of Van Buren Street West to the southerly extension of the easterly line of Lot 9 of Range of Blocks 6 of Plat of original Battle Creek; thence northerly 165 feet along the east line of said Lot 9 to the northeasterly corner thereof; thence westerly along the northerly lines of Lots

1 through 9 (conversely) of said Range of Blocks 6 and Lots 1 through 9 (conversely) of Range of Blocks 7 of said Plat and the westerly extension thereof to the centerline of Wood Street North; thence southerly 46 feet along the centerline of Wood Street North; thence westerly 99 feet, parallel with the south line of Lot 3 of Manchester's Addition and 86 feet northerly thereof to a point 66 feet west of the easterly line of said Lot 3; thence northerly 47 feet, parallel with said easterly line of Lot 3; thence westerly 66 feet, parallel with the southerly line of said Lot 3; thence northerly 131 feet along the west line of Lot 3 to the northwest corner thereof; thence continuing 51.5 feet along the northerly extension of said west line of Lot 3; thence north, parallel with the west line of Lot 64 of Manchester's Addition to the north line thereof; thence west to the northwest corner of said lot 64; thence south to the southwest corner of Lot 64; thence westerly 204.6 feet to the southwesterly corner of Lot 66 of Manchester's Addition; thence north 102.96 feet to the northwest corner of said Lot 66; thence along the south line of Manchester Street to the centerline of Wood Street North; thence north along the centerline of Wood Street North to the westerly extension of the north line of Lot 116 of Grave's Addition to the City of Battle Creek; thence east along the north lines of Lots 108 through 116 (conversely) and Lots 99 through 107 (conversely) of Graves Addition along the north lines of Lots 13 through 23 inclusive of Graves Second Addition to the northeast corner of Lot 23; thence north 33 feet along the west line of Lot 26 of Graves Second Addition; thence east 49.5 feet parallel with the south line of Lot 26; thence north 132 feet parallel with the west lines of Lots 26 and 27 of Graves Second Addition to the centerline of Greenwood Avenue; thence east 0.50 feet along the centerline of Greenwood Avenue; thence north 165 feet, parallel with the west lines of Lots 93 and 94 of Graves Second Addition and 50 feet easterly there from, to the north line of Lot 94; thence west 18.54 feet to the southeast corner of Lot 1 of Graves Third Addition; thence north along the east lines of Lots 1, 40 and 41 of Graves Third Addition to the south line of Parkway Drive; thence easterly along the south line of Parkway Drive to the easterly line of Hanover Street; thence south along the east line of Hanover Street to the southwest corner of Lot 77 of Walter's Addition; thence east along the south lines of Lots 77, 76, 75 and 74 of Walter's Addition to the west line of Hazel Street; thence north along the west line of Hazel Street to the south line of Seedorff Street; thence east along the south line of Seedorff Street to the northeast corner of Lot 44 of Walter's Addition; thence south along the east lines of Lots 44 through 50, inclusive, of Walter's Addition and the extension thereof to the south line of Walter Avenue; thence east to the northeast corner of Lot 1 of Rice and Weston's Addition; thence south along the east lines of Lots 1 through 9 inclusive of Rice and Weston's Addition, and the southerly extension thereof to the centerline of Emmett Street West; thence east along the centerline of Emmett Street West to the centerline of Brook Street; thence southerly along the centerline of Brook Street to the centerline of Champion Street; thence easterly along the centerline of Champion Street to the northerly extension of a line which lies 17.5 feet easterly of and parallel with the west line of Lot 17 of McCamly's Addition; thence southerly along said line to the southerly line of Lot 17; thence easterly two feet along the south line of Lot 17; thence southerly along a line which lies 19.5 feet easterly of and parallel with the west line of Lot 17 of Range of Blocks 4 of the plat of original Battle Creek; and the southerly extension of said line to the centerline of Van Buren Street West; thence westerly along the centerline of Van Buren Street West to the centerline of Gould Street; thence southerly along the centerline of Gould Street to the centerline of Michigan Avenue West; thence easterly along the centerline of Michigan Avenue West to the centerline of Barney Street; thence southerly along the centerline of Barney Street to the centerline of Jackson Street West and the place of beginning.

(c) The Old Maple Street Historic District. Beginning at the intersection of the centerline of Capital Avenue Northeast and the centerline of Division Street North, and running thence northeasterly along the centerline of Capital Avenue Northeast to the northerly extension of the west line of Lot 12 of the Assessor's Plat of Hinman's Subdivision; thence southerly along the

west line of Lot 12 to the southwest corner thereof; thence easterly along the southerly lines of Lots 12 and 14 of said plat to the centerline of Penn Street; thence northerly along the centerline of Penn Street to point of intersection with a line perpendicular to the west line of Lot 2 of Hart's Addition and 126.16 feet south of the northwest corner of said Lot 2; thence easterly along said perpendicular line to the westerly line of said Lot 2; thence easterly 132.33 feet to a point on the westerly line of Lot 3 of said plat distant southerly 128.94 feet from the northwest corner of said Lot 3; thence southerly 65.1 feet to the southwest corner of Lot 3, thence easterly 265.32 feet along the south lines of Lots 3 and 4 to the northeast corner of Lot 15 of said Hart's Addition; thence southerly along the east line of Lot 15 to a point distant northerly 75 feet from the southeast corner thereof, thence easterly 175.56 feet parallel with the south line of Lot 14 of said Hart's Addition to the centerline of Elm Street; thence northerly along the centerline of Elm Street to point of intersection with a line perpendicular to the west line of Lot 6 of Hart's Addition; thence east along said line to a point on the west line of Lot 6 which lies sixty-six feet north of the southwest corner thereof; thence easterly, parallel with the south line of said Lot 6 to a point 66 feet west of the east line of Lot 6, thence southerly ten feet, parallel with the east line of said Lot 6; thence easterly 66.7 feet parallel with the south line of Lot 6 to the easterly line thereof; thence southerly fifty-five feet to the northwest corner of Lot 12 of Hart's Addition; thence southerly along the west line of Lot 12 to a point distant northerly 115.5 feet from the southwest corner thereof; thence easterly 53.13 feet, parallel with the south line of Lot 12; thence northerly 16.5 feet, parallel with the west line of Lot 12; thence easterly 157.56 feet to a point 132.44 feet north of the south line of Lot 11 of Hart's Addition; thence north 141.25 feet, parallel with the east line of said Lot 11 to the north line thereof; thence easterly 44.4 feet, more or less, to the northeast corner of said Lot 11; thence northerly 56.85 feet along the east line of Lot 8 of Hart's Addition; thence northeasterly 116.4 feet to a point on the east line of Lot 9 of Hart's Addition distant north 59.09 feet from the southeast corner of said Lot 9; thence east thirty-three feet at right angles to Poplar Street, to the centerline thereof; thence north along the centerline of Poplar Street to the point of intersection with the southwesterly extension of the centerline an alley; thence northeasterly along the centerline of said alley which adjoins the southeasterly lines of Lots 2, 3, 4 and 27 of Charles Merritt's Second Addition to Battle Creek, to the southerly extension of the easterly line of Lot 27; thence northerly along the easterly line of Lot 27 to the centerline of Capital Avenue Northeast; thence southwesterly along the centerline of Capital Avenue Northeast to the centerline of Orchard Place; thence north along the centerline of Orchard Place to the point of intersection with a line perpendicular to the east line of Lot 1 of Charles Merritt's Third Addition, at a point distant north 246 feet from the southeast corner of said Lot 1; thence west 152 feet to a point distant northerly 270 feet from the south line of said Lot 1; thence northwesterly twenty-seven feet to a point on the easterly extension of the southerly line of Lot 33 of Charles Merritt's Addition, distant easterly 41.14 feet from the southeast corner of said Lot 3; thence westerly along the south lines of Lots 33 through 38, inclusive of Charles Merritt's Addition to a point distant westerly 63.8 feet from the southeast corner of Lot 38; thence southerly 72 feet at right angles; thence westerly 12.75 feet at right angles; thence southerly 49.5 feet at right angles; thence westerly at right angles 149.23 feet to the centerline of Chestnut Street; thence north along the centerline of Chestnut Street to the centerline of Frelinghuysen Avenue, thence westerly along the centerline of Frelinghuysen Avenue to the northerly extension of the easterly line of Lot 205 of the Assessor's re-plat of Merritt's Supplement to Block 2; thence southerly along the easterly line of Lot 205 to the southeast corner thereof; thence westerly to the northwest corner of Lot 193 of said Assessor's re-plat; thence southerly along the west line of Lot 193 to the centerline of Capital Avenue northeast; thence northeasterly along the centerline of Capital Avenue northeast to the centerline of Division Street North and the place of beginning.

(d) The Merritt's Woods Historic District. Beginning at the northeast corner of Chestnut and Emmett Streets in the City, the same being thirty-three feet north of the east and west quarter line (as occupied) and 805 feet west of the north and south quarter line of Section 6, Town 2, South, Range 7 West; thence N. 0 15' E., along the east line of Chestnut Street 840.35 feet to point "B," distant 450.65 feet south of the north line of such Section (as now located and used); thence from such east line of Chestnut Street as tangent, and starting in the opposite direction (S. 0 15' W.), on a curve to the left of twenty feet radius, southerly and easterly, 37.35 feet to point "C"; thence N. 73 15' E., on tangent to such curve, 115.4 feet to point "D"; thence from the last course as tangent, on a curve to the right, of seventy-five feet radius, 110.55 feet, to point "E"; thence S. 22 18' E., on tangent to such curve, 16.4 feet, to point "F"; thence S. 89 45' E., 164 feet, to point "G"; thence S. 47 56' E., thirty feet, to point "H"; thence N. 74 42' E., 225 feet, to point "I"; distant 162 feet west of the north and south quarter line of such Section; thence S. 0 7' E., parallel with such quarter line, 196.8 feet, to point "J"; thence from last course as tangent, on a curve to the left of eighteen feet radius, 28.27 feet to point "K"; thence N. 89 53' E., at right angles with such quarter line, 144 feet to such quarter line, at a point ("L") 621.1 feet north of Emmett Street and 654.8 feet south of such Section line; thence S. 0 7' E., along such quarter line, 621.1 feet to the north line of Emmett Street, at point "M"; thence N. 89 58' W., along such north line of Emmett Street, 805 feet to the place of beginning.

(e) The Village at Irving Park Historic District. Charles and R. B. Merritt's Addition, being all of Lots 46 through 53, parts of Lots 39 through 45, and portions of vacated Tompkins and Spruce Streets more particularly described as: Beginning at the northeast corner of Lot 48; thence north 87°52'00" west along the southerly line of Garfield Avenue 335.90 feet; thence south 02°43'37" east 77.43 feet; thence southeasterly along an arc to the right 225.06 feet whose radius is 400 feet and whose chord bears south 23°06'22" east 222.10 feet; thence southerly along an arc to the left 182 feet whose radius is 320 feet and whose chord bears south 53°58'10" east 179.55 feet; thence south 70°56'19" east 25.02 feet; thence south 88°15'00" east 90.61 feet; thence north 02°10'00" west along the western line of West Street 385.95 feet to the point of beginning; subject to easements of record.

1470.20 ENFORCEMENT; REMEDIES.

(a) The ~~Building-Inspections~~ Division~~epartment~~ is hereby authorized and directed to enforce all provisions of this chapter, subject to review by the Historic District Commission.

(b) If the City Commission determines that pending work will cause irreparable harm to resources located within an established Historic District or a proposed Historic District, the City Commission may, by resolution, declare an emergency moratorium on all such work for a period not to exceed six months. The City Commission may extend the emergency moratorium for an additional period not to exceed six months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(c) Whenever any work on a resource subject to this chapter is being done contrary to the provisions of this chapter or this Building and Housing Code, officials of the ~~Building-Inspections~~ Division~~epartment~~ may order the work stopped by notice served, in writing, to the owner of record. Such persons engaged in doing or causing such work shall immediately stop such work until authorized by the ~~Building-Inspections~~ Division~~epartment~~ to proceed after review by the Historic District Commission.

(d) When work has been done upon a resource without a permit, and the Historic District Commission finds that the work does not qualify for a certificate of appropriateness, the

Commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work, or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the Circuit Court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not or cannot comply with the order of the Court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the Court's order. The cost of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. In acting pursuant to an order of the Circuit Court, the Commission or its agents may enter the property for purposes of this section.

(e) The remedies provided for in this chapter shall be cumulative and not exhaustive and shall be in addition to any and all other remedies available at law or in equity to prevent or remedy any violation herein.

1470.21 VIOLATIONS.

(a) No person shall cause or permit the erection, construction, enlargement, alteration, repair, movement, improvement, removal, conversion or demolition of any resource subject to this chapter:

(1) Without applying for and obtaining the necessary permit as required by this chapter;

(2) After a stop-work order has been issued pursuant to this chapter; and

(3) Without conforming to the application and its supporting materials as approved by the Historic District Commission through the issuance of a certificate of appropriateness or notice to proceed.

(b) Violations of this chapter shall result in the issuance of a Municipal civil infraction citation directing the person to appear in Court as provided in Chapter 87 of the Revised Judicature Act, M.C.L.A. 600.8701, et seq., regarding the occurrence or existence of a violation of this chapter.

1470.99 PENALTIES.

(a) A person who violates any provision of this chapter is responsible for a Class D Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98 of these Codified Ordinances.

(b) In addition to any penalty provided for in this section, a person who violates any provision of this chapter may be ordered by the Court to pay the cost to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

CHAPTER 1470 Historic Preservation

1470.01 DEFINITIONS.

As used in this chapter:

- (a) "Adaptive reuse" means the process of converting a building to a use other than that for which it was designed, such as changing a factory into housing or a residential structure into an office or retail store. Such conversion typically involves altering both the interior and exterior of the structure or building.
- (b) "Addition" means any construction, which increases the height or area of an existing resource or adds to it.
- (c) "Alteration" means work that changes the detail of a resource but does not change its basic size or shape.
- (d) "Certificate of appropriateness" means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.
- (e) "City" means the City of Battle Creek, a Michigan municipal corporation, acting by and through its officers and agents.
- (f) "Construction" means the assemblage of materials in any definite pattern for the purpose of erecting or modifying a resource, as well as any significant change of the existing ground level.
- (g) "Demolition" means the razing or destruction, whether entirely or in part, of a resource, and includes, but is not limited to, demolition by neglect.
- (h) "Demolition by neglect" means neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
- (i) "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
- (j) "Historic" refers to a resource, which has significant historic, cultural or architectural value in the context of the development of the City, or that has significant historic or architectural value to the overall appearance of a Historic District. There is no minimum age implied by the use of the term "historic"; however, in most instances the term shall apply to a resource, which is approximately fifty years of age or more.
- (k) "Historic District" means an area, or group of areas not necessarily having contiguous boundaries, created or proposed by the City for the purposes of this chapter, which contains one resource or a group of resources that are related by history, architecture, archeology, engineering or culture. The City may establish more than one Historic District and a District may consist of a single historic resource unrelated to its surroundings in historic, architectural or cultural significance.

(l) "Historic District Commission" or "Commission" means the seven-member body created by the City pursuant to Act 169 of the Public Acts of 1970, as amended, and this chapter.

(m) "Historic preservation" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archeology, engineering or culture.

(n) "Historic resource" means a publicly or privately owned building, structure, site, object, feature or open space that has significant historic, cultural or architectural value.

(1) "Building" means a residential, commercial, industrial or institutional resource created to support or shelter any use or occupancy. This definition also includes accessory buildings such as garages or sheds.

(2) "Feature" means a prominent or distinctive aspect, quality or characteristic of a designated Historic District, including, but not limited to, landscaped boulevards, brick paving or other paved surfaces such as driveways and sidewalks, and distinctive trees or patterns of trees.

(3) "Object" means a resource, which cannot be defined as a building or structure but has functional, aesthetic, cultural, historic, architectural, archeological or scientific value that may be, by nature or design, moveable, yet related to a specific setting or environment such as, but not limited to, statues, monuments, fountains, lighting fixtures or sundials.

(4) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area, that provides a connective link or a buffer between other resources.

(5) "Site" means a resource that is related to important historic events or to a prehistoric or historic occupation or activity, or the location of an institution, an organization or an architectural property that is ruined or vanished, where the location itself maintains historic or archeological value regardless of any presently existing conditions.

(6) "Structure" means a resource made up of interdependent and interrelated parts in a definite pattern of organization, constructed or erected so as to require a permanent location on the ground or attached to something having a permanent location on the ground, including, but not limited to, signs, billboards, porches, decks, railings, fences, pergolas and other above-grade structures.

(o) "Notice to proceed" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 1470.09(e).

(p) "Ordinary maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute "work" for purposes of this chapter.

(q) "Person" means an individual, firm, partnership, association, corporation, institution or agency of government.

(r) "Plans" means those documents, drawings, sketches and samples of materials that accompany an application for a permit as required by this chapter.

(s) "Reconstruction" means the process of reproducing by new construction the exact form and detail of a vanished historic resource, or part thereof, as it appeared at a specific time.

(t) "Rehabilitation" means the process of returning an historic resource to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property, which are significant to its historic, architectural or cultural value.

(u) "Repair" means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes "work" for purposes of this chapter.

(v) "Resource" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features or open spaces located within a Historic District.

(w) "Restoration" means the process of accurately recovering the form and details of a resource as it appeared at a particular period of time by removing later work, replacing missing work and enhancing original work.

(x) "Significant historic, cultural or architectural value" means an historic resource that is associated with any of the following:

(1) A pivotal event or person in Michigan's, Battle Creek's or the United States' archaeological, historic or cultural past.

(2) An important phase of growth or decline of a neighborhood or the community.

(3) A contribution to or example of science, technology, politics, art or humanitarian causes.

(4) Representative of a recognized major style of architecture or engineering or a particular architect; the unusual use of materials, workmanship or function; or an outstanding example of vernacular architecture.

(y) "Study Committee" or "Historic District Study Committee" means an ad hoc body created by the City Commission pursuant to Act 169 of the Public Acts of 1970, as amended, and this chapter, for the purpose of recommending the creation of, amendment to, or elimination of, Historic Districts and the boundaries thereof.

(z) "Work" means construction, addition, alteration, repair, moving, excavation or demolition.

1470.02 PURPOSE.

Historic preservation is declared to be a public purpose and this chapter is enacted to regulate the construction, addition, alteration, repair, moving, excavation and demolition of resources in Historic Districts within the City of Battle Creek. The purpose of this chapter is to:

(a) Safeguard the heritage of the City by preserving Historic Districts and historic resources within the City, which reflect significant historic, cultural, or architectural value.

(b) Stabilize and improve property values within any Historic District and surrounding areas.

(c) Foster civic beauty.

(d) Strengthen the local economy.

(e) Recommend the establishment, creation and promotion of a City historic registry and Historic Districts for the education, pleasure and welfare of the residents of the City and the State of Michigan.

(f) To encourage property owners and residents to participate in preservation activities.

1470.03 HISTORIC DISTRICT COMMISSION.

(a) Establishment; Membership.

(1) Pursuant to Act 169 of the Public Acts of 1970, as amended, a Commission, to be known as the Battle Creek Historic District Commission, is hereby established.

(2) The Historic District Commission membership shall consist of seven (7) persons who reside in the City, the majority of whom shall have a clearly demonstrated interest in or knowledge of historic preservation.

A. One member, if available, shall be a graduate of an accredited school of architecture, shall have two years of architectural experience or shall be is an architect registered in the State.

B. If no architect is available meeting the qualifications of paragraph (a)(2)A. hereof, then one member, if available for appointment, shall be an architect, an archeologist, an historian, or an architect and historian, or a combination thereof, and shall meet the professional qualifications specified in 36 C.F.R. 61, as amended.

C. Two members shall be appointed from a list of residents submitted by one or more duly organized local historic preservation organizations.

D. To the extent available, members of the Commission shall include persons from the disciplines of architecture, history, archeology, planning or other historic preservation-related disciplines such as urban planning American studies, American civilization, cultural geography, cultural anthropology or landscape architecture.

E. Remaining members of the Commission shall be appointed from among persons who have backgrounds in law, business, real estate, government, banking, finance and community organization and who have a demonstrated interest, competence or knowledge in historic preservation.

(3) Members shall be appointed by the Mayor, with the approval of the City Commission. Appointments shall be for three-year terms, except that the initial appointments shall provide for three three-year terms, two two-year terms and two one-year terms.

(4) All terms shall terminate on January 1, except that a member shall continue in office until a successor is appointed and takes office. Members shall be eligible for reappointment.. When a vacancy on the Commission occurs, within sixty calendar days an interim appointment shall be made by the Mayor, with the approval of the City Commission, to complete the unexpired term.

(b) Election and Terms of Officers. The Historic District Commission shall elect from its membership a Chairperson and Vice-Chairperson whose terms of office shall be fixed by the Historic District Commission. The Chairperson shall preside over the Historic District Commission and shall have the right to vote. The Vice-Chairperson shall in case of the absence or disability of the Chairperson, perform the duties of the Chairperson. The Planning and Zoning

Division shall provide clerical and staff assistance sufficient to carry out the intent of this chapter.

(c) Meetings, Regulations and Records.

(1) The Historic District Commission shall hold regularly scheduled monthly meetings in an appropriately designated room at City Hall.

(2) All meetings shall be open to the public and conform to the Michigan Open Meetings Act, being Act 267 of the Public Acts of 1976, as amended. Any person shall be entitled to appear and be heard on any matter before the Commission before it reaches its decision. Public notice of the time, date and place of the meeting shall be given in the manner required by the Open Meetings Act. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.

(3) The Commission shall keep a record of its resolutions, proceedings and actions, including minutes of all decisions of the Commission, which shall include reasons for making those decisions. Records of the Commission shall be available to the public in compliance with the Michigan Freedom of Information Act, being Act 442 of the Public Acts of 1976, as amended. The Commission shall submit an annual report of its activities to the Planning Commission and the City Commission each January.

(4) The provisions of Contracts of Public Servants with Public Entities Act, being Act 317 of the Public Acts of 1968, as amended, shall govern the conduct of Commission members concerning any conflict of interest or possible conflict of interest regarding a public contract. The provisions of Standards of Conduct for Public Officers and Employees Act, being Act 196 of the Public Acts of 1973, as amended, shall govern the conduct of Commission members regarding the ethical standards to be observed in carrying out their public duties under this chapter.

(5) The Historic District Commission shall adopt by-laws providing for its organization and conduct of business. The concurring vote of four members of the Commission shall be necessary to issue a certificate of appropriateness. Other actions of the Commission shall require a simple majority of members present constituting a quorum.

(d) Duties and Powers.

(1) The Historic District Commission shall:

A. Administer in conformance with this chapter and the Local Historic Districts Act, being Act 169 of the Public Acts of 1970, as amended, the Historic Districts within the City.

B. Maintain a City Historic Register.

C. Adopt design review standards for resource treatment to carry out its duties.

D. Review all applications and plans for which a permit is required by City ordinance regarding the construction, alteration, repair, moving or demolition affecting the exterior appearance of a historic or nonhistoric resource within a Historic District.

E. Maintain an on-going survey and inventory system to document all historic resources of significant historic, cultural or architectural values.

F. Make recommendations to the City Commission regarding acquisitions of historic resources pursuant to Section 1470.19.

G. Contract, with City Commission approval, with persons, firms, corporations or organizations to enlist the aid of experts to carry out its duties pursuant to this chapter or State and Federal legislation.

H. Adopt rules of procedure subject to the approval of the City Commission.

(2) The Historic District Commission may:

A. Act as the agent to accept and administer State or Federal grants for historic restoration purposes, accept public or private gifts for historic preservation purposes, and participate in State and Federal programs that benefit historic preservation, as the duly appointed agent of the City Commission.

B. Maintain publicly owned historic resources using its own funds, if not specifically earmarked for other purposes, or those public funds committed for this use by the City Commission.

C. Assist private and public concerns in the registration and marking of historic resources and in the application of State and Federal grant-in-aid programs for the revitalization of those properties.

D. Encourage and cooperate with civil and fraternal groups and other organizations in promoting the City's history, traditions and customs through participation in public historic activities, patriotic celebrations and other special events.

E. Encourage and cooperate with local organizations in developing historic material to promote the historic heritage of the City.

F. Represent or serve as a liaison between the City Commission and other organizations interested in the history of Battle Creek.

G. Serve in a management, administrative, advisory or research capacity for the City Commission in historic matters, or for projects with significant historic, cultural or architectural value.

H. Prepare recommendations to the City Commission regarding the acceptance of gifts of resources having significant historic, cultural or architectural value and assist in receipt of such resources.

I. Encourage adaptive re-use of historic resources.

J. Disseminate information and offer technical assistance or referrals to the public and encourage and advise property owners in historic preservation or adaptive re-use of historic resources.

1470.04 RECOMMENDATIONS FOR THE CREATION AND BOUNDARIES OF HISTORIC DISTRICTS.

(a) The City may at any time establish by ordinance additional Historic Districts, including proposed Districts previously considered and rejected, may modify boundaries of an existing Historic District, or may eliminate an existing Historic District. Before establishing, modifying or eliminating a Historic District, a Historic District Study Committee shall be appointed by the City Commission to consider only specified proposed or modified Districts or the proposed elimination of Districts, and shall then be dissolved.

(b) The Study Committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation and shall contain representation from one or more duly organized local historic preservation organizations. In conducting its activities, the Study Committee shall consider any previously written Committee reports pertinent to the proposed action.

(c) Recommendations of the Study Committee shall be made after it does all of the following:

(1) Conducts a photographic inventory of resources within each proposed Historic District following procedures established or approved by the Bureau of History of the Michigan Department of State (hereinafter: the "Bureau of History").

(2) Conducts basic research of each proposed Historic District and the historic resources located within that District.

(3) Determines the total number of historic and non-historic resources within a proposed Historic District and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 C.F.R. Part 60, and criteria established or approved by the Bureau of History, if any.

(4) Prepares a preliminary Historic District report that addresses, at a minimum, each of the following:

A. The charge of the Committee;

B. The composition of the Committee membership;

C. The proposed Historic District or Districts studied;

D. The boundaries of each proposed Historic District in writing and on maps;

E. The history of each proposed Historic District;

F. The significance of each proposed District as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the proposed District, relative to the evaluation criteria.

(5) Transmits copies of the preliminary report for review and recommendations to the Planning Commission, the Bureau of History, the Michigan Historical Commission and the State Historic Preservation Review Board.

(6) Make copies of the preliminary report available to the public pursuant to the Michigan Freedom of Information Act.

(d) Not less than sixty calendar days after the transmittal of the preliminary report, the Study Committee shall hold a public hearing in compliance with the Michigan Open Meetings Act, being Act 267 of the Public Acts of 1976, as amended, after giving public notice of the time, date and place of the hearing in the manner required by Act 267. Written notice shall be mailed by first class mail not less than fourteen calendar days before the hearing to the owners of properties within the proposed Historic District as listed on the tax rolls of the City.

(e) After the date of the public hearing, the Study Committee and the City Commission shall have not more than one year, unless otherwise authorized by the City Commission, to take the following actions:

(1) Upon receipt of substantial evidence showing significant historic, cultural or architectural value of a proposed Historic District, the City Commission may at its discretion, adopt a resolution requiring that all applications for permits within the proposed Historic District be referred to the Historic District Commission as prescribed in Sections 1470.08 and 1470.09. The Commission shall review permit applications with the same powers that would apply if the proposed Historic District were an established Historic District. The review may continue in the proposed Historic District for not more than one year, or until such time as the City Commission approves or rejects the establishment of the Historic District by ordinance, whichever occurs first.

(2) The Study Committee shall prepare and submit a final report with its recommendations, and the recommendations, if any, of the Planning Commission, to the City Commission. If the recommendation is to establish a Historic District or Districts, the final report shall include a draft of a proposed ordinance or ordinances.

(3) After receiving a final report that recommends the establishment of a Historic District or Districts, the City Commission, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the City Commission passes an ordinance or ordinances establishing or amending the boundaries of one or more Historic Districts, the City Clerk shall file a copy of that ordinance or those ordinances, including a legal description of the property or properties located within the Historic District or Districts, with the Calhoun County Register of Deeds. The City Commission shall not pass an ordinance establishing a contiguous Historic District less than sixty days after a majority of the property owners within the proposed Historic District, as listed on the tax rolls of the City, have approved the establishment of the Historic District pursuant to a written petition.

(f) The City Commission may hold additional public hearings as it considers necessary prior to the introduction or adoption of an ordinance or ordinances establishing or amending the boundaries of a Historic District. The City Commission may adopt the proposed ordinance or ordinances, with or without amendments, or return the ordinance or ordinances to the Study Committee for further review and report.

(g) Any writing prepared, owned, used, in the possession of, or retained by, a Study Committee in the performance of an official function shall be made available to the public in compliance with Act 442 of the Public Acts of 1976, as amended.

1470.05 ELIMINATION OF HISTORIC DISTRICTS.

When considering the elimination of a Historic District, the Study Committee shall follow the procedures set forth in Section 1470.04 for issuing a preliminary report, holding public hearings and issuing a final report, but with the intent of showing one or more of the following:

(a) The Historic District has lost those physical characteristics that qualified it for establishment as a Historic District.

(b) The Historic District was not significant in the way previously defined.

(c) The Historic District was established pursuant to defective procedures.

1470.06 REVIEW OF APPLICATION FOR CITY HISTORIC REGISTER DESIGNATION.

(a) The owner of an historic resource seeking designation on the City Historic Register shall file an application with the Planning and Zoning Division. The application, with any supporting documentation, will be presented to the Historic District Commission within sixty days following its receipt by the Planning and Zoning Division.

(b) The Historic District Commission may on its own initiative, recommend the designation of an historic resource for the City Historic Register.

(c) The Historic District Commission shall meet within sixty days of its receipt of the application seeking designation on the City Historic Register to review the application and recommend or deny its addition to the local Historic Register.

(d) If an addition to the City Historic Register is recommended by the Commission, a report of such approval will be sent to the City Commission for that body's approval. Once approval has been given by the City Commission, a notice of such approval shall be sent in writing by the Historic District Commission to the owner of the resource.

(e) If an addition to the City Historic Register is denied by the Historic District Commission, notification in writing of such denial shall be sent to the resource owner by the Historic District Commission detailing the reasons for the denial. Nothing in this subsection shall be deemed to limit an owner's opportunity to re-apply for designation to the City Historic Register.

1470.07 REMOVAL OF PROPERTIES FROM HISTORIC REGISTER.

(a) A historic resource may be removed from the City Historic Register as follows:

(1) If the owner wishes to have a historic resource removed from the City Historic Register, a request in writing must be submitted to the Planning and Zoning Division for presentation to the Historic District Commission at its next regularly scheduled meeting. Such a request shall detail the owner's reasons for the desired removal. The Historic District Commission, within sixty days following receipt of the request for removal, shall work with the resource owner to find solutions to problems, which may be influencing the desire to be removed. If at the end of the time prescribed in this section the Historic District Commission deems it to be in the best interests of the community to remove the resource from the City Historic Register, the owner and the City Commission shall be notified in writing of the removal.

(2) If the Historic District Commission deems it to be in the best interests of the community to remove a historic resource from the City Historic Register, it shall notify the owner of the resource of the Historic District Commission's intent, in writing, listing the reasons for removal. The written notice shall give the owner until the next regularly scheduled meeting of the Historic District Commission, but in no case less than thirty days, in which to respond. If no response is received, the historic resource shall be removed from the City Historic Register by the Historic District Commission after notification of the owner and the City Commission in writing. If the owner desires that the historic designation be retained, the owner will be given time, not to exceed sixty days, to make noticeable improvement in the resource and show a willingness to work with the Historic District Commission. If at the end of the sixty days satisfactory improvement has not been made, the historic resource will be removed from the City's Historic Register.

(b) The term "best interests of the community" includes, but is not limited to, the following:

(1) A desire to make major changes to the exterior of the resource, which would detract from its historic significance.

(2) The deterioration of a historic resource to the point where there is a loss of structural integrity.

1470.08 APPLICATION FOR WORK AFFECTING A RESOURCE.

(a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a Historic District or, if required under subsection (c) hereof, before work affecting the interior arrangements of a resource is performed within a Historic District. The person proposing to do that work shall file an application for a permit with the Inspections Division of the City.

(b) The Inspections Division shall transmit the application and accompanying plans and other information to the Planning and Zoning Division for review. The Planning and Zoning Division staff shall review the plans for compliance with the preservation standards adopted by the Historic District Commission and the considerations set forth in Section 1470.17. Where plans are not in conformity with such preservation standards, the Planning and Zoning Division shall consult with the resource owner to insure that proper modifications are made. The Planning and Zoning Division shall immediately transmit the completed application with all supporting materials to the Historic District Commission.

(c) In order to expedite the timely issuance of permits, the Inspections Division, the Planning and Zoning Division and the Historic District Commission may review preliminary plans in advance of completion of final plans and specifications to determine the appropriateness of alterations, additions, repairs or new construction to resources within Historic Districts.

1470.09 REVIEW OF APPLICATIONS.

(a) In reviewing plans, the Historic District Commission shall follow the U. S. Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. Part 67. Design review standards and guidelines that address special design characteristics of Historic Districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of the Interior's standards and guidelines and are established or approved by the Bureau of History.

(b) The Commission shall also consider all of the following:

(1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(2) The relationship of any architectural features of the resource to the rest of the resource and the surrounding area.

(3) The general compatibility of the design, arrangement, texture and materials proposed to be used.

(4) Other factors, such as aesthetic value that the Commission finds relevant.

(c) The Historic District Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Commission or unless interior work will cause visible change to the exterior of the resource.

(d) The Historic District Commission shall not disapprove an application due to considerations not prescribed in this section.

(e) Work within a Historic District shall be permitted through the issuance of a notice to proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Historic District Commission to be necessary to substantially improve or correct any of the following conditions:

(1) The resource constitutes a hazard to the safety of the public or to the structures and occupants.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community, and the applicant proposing the work has obtained all necessary planning and zoning approvals and financing and environmental clearances.

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God or other event beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the Historic District, have been attempted and exhausted by the owner.

(4) Retaining the resource is not in the interests of the majority of the community.

(f) The Historic District Commission shall meet within sixty calendar days after a complete application is filed with the Commission to review and consider the permit application. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed, as prescribed in this chapter.

(g) If the Historic District Commission approves the application, it shall issue a certificate of appropriateness or notice to proceed, which is to be signed by the Chairperson of the Commission and filed with the Inspections Division.

(h) If the Historic District Commission disapproves the application, its decision is binding upon the Inspections Division and the Planning and Zoning Division. A denial and the reasons therefor shall be in writing and filed with the Inspections Division and furnished to the applicant. The denial shall also include notification of the applicant's rights of appeal to the State Historic Preservation Review Board and to the Circuit Court.

(i) If appropriate, a denial may contain a notice that an application may be re-submitted for Historic District Commission review when suggested changes have been made.

(j) Failure of the Historic District Commission to approve or disapprove an application for a certificate of appropriateness or written modification thereto, as provided for in this section, within sixty days from the date such application or modifications are filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be deemed to constitute approval.

1470.10 DELEGATION OF AUTHORITY.

The Historic District Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to the Inspections Division or Planning and Zoning Division.

The Commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this section. On at least a quarterly basis, the Commission shall review the certificates of appropriateness, if any, issued for work by the authorities delegated pursuant to this section to determine whether the delegated responsibility should be continued.

1470.11 DEMOLITION BY NEGLECT.

Upon a finding by the Historic District Commission that a historic resource within a Historic District or proposed Historic District is threatened with demolition by neglect, the Commission may require the owner of the resource to repair all conditions contributing to demolition by neglect. If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The cost of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the Circuit Court.

1470.12 APPEALS.

(a) An applicant aggrieved by a decision of the Historic District Commission concerning a permit application may file an appeal to the State Historic Preservation Review Board of the Michigan Historical Commission within the Department of State. The appeal shall be filed within sixty days after the decision of the Commission is furnished to the applicant.

(b) Any citizen or duly organized historic preservation organization in the City, as well as resource property owners, jointly or severally aggrieved by a decision of the Historic District Commission, may appeal the decision to the Calhoun County Circuit Court, except that a permit applicant aggrieved by a decision rendered pursuant to Section 1470.09 may not appeal to the Circuit Court without first exhausting the right to appeal to the State Historic Preservation Review Board.

1470.13 PERMIT FEES.

Fees charged for an application for a permit made pursuant to this chapter shall be approved by the City Commission from time to time. Nothing in this chapter shall be construed to prohibit the charging and collection of fees for permits and inspections pursuant to the Building and Housing Code of these Codified Ordinances.

1470.14 ORDINARY MAINTENANCE AND EMERGENCY REPAIRS.

Nothing in this chapter shall be construed to prevent routine maintenance of any resource within a Historic District or to prevent emergency repairs made necessary by natural or man-made disaster.

1470.15 PLANS FOR PRESERVATION OF RESOURCES.

If an application is made for work that will adversely affect the exterior of a resource the Historic District Commission considers valuable to the City, the State or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the City, the State or the nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

1470.16 ACQUISITION OF RESOURCES.

If all efforts by the Historic District Commission to preserve a resource fail, or if it is determined by the City Commission that public ownership is most suitable, the City Commission, if it is considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Historic District Commission. The Historic District Commission shall be responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds permitted for that use by the City Commission. Upon recommendation of the Historic District Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

1470.17 PRESERVATION OF HISTORIC FEATURES.

(a) Every reasonable effort shall be made to provide a compatible use for a resource, which requires minimal alteration of the building, structure or site and its environment, or to use the resource for its originally intended purpose.

(b) The distinguishing original qualities or character of a resource and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided when possible.

(c) All resources shall be recognized as products of their own time. Alterations that have no historic basis and which seek to create an earlier appearance shall be discouraged.

(d) Changes which may have taken place in the course of time are evidence of the history and development of a resource and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship, which characterize a resource shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other resources.

(g) The surface cleaning of resources shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

(i) Contemporary design for alterations and additions to existing resources shall not be discouraged when such alterations and additions do not destroy significant historic, architectural or cultural material and when such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(j) Whenever possible, new additions or alterations to resources shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the resource would be unimpaired.

1470.18 POWERS OF COUNTY HEALTH DEPARTMENT.

This chapter shall not be construed as limiting the powers of the County Health Department in reference to sanitary or environmental health conditions in the City.

1470.19 CREATION AND BOUNDARIES OF HISTORIC DISTRICTS.

Pursuant to Act 169 of the Public Acts of 1970, as amended, the following Historic Districts are hereby created and bounded as follows:

(a) The Historic District of the Central Business District. Beginning at the intersection of the centerline of Division Street North and the centerline of State Street East and running thence easterly along the centerline of State Street East to the centerline of Jay Street; thence southerly along the centerline of Jay Street to the center of Michigan Avenue East; thence westerly along the center of Michigan Avenue East to the center of Jackson Street East/Loop Road; thence southwesterly along the centerline of said Jackson Street East to the centerline of Main Street; thence northwesterly along the center of Main Street to a line perpendicular to the southwesterly line of Lot 1 of the Assessor's Plat of Southeast Battle Creek, said line extending from the western most corner of said Lot 1, thence southwesterly along said line to the point of intersection with a line which lies eleven feet east of and parallel with the west line of South Avenue (now vacated), as shown in said Assessor's Plat of Southeast Battle Creek; thence south along said line to the center of Jackson Street East; thence westerly along the center of Jackson Street, as situated and shown on the plat of original Battle Creek, and the extension thereof, to the centerline of the Battle Creek River; thence easterly and southeasterly along the center of the Battle Creek River to the centerline of Division Street North; thence southerly along the center of Division Street North to the centerline of State Street East and the place of beginning.

(b) The Old Advent Town Historic District. Beginning at the intersection of the centerlines of Barney Street and Jackson Street West and running thence westerly along the center of Jackson Street West to the centerline of Washington Avenue South; thence northerly along the centerline of Washington Avenue South to the centerline of Michigan Avenue West; thence westerly along the centerline of Michigan Avenue West to the southerly extension of a line which lies ten feet east of the westerly line of Lot 36, Range of Blocks 5, of the plat of original Battle Creek, and parallel with said lot line; thence northerly 133 feet along said line to a point distant southerly thirty-two feet from the north line of said Lot 36; thence westerly 176 feet, parallel with the north line of Lots 36, 35, 34 and 33 of said Range of Blocks 5, to a point thirty-four feet westerly of the easterly line of Lot 33; thence northerly 32 feet, parallel with the east line of Lot 33 to the north line thereof; thence westerly along the south line of Lot 16 of Range of Blocks 5, to the southwesterly corner thereof; thence northerly along the westerly line of Lot 16 and the extension thereof to the centerline of Van Buren Street West; thence westerly along the centerline of Van Buren Street West to the southerly extension of the easterly line of Lot 9 of Range of Blocks 6 of Plat of original Battle Creek; thence northerly 165 feet along the east line of said Lot 9 to the northeasterly corner thereof; thence westerly along the northerly lines of Lots 1 through 9 (conversely) of said Range of Blocks 6 and Lots 1 through 9 (conversely) of Range of Blocks 7 of said Plat and the westerly extension thereof to the centerline of Wood Street North; thence southerly 46 feet along the centerline of Wood Street North; thence westerly 99 feet, parallel with the south line of Lot 3 of Manchester's Addition and 86 feet northerly thereof to

a point 66 feet west of the easterly line of said Lot 3; thence northerly 47 feet, parallel with said easterly line of Lot 3; thence westerly 66 feet, parallel with the southerly line of said Lot 3; thence northerly 131 feet along the west line of Lot 3 to the northwest corner thereof; thence continuing 51.5 feet along the northerly extension of said west line of Lot 3; thence north, parallel with the west line of Lot 64 of Manchester's Addition to the north line thereof; thence west to the northwest corner of said lot 64; thence south to the southwest corner of Lot 64; thence westerly 204.6 feet to the southwesterly corner of Lot 66 of Manchester's Addition; thence north 102.96 feet to the northwest corner of said Lot 66; thence along the south line of Manchester Street to the centerline of Wood Street North; thence north along the centerline of Wood Street North to the westerly extension of the north line of Lot 116 of Grave's Addition to the City of Battle Creek; thence east along the north lines of Lots 108 through 116 (conversely) and Lots 99 through 107 (conversely) of Graves Addition along the north lines of Lots 13 through 23 inclusive of Graves Second Addition to the northeast corner of Lot 23; thence north 33 feet along the west line of Lot 26 of Graves Second Addition; thence east 49.5 feet parallel with the south line of Lot 26; thence north 132 feet parallel with the west lines of Lots 26 and 27 of Graves Second Addition to the centerline of Greenwood Avenue; thence east 0.50 feet along the centerline of Greenwood Avenue; thence north 165 feet, parallel with the west lines of Lots 93 and 94 of Graves Second Addition and 50 feet easterly there from, to the north line of Lot 94; thence west 18.54 feet to the southeast corner of Lot 1 of Graves Third Addition; thence north along the east lines of Lots 1, 40 and 41 of Graves Third Addition to the south line of Parkway Drive; thence easterly along the south line of Parkway Drive to the easterly line of Hanover Street; thence south along the east line of Hanover Street to the southwest corner of Lot 77 of Walter's Addition; thence east along the south lines of Lots 77, 76, 75 and 74 of Walter's Addition to the west line of Hazel Street; thence north along the west line of Hazel Street to the south line of Seedorff Street; thence east along the south line of Seedorff Street to the northeast corner of Lot 44 of Walter's Addition; thence south along the east lines of Lots 44 through 50, inclusive, of Walter's Addition and the extension thereof to the south line of Walter Avenue; thence east to the northeast corner of Lot 1 of Rice and Weston's Addition; thence south along the east lines of Lots 1 through 9 inclusive of Rice and Weston's Addition, and the southerly extension thereof to the centerline of Emmett Street West; thence east along the centerline of Emmett Street West to the centerline of Brook Street; thence southerly along the centerline of Brook Street to the centerline of Champion Street; thence easterly along the centerline of Champion Street to the northerly extension of a line which lies 17.5 feet easterly of and parallel with the west line of Lot 17 of McCamly's Addition; thence southerly along said line to the southerly line of Lot 17; thence easterly two feet along the south line of Lot 17; thence southerly along a line which lies 19.5 feet easterly of and parallel with the west line of Lot 17 of Range of Blocks 4 of the plat of original Battle Creek; and the southerly extension of said line to the centerline of Van Buren Street West; thence westerly along the centerline of Van Buren Street West to the centerline of Gould Street; thence southerly along the centerline of Gould Street to the centerline of Michigan Avenue West; thence easterly along the centerline of Michigan Avenue West to the centerline of Barney Street; thence southerly along the centerline of Barney Street to the centerline of Jackson Street West and the place of beginning.

(c) The Old Maple Street Historic District. Beginning at the intersection of the centerline of Capital Avenue Northeast and the centerline of Division Street North, and running thence northeasterly along the centerline of Capital Avenue Northeast to the northerly extension of the west line of Lot 12 of the Assessor's Plat of Hinman's Subdivision; thence southerly along the west line of Lot 12 to the southwest corner thereof; thence easterly along the southerly lines of Lots 12 and 14 of said plat to the centerline of Penn Street; thence northerly along the centerline of Penn Street to point of intersection with a line perpendicular to the west line of Lot 2 of Hart's Addition and 126.16 feet south of the northwest corner of said Lot 2; thence easterly along said

perpendicular line to the westerly line of said Lot 2; thence easterly 132.33 feet to a point on the westerly line of Lot 3 of said plat distant southerly 128.94 feet from the northwest corner of said Lot 3; thence southerly 65.1 feet to the southwest corner of Lot 3, thence easterly 265.32 feet along the south lines of Lots 3 and 4 to the northeast corner of Lot 15 of said Hart's Addition; thence southerly along the east line of Lot 15 to a point distant northerly 75 feet from the southeast corner thereof, thence easterly 175.56 feet parallel with the south line of Lot 14 of said Hart's Addition to the centerline of Elm Street; thence northerly along the centerline of Elm Street to point of intersection with a line perpendicular to the west line of Lot 6 of Hart's Addition; thence east along said line to a point on the west line of Lot 6 which lies sixty-six feet north of the southwest corner thereof; thence easterly, parallel with the south line of said Lot 6 to a point 66 feet west of the east line of Lot 6, thence southerly ten feet, parallel with the east line of said Lot 6; thence easterly 66.7 feet parallel with the south line of Lot 6 to the easterly line thereof; thence southerly fifty-five feet to the northwest corner of Lot 12 of Hart's Addition; thence southerly along the west line of Lot 12 to a point distant northerly 115.5 feet from the southwest corner thereof; thence easterly 53.13 feet, parallel with the south line of Lot 12; thence northerly 16.5 feet, parallel with the west line of Lot 12; thence easterly 157.56 feet to a point 132.44 feet north of the south line of Lot 11 of Hart's Addition; thence north 141.25 feet, parallel with the east line of said Lot 11 to the north line thereof; thence easterly 44.4 feet, more or less, to the northeast corner of said Lot 11; thence northerly 56.85 feet along the east line of Lot 8 of Hart's Addition; thence northeasterly 116.4 feet to a point on the east line of Lot 9 of Hart's Addition distant north 59.09 feet from the southeast corner of said Lot 9; thence east thirty-three feet at right angles to Poplar Street, to the centerline thereof; thence north along the centerline of Poplar Street to the point of intersection with the southwesterly extension of the centerline an alley; thence northeasterly along the centerline of said alley which adjoins the southeasterly lines of Lots 2, 3, 4 and 27 of Charles Merritt's Second Addition to Battle Creek, to the southerly extension of the easterly line of Lot 27; thence northerly along the easterly line of Lot 27 to the centerline of Capital Avenue Northeast; thence southwesterly along the centerline of Capital Avenue Northeast to the centerline of Orchard Place; thence north along the centerline of Orchard Place to the point of intersection with a line perpendicular to the east line of Lot 1 of Charles Merritt's Third Addition, at a point distant north 246 feet from the southeast corner of said Lot 1; thence west 152 feet to a point distant northerly 270 feet from the south line of said Lot 1; thence northwesterly twenty-seven feet to a point on the easterly extension of the southerly line of Lot 33 of Charles Merritt's Addition, distant easterly 41.14 feet from the southeast corner of said Lot 3; thence westerly along the south lines of Lots 33 through 38, inclusive of Charles Merritt's Addition to a point distant westerly 63.8 feet from the southeast corner of Lot 38; thence southerly 72 feet at right angles; thence westerly 12.75 feet at right angles; thence southerly 49.5 feet at right angles; thence westerly at right angles 149.23 feet to the centerline of Chestnut Street; thence north along the centerline of Chestnut Street to the centerline of Frelinghuysen Avenue, thence westerly along the centerline of Frelinghuysen Avenue to the northerly extension of the easterly line of Lot 205 of the Assessor's re-plat of Merritt's Supplement to Block 2; thence southerly along the easterly line of Lot 205 to the southeast corner thereof; thence westerly to the northwest corner of Lot 193 of said Assessor's re-plat; thence southerly along the west line of Lot 193 to the centerline of Capital Avenue northeast; thence northeasterly along the centerline of Capital Avenue northeast to the centerline of Division Street North and the place of beginning.

(d) The Merritt's Woods Historic District. Beginning at the northeast corner of Chestnut and Emmett Streets in the City, the same being thirty-three feet north of the east and west quarter line (as occupied) and 805 feet west of the north and south quarter line of Section 6, Town 2, South, Range 7 West; thence N. 0 15' E., along the east line of Chestnut Street 840.35 feet to point "B," distant 450.65 feet south of the north line of such Section (as now located and used);

thence from such east line of Chestnut Street as tangent, and starting in the opposite direction (S. 0 15' W.), on a curve to the left of twenty feet radius, southerly and easterly, 37.35 feet to point "C"; thence N. 73 15' E., on tangent to such curve, 115.4 feet to point "D"; thence from the last course as tangent, on a curve to the right, of seventy-five feet radius, 110.55 feet, to point "E"; thence S. 22 18' E., on tangent to such curve, 16.4 feet, to point "F"; thence S. 89 45' E., 164 feet, to point "G"; thence S. 47 56' E., thirty feet, to point "H"; thence N. 74 42' E., 225 feet, to point "I"; distant 162 feet west of the north and south quarter line of such Section; thence S. 0 7' E., parallel with such quarter line, 196.8 feet, to point "J"; thence from last course as tangent, on a curve to the left of eighteen feet radius, 28.27 feet to point "K"; thence N. 89 53' E., at right angles with such quarter line, 144 feet to such quarter line, at a point ("L") 621.1 feet north of Emmett Street and 654.8 feet south of such Section line; thence S. 0 7' E., along such quarter line, 621.1 feet to the north line of Emmett Street, at point "M"; thence N. 89 58' W., along such north line of Emmett Street, 805 feet to the place of beginning.

(e) The Village at Irving Park Historic District. Charles and R. B. Merritt's Addition, being all of Lots 46 through 53, parts of Lots 39 through 45, and portions of vacated Tompkins and Spruce Streets more particularly described as: Beginning at the northeast corner of Lot 48; thence north 87°52'00" west along the southerly line of Garfield Avenue 335.90 feet; thence south 02°43'37" east 77.43 feet; thence southeasterly along an arc to the right 225.06 feet whose radius is 400 feet and whose chord bears south 23°06'22" east 222.10 feet; thence southerly along an arc to the left 182 feet whose radius is 320 feet and whose chord bears south 53°58'10" east 179.55 feet; thence south 70°56'19" east 25.02 feet; thence south 88°15'00" east 90.61 feet; thence north 02°10'00" west along the western line of West Street 385.95 feet to the point of beginning; subject to easements of record.

1470.20 ENFORCEMENT; REMEDIES.

(a) The Inspections Division is hereby authorized and directed to enforce all provisions of this chapter, subject to review by the Historic District Commission.

(b) If the City Commission determines that pending work will cause irreparable harm to resources located within an established Historic District or a proposed Historic District, the City Commission may by resolution, declare an emergency moratorium on all such work for a period not to exceed six months. The City Commission may extend the emergency moratorium for an additional period not to exceed six months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(c) Whenever any work on a resource subject to this chapter is being done contrary to the provisions of this chapter or this Building and Housing Code, officials of the Inspections Division may order the work stopped by notice served, in writing, to the owner of record. Such persons engaged in doing or causing such work shall immediately stop such work until authorized by the Inspections Division to proceed after review by the Historic District Commission.

(d) When work has been done upon a resource without a permit, and the Historic District Commission finds that the work does not qualify for a certificate of appropriateness, the Commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work, or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the Circuit Court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not or cannot comply with the order of the

Court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the Court's order. The cost of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. In acting pursuant to an order of the Circuit Court, the Commission or its agents may enter the property for purposes of this section.

(e) The remedies provided for in this chapter shall be cumulative and not exhaustive and shall be in addition to any and all other remedies available at law or in equity to prevent or remedy any violation herein.

1470.21 VIOLATIONS.

(a) No person shall cause or permit the erection, construction, enlargement, alteration, repair, movement, improvement, removal, conversion or demolition of any resource subject to this chapter:

- (1) Without applying for and obtaining the necessary permit as required by this chapter;
- (2) After a stop-work order has been issued pursuant to this chapter; and

(3) Without conforming to the application and its supporting materials as approved by the Historic District Commission through the issuance of a certificate of appropriateness or notice to proceed.

(b) Violations of this chapter shall result in the issuance of a Municipal civil infraction citation directing the person to appear in Court as provided in Chapter 87 of the Revised Judicature Act, M.C.L.A. 600.8701, et seq., regarding the occurrence or existence of a violation of this chapter.

1470.99 PENALTIES.

(a) A person who violates any provision of this chapter is responsible for a Class D Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98 of these Codified Ordinances.

(b) In addition to any penalty provided for in this section, a person who violates any provision of this chapter may be ordered by the Court to pay the cost to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

CITY OF BATTLE CREEK

HISTORIC DISTRICT COMMISSION

10 North Division, Battle Creek, MI 49014

Minutes for Monday, February 12, 2024

MEETING CALLED TO ORDER: By Chairperson Simpson at 4:04 p.m.

This meeting was held in-person.

ATTENDANCE: A roll call was taken:

Comm. Simpson, Present

Comm. Drozdowski, Absent

Comm. Davis, Present

Comm. Sallee, Absent

Comm. Thornton, Present

Comm. Steinbrunner, Present

Staff Present: Darcy Schmitt, Planning Supervisor, Travis Sullivan, Planning Administrator, CJ Sivak-Schwennesen, City Planner, Melody Carlsen, Administrative Assistant, Marcel Stoetzel, Deputy City Attorney.

ADDITIONS OR DELETIONS TO AGENDA: None.

APPROVAL OF MINUTES: Approval of December 11, 2023 meeting minutes.

MOTION MADE BY COMM. STEINBRUNNER TO APPROVE THE MINUTES FOR DECEMBER 12, 2023 AS SUBMITTED. SECONDED BY COMM. THORNTON.

A vote was taken and all those in favor to say “aye”: **ALL IN FAVOR, MOTION APPROVED.**

CORRESPONDENCE: None.

OLD BUSINESS: None.

NEW BUSINESS:

A. H01-24 (55 Merwood Dr)

Petition for a Certificate of Appropriateness, filed by Brett Mahaffey on behalf of Victoria Vink and Michael Vincent of 55 Merwood Dr., for the replacement of 22 windows on the home with matching double-hung windows. Parcel #5390-00-027-0.

Staff Presentation: CJ Sivak-Schwennesen gave the staff report for H01-24. With the recommendation for staff approval of the replacement of 22 matching windows.

Applicant Presentation: Brett Mahaffey of Renewal by Anderson was present to speak and answer questions by commissioners.

Commissioner Questions:

Commissioner Simpson asked if the new windows were going to be double hung and the reason for going with two picture windows.

Commissioner Steinbrunner asked the applicant for clarification of which windows were going to be pictured glass and if the windows were going to have the same grid pattern as the old windows.

MOTION MADE BY COMMISSIONER THORNTON TO APPROVE THE CERTIFICATE OF APPROPRIATENESS H01-24, SECONDED BY COMMISSIONER STEINBRUNNER.

A roll vote was taken: ALL IN FAVOR, MOTION APPROVED.

B. Chapter 1470 (Historic Preservation Ordinance) Amendments

Staff Presentation: Travis Sullivan gave the staff report for the proposed amendment changes to Chapter 1470 Historic Preservation Ordinance. Staff recommends that HDC recommend to the City Commission approval of the proposed amendment changes as stated.

Commissioner Comments:

Commissioner Simpson inquired to what triggered these changes.

Commissioner Thornton discussed terms and the requirement of having an architect serving on the board.

Commissioner Steinbrunner asked for clarification on if we are discussing specifically to term limits.

Commissioner Thornton asked the Attorney if the changes are correct legally.

Marcel Stoetzel responded to Commissioner Thornton's question.

MOTION MADE BY COMMISSIONER STEINBRUNNER TO RECOMMEND THE AMENDMENT CHANGES OUTLINED IN THE STAFF REPORT TO CHAPTER 1470 HISTORIC PRESERVATION ORDINANCE TO THE CITY COUNCIL FOR APPROVAL, SECONDED BY COMMISSIONER DAVIS.

A roll vote was taken: ALL IN FAVOR, NONE OPPOSED. MOTION APPROVED.

C. Historic District Commission Bylaws Amendments

Staff Presentation: Travis Sullivan gave the staff report for the Historic District Commission proposed Bylaws amendment changes. Staff recommends that HDC consider a two-step approach to adopt the stated changes; discussion of the proposed amendments to the adopted bylaws with action being taken at a future meeting.

Commissioner Comments:

Commissioner Steinbrunner inquired about changes to the current agenda.

MOTION MADE BY COMMISSIONER THORNTON TO INTRODUCE THE HISTORIC DISTRICT COMMISSION BYLAWS AMENDMENT CHANGES WITH ACTION TAKEN AT A FUTURE MEETING, SECONDED BY COMMISSIONER DAVIS.

A roll vote was taken: ALL IN FAVOR, NONE OPPOSED. MOTION APPROVED.

D. Economic and Technical Feasibility, Undue Financial Hardship, Economic Hardship and Economically Feasible Plans

Staff Report: Travis Sullivan gave the staff report and explanation for the proposed changes. Staff recommends that the HDC entertain a discussion regarding the proposed feasibility and hardship policy. Discussion only, no action required.

Commission Comments:

Commissioner Simpson commented on the current practice and expressed the need for support for hardship cases.

Commissioner Steinbrunner asked if the city has any scholarships to offer to people.

Darcy Schmitt responded to questions and gave some information to how other areas are handling this type of issue.

NO ACTION REQUIRED. INFORMATIONAL REPORT FOR THE BODY TO VIEW AND ADDRESS AT A LATER DATE.

E. Historic District Commission Minor Class or Work Amendment

Staff Report: Travis Sullivan gave the staff report outlining the proposed amendment changes for Minor Class of Work.

Commissioner Comments:

Commissioner Simpson had questions and asked for clarification on processes. Early communication would be best in these cases. What department in the City is at the front end of these applicants? Any projects of this type waiting for approval right now and is there any reason why we should not consider the State Historic Preservation's offices actions and opinions good enough for us? Also, recommends increased communication in the beginning of the application process.

Commissioner Davis stressed concerns about how residents or Community Development does not know when a house is in a Historic District. There should something in place to make sure residents are aware they live in a Historic District. Not comfortable giving up the Board's responsibly and oversight. Would like to see this type of work come before the HDC, does not want to give up their approval.

RECESS TAKEN DUE TO AN OUTSIDE EMERGENCY

Continued discussion between commission members and staff.

MOTION MADE BY COMMISSIONER STEINBRUNNER TO APPROVE THE MINOR CLASS OF WORK OF WORK AMENDMENT CHANGE WITH THE ATTACHMENT TO INCLUDE A MORE COMPREHENSIVE CONSIDERATION TO THE PROJECT IN THE BEGINNING STAGES. SECONDED BY COMMISSIONER THORNTON.

AMENDED MOTION MADE BY COMMISSIONER STEINBRUNNER TO INCLUDE THE CHANGES ON ITEM NUMBER 30, PAGE 101; REMOVE THE WORD "AND APPROVED". SECONDED BY COMMISSIONER THORNTON.

A roll vote was taken: THREE APPROVED, ONE OPPOSED, MOTION APPROVED.

F. 4th Quarter Administrative Report

Staff Report: Travis Sullivan gave an overview of projects that were approved by administration during the 4th quarter.

NO ACTION REQUIRED. INFORMATIONAL REPORT FOR THE BODY.

G. Election of Officers

MOTION MADE BY COMMISSIONER THORNTON TO APPROVE ROSS SIMPSON AS CHAIRPERSON, SECONDED BY COMMISSIONER DAVIS.

MOTION WAS MADE BY COMMISSIONER SIMPSON TO APPROVE KURT THORNTON AS CHAIRPERSON. COMMISSIONER THORNTON DECLINED THE MOTION.

A roll vote was taken: ALL IN FAVOR, NONE OPPOSED.

MOTION MADE BY COMMISSIONER SIMPSON TO APPROVE KURT THORNTON AS VICE CHAIRPERSON, SECONDED BY COMMISSIONER STEINBRUNNER.

A roll vote was taken: ALL IN FAVOR, NONE OPPOSED.

COMMENTS FROM THE PUBLIC: None.

COMMENTS FROM COMMISSION MEMBERS AND STAFF:

Staff Comments:

Travis Sullivan thanked the Commission for their review of the items presented today.

Commissioners:

Commissioner Steinbrunner mentioned the ceiling in an adjacent room to reveal the stained glass and asked how to move forward with this project.

Commissioner Davis would like to see work on publication/notification to educate Historic District homeowners.

Commissioner Thornton thanked staff for their work in putting the presented reports together.

Commissioner Simpson apologized for the delay he caused during the meeting and thanked the Board for trusting him as the Chairperson. Would like to see an architect on the Board as soon as possible.

ADJOURNMENT: Commissioner Simpson adjourned the meeting at 5:53 p.m.

Submitted by: Melody Carlsen, Planning and Zoning Administrative Assistant



Resolution

NO. 397

A Resolution seeking to adopt Ordinance #02-2024, an Ordinance to amend the Zoning Code of the City of Battle Creek.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the City Commission of the City of Battle Creek:

That Ordinance #02-2024 described in the following sections and introduced on March 19, 2023 be adopted:

Section 1: An Ordinance to adopt an update to the Zoning Ordinance, attached hereto. The proposed Ordinance, Part 12 of the Codified Ordinances includes modifications to allow a two foot increase in height for accessory structures, an increase in the allowed size of accessory structures when located on larger lots, a reduction in the minimum lot widths in zoning districts R-3, T-3, T-4 and T-5, adds language to allow food trucks as an accessory use in the B-1, B-2, T-3, T-4, T-5, I-1, I-2 and S Districts, and corrects and clarifies some of the use and dimensional requirements.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this Ordinance, which shall remain subject to the Ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Darcy Schmitt, Planning Supervisor

Department: Planning

SUMMARY

A Resolution seeking to adopt Ordinance #02-2024, an Ordinance to amend the Zoning Code of the City of Battle Creek.

BUDGETARY CONSIDERATIONS

There are no additional permit/licenses being proposed by the proposed Ordinance, nor are there new services proposed that will require additional resources. Therefore, adoption of the update to the Zoning Code will not have an impact to the budget.

HISTORY, BACKGROUND and DISCUSSION

The proposed amendments are a result of questions and concerns brought to the attention of the City by residents or property owners where they felt certain requirements are overly restrictive, unclear or incorrect.

Chapter 1240 Zoning Districts and Map: The primary revisions involved reducing the minimum lot widths in the R-3, T-3, T-4 and T-5 Districts to better reflect the density and types of uses allowed in these districts. They also involved clarifying existing lot requirements by replacing the Minimum Lot Area regulation for residential uses with the Maximum Residential Units Per Acre while not changing the existing intensity of the districts, as well as adding the Minimum Lot Depth regulation for all districts pursuant of Section 1240.21(a)(7). Other revisions include adding food trucks to the B-1, B-2, T-3, T-4, T-5, I-1, I-2, and S Districts as accessory uses as this is how they have been regulated for the past several years and making typographical corrections and alignment between the Table of Permitted Uses and District tables.

Chapter 1241 Schedule of Regulations: Revisions were made to reflect the changes made to Section 1240. In Section 1241.07(b)(7), storage and parking of vehicles in the required front yard of R Districts and the T-3 District is permitted currently only on legally authorized driveways so the following disclaimer was added, "unless otherwise allowed in other sections of the Zoning Code".

Chapter 1251 Standards Applicable to Specific Uses: Revisions not constituting substantive changes to the operation and execution were made throughout the Chapter, including reformatting and punctuation changes. Section 1251.14 was changed from "Drive-Thru Restaurant" to "Drive-Thru Business" with no further substantive revisions made to the text regarding use standards to address all drive-thru businesses. The buffer requirement for Transitional and Supportive Residential Housing for More than Six Persons to not be within a 1,500 ft. radius of another Transitional and Supportive Residential Home or State Licensed Residential Care Facility in Section 1251.50(2) has been removed to meet state requirements. Section 1251.33(a) was removed because it was in part added to Sections 1240 and 1241 with other dimensional requirements for the district and in part because the size of a building is already regulated through the maximum residential units per acre and minimum lot size requirements.

Chapter 1260 General Provisions: Changes were made to allow for more flexibility when proposing accessory buildings on large lot properties. The maximum size of the floor areas of any single accessory building has been changed from a fixed number to meeting requirements stated in 1260.01(c)(1) and (2). The maximum height for accessory buildings has also been increased from fourteen feet in height to sixteen feet in height. The specifications for construction of accessory buildings in a secondary front yard have been related back to the specifications stated in Chapter 1230. With the proposed increase in height of two feet, accessory structures will be able to house campers and have no substantial impact on surrounding properties. It will also regulate the footprint of the building by not allowing it to exceed fifty percent of the rear yard or increase the overall building coverage of the zoning district beyond the maximum allowed coverage.

Chapter 1281 Administrative Procedures: The significant revision here is the addition of a six month limit on complete applications without action, after which they expire. This requires that a new application and the associated fee to be submitted after that six month limit.

DISCUSSION OF THE ISSUE

POSITIONS

The Planning Commission, at their February 28, 2024 meeting, held a public hearing on the draft amendments to the Zoning Code. There were no public comments during the public hearing. With (7) seven members present, the Planning Commission voted unanimously to recommend the City Commission approve the proposed amendments to the Zoning Code.

Staff finds that the proposed amendments to the Zoning Code are needed to fix errors, improve clarity and provide additional flexibility to land uses for residents and property owners in the community without compromising safety and quality of life for the residents.

A Resolution seeking to adopt Ordinance #02-2024 to amend the Zoning Code of Battle Creek is recommended.

ATTACHMENTS:

File Name	Description
❑ Text_Amendment_Staff_Report.pdf	Staff Report
❑ 1240_Zoning_Districts_and_Map_Clean_Copy.pdf	Chapter 1240_Clean Copy
❑ 1240_Zoning_Districts_and_Map_Mark_Up.pdf	Chapter 1240_Mark Up
❑ 1241_Schedule_of_Regulations_Clean_Copy.pdf	Chapter 1241_Clean Copy
❑ 1241_Schedule_of_Regulations_Mark_Up.pdf	Chapter 1241_Mark Up
❑ 1251_Standards_Applicable_to_Specific_Uses_Clean_Copy.pdf	Chapter 1251_Clean Copy
❑ 1251_Standards_Applicable_to_Specific_Uses_Mark_Up.pdf	Chapter 1251_Mark Up
❑ 1260_General_Provisions_Clean_Copy.pdf	Chapter 1260_Clean Copy
❑ 1260_General_Provisions_Mark_Up.pdf	Chapter 1260_Mark Up
❑ 1281_Administrative_Procedures_Clean_Copy.pdf	Chapter 1281_Clean Copy
❑ 1281_Administrative_Procedures_Mark_Up.pdf	Chapter 1281_Mark Up
❑ 02.28.2024_Planning_Commission_Meeting_Minutes_Draft.pdf	Draft PC Minutes_02.28.24



Battle Creek City Planning Commission Staff Report for the February 28, 2024 Regular Meeting

To: Planning Commissioners

From: CJ Sivak-Schwennesen, Planner

Subjects: Request from the City of Battle Creek to consider amendments to various sections of the City of Battle Creek zoning code pursuant to Section 1281.01.

Summary

Request from the City of Battle Creek to consider amendments to various sections of the City of Battle Creek zoning code pursuant to Section 1281.01.

Background

Chapter 1240 Zoning Districts and Map: The primary revisions involved reducing the minimum lot widths in the R-3, T-3, T-4 and T-5 Districts to better reflect the density and types of uses allowed in these districts. They also involved clarifying existing lot requirements by replacing the Minimum Lot Area regulation for residential uses with the Maximum Residential Units Per Acre while not changing the existing intensity of the districts, as well as adding the Minimum Lot Depth regulation for all districts pursuant of Section 1240.21(a)(7). Other revisions include adding food trucks to the B-1, B-2, T-3, T-4, T-5, I-1, I-2, and S Districts as accessory uses as this is how they have been regulated for the past several years and making typographical corrections and alignment between the Table of Permitted Uses and District tables.

Chapter 1241 Schedule of Regulations: Revisions were made to reflect the changes made to Section 1240. In Section 1241.07(b)(7), storage and parking of vehicles in the required front yard of R Districts and T-3 District is permitted currently only on legally authorized driveways so the following disclaimer was added, “unless otherwise allowed in other sections of the Zoning Code”.

Chapter 1251 Standards Applicable to Specific Uses: Revisions not constituting substantive changes to the operation and execution were made throughout the Chapter, including reformatting and punctuation changes. Section 1251.14 was changed from “Drive-Thru Restaurant” to “Drive-Thru Business” with no further substantive revisions made to the text regarding use standards to address all drive-thru businesses. The buffer requirement for a Transitional and Supportive Residential Housing for More than Six Persons to not be within a 1,500 ft. radius of another Transitional and Supportive Residential Home or State Licensed Residential Care Facility in Section 1251.50(2) has been removed to meet state requirements. Section 1251.33(a) was removed because it was in part added to Sections 1240 and 1241 with other dimensional requirements for the district and in part because the size of a building is already regulated through the maximum residential units per acre and minimum lot size requirements.

Chapter 1260 General Provisions: Changes were made to allow for more flexibility when proposing accessory buildings on large lot properties. The maximum size of the floor areas of any single accessory building has been changed from a fixed number to meeting requirements stated in 1260.01(c)(1) and (2). The maximum height for accessory buildings has also been increased from fourteen feet in height to sixteen feet in height. The specifications for construction of accessory buildings in a secondary front yard have been related back to the specifications stated in Chapter 1230. With the proposed increase in height of two feet, accessory structures will be able to house campers and have no substantial impact on surrounding properties. It will also regulate the footprint of the building by not allowing it to exceed fifty percent of the rear yard or increase the overall building coverage of the zoning district beyond the maximum allowed coverage.

Chapter 1281 Administrative Procedures: The significant revision here is the addition of a six month limit on complete applications without action, after which they expire. This requires that a new application and the associated fee to be submitted after that six month limit.

Public Hearing and Notice Requirements

This request has been scheduled for the February 28, 2024 Planning Commission meeting, with notice of the hearing published in the February 8th, 2024 edition of the Battle Creek Shopper.

Support Material

Ordinance Amendment Spreadsheet

Ordinance Amendments (Redline copy followed by clean copy for each chapter)

Item No.	Section(s)	Issues	Solutions	Comments
1	1240.02	Lack of marking where an Accessory Use would require a Special Land Use permit in the Table of Uses.	Add a use type signified by A ^S to represent this use category in the Table of Uses.	
2	1240.03, 1240.04, 1240.08	Uses listed do not match the Table of Permitted Uses;	<ul style="list-style-type: none"> a. Corrected Use lists. b. Replaced Minimum Lot Area regulation with Maximum Residential Units per Acre regulation. c. Added Required Minimum Lot Depth regulation. 	
3	1240.04	Uses listed do not match the Table of Permitted Uses;	<ul style="list-style-type: none"> a. Corrected Use lists. b. Replaced Minimum Lot Area regulation with Maximum Residential Units per Acre regulation. c. Added Required Minimum Lot Depth regulation. 	
4	1240.05, 1240.06	Error in the upper limit associated with Adult Foster Care Large Group Home;	<ul style="list-style-type: none"> a. Corrected errors. b. Replaced Minimum Lot Area regulation with Maximum Residential Units per Acre regulation. c. Added Required Minimum Lot Depth regulation. 	
5	1240.07		<ul style="list-style-type: none"> a. Replaced Minimum Lot Area regulation with Maximum Residential Units per Acre regulation. b. Added Required Minimum Lot Depth regulation. 	
6	1240.09		<ul style="list-style-type: none"> a. Replaced Minimum Lot Area regulation with Maximum 	

			<p>Residential Units per Acre regulation.</p> <p>b. Added Required Minimum Lot Depth regulation.</p> <p>c. Specified 2.5 story limit in the Maximum Building Height regulation.</p> <p>d. Changed the minimum lot width from 60' to 40'.</p>	
7	1240.10	Table must reflect proposed changes to 1240.02 Table of Permitted Uses	<p>a. Corrected errors.</p> <p>b. Replaced Minimum Lot Area regulation with Maximum Residential Units per Acre regulation.</p> <p>c. Added Required Minimum Lot Depth regulation.</p>	
8	1240.11		<p>a. Reorganized Restaurant Use types within Permitted Uses.</p> <p>b. Removed Minimum Lot Area regulation.</p> <p>c. Added Required Minimum Lot Depth regulation.</p> <p>d. Adding Food Trucks to Accessory Uses.</p>	
9	1240.12		<p>a. Reorganized Restaurant Use types within Permitted Uses.</p> <p>b. Added the Required Minimum Lot Depth regulation.</p> <p>c.</p>	
10	1240.13	Table must reflect proposed changes to 1240.02 Table of Permitted Uses; Existing lot dimensions and setbacks prevent construction on smaller lots,	<p>a. Corrected errors in Use lists.</p> <p>b. Replaced Minimum Lot Area regulation with Maximum Units</p>	

		especially those with multiple frontages.	<p>per Acre regulation.</p> <p>c. Changed Minimum Lot Width from 60ft to 30ft.</p> <p>d. Added Minimum Lot Depth regulation.</p> <p>e. Associated Front Yard Setback with Section 1250.04(d)(1)A.</p> <p>f. Adding Food Trucks to Accessory Uses.</p>	
11	1240.14	Table must reflect proposed changes to 1240.02 Table of Permitted Uses; Existing lot dimensions and setbacks prevent construction on smaller lots, especially those with multiple frontages.	<p>a. Corrected errors in Use lists.</p> <p>b. Changed Minimum Lot Area regulation to “Not Required”.</p> <p>c. Changed Minimum Lot Width from 60ft to 40ft.</p> <p>d. Added Minimum Lot Depth regulation.</p> <p>e. Associated Front Yard Setback with Section 1250.04(d)(1)A.</p> <p>f. Adding Food Trucks to Accessory Uses.</p> <p>g. Adding Food Trucks to Accessory Uses.</p>	

12	1240.15	Existing lot dimensions and setbacks prevent construction on smaller lots, especially those with multiple frontages.	<ul style="list-style-type: none"> a. Reorganized Restaurant types within Permitted Uses. b. Replaced Minimum Lot Area regulation with Maximum Residential Units per Acre regulation. c. Changed Minimum Lot Width from 60ft to 30ft. d. Added Required Minimum Lot Depth regulation. e. Associated Front Yard Setback with Section 1250.04(d)(1)A. f. Adding Food Trucks to Accessory Uses. 	
13	1240.16	Table must reflect proposed changes to 1240.02 Table of Permitted Uses;	<ul style="list-style-type: none"> a. Reorganized Restaurant types within Permitted Uses. b. Added Vehicle Repair, Minor to Permitted Uses. c. Added Required Minimum Lot Depth regulation. d. Changed Maximum Percent of Building Coverate to Not Required. e. Adding Food Trucks to Accessory Uses. 	
14	1240.17	Table must reflect proposed changes to 1240.02 Table of Permitted Uses;	<ul style="list-style-type: none"> a. Reorganized Restaurant types within Permitted Uses. b. Added Vehicle Repair, Minor to Permitted Uses. c. Added Required Minimum Lot Depth regulation. 	

15	1240.18	Table must reflect proposed changes to 1240.02 Table of Permitted Uses;	<ul style="list-style-type: none"> a. Reorganized Restaurant types within Permitted Uses. b. Added State Licensed Child Care Family Home 1-7 and 8-14 Children to Accessory Uses. c. Added Required Minimum Lot Depth regulation. d. Adding Food Trucks to Accessory Uses. 	
16	1241.02		<ul style="list-style-type: none"> a. Added column for Max. Units Per Acre regulation. b. Updated Minimum Lot Widths to reflect proposed changes in Section 1240. 	
17	1241.07(b)(7)		Specified that parking or storage of vehicles on a required front yard is not permitted in any R District or the T-3 District, unless otherwise allowed in this code.	
18	1251.02(a)	Typographical errors	Corrected errors.	
19	1251.12(b)	Typographical errors	Corrected errors.	
20	1251.12(d)(3)	Sentence phrasing unclear	Rephrased sentence with no substantive change to the Zoning Code text.	
21	1251.12(d)(12)	Typographical errors	Corrected errors.	
22	1251.13 (multiple)	Existing code was too limited, restricting standards to only drive-thru restaurants rather than any business with a drive-thru component	Change “Restaurant” to “Business” within this section of the Standards to broaden its scope	
23	1251.17(c)	Typographical errors	Corrected errors.	

24	1251.18(c)(4)	Typographical errors	Corrected errors.	
25	1251.20(b)	Typographical errors	Corrected errors.	
26	1251.28(b)		Changed “day” in “day care” to “child”, for a cumulative change to “child care”.	
27	1251.29(b)		Changed “day” in “day care” to “child”, for a cumulative change to “child care”.	
28	1251.31(b)		Changed “day” in “day care” to “child”, for a cumulative change to “child care”.	
29	1251.32(b)		Changed “day” in “day care” to “child”, for a cumulative change to “child care”.	
30	1251.33	Redundant and unclear language.	Removed language under Section 1251.33(a)	
31	1251.41(a)	Existing wording was unclear	Clarified wording with no substantive change to the Zoning Code text.	
32	1251.41(b)	No heading present to describe what standards this section discussed	Added heading after section indication.	
33	1251.50(b)	It does not meet the state requirements.	Removed the buffer between other Transitional and Supportive Homes or State Licensed Residential Facilities.	
34	1251.50 (multiple)	Previous change made the section numbering inaccurate	Re-numbered following sections to accommodate the addition of 1251.50(b)	
35	1260.01(c)(3)	Reasonable requests for large accessory buildings on larger lots could not be granted due to existing	Changed the maximum floor area size of any single accessory building to be	

		restrictions on accessory building area	contingent to meeting requirements specified in 1260.01(c)(1) and (2) rather than providing a flat value.	
36	1260.01(d)	Reasonable requests for large accessory buildings on larger lots could not be granted due to existing restrictions on accessory building height	Changed the maximum height for accessory buildings from fourteen feet to sixteen feet.	
37	1260.01(e)(2)(A)	Existing text was lacking reference to front yard definition	Added reference to the definition as stated in Chapter 1230.	
38	1260.01(e)(2)(A)(1)	Existing text was lacking reference to front yard definition	Added reference to the definition as stated in Chapter 1230.	
39	1281.04(b)(4)	Site plan applications had previously been submitted and subsequently remained dormant while City staff asked for additional information necessary to approve the application. This was previously allowed to occur with no method of expiration or staff recourse.	Added a provision that site plan applications expire after six months of no action, and that a new application and the associated fees may be requested after six months pass.	
40	1281.04(e)(2)	Typographical errors	Corrected errors.	

Chapter 1240 Zoning Districts and Maps

1240.01 DISTRICTS ESTABLISHED.

In order to classify, regulate and restrict the location of trades, industries, and buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards, courtyards and other open spaces within and surrounding such buildings, the City is hereby divided into districts, as follows:

- G Green District
- AG Agricultural District
- R-1R Single Family Residential District
- R-1A Single-Family Residential District
- R-1B Single-Family Residential District
- R-2 Two Family Residential District
- R-3 Multiple Family Residential District
- MFR High Density Multiple Family Residential District
- B-1 Corridor Commercial District
- B-2 Regional Commercial District
- T-3 Neighborhood Commercial District
- T-4 Downtown Commercial
- T-5 Core Downtown Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- S Spark District

1240.02 TABLE OF PERMITTED USES.

The following table lists the permitted uses and special land uses in each zoning district. When a use is classified by square footage, the square footage listed refers to the gross square footage of a building and not the square footage of an individual tenant unit. A use classified by capacity, refers to the capacity established by the City Fire Inspector. Whenever a specific development standard is included for a particular use in the table below, any development must comply with the requirement of the referenced section in addition to all of the other applicable requirements of this Code. All development standards for specific uses are listed in Section 1251 and in other areas of this Code. Additionally, any use that is a special land use must also comply with the standards of Section 1281.05.

Uses		G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
A	Accessory Use																	
A^s	Accessory Use Requiring SLU Approval																	
E	Existing Use																	
P	Permitted Use																	
S	Special Use																	

Residential Uses

<i>Accessory Dwelling Unit</i>				A ^s	A ^s	A ^s	A	A			A	A	A			A	
<i>Bed and Breakfast</i>	P	P	P	P	P	P	P	P			P						1251.09
<i>Home Occupation</i>	A	A	A	A	A	A	A										1251.18
<i>Multi-Family Dwelling Units</i>							P	P			P	P	P			P	1251.33
<i>Personal-Scale Wind Energy Facility</i>	A	A	A	A	A	A					A					A	1251.39
<i>Rooming and Boarding Houses</i>						P	P										1251.43
<i>Single Family Dwelling Unit Attached</i>							P	P			P	P	E			P	

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Single Family Dwelling Unit Detached</i>	P	P	P	P	P	P	P	P	E	E	P	E	E	E	E	P	
<i>State Licensed Child Care Family Home, 1-7 Children</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1251.45
<i>State Licensed Child Care Group Home, 8- 14 Children</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1251.46
<i>State Licensed Child Care Center</i>	P							P	P	P	P	P	P	P	P	P	
<i>State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons</i>	P	P	P	P	P	P	P	P			P	P					1251.47
<i>State Licensed Residential Facility Adult Foster Care Small Group Home, 7- 12 Persons</i>	S	S	S	S	S	S	S	S									1251.48
<i>State Licensed Residential Facility Adult Foster Care Large Group Home 13- 20 Persons</i>	S	S	S	S	S	S	S	S									
<i>Transitional and Supportive Home, 1-6 Persons</i>			P	P	P	P	P	P			P	P					1251.49
<i>Transitional and Supportive Home, More than 6 Persons</i>			S	S	S	S	S	S			P	P					1251.50

Uses	G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Community Residential Facility and Group Homes						S	S	S									1251.48
Two-Family Dwelling Units						P	P	P			P	P	P			P	
Commercial Uses																	
Adult Business									S					S	S		1251.02
Agri-Tourism	S	S	S														
Arena/Theater									P	P						P	
Artisan/Maker Space									P	P	S	P	P	P	P	P	
Assisted Senior Living							P	P	P	P	P	P				P	1251.03
Automobile Car Wash Establishment									P	P				S	S		1251.04
Automobile Repair									P	P				P	P		1251.05
Automobile Service Station									S	P				P	P		1251.06
Automobile or Vehicle Dealership									P	P				P			1251.07
Banquet and Meeting Hall < 100 cap.	S						S	S	P	P	P	P	P			P	1251.08

Uses	G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Banquet and Meeting Hall > 100 cap.	S						S	S	P	P		P	P			P	1251.08
Bar, Tavern, or Saloon									S	P	S	P	P	S	S	P	
Bookstore									P	P	P	P	P			P	
Brewpub									P	P	S	P	P	P	P	P	
Catering Business									P	P	P	P	P				
Convalescent Home, Nursing Home, or Home for the Aged							P	P	P	P	P	P	S			S	1251.13
Distillery, Winery – w/ or w/o Food	P	P	S						P	P	S	P	P	P	P	P	
Event Center									P	P		P	P				
Farm Equip. and Heavy Machinery Sales														P	P		
Financial Institutions									P	P	P	P	P	P	P	P	
Funeral Homes, Mortuaries, and Crematoriums (No Crematoriums B-1, T-3,4)									P*	P	S*	S*		S			
Hospital > 20,000 s.f.								S	S	S		S	S	S	S		1251.19

Uses	G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Hotel</i>										P	S	P	P			P	1251.20
<i>Independent Senior Living with Services</i>							P	P	P		P	P	P			P	1251.21
<i>Indoor Recreation</i>	P								P	P	P	P	P			P	
<i>Kennels/Veterinarian</i>	S	S	S						P	P				S	P	S	1251.23
<i>Marihuana: Adult-Use</i>									P	P	S			P	P		1251.24
<i>Marihuana</i>																	1251.26
<i>Microbusiness</i>																	1251.27
<i>Marihuana: Adult-Use</i>									P	P	S	P	P	P	P		1251.24
<i>Marihuana Retailers</i>									P	P	S	P	P	P	P		1251.25
																	1251.27
<i>Marihuana: Medical</i>									P	P	S	P	P	P	P		1251.24
<i>Marihuana Provisioning Center</i>																	1251.30
																	1251.27
<i>Medical or Dental Clinic < 5,000 s.f.</i>									P	P	P	P	P				
<i>Medical or Dental Clinic <20,000 s.f.</i>								P	P	P	S	P	P			P	
<i>Motel</i>										P	S	P	P			P	1251.34
<i>Microbrewery</i>									P	P	S	P	P	P	P	P	1251.35

Uses	G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Nightclub									S	P	S	P	P	S	S	P	
Office < 5,000 s.f.									P	P	P	P	P	A	A	P	
Office 5,000 – 17,000 s.f.									P	P	P	P	P	A	A	P	
Office > 17,000 s.f.									P	P	S	P	P	A	A	P	
Outdoor Recreation/Private	P	P							P	P							1251.36
Outdoor Recreation/Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1251.36
Outdoor Storage									A	A				A	A		1251.37
Pawn Broker									P	P	S						
Personal Service Establishment									P	P	P	P	P			P	1251.40
Private Club									P	P	P	P	P				
Restaurant																	
Carry-Out Restaurant									P	P	P	P	P	P	P	P	
Drive-In Restaurant									P	P	P	S		P	P	P	

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Drive-Thru Restaurant									P	P	S	S		P	P		1251.14
Full-Service Restaurant									P	P	P	P	P	P	P	P	
Limited Service Restaurant									P	P	P	P	P	P	P	P	
<i>Retail Sales < 5,000 s.f.</i>									P	P	P	P	P	S	S	P	
<i>Retail Sales 5,000 – 17,000 s.f.</i>									P	P	P	P	P	S	S	P	
<i>Retail Sales > 17,000 s.f.</i>									P	P	S	P	P	S	S	P	
Tree Farm	P	P															
Vehicle Repair, Major									S	S				P	P		1251.54
Vehicle Repair, Minor									P	P				P	P		
<i>Industrial Uses</i>																	
Junk and Salvage Yard														S	S		1251.22
Manufacturing														P	P		
Marihuana: Medical and Adult Use														P	P		1251.24 1251.27

Uses	G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Marihuana Grow Operation</i>																	1251.28
<i>Marihuana: Medical and Adult Use</i>														P	P		1251.24
<i>Marihuana Processing Facility</i>																	1251.27 1251.29
<i>Marihuana: Medical and Adult Use</i>									P	P				P	P		1251.24
<i>Marihuana Safety Compliance Facility</i>																	1251.27 1251.31
<i>Marihuana: Medical and Adult Use</i>									P	P				P	P		1251.24
<i>Marihuana Secure Transporter</i>																	1251.27 1251.32
<i>Research and Development</i>									S	P		S		P	P	P	
<i>Self-Storage Facilities</i>									P	P							1251.44
<i>Transportation and Logistics</i>									S	S				P	P	P	
<i>Utility-Scale Solar Energy Facility</i>		S	S						A	A				P	P		1251.52
<i>Utility-Scale Wind Energy Facility</i>		S	S												S		1251.53
<i>Warehouse</i>									S	S				P	P	P	
<i>Wholesale</i>									S	S				P	P	P	

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Other Uses</i>																	
<i>Accessory Buildings</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1260.01
<i>Adaptive Reuse</i>	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	1251.01
<i>Campground</i>	S	S	S	S	S	S											1251.09
<i>Cemetery</i>		S	S	S	S	S	S	S	S	S	S			S	S	S	1251.10
<i>Community Garden</i>	P	P	P	P	P	P	P	P			P					P	1251.11
<i>Essential Services</i>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1240.21(b)
<i>Farmer's Market</i>	A/S	A/S									A/S	A	A			A	1251.15
<i>Food Truck</i>									A	A	A	A	A	A	A	A	
<i>General and Specialized farms, including crops and the raising and keeping for profit of cattle, hogs, horses, ponies, sheep and similar livestock</i>		P															1251.17
<i>Government/Public Uses</i>									P	P	P	P	P	P		P	1251.16

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Greenhouse/Nursery (Principal Use)</i>	P	P	P							P				P		P	
<i>Institutions of Higher Education</i>	S	S	S	S	S	S	S	P	P	P	S	P	P	P	P	P	
<i>Marinas</i>	S										S					S	
<i>Parking as a Principal Use</i>										S		S	S	S	S	S	
<i>Private K-12 Schools</i>			S	S	S	S	S	S	P	P	S	S	P			S	
<i>Private Garden</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1251.41
<i>Public K-12 Schools</i>			P	P	P	P	P	P	P	P	P	P	P			P	
<i>Public and private conservation areas and structures for the conservation of open space, water, soil, forest, and wildlife resources</i>	P	P															
<i>Religious Institutions</i>	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	1251.42
<i>Telecommunications</i>	Refer to Section 1251.49 to see where telecommunication towers are permitted.																1251.49
<i>Mobile Home Park Overlay District</i>	Refer to Section 1250.05 for Mobile Home Park requirements.																1250.05

1240.03 G GREEN DISTRICT.

(a) Purpose

It is the purposes of this district to:

1. Preserve and protect natural and man-made water areas, flood plains, marshes, and wetlands from development other than open spaces or recreational uses
2. Preserve and protect agricultural districts and/or wildlife habitats
3. Limit residential and commercial development and encourage design that preserves natural environments
4. Retain natural drainage patterns
5. Preserve and protect the values of distinctive geologic, topographic, botanic, historic, or scenic areas

(b) Permitted Uses

- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Child Care Centers
- Distillery, Winery – w/ or w/o food
- Essential Services
- Greenhouse/Nursery (Principal Use)
- Indoor Recreation
- Outdoor Recreation/Private (Section 1251.36)
- Outdoor Recreation/Public (Section 1251.36)
- Public and private conservation areas and structures for the conservation of open space, water, soil, forest, and wildlife resources
- Single Family Dwelling Unit Detached
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47)
- Tree Farm

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Agri-Tourism
- Banquet and Meeting Hall (Section 1251.08)
- Campground (Section 1251.10)
- Farmers Market (Section 1251.15)
- Institutions of Higher Education
- Kennels (Section 1251.23)
- Marinas
- Religious Institutions (Section 1251.42)
- State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48)
- State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Farmers Market (Section 1251.15)
- Home Occupation (Section 1251.18)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	G
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	1
Minimum Lot Width (ft.)	150
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	35
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.04 AG AGRICULTURAL DISTRICT.**(a) Purpose**

It is the purposes of this district to provide rural areas used predominantly for general farming operations. Although urban development is occurring at a substantial rate in the City, agriculture remains an important economic activity, and in the proper interest of the welfare of present and future residents, it is considered necessary to conserve an effective environment for stable, productive agricultural operations.

The regulations of this chapter, therefore, are designed to:

1. Protect and stabilize the essential characteristics of these areas
2. Minimize conflicting land uses detrimental to farm enterprises
3. Exclude development which requires highway, drainage, and other public utilities and facilities in excess of those required by agricultural uses

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Distillery, Winery – w/ or w/o food • Essential Services • General and specialized farms, including crops and the raising and keeping of livestock (Section 1251.17) • Greenhouse/Nursery (Principal Use) • Outdoor Recreation/Private (Section 1251.36) • Outdoor Recreation/Public (Section 1251.36) • Public and private conservation areas and structures for the conservation of open space, water, soil, forest, and wildlife resources • Single Family Dwelling Unit Detached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Tree Farm 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Agri-Tourism • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Farmers Market (Section 1251) • Institutions of Higher Education • Kennels/Veterinarian (Section 1251.23) • Religious Institutions (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Utility-Scale Solar Energy Facility (Section 1251.52) • Utility-Scale Wind Energy Facility (Section 1251.53)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Farmers Market (Section 1251.15) • Home Occupation (Section 1251.18) • Personal-Scale Wind Energy Facility (Section 1251.39) • Private Gardens (Section 1251.39) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(e) Dimension Regulations	
Lot Standards	AG
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	.33
Minimum Lot Width (ft.)	150
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))

Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	(c)
Rear Yard Setback (ft.)	(c)
Side Yard Setback (ft.)	(c)
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.05 R-1R SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) Purpose	
<p>It is the purpose of this district to establish residential properties of a semi-rural character that includes areas of the City presently without water and sewerage services and likely to remain without such services, in whole or in part, indefinitely. The R-1R Single-Family Rural Residential District includes existing low-density one-family properties, as well as areas within which such developments appear both likely and desirable.</p>	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Essential Services • Greenhouse/Nursery (Principal Use) • Outdoor Recreation/Public (Section 1251.35) • Public K-12 Schools • Single Family Dwelling Unit Detached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Agri-Tourism • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Distillery, Winery – w/ and w/o food • Institutions of Higher Education • Private K-12 Schools • Kennels/Veterinarian (Section 1251.23) • Religious Institution (Section 1251.42) • Transitional and Supportive Home, More than 6 Persons • Utility-Scale Solar Energy Facility (Section 1251.52) • Utility-Scale Wind Energy Facility (Section 1251.53)
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.</p>	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Home Occupation (Section 1251.18) 	

- Personal-Scale Wind Energy Facility (Section 1251.39)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	R-1R
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	1.45
Minimum Lot Width (ft.)	120
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	15
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.06 R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish areas of primarily single-family detached residential properties of a semi-suburban to suburban, low-density character, usually served by City water and sewer.

(b) Permitted Uses

- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Essential Services
- Outdoor Recreation/Public (Section 1251.36)
- Public K-12 Schools
- Single Family Dwelling Unit Detached

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Campground (Section 1251.10)
- Cemetery (Section 1251.11)
- Institutions of Higher Education
- Private K-12 Schools
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Religious Institutions (Section 1251.42)

<ul style="list-style-type: none"> State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.49) State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) Transitional and Supportive Home, 1-6 Persons (Section 1251.47) 	<ul style="list-style-type: none"> State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) Transitional and Supportive Home, More than 6 Persons (Section 1251.50)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> Accessory Buildings (Section 1260.01) Accessory Dwelling Unit, with SLU approval Home Occupation (Section 1251.18) Private Gardens (Section 1251.41) State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(e) Dimension Regulations	
Lot Standards	R-1A
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	5.80
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	30
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	8
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.07 R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish primarily single-family detached residential properties of a suburban, medium-density character. This district includes those areas which are serviced by City water and sewer.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Essential Services • Outdoor Recreation/Public (Section 1251.36) • Public K-12 Schools • Single Family Dwelling Unit Detached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Institutions of Higher Education • Private K-12 Schools • Personal-Scale Wind Energy Facility (Section 1251.39) • Religious Institutions (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Transitional and Supportive Home, More than 6 Persons (section 1251.50)

Refer to Section 1230.06 for definitions for uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Accessory Dwelling Unit, with SLU approval
- Home Occupation (Section 1251.18)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	R-1B
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	8.7
Minimum Lot Width (ft.)	50
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	30

Side Yard Setback (ft.)	6
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.08 R-2 TWO FAMILY RESIDENTIAL DISTRICT.

(a) Purpose	
It is the purpose of this district to establish a mix of single- and two-family residential properties of an urban, medium-density character. Limited commercial uses, which tend to complement residential areas should be expected. This district includes street and utility elements expected in an urban setting. Further, this district provides a buffer between single-family and multifamily neighborhoods.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Essential Services • Outdoor Recreation/Public (Section 1251.36) • Public K-12 Schools • Rooming and Boarding Houses, not to Exceed 4 Boarders (Section 1251.43) • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Institutions of Higher Education • Religious Institutions (Section 1251.42) • Private K-12 Schools • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-20 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Transitional and Supportive Home, More than 6 Persons (Section 1251.50)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Building (Section 1260.01) • Accessory Dwelling Unit, with SLU approval • Home Occupation (Section 1251.18) • Personal-Scale Wind Energy Facility, with SLU approval (Section 1251.39) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) 	

- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	R-2
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	8.70
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25
Side Yard Setback (ft.)	5
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.09 R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish high-density multi-family developments located in suburban and urban areas, and commercial development with relatively low intensities that often complement residential neighborhoods. Further, this district supports housing styles of mid- and high-level buildings consisting of garden apartments, and townhome condominiums. The high density of this district is intended to support nearby commercial districts, and provide a transition between commercial and mid-density districts.

(b) Permitted Uses

- Assisted Senior Living (Section 1251.03)
- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Essential Services
- Independent Senior Living with Services (Section 1251.21)
- Multi-Family Dwelling Units (Section 1251.33)
- Outdoor Recreation/Public (section 1251.36)

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Banquet and Meeting Hall < 100 capacity (Section 1251.08)
- Cemetery (Section 1251.11)
- Institutions of Higher Education
- Private K-12 Schools
- Religious Institutions (Section 1251.42)
- State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48)

<ul style="list-style-type: none"> • Public K-12 Schools • Rooming and Boarding Houses, Up to 10 Boarders (Section 1251.43) • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 persons (Section 1251.49) 	<ul style="list-style-type: none"> • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Transitional and Supportive Home, More than 6 Persons (Section 1251.50)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Accessory Dwelling Unit • Home Occupation (Section 1251.18) • Private Gardens (Section 1251.39) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(e) Dimension Regulations	
Lot Standards	R-3
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	15
Minimum Lot Width (ft.)	40
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25 (f)
Side Yard Setback (ft.)	25 (f)
Maximum Building Height	45 ft., 4 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.10 MFR HIGH DENSITY MULTIPLE FAMILY DISTRICT.

(a) Purpose	
It is the purpose of this district to accommodate new types of diversified residential developments of high densities, usually requiring a large tract of unplatted land. The types of residential structures include garden apartments, terrace apartments and row housing units and those special types of housing structures similar in character and density to multiple family housing.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Assisted Senior Living (Section 1251.03) • Bed and Breakfast (Section 1251.09) • Child Care Centers • Community Garden (Section 1251.12) • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) • Essential Services • Independent Senior Living with Services (Section 1251.21) • Institutions of Higher Education • Medical or Dental Clinic <20,000 s.f. • Multi-Family Dwelling Units (Section 1251.33) • Outdoor Recreation/Public (Section 1251.36) • Public K-12 Schools • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Banquet and Meeting Hall (Section 1251.08) • Cemetery (Section 1251.11) • Hospital > 20,000 s.f. (Section 1251.19) • Private K-12 Schools • Religious Institutions (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Transitional and Supportive Home, More than 6 Persons (Section 1251.50)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Accessory Dwelling Unit • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	

(e) Dimension Regulations	
Lot Standards	MFR
Minimum Lot Area (sq. ft.)	See Section 1241.03(e)
Maximum Residential Units Per Acre	20(d)(e)
Minimum Lot Width (ft.)	120
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	20
Side Yard Setback (ft.)	20
Maximum Building Height	45 ft., 4 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.11 B-1 CORRIDOR COMMERCIAL DISTRICT.

(a) Purpose	
It is the purpose of this district to accommodate those retail and business service activities that serve the whole community and the metropolitan region. Such activities require land and structure uses that are typically compact and densely grouped, generating a large volume of pedestrian and vehicular traffic. It is the purpose of these regulations to permit the establishment of a wide variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Arena/Theater • Artisan/Maker Space • Assisted Senior Living (Section 1251.03) • Automobile Car Wash Establishment (Section 1251.04) • Automobile or Vehicle Dealership (Section 1251.07) • Automobile Repair (Section 1251.05) • Banquet and Meeting Hall (Section 1251.08) • Bookstore • Brewpub • Catering Businesses 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Adult Business (Section 1251.01) • Automobile Service Station (Section 1251.04) • Bar, Tavern, or Saloon • Cemetery (Section 1251.11) • Hospital > 20,000 s.f. (Section 1251.19) • Nightclub • Research and Development • Transportation and Logistics • Vehicle Repair, Major (Section 1251.54) • Warehouse

<ul style="list-style-type: none"> • Child Care Centers • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) • Distillery, Winery – w/ or w/o food • Drive-Thru Business (Section 1251.14) • Essential Services • Event Center • Financial Institutions • Funeral Homes, Mortuaries • Government/Public Uses (Section 1251.16) • Indoor Recreation • Institutions of Higher Education • Pawn Broker • Private Club • Private K-12 Schools • Public K-12 Schools • Kennels/Veterinarian (Section 1251.23) • Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.23, 1251.25) • Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) • Marihuana: Medical Marihuana Provisioning Center (Section 1251.24, 1251.30) • Marihuana: Medical and Adult-Use Marihuana Safety Compliance Facility (Sections 1251.24, 1251.31) • Marihuana: Medical and Adult-Use Marihuana Secure Transporter (Sections 1251.24, 1251.32) • Medical or Dental Clinic =< 20,000 s.f. • Microbrewery (Section 1251.35) • Office • Outdoor Recreation/Private (Section 1251.36) • Outdoor Recreation/Public (Section 1251.36) • Outdoor Storage (Section 1251.37) • Personal Service Establishment (Section 1251.40) 	<ul style="list-style-type: none"> • Wholesale
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<ul style="list-style-type: none"> • Religious Institutions (Section 1251.42) • Restaurant <ul style="list-style-type: none"> ○ Carry-Out ○ Drive-In ○ Drive Thru (Section 1251.14) ○ Full Service ○ Limited Service • Retail Sales • Self-Storage Facilities (Section 1251.44) • Vehicle Repair, Minor 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Food Truck • Outdoor Storage (Section 1251.37) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) • Utility-Scale Solar Energy Facility (Section 1251.52) 	
(f) Prohibited Uses	
<ul style="list-style-type: none"> • Sale, rental, or display of motor vehicles, trailers, or boats • Manufacturing and processing establishments not selling their entire output at retail on the site 	
(g) Dimension Regulations	
Lot Standards	B-1
Minimum Lot Area	Not Required
Maximum Residential Units Per Acre	NA
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	20
Rear Yard Setback (ft.)	15 (h)
Side Yard Setback (ft.)	15 (g)

Maximum Building Height	45 ft., 3 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.12 B-2 REGIONAL COMMERCIAL DISTRICT.

(a) Purpose	
<p>It is the purpose of this district to accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic. It is the purpose of these regulations to permit the establishment of a limited variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques as may develop, particularly where the use of motor vehicles is involved. In order to utilize the full potential effectiveness of this District, certain functions that would operate more effectively in other districts and that would interfere with the general business effectiveness of this District have been intentionally excluded.</p>	
(b) Permitted Use	(c) Special Land Uses
<ul style="list-style-type: none"> • Arena/Theater • Artisan/Maker Space • Assisted Senior Living • Automobile Car Wash Establishment (Section 1251.04) • Automobile or Vehicle Dealership (Section 1251.07) • Automobile Repair (Section 1251.05) • Automobile Service Station (section 1251.06) • Banquet and Meeting Hall (Section 1251.08) • Bar, Tavern, or Saloon • Bookstore • Brewpub • Catering Businesses • Child Care Centers • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) • Distillery, Winery – w/ or w/o food • Drive-Thru Business (Section 1251.14) • Essential Services • Event Center • Financial Institutions • Funeral Homes, Mortuaries, and Crematoriums • Government/Public Uses (Section 1251.16) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Cemetery (Section 1251.11) • Parking as a Principal Use • Transportation and Logistics • Vehicle Repair, Major (Section 1251.54) • Warehouse • Wholesale

- Greenhouse/Nursery (Principal Use)
- Hospital > 20,000 s.f. (Section 1251.19)
- Hotel (Section 1251.20)
- Indoor Recreation
- Institutions of Higher Education
- Kennels/Veterinarian (Section 1251.23)
- Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26)
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30)
- Marihuana: Medical and Adult-Use Marihuana Safety Compliance Facility (Sections 1251.24, 1251.31)
- Marihuana: Medical and Adult-Use Marihuana Secure Transporter (Sections 1251.24, 1251.32)
- Medical or Dental Clinic =< 20,000 s.f.
- Microbrewery (Section 1251.35)
- Motel (Section 1251.34)
- Nightclub
- Office
- Outdoor Recreation/Private (Section 1251.36)
- Outdoor Recreation/Public (Section 1251.36)
- Pawn Broker
- Personal Service Establishment (Section 1251.39)
- Private Club
- Private K-12 Schools
- Public K-12 Schools
- Religious Institutions (Section 1251.42)
- Research and Development
- Restaurant
 - Carry-Out
 - Drive-In
 - Drive Thru (Section 1251.14)
 - Full Service

<ul style="list-style-type: none"> ○ Limited Service • Retail Sales > 17,000 s.f. • Self Storage Facilities (Section 1251.44) • Vehicle Repair, Minor 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Food Truck • Outdoor Storage (Section 1251.37) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) • Utility-Scale Solar Energy Facility (Section 1251.52) 	
(f) Dimension Regulations	
Lot Standards	B-2
Minimum Lot Area (s.f.)	25,000
Maximum Residential Units Per Acre	NA
Minimum Lot Width (ft.)	150
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	20
Side Yard Setback (ft.)	20
Maximum Building Height	50 ft., 3 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for dimensional regulations for specific uses.	

1240.13 T-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

(a) Purpose	
It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Assisted Senior Living (Section 1251.03) • Banquet and Meeting Hall < 100 Capacity (Section 1251.08) • Bed and Breakfast (Section 1251.09) • Bookstore • Catering Businesses • Child Care Centers • Community Garden (Section 1251.12) • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) • Essential Services • Financial Institutions • Government/Public Uses (Section 1251.14) • Indoor Recreation • Independent Senior Living with Services (Section 1251.21) • Medical or Dental Clinic < 5,000 s.f. • Multi-Family Dwelling Units (Section 1251.33) • Office < 17,000 s.f. • Outdoor Recreation/Public (Section 1251.36) • Personal-Scale Wind Energy Facility (Section 1251.39) • Personal Service Establishments (Section 1251.40) • Private Club • Public K-12 Schools • Religious Institutions (Section 1251.42) • Restaurant <ul style="list-style-type: none"> ○ Carry-Out ○ Drive-In ○ Full Service 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Artisan/Maker Space • Bar, Tavern, or Saloon • Brewpub • Cemetery (Section 1251.11) • Distillery, Winery – w/ or w/o food • Drive Thru Business (Section 1251.14) • Farmers' Market (Section 1251.15) • Funeral Homes, Mortuaries • Hotel (Section 1251.20) • Institutions of Higher Education • Pawn Broker • Private K-12 Schools • Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30) • Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) • Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26) • Marinas • Medical or Dental Clinic 5,000 to < 20,000 s.f. • Microbrewery (Section 1251.35) • Motel (Section 1251.20) • Nightclub • Office >= 17,000 s.f. • Retail Sales >= 17,000 s.f. • Restaurant <ul style="list-style-type: none"> ○ Drive-Thru (Section 1251.14)

<ul style="list-style-type: none"> ○ Limited Service • Retail Sales < 17,000 s.f. • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) • Transitional and Supportive Home, More than 6 Persons (Section 1251.50) 	
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-4, and T-5 Districts for additional development requirements.</p>	
<p>(d) Accessory Uses</p>	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Food Truck • Accessory Dwelling Unit, with SLU approval • Farmers Market (Sections 1251.15) • Private Gardens (1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
<p>(e) Dimension Regulations</p>	
Lot Standard	T-3
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	20(d)
Minimum Lot Width (ft.)	360
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	40
Front Yard Setback (ft.)	See Section 1250.04(d)(1)A
Rear Yard Setback (ft.)	20 (h)
Side Yard Setback (ft.)	10 (g)
Maximum Building Height	36 ft., 3 stories
<p>Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.</p>	

1240.14 T-4 DOWNTOWN COMMERCIAL DISTRICT.

(a) Purpose	
It is the purpose of this district to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Artisan/Maker Space • Assisted Senior Living (Section 1251.03) • Banquet and Meeting Hall (Section 1251.08) • Bar, Tavern, or Saloon • Bookstore • Brewpub • Catering Businesses • Child Care Centers • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) • Distillery, Winery – w/ or w/o food • Essential Services • Event Center • Farmers Market (Section 1251.15) • Financial Institutions • Government/Public Uses (Section 1251.16) • Hotel (Section 1251.20) • Independent Senior Living with Services (Section 1251.21) • Indoor Recreation • Institutions of Higher Education • Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) • Marihuana: medical Marihuana Provisioning Center (Sections 1251.24, 1251.30) • Medical or Dental Clinic < 20,000 s.f. • Microbrewery (Section 1251.35) • Motel (Section 1251.34) • Multi-Family Dwelling Units (Section 1251.33) • Nightclub • Office 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Drive-Thru Business (Section 1251.14) • Funeral Homes, Mortuaries • Hospital > 20,000 s.f. (Section 1251.19) • Private K-12 Schools • Parking as a Principal Use • Research and Development • Restaurant <ul style="list-style-type: none"> ○ Drive-In ○ Drive-Thru (Section 1251.14)

<ul style="list-style-type: none"> • Outdoor Recreation/Public (Section 1251.36) • Personal Service Establishments (Section 1251.40) • Private Club • Public K-12 Schools • Religious Institutions (Section 1251.42) • Retail Sales • Restaurant <ul style="list-style-type: none"> ○ Carry-Out ○ Full Service ○ Limited Service • Single Family Dwelling Unit Attached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.48) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) • Transitional and Supportive Home, More than 6 Persons (Sections 1251.50) • Two-Family Dwelling Units 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-4, and T-5 Districts for additional development requirements.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Accessory Dwelling Unit • Farmers Market (Section 1251.15) • Food Truck • Private Gardens (Section 1251.40) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 7-12 Children (Section 1251.46) 	
(f) Dimension Regulations	
Lot Standards	T-4
Minimum Lot Area (s.f.)	Not Required
Maximum Residential Units Per Acre	20(d)
Minimum Lot Width (ft.)	40

Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	See Section 1250.04(d)(1)A
Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required
Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.15 T-5 CORE DOWNTOWN COMMERCIAL DISTRICT.

(a) Purpose

It is the purpose of this district to revitalize commercial areas which, through business relocation, substantial change in surrounding uses, changes in the market, or a combination thereof, require the orderly placement of business establishments to provide the maximum use of buildings to accommodate and respond to changes in vehicular and pedestrian traffic flow. To permit the full potential of this district, certain uses which would interfere with the general effectiveness of this District have been intentionally excluded, and uses permitted herein are intended to be strictly limited in their definition. Further, to promote uses that support a walkable downtown environment, mix of uses within a single building, and uses that create activity throughout the day and week.

(b) Permitted Uses

- Artisan/Maker Space
- Banquet and Meeting Hall (Section 1251.08)
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- Catering Businesses
- Child Care Centers
- Distillery, Winery – w/ or w/o food
- Essential Services
- Event Center
- Financial Institutions
- Government/Public Uses (Section 1251.16)
- Hotel (Section 1251.20)
- Independent Senior Living with Services (Section 1251.21)
- Indoor Recreation
- Institutions of Higher Education
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30)
- Medical or Dental Clinic $\leq 20,000$ s.f.
- Microbrewery (Section 1251.35)
- Motel (Section 1251.34)
- Multi-Family Dwelling Units (Section 1251.33)
- Nightclub

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Hospital $> 20,000$ s.f. (Section 1251.19)
- Parking as a Principal Use

<ul style="list-style-type: none"> • Office • Outdoor Recreation/Public (Section 1251.35) • Personal Service Establishments (Section 1251.38) • Private Club • Private K-12 Schools • Public K-12 Schools • Religious Institutions (Section 1251.42) • Restaurant <ul style="list-style-type: none"> ○ Carry-Out ○ Drive-In ○ Full Service ○ Limited Service • Retail Sales • Two Family Dwelling Units 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Accessory Dwelling Unit • Farmers Market (Section 1251.15) • Food Truck • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(f) Dimension Regulations	
Lot Standards	T-5
Minimum Lot Area (sq. ft.)	Not Required
Maximum Residential Units Per Acre	20(d)
Minimum Lot Width (ft.)	30
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	See Section 1250.04(d)(1)A

Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required
Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.16 I-1 LIGHT INDUSTRIAL DISTRICT.

(a) Purpose	
<p>The I-1 Light Industrial District is intended to accommodate those industrial uses that generate noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is established as one in which the principal use of the land is for industrial activities wholly compatible with all other uses permitted in this District, commercial establishments not engaging in retail sales and service establishments which, if doing retail business, are of the type not generally requiring the customer to call at the place of business.</p>	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Artisan/Maker Space • Automobile or Vehicle Dealership (Section 1251.07) • Automobile Repair (Section 1251.05) • Automobile Service Station (Section 1251.06) • Brewpub • Child Care Center • Distillery, Winery – w/ or w/o food • Drive-Thru Business (Section 1251.14) • Essential Services • Farm Implements and Heavy Machinery Sales • Financial Institutions • Government/Public Uses (Section 1251.16) • Greenhouse/Nursery (Principal Use) • Institutions of Higher Education • Limited Service Restaurant • Manufacturing • Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Adult Business (Section 1251.02) • Automobile Car Wash Establishment (Section 1251.04) • Bar, Tavern, or Saloon • Cemetery (Section 1251.11) • Funeral Homes, Mortuaries, and Crematoriums • Hospital > 20,000 s.f. (Section 1251.19) • Junk or Salvage Yard (Section 1251.22) • Kennels (Section 1251.23) • Nightclub • Parking as a Principal Use • Retail Sales

- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) (must be co-located with a Grower or Processor)
- Marihuana: Medical and Adult-Use Marihuana Grow Operation (Sections 1251.24, 1251.28)
- Marihuana: Medical and Adult-Use Marihuana Processing Facility (Sections 1251.24, 1251.29)
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30) (must be co-located with a Grower or Processor)
- Marihuana: Medical and Adult-Use Marihuana Safety Compliance Facility (Sections 1251.24, 1251.31)
- Marihuana: Medical and Adult-Use Marihuana Secure Transporter (Sections 1251.24, 1251.32)
- Microbrewery (Section 1251.34)
- Outdoor Recreation/Public (Section 1251.36)
- Religious Institutions (Section 1251.42)
- Research and Development
- Restaurant
 - Carry-Out
 - Drive-In
 - Drive-Thru (Section 1251.14)
 - Full Service
 - Limited Service
- Transportation and Logistics
- Utility-Scale Solar Energy Facility (Section 1251.52)
- Vehicle Repair, Major (Section 1251.53)
- Vehicle Repair, Minor
- Warehouse
- Wholesale

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Existing Uses

- Single Family Dwelling Unit Detached

(e) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Office
- Outdoor Storage (Section 1251.37)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(f) Dimension Regulations

Lot Standard	I-1
Minimum Lot Area (s.f.)	2,900
Maximum Residential Units Per Acre	NA
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	50 (H)
Side Yard Setback (ft.)	25 (G)
Maximum Building Height	Not Required

Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

1240.17 I-2 HEAVY INDUSTRIAL DISTRICT.

(a) Purpose

The purpose of this district is to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road and/or railroad and public and utility services.

(b) Permitted Uses

- Artisan/Maker Space
- Automobile Repair (Section 1251.05)
- Automobile Service Station (Section 1251.06)
- Brewpub
- Carry Out Restaurant
- Child Care Centers
- Distillery, Winery – w/ or w/o food

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Adult Business (Section 1251.01)
- Automobile Car Wash Establishment (Section 1251.04)
- Bar, Tavern, or Saloon
- Cemetery (Section 1251.11)
- Hospital > 20,000 s.f. (Section 1251.19)
- Junk or Salvage Yard (Section 1251.22)

<ul style="list-style-type: none"> • Drive-Thru Business (Section 1251.14) • Essential Services • Farm Implements and Heavy Machinery Sales • Financial Institutions • Institutions of Higher Education • Kennels (Section 1251.23) • Manufacturing • Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26) • Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) (must be co-located with a Grower or Processor) • Marihuana: Medical and Adult-Use Marihuana Grow Operation (Sections 1251.24, 1251.28) • Marihuana: Medical and Adult-Use Marihuana Processing Facility (Sections 1251.24, 1251.29) • Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30) (must be co-located with a Grower or Processor) • Marihuana Medical and Adult-Use Marihuana Safety Compliance Facility (Section 1251.24, 1251.31) • Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.24, 1251.32) • Microbrewery (Section 1251.35) • Outdoor Recreation/Public (Section 1251.36) • Religious Institutions (Section 1251.42) • Research and Development • Restaurant <ul style="list-style-type: none"> ○ Carry-Out ○ Drive-In ○ Drive-Thru (Section 1251.14) ○ Full Service ○ Limited Service • Transportation and Logistics 	<ul style="list-style-type: none"> • Nightclub • Parking as a Principal Use • Retail Sales • Utility-Scale Wind Energy Facility (Section 1251.53)
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<ul style="list-style-type: none"> • Utility-Scale Solar Energy Facility (Section 1251.52) • Vehicle Repair, Major (Section 1251.54) • Vehicle Repair, Minor • Warehouse • Wholesale 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Carry-Out Restaurant • Outdoor Storage (Section 1251.37) • Office • Private Gardens (Section 1251.40) • State Licensed Child Care Family Home, 1-7 Children • State Licensed Child Care Group Home, 8-14 Children 	
(f) Dimension Regulations	
Lot Standards	I-2
Minimum Lot Area (s.f.)	2,900
Maximum Residential Units Per Acre	NA
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25 (h)
Side Yard Setback (ft.)	25 (h)
Maximum Building Height	Not Required
Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule the dimensional regulations above. Refer to Chapter 1251 for dimensional regulations for specific uses.	

1240.18 S SPARK DISTRICT.

(a) Purpose	
<p>It is the purpose of this district to encourage and facilitate redevelopment by implementing the following mixed-use policies:</p> <ol style="list-style-type: none"> 1. Mix of Land Compatible Land Uses: Permit a range of compatible land uses, such as residential (from single-family to multi-family), public, institutional, office, retail, personal services use, and appropriate general business uses. 2. Walkability: Create a walkable, pedestrian-oriented development that does not conflict with motorized traffic. 3. Building Location and Site Design: Ensure that buildings have a strong relationship to the street by requiring development to be human-scale through appropriate building location and site design, including developing areas that include civic spaces and pedestrian amenities and requiring on-street parking along interior streets. 4. Use of Buildings: Allow compatible mixed uses to be located in a single building. 	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Arena/Theater • Artisan/Maker Space • Assisted Senior Living (Section 1251.03) • Banquet and Meeting Hall (Section 1251.08) • Bar, Tavern, or Saloon • Bookstore • Brewpub • Child Care Centers • Community Garden (Section 1251.10) • Distillery, Winery – w/ or w/o food • Drive-Thru Business (Section 1251.14) • Essential Services • Financial Institutions • Government/Public Uses (Section 1251.16) • Greenhouse/Nursery (Principal Use) • Hotel (Section 1251.20) • Independent Senior Living with Services (Section 1251.21) • Indoor Recreation • Institutions of Higher Education • Medical or Dental Clinic < 20,000 s.f. • Microbrewery (Section 1251.35) 	<ul style="list-style-type: none"> • Cemetery (Section 1251.11) • Convalescent Homes, Nursing Homes, or Homes for the Aged (Section 1251.13) • Private K-12 Schools • Kennels (Section 1251.23) • Marinas • Parking as a Principal Use

<ul style="list-style-type: none"> • Motel (Section 1251.34) • Multi-Family Dwelling Units (Section 1251.33) • Nightclub • Office • Outdoor Recreation/Public (Section 1251.36) • Outdoor Recreation/Private (Section 1251.36) • Personal Service Establishments (Section 1251.40) • Public K-12 Schools • Religious Institutions (Section 1251.42) • Research and Development • Restaurant <ul style="list-style-type: none"> ○ Carry-Out ○ Drive-In ○ Drive-Thru (Section 1251.14) ○ Full Service ○ Limited Service • Retail Sales • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Transportation and Logistics • Two-Family Dwelling Units • Warehouse • Wholesale 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Accessory Dwelling Unit • Farmers Market (Section 1251.15) • Personal-Scale Wind Energy Facility (Section 1251.39) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.45) 	
(e) Dimension Regulations	
Lot Standards	S

Minimum Lot Area (s.f.)	Not Required
Maximum Residential Units Per Acre	20
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	Not Required
Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required
Footnotes: Refer to Section 1241.04 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule these dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses. All development in the S Spark District is eligible for administrative approval subject to the discretion of the Zoning Administrator.	

1240.19 OFFICIAL ZONING MAP AND INTERPRETATION.

The boundaries of the districts are shown upon the map which is made a part of this Zoning Code, which map is designated as the "Official Zoning Map." Such map and all the notations, references and other information shown thereon are a part of this Zoning Code and have the same force and effect as if they were fully set forth or described herein.

Where, due to the scale, illegibility or detail of the map, there is uncertainty, contradiction or conflict as to the location of a district boundary, the interpretation of the exact location of such boundary shall be determined by the Zoning Board of Appeals.

(Ord. 10-2020.Passed 11-24-20.)

1240.20 DISTRICT BOUNDARY UNCERTAINTIES.

Where uncertainty exists or arises with respect to the boundaries of the various districts as shown on the zoning district map accompanying and made a part of this zoning ordinance in its original form, the following rules apply:

(a) The district boundaries are either streets, alleys, rights of way or watercourses, unless otherwise shown. Where such districts are bounded approximately by streets, alleys, rights of way or watercourses, the same shall be construed to be the boundaries of the districts unless such boundaries are fixed by dimensions as shown on the map.

(b) 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 the lot lines. Where such districts are bounded approximately by lot lines, the lot lines shall be construed to be the boundaries of the districts, unless the boundaries are fixed by dimensions as shown on the map.

(c) In any determined by the use of the scale appearing on the map, unless the same are indicated by dimensions as shown on the map.

1240.21 ZONING DISTRICTS.

(a) Conformity with District Regulations Required. Except as hereinafter 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 shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for the district in which the building is located.

(3) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the yard 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 such building is located, except for as otherwise allowed in Chapter 1270.

(5) No building or structure shall be enlarged or altered and no use of a premises shall be changed in any way which increases its nonconformity, except for as otherwise allowed in Chapter 1270.

(6) The minimum yards, parking spaces and other open spaces, including the lot area per family, required by this Zoning Code for each and every building existing at the time of passage of this Zoning Code (November 24, 2020) or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Code.

(7) Every building hereinafter erected or structurally altered shall be on a lot, provided that a lot may be subdivided or a series of lots may be increased in number and decreased in size, so long as each new lot is not less than 100 feet in depth and in conformity with the width requirements of Chapter 1240. In no case shall there be more than one main building on one lot unless otherwise provided in this Zoning Code.

(b) Essential Services. Essential services shall be permitted as authorized and regulated by law and ordinances of the City. It is the intention of this Zoning Code to exempt such essential services from the application of this Zoning Code.

(c) Land Under Water; Streets. All areas within the City which are under water or a public right-of-way and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water or right-of-way area. If the water or right-of-way area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water or right-of-way area in a straight line until they meet the other district.

(d) Annexed Land.

(1) Whenever any areas are annexed to the City, one of the following conditions shall prevail:

A. All lots, tracts or land which may hereafter be annexed to the City shall be classified as being in whichever district as most clearly conforms to the zoning that existed in the annexed area. Such classifications shall be recommended by the Planning Commission to the City Commission and the City Commission shall approve the same by resolution.

B. If any lot, tract or land is not subject to zoning at the time of annexation, it shall be classified as R-1A Single-Family whenever the land is vacant and otherwise shall be classified into whatever district of this Zoning Code most closely conforms to the existing use of the annexed area. Such classification shall be approved in the same manner as described for property that is zoned when annexed.

(2) In all cases, there shall be a public hearing, within a reasonable time after annexation, on the question of a permanent zoning classification. The hearing before the Planning Commission and the subsequent action by the City Commission shall follow the procedure to establish amendments in accordance with Section 1281.01(c).

(e) Vacation of Streets. Whenever any street, alley or other public way is vacated by official action of the City Commission or by the courts, the zoning district adjoining each side of such street, alley or other public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

(f) Uses Not Specifically Mentioned. The City Zoning Administrator or their designee shall have the power to classify a use, which is not specifically mentioned in this Zoning Code, along with a comparable permitted or prohibited use for the purpose of the use regulations in any district. The City Planning and Zoning Administrator or their designee may refer these appeals to the Zoning Board of Appeals.

Chapter 1240 Zoning District and Map

1240.01 DISTRICTS ESTABLISHED.

In order to classify, regulate and restrict the location of trades, industries, and buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards, courtyards and other open spaces within and surrounding such buildings, the City is hereby divided into districts, as follows:

- G Green District
- AG Agricultural District
- R-1R Single Family Residential District
- R-1A Single-Family Residential District
- R-1B Single-Family Residential District
- R-2 Two Family Residential District
- R-3 Multiple Family Residential District
- MFR High Density Multiple Family Residential District
- B-1 Corridor Commercial District
- B-2 Regional Commercial District
- T-3 Neighborhood Commercial District
- T-4 Downtown Commercial
- T-5 Core Downtown Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- S Spark District

1240.02 TABLE OF PERMITTED USES.

The following table lists the permitted uses and special land uses in each zoning district. When a use is classified by square footage, the square footage listed refers to the gross square footage of a building and not the square footage of an individual tenant unit. A use classified by capacity, refers to the capacity established by the City Fire Inspector. Whenever a specific development standard is included for a particular use in the table below, any development must comply with the requirement of the referenced section in addition to all of the other applicable requirements of this Code. All development standards for specific uses are listed in [Section 1251](#) and in other areas of this Code. Additionally, any use that is a special land use must also comply with the standards of Section 1281.05.

<i>Uses</i>		G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
A	Accessory Use																	
<u>A^s</u>	<u>Accessory Use Requiring SLU Approval</u>																	
E	Existing Use																	
P	Permitted Use																	
S	Special Use																	

Residential Uses

<i>Accessory Dwelling Unit</i>				S/A^s	S/A^s	S/A^s	A	A			A	A	A			A	
<i>Bed and Breakfast</i>	P	P	P	P	P	P	P	P			P						1251.09
<i>Home Occupation</i>	A	A	A	A	A	A	A										1251.18
<i>Multi-Family Dwelling Units</i>							P	P			P	P	P			P	1251.33
<i>Personal-Scale Wind Energy Facility</i>	A	A	A	A	A	A					A					A	1251.39
<i>Rooming and Boarding Houses</i>						P	P										1251.43
<i>Single Family Dwelling Unit Attached</i>							P	P			P	P	E			P	

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Single Family Dwelling Unit Detached</i>	P	P	P	P	P	P	P	P	E	E	P	E	E	E	E	P	
<i>State Licensed Child Care Family Home, 1-7 Children</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1251.45
<i>State Licensed Child Care Group Home, 8- 14 Children</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1251.46
<i>State Licensed Child Care Center</i>	P							P	P	P	P	P	P	P	P	P	
<i>State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons</i>	P	P	P	P	P	P	P	P			P	P					1251.47
<i>State Licensed Residential Facility Adult Foster Care Small Group Home, 7-12 Persons</i>	S	S	S	S	S	S	S	S									1251.48
<i>State Licensed Residential Facility Adult Foster Care Large Group Home 13-20 Persons</i>	S	S	S	S	S	S	S	S									
<i>Transitional and Supportive Home, 1-6 Persons</i>			P	P	P	P	P	P			P	P					1251.49
<i>Transitional and Supportive Home, More than 6 Persons</i>			S	S	S	S	S	S			P	P					1251.50

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Community Residential Facility and Group Homes</i>						S	S	S									1251.48
<i>Two-Family Dwelling Units</i>						P	P	P			P	P	P			P	
<i>Commercial Uses</i>																	
<i>Adult Business</i>									S					S	S		1251.02
<i>Agri-Tourism</i>	S	S	S														
<i>Arena/Theater</i>									P	P						P	
<i>Artisan/Maker Space</i>									P	P	S	P	P	P	P	P	
<i>Assisted Senior Living</i>							P	P	P	P	P	P				P	1251.03
<i>Automobile Car Wash Establishment</i>									P	P				S	S		1251.04
<i>Automobile Repair</i>									P	P				P	P		1251.05
<i>Automobile Service Station</i>									S	P				P	P		1251.06
<i>Automobile or Vehicle Dealership</i>									P	P				P			1251.07
<i>Banquet and Meeting Hall < 100 cap.</i>	S						S	S	P	P	P	P	P			P	1251.08

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Banquet and Meeting Hall > 100 cap.</i>	S						S	S	P	P		P	P			P	1251.08
<i>Bar, Tavern, or Saloon</i>									S	P	S	P	P	S	S	P	
<i>Bookstore</i>									P	P	P	P	P			P	
<i>Brewpub</i>									P	P	S	P	P	P	P	P	
<i>Catering Business</i>									P	P	P	P	P				
<i>Convalescent Home, Nursing Home, or Home for the Aged</i>							P	P	P	P	P	P	S			S	1251.13
<i>Distillery, Winery – w/ or w/o Food</i>	P	P	S						P	P	S	P	P	P	P	P	
<i>Event Center</i>									P	P		P	P				
<i>Farm Equip. and Heavy Machinery Sales</i>														P	P		
<i>Financial Institutions</i>									P	P	P	P	P	P	P	P	
<i>Funeral Homes, Mortuaries, and Crematoriums (No Crematoriums B-1, T-3,4)</i>									P*	P	S*	S*		S			
<i>Hospital > 20,000 s.f.</i>								S	<u>S</u>	S		S	<u>S</u>	S	S		1251.19

Uses	G	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Hotel										P	S	P	P			P	1251.20
Independent Senior Living with Services							P	P	P		P	P	P			P	1251.21
Indoor Recreation	P								P	P	P	P	P			P	
Kennels/Veterinarian	S	S	S						P	P				S	P	S	1251.23
Marihuana: Adult-Use Marihuana Microbusiness									P	P	S			P	P		1251.24 1251.26 1251.27
Marihuana: Adult-Use Marihuana Retailers									P	P	S	P	P	P	P		1251.24 1251.25 1251.27
Marihuana: Medical Marihuana Provisioning Center									P	P	S	P	P	P	P		1251.24 1251.30 1251.27
Medical or Dental Clinic < 5,000 s.f.									P	P	P	P	P				
Medical or Dental Clinic <20,000 s.f.								P	P	P	S	P	P			P	
Motel										P	S	P	P			P	1251.34
Microbrewery									P	P	S	P	P	P	P	P	1251.35

<i>Uses</i>	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Nightclub</i>									S	P	S	P	P	S	S	P	
<i>Office < 5,000 s.f.</i>									P	P	P	P	P	A	A	P	
<i>Office 5,000 – 17,000 s.f.</i>									P	P	P	P	P	A	A	P	
<i>Office > 17,000 s.f.</i>									P	P	S	P	P	A	A	P	
<i>Outdoor Recreation/Private</i>	P	SP							P	P							1251.36
<i>Outdoor Recreation/Public</i>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1251.36
<i>Outdoor Storage</i>									A	A				A	A		1251.37
<i>Pawn Broker</i>									P	P	S						
<i>Personal Service Establishment</i>									P	P	P	P	P			P	1251.40
<i>Private Club</i>									P	P	P	P	P				
<i>Restaurant</i>																	
<i>Carry-Out Restaurant</i>									P	P	P	P	P	P	P	P	
<i>Drive-In Restaurant</i>									P	P	P	S		P	P	P	

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Drive-Thru Restaurant									P	P	<u>S</u>	S		P	P		1251.14
Full-Service Restaurant									P	P	P	P	P	P	P	P	
Limited Service Restaurant									P	P	P	P	P	P	P	P	
Retail Sales < 5,000 s.f.									P	P	P	P	P	S	S	P	
Retail Sales 5,000 – 17,000 s.f.									P	P	P	P	P	S	S	P	
Retail Sales > 17,000 s.f.									P	P	S	P	P	S	S	P	
Tree Farm	P	P															
Vehicle Repair, Major									S	S				P	P		1251.54
Vehicle Repair, Minor									<u>PS</u>	<u>PS</u>				P	P		
Industrial Uses																	
Junk and Salvage Yard														S	S		1251.22
Manufacturing														P	P		
Marihuana: Medical and Adult Use														P	P		1251.24
Marihuana Grow																	1251.27

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Operation</i>																	1251.28
<i>Marihuana: Medical and Adult Use Marihuana Processing Facility</i>														P	P		1251.24 1251.27 1251.29
<i>Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility</i>									P	P				P	P		1251.24 1251.27 1251.31
<i>Marihuana: Medical and Adult Use Marihuana Secure Transporter</i>									P	P				P	P		1251.24 1251.27 1251.32
<i>Research and Development</i>									S	P		S		P	P	P	
<i>Self-Storage Facilities</i>									P	P							1251.44
<i>Transportation and Logistics</i>									S	S				P	P	P	
<i>Utility-Scale Solar Energy Facility</i>		S	S						A	A				P	P		1251.52
<i>Utility-Scale Wind Energy Facility</i>		S	S												S		1251.53
<i>Warehouse</i>									S	S				P	P	P	
<i>Wholesale</i>									S	S				P	P	P	

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
Other Uses																	
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1260.01
Adaptive Reuse	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	1251.01
Campground	S	S	S	S	S	S											1251.09
Cemetery		S	S	S	S	S	S	S	S	S	S			S	S	S	1251.10
Community Garden	P	P	P	P	P	P	P	P			P					P	1251.11
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1240.21(b)
Farmer's Market	A/S	A/S									A/S	A	A			A	1251.15
<u>Food Truck</u>									A	A	A	A	A	A	A	A	
General and Specialized farms, including crops and the raising and keeping for profit of cattle, hogs, horses, ponies, sheep and similar livestock General and Specialized farms, including crops and the raising and keeping for profit of cattle, hogs,		P															1251.17

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>horses, ponies, sheep and similar livestock</i>																	
<i>Government/Public Uses</i>									P	P	P	P	P	P		P	1251.16
<i>Greenhouse/Nursery (Principal Use)</i>	P	P	P							P				P		P	
<i>Institutions of Higher Education</i>	S	S	S	S	S	S	S	P	P	P	S	P	P	P	P	P	
<i>Marinas</i>	S										S					S	
<i>Parking as a Principal Use</i>										S		S	S	S	S	S	
<i>Private K-12 Schools</i>			S	S	S	S	S	S	P	P	S	S	P			S	
<i>Private Garden</i>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1251.41
<i>Public K-12 Schools</i>			P	P	P	P	P	P	P	P	P	P	P			P	
<i>Public and private conservation areas and structures for the conservation of open space, water, soil, forest, and wildlife resources</i>	P	P															
<i>Religious Institutions</i>	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	1251.42

Uses	G	AG	R1- R	R1- A	R1- B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
<i>Telecommunications</i>	Refer to Section 1251.49 to see where telecommunication towers are permitted.																1251.49
<i>Mobile Home Park Overlay District</i>	Refer to Section 1250.05 for Mobile Home Park requirements.																1250.05

1240.03 G GREEN DISTRICT.

(a) Purpose

It is the purposes of this district to:

1. Preserve and protect natural and man-made water areas, flood plains, marshes, and wetlands from development other than open spaces or recreational uses
2. Preserve and protect agricultural districts and/or wildlife habitats
3. Limit residential and commercial development and encourage design that preserves natural environments
4. Retain natural drainage patterns
5. Preserve and protect the values of distinctive geologic, topographic, botanic, historic, or scenic areas

(b) Permitted Uses

- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Child Care Centers
- Distillery, Winery – w/ or w/o food
- Essential Services
- Greenhouse/Nursery (Principal Use)
- ~~Home Occupation (Section 1251.18)~~
- Indoor Recreation
- Outdoor Recreation/Private (Section 1251.36)
- Outdoor Recreation/Public (Section 1251.36)
- Public and private conservation areas and structures for the conservation of open space, water, soil, forest, and wildlife resources
- Single Family Dwelling Unit Detached
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47)
- Tree Farm

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Agri-Tourism
- Banquet and Meeting Hall (Section 1251.08)
- Campground (Section 1251.10)
- Farmers Market (Section 1251.15)
- Institutions of Higher Education
- Kennels (Section 1251.23)
- Marinas
- Religious Institutions (Section 1251.42)
- State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48)
- State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Farmers Market (Section 1251.15)
- Home Occupation (Section 1251.18)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	G
Minimum Lot Area (sq. ft.)	43,560 <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>1</u>
Minimum Lot Width (ft.)	150
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	35
Maximum Building Height	35 ft., 2.5 stories

Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

1240.04 AG AGRICULTURAL DISTRICT.**(a) Purpose**

It is the purposes of this district to provide rural areas used predominantly for general farming operations. Although urban development is occurring at a substantial rate in the City, agriculture remains an important economic activity, and in the proper interest of the welfare of present and future residents, it is considered necessary to conserve an effective environment for stable, productive agricultural operations.

The regulations of this chapter, therefore, are designed to:

1. Protect and stabilize the essential characteristics of these areas
2. Minimize conflicting land uses detrimental to farm enterprises
3. Exclude development which requires highway, drainage, and other public utilities and facilities in excess of those required by agricultural uses

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Distillery, Winery – w/ or w/o food • Essential Services • General and specialized farms, including crops and the raising and keeping of livestock (Section 1251.17) • Greenhouse/Nursery (Principal Use) • Outdoor Recreation/Private (Section 1251.36) • Outdoor Recreation/Public (Section 1251.36) • Public and private conservation areas and structures for the conservation of open space, water, soil, forest, and wildlife resources • Single Family Dwelling Unit Detached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Tree Farm 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Agri-Tourism • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Farmers Market (Section 1251) • Institutions of Higher Education • Kennels/Veterinarian (Section 1251.23) • Religious Institutions (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Utility-Scale Solar Energy Facility (Section 1251.52) • Utility-Scale Wind Energy Facility (Section 1251.53)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Farmers Market (Section 1251.15) • Home Occupation (Section 1251.18) • Personal-Scale Wind Energy Facility (Section 1251.39) • Private Gardens (Section 1251.39) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.46), with SLU Approval 	
(e) Dimension Regulations	
Lot Standards	AG
Minimum Lot Area (sq. ft.)	3 acres <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>.33</u>

Minimum Lot Width (ft.)	150
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	(c)
Rear Yard Setback (ft.)	(c)
Side Yard Setback (ft.)	(c)
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.05 R-1R SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) Purpose	
<p>It is the purpose of this district to establish residential properties of a semi-rural character that includes areas of the City presently without water and sewerage services and likely to remain without such services, in whole or in part, indefinitely. The R-1R Single-Family Rural Residential District includes existing low-density one-family properties, as well as areas within which such developments appear both likely and desirable.</p>	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Essential Services • Greenhouse/Nursery (Principal Use) • Outdoor Recreation/Public (Section 1251.35) • Public K-12 Schools • Single Family Dwelling Unit Detached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Agri-Tourism • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Distillery, Winery – w/ and w/o food • Institutions of Higher Education • Private K-12 Schools • Kennels/Veterinarian (Section 1251.23) • Religious Institution (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 7-13 Persons (Sections 1251.48) • Transitional and Supportive Home, More than 6 Persons • Utility-Scale Solar Energy Facility (Section 1251.52) • Utility-Scale Wind Energy Facility (Section 1251.53)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Home Occupation (Section 1251.18)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	R-1R
Minimum Lot Area (sq. ft.)	3,000 <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>1.45</u>
Minimum Lot Width (ft.)	<u>120</u>
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	15
Maximum Building Height	35 ft., 2.5 stories

Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

1240.06 R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish areas of primarily single-family detached residential properties of a semi-suburban to suburban, low-density character, usually served by City water and sewer.

(b) Permitted Uses

- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Essential Services
- Outdoor Recreation/Public (Section

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Campground (Section 1251.10)
- Cemetery (Section 1251.11)
- Institutions of Higher Education

1251.36) <ul style="list-style-type: none"> Public K-12 Schools Single Family Dwelling Unit Detached State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.49) State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-123 Persons (Section 1251.48) Transitional and Supportive Home, 1-6 Persons (Section 1251.47) 	<ul style="list-style-type: none"> Private K-12 Schools Personal-Scale Wind Energy Facility (Section 1251.39) Religious Institutions (Section 1251.42) State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) Transitional and Supportive Home, More than 6 Persons (Section 1251.50)
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Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Accessory Dwelling Unit, with SLU approval
- Home Occupation (Section 1251.18)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	R-1A
Minimum Lot Area (sq. ft.)	7,500 <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>5.80</u>
Minimum Lot Width (ft.)	60
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	30
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	8
Maximum Building Height	35 ft., 2.5 stories

Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

1240.07 R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish primarily single-family detached residential properties of a suburban, medium-density character. This district includes those areas which are serviced by City water and sewer.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Bed and Breakfast (Section 1251.09) • Community Garden (Section 1251.12) • Essential Services • Outdoor Recreation/Public (Section 1251.36) • Public K-12 Schools • Single Family Dwelling Unit Detached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Campground (Section 1251.10) • Cemetery (Section 1251.11) • Institutions of Higher Education • Private K-12 Schools • Personal-Scale Wind Energy Facility (Section 1251.39) • Religious Institutions (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Transitional and Supportive Home, More than 6 Persons (section 1251.50)
Refer to Section 1230.06 for definitions for uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Accessory Dwelling Unit, with SLU approval • Home Occupation (Section 1251.18) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(e) Dimension Regulations	
Lot Standards	R-1B
Minimum Lot Area (sq. ft.)	5,000 <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>8.7</u>
Minimum Lot Width (ft.)	50
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	30

Side Yard Setback (ft.)	6
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.08 R-2 TWO FAMILY RESIDENTIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish a mix of single- and two-family residential properties of an urban, medium-density character. Limited commercial uses, which tend to complement residential areas should be expected. This district includes street and utility elements expected in an urban setting. Further, this district provides a buffer between single-family and multifamily neighborhoods.

(b) Permitted Uses

- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Essential Services
- Outdoor Recreation/Public (Section 1251.36)
- Public K-12 Schools
- Rooming and Boarding Houses, not to Exceed 4 Boarders (Section 1251.43)
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47)
- Transitional and Supportive Home, 1-6 Persons (Section 1251.49)

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Campground (Section 1251.10)
- Cemetery (Section 1251.11)
- Institutions of Higher Education
- Religious Institutions (Section 1251.42)
- Private K-12 Schools
- State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-20 Persons (Section 1251.48)
- State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48)
- Transitional and Supportive Home, More than 6 Persons (Section 1251.50)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- [Accessory Building \(Section 1260.01\)](#)
- Accessory Dwelling Unit, with SLU approval
- Home Occupation (Section 1251.18)
- Personal-Scale Wind Energy Facility, with SLU approval (Section 1251.39)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations	
Lot Standards	R-2
Minimum Lot Area (sq. ft.)	5,000 <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>8.70</u>
Minimum Lot Width (ft.)	60
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25
Side Yard Setback (ft.)	5
Maximum Building Height	35 ft., 2.5 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.09 R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT.

(a) Purpose	
It is the purpose of this district to establish high-density multi-family developments located in suburban and urban areas, and commercial development with relatively low intensities that often complement residential neighborhoods. Further, this district supports housing styles of mid- and high-level buildings consisting of garden apartments, and townhome condominiums. The high density of this district is intended to support nearby commercial districts, and provide a transition between commercial and mid-density districts.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> Assisted Senior Living (Section 1251.03) Bed and Breakfast (Section 1251.09) Community Garden (Section 1251.12) Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) Essential Services Independent Senior Living with Services (Section 1251.21) Multi-Family Dwelling Units (Section 1251.33) Outdoor Recreation/Public (section 1251.36) Public K-12 Schools Rooming and Boarding Houses, Up to 10 	<ul style="list-style-type: none"> Adaptive Reuse (Section 1251.01) Banquet and Meeting Hall < 100 capacity (Section 1251.08) Cemetery (Section 1251.11) Institutions of Higher Education Private K-12 Schools Religious Institutions (Section 1251.42) State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) Transitional and Supportive Home, More

Boarders (Section 1251.43) <ul style="list-style-type: none"> • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 persons (Section 1251.49) 	than 6 Persons (Section 1251.50)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Accessory Dwelling Unit • Home Occupation (Section 1251.18) • Private Gardens (Section 1251.39) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(e) Dimension Regulations	
Lot Standards	R-3
Minimum Lot Area (sq. ft.)	2,900 <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>15</u>
Minimum Lot Width (ft.)	60 <u>40</u>
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25 (f)
Side Yard Setback (ft.)	25 (f)
Maximum Building Height	45 ft., <u>4 stories</u>
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.10 MFR HIGH DENSITY MULTIPLE FAMILY DISTRICT.

(a) Purpose

It is the purpose of this district to accommodate new types of diversified residential developments of high densities, usually requiring a large tract of unplatted land. The types of

residential structures include garden apartments, terrace apartments and row housing units and those special types of housing structures similar in character and density to multiple family housing.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Assisted Senior Living (Section 1251.03) • Bed and Breakfast (Section 1251.09) • Child Care Centers • Community Garden (Section 1251.12) • Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13) • Essential Services • Independent Senior Living with Services (Section 1251.21) • Institutions of Higher Education • Medical or Dental Clinic \leq 20,000 s.f. • Multi-Family Dwelling Units (Section 1251.33) • Outdoor Recreation/Public (Section 1251.36) • Public K-12 Schools • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Banquet and Meeting Hall (Section 1251.08) • Cemetery (Section 1251.11) • Hospital > 20,000 s.f. (Section 1251.19) • Private K-12 Schools • Religious Institutions (Section 1251.42) • State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 Persons (Section 1251.48) • State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 Persons (Section 1251.48) • Transitional and Supportive Home, More than 6 Persons (Section 1251.50)
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Accessory Dwelling Unit • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	

(e) Dimension Regulations	
Lot Standards	MFR
Minimum Lot Area (sq. ft.)	2,170(d)(e) See Section 1241.03(e)
<u>Maximum Residential Units Per Acre</u>	<u>20(d)(e)</u>
Minimum Lot Width (ft.)	120
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	20
Side Yard Setback (ft.)	20
Maximum Building Height	45 ft., 4 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.11 B-1 CORRIDOR COMMERCIAL DISTRICT.

(a) Purpose	
It is the purpose of this district to accommodate those retail and business service activities that serve the whole community and the metropolitan region. Such activities require land and structure uses that are typically compact and densely grouped, generating a large volume of pedestrian and vehicular traffic. It is the purpose of these regulations to permit the establishment of a wide variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Arena/Theater • Artisan/Maker Space • Assisted Senior Living (Section 1251.03) • Automobile Car Wash Establishment (Section 1251.04) • Automobile or Vehicle Dealership (Section 1251.07) • Automobile Repair (Section 1251.05) • Banquet and Meeting Hall (Section 1251.08) • Bookstore • Brewpub • Catering Businesses • Child Care Centers 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Adult Business (Section 1251.01) • Automobile Service Station (Section 1251.04) • Bar, Tavern, or Saloon • Cemetery (Section 1251.11) • Hospital > 20,000 s.f. (Section 1251.19) • Nightclub • Research and Development • Transportation and Logistics • Vehicle Repair, Major (Section 1251.54) • Warehouse • Wholesale

- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Distillery, Winery – w/ or w/o food
- ~~Drive-In Restaurant~~
- Drive-Thru Business Restaurant (Section 1251.14)
- Essential Services
- Event Center
- Financial Institutions
- ~~Full Service Restaurant~~
- Funeral Homes, Mortuaries
- Government/Public Uses (Section 1251.16)
- Indoor Recreation
- Institutions of Higher Education
- Pawn Broker
- Private Club
- Private K-12 Schools
- Public K-12 Schools
- Kennels/Veterinarian (Section 1251.23)
- ~~Limited Service Restaurant~~
- Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.23, 1251.25)
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: Medical Marihuana Provisioning Center (Section 1251.24, 1251.30)
- Marihuana: Medical and Adult-Use Marihuana Safety Compliance Facility (Sections 1251.24, 1251.31)
- Marihuana: Medical and Adult-Use Marihuana Secure Transporter (Sections 1251.24, 1251.32)
- Medical or Dental Clinic =< 20,000 s.f.
- Microbrewery (Section 1251.35)
- Office
- Outdoor Recreation/Private (Section 1251.36)
- Outdoor Recreation/Public (Section 1251.36)

<ul style="list-style-type: none"> • Outdoor Storage (Section 1251.37) • Personal Service Establishment (Section 1251.40) • Religious Institutions (Section 1251.42) • <u>Restaurant</u> <ul style="list-style-type: none"> ○ <u>Carry-Out</u> ○ <u>Drive-In</u> ○ <u>Drive Thru (Section 1251.14)</u> ○ <u>Full Service</u> ○ <u>Limited Service</u> • Retail Sales • Self-Storage Facilities (Section 1251.44) • Vehicle Repair, Minor 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • <u>Food Truck</u> • Outdoor Storage (Section 1251.37) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) • Utility-Scale Solar Energy Facility (Section 1251.52) 	
(f) Prohibited Uses	
<ul style="list-style-type: none"> • Sale, rental, or display of motor vehicles, trailers, or boats • Manufacturing and processing establishments not selling their entire output at retail on the site 	
(g) Dimension Regulations	
Lot Standards	B-1
Minimum Lot Area	<u>2,900-Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>NA</u>
Minimum Lot Width (ft.)	60
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	20

Rear Yard Setback (ft.)	15 (h)
Side Yard Setback (ft.)	15 (g)
Maximum Building Height	45 ft., 3 stories
<p>Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations. Refer to Chapter 1251 for additional dimensional regulations for specific uses.</p>	

1240.12 B-2 REGIONAL COMMERCIAL DISTRICT.

(a) Purpose

It is the purpose of this district to accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic. It is the purpose of these regulations to permit the establishment of a limited variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques as may develop, particularly where the use of motor vehicles is involved. In order to utilize the full potential effectiveness of this District, certain functions that would operate more effectively in other districts and that would interfere with the general business effectiveness of this District have been intentionally excluded.

(b) Permitted Use

- Arena/Theater
- Artisan/Maker Space
- Assisted Senior Living
- Automobile Car Wash Establishment (Section 1251.04)
- Automobile or Vehicle Dealership (Section 1251.07)
- Automobile Repair (Section 1251.05)
- Automobile Service Station (section 1251.06)
- Banquet and Meeting Hall (Section 1251.08)
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- Catering Businesses
- Child Care Centers
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Distillery, Winery – w/ or w/o food
- ~~Drive-In Restaurant~~
- Drive-Thru Business ~~Restaurant~~ (Section 1251.14)
- Essential Services
- Event Center
- Financial Institutions
- ~~Full-Service Restaurant~~
- Funeral Homes, Mortuaries, and

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Cemetery (Section 1251.11)
- Parking as a Principal Use
- Transportation and Logistics
- Vehicle Repair, Major (Section 1251.54)
- Warehouse
- Wholesale

Crematoriums

- Government/Public Uses (Section 1251.16)
- Greenhouse/Nursery (Principal Use)
- Hospital > 20,000 s.f. (Section 1251.19)
- Hotel (Section 1251.20)
- Indoor Recreation
- Institutions of Higher Education
- Kennels/Veterinarian (Section 1251.23)
- ~~Limited Service Restaurant~~
- Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26)
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30)
- Marihuana: Medical and Adult-Use Marihuana Safety Compliance Facility (Sections 1251.24, 1251.31)
- Marihuana: Medical and Adult-Use Marihuana Secure Transporter (Sections 1251.24, 1251.32)
- Medical or Dental Clinic =< 20,000 s.f.
- Microbrewery (Section 1251.35)
- Motel (Section 1251.34)
- Nightclub
- Office
- Outdoor Recreation/Private (Section 1251.36)
- Outdoor Recreation/Public (Section 1251.36)
- Pawn Broker
- Personal Service Establishment (Section 1251.39)
- Private Club
- Private K-12 Schools
- Public K-12 Schools
- Religious Institutions (Section 1251.42)
- Research and Development
- Restaurant

<ul style="list-style-type: none"> ○ Carry-Out ○ Drive-In ○ Drive Thru (Section 1251.14) ○ Full Service ○ Limited Service • Retail Sales > 17,000 s.f. • Self Storage Facilities (Section 1251.44) • Vehicle Repair, Minor 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.01) • Food Truck • Outdoor Storage (Section 1251.37) • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) • Utility-Scale Solar Energy Facility (Section 1251.52) 	
(f) Dimension Regulations	
Lot Standards	B-2
Minimum Lot Area (s.f.)	25,000
Maximum Residential Units Per Acre	NA
Minimum Lot Width (ft.)	150
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	20
Side Yard Setback (ft.)	20
Maximum Building Height	50 ft., 3 stories
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for dimensional regulations for specific uses.	

1240.13 T-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

(a) Purpose

It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.

(b) Permitted Uses

- Assisted Senior Living (Section 1251.03)
- Banquet and Meeting Hall < 100 Capacity (Section 1251.08)
- Bed and Breakfast (Section 1251.09)
- Bookstore
- ~~Carry-Out Restaurant~~
- Catering Businesses
- Child Care Centers
- Community Garden (Section 1251.12)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Essential Services
- Financial Institutions
- ~~Full-Service Restaurant~~
- Government/Public Uses (Section 1251.14)
- Indoor Recreation
- Independent Senior Living with Services (Section 1251.21)
- ~~Limited-Service Restaurant~~
- Medical or Dental Clinic < 5,000 s.f.
- Multi-Family Dwelling Units (Section 1251.33)
- Office < 17,000 s.f.
- Outdoor Recreation/Public (Section 1251.36)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Personal Service Establishments (Section 1251.40)
- Private Club
- Public K-12 Schools
- Religious Institutions (Section 1251.42)
- Restaurant
 - Carry-Out
 - Drive-In

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Artisan/Maker Space
- Bar, Tavern, or Saloon
- Brewpub
- Cemetery (Section 1251.11)
- Distillery, Winery – w/ or w/o food
- Drive Thru Business (Section 1251.14)
- Farmers' Market (Section 1251.15)
- Funeral Homes, Mortuaries
- Hotel (Section 1251.20)
- Institutions of Higher Education
- Pawn Broker
- Private K-12 Schools
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30)
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26)
- Marinas
- Medical or Dental Clinic 5,000 to < 20,000 s.f.
- Microbrewery (Section 1251.35)
- Motel (Section 1251.20)
- Nightclub
- Office ≥ 17,000 s.f.
- Retail Sales ≥ 17,000 s.f.
- Restaurant
 - Drive-Thru (Section 1251.14)

<ul style="list-style-type: none"> ○ Full Service ○ Limited Service • Retail Sales < 17,000 s.f. • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Two-Family Dwelling Units • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.47) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) • Transitional and Supportive Home, More than 6 Persons (Section 1251.50) 	
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-4, and T-5 Districts for additional development requirements.</p>	
<p>(d) Accessory Uses</p>	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Food Truck • Accessory Dwelling Unit, with SLU approval • Farmers Market (Sections 1251.15) • Private Gardens (1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
<p>(e) Dimension Regulations</p>	
Lot Standard	T-3
Minimum Lot Area (sq. ft.)	2,900(d) Not Required
Maximum Residential Units Per Acre	20(d)
Minimum Lot Width (ft.)	360
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	40
Front Yard Setback (ft.)	See Section 1250.04(d)(1)A 30
Rear Yard Setback (ft.)	20 (h)
Side Yard Setback (ft.)	10 (g)
Maximum Building Height	36 ft., 3 stories
<p>Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.</p>	

1240.14 T-4 DOWNTOWN COMMERCIAL DISTRICT.

(a) Purpose

It is the purpose of this district to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

(b) Permitted Uses

- Artisan/Maker Space
- Assisted Senior Living (Section 1251.03)
- Banquet and Meeting Hall (Section 1251.08)
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- ~~Carry-Out Restaurant~~
- Catering Businesses
- Child Care Centers
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Distillery, Winery – w/ or w/o food
- Essential Services
- Event Center
- Farmers Market (Section 1251.15)
- Financial Institutions
- ~~Full-Service Restaurant~~
- Government/Public Uses (Section 1251.16)
- Hotel (Section 1251.20)
- Independent Senior Living with Services (Section 1251.21)
- Indoor Recreation
- Institutions of Higher Education
- ~~Limited-Service Restaurant~~
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: medical Marihuana Provisioning Center (Sections 1251.24, 1251.30)
- Medical or Dental Clinic < 20,000 s.f.
- Microbrewery (Section 1251.35)

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- ~~Drive-In Restaurant~~
- Drive-Thru Business Restaurant (Section 1251.14)
- Funeral Homes, Mortuaries
- Hospital > 20,000 s.f. (Section 1251.19)
- Private K-12 Schools
- Parking as a Principal Use
- Research and Development
- Restaurant
 - Drive-In
 - Drive-Thru (Section 1251.14)

<ul style="list-style-type: none"> • Motel (Section 1251.34) • Multi-Family Dwelling Units (Section 1251.33) • Nightclub • Office • Outdoor Recreation/Public (Section 1251.36) • Personal Service Establishments (Section 1251.40) • Private Club • Public K-12 Schools • Religious Institutions (Section 1251.42) • Retail Sales • <u>Restaurant</u> <ul style="list-style-type: none"> ○ <u>Carry-Out</u> ○ <u>Full Service</u> ○ <u>Limited Service</u> • Single Family Dwelling Unit Attached • State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 Persons (Section 1251.48) • Transitional and Supportive Home, 1-6 Persons (Section 1251.49) • Transitional and Supportive Home, More than 6 Persons (Sections 1251.50) • Two-Family Dwelling Units 	
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-4, and T-5 Districts for additional development requirements.</p>	
<p>(d) Existing Uses</p>	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
<p>(e) Accessory Uses</p>	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Accessory Dwelling Unit • Farmers Market (Section 1251.15) • <u>Food Truck</u> • Private Gardens (Section 1251.40) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 7-12 Children (Section 1251.46) 	
<p>(f) Dimension Regulations</p>	

Lot Standards	T-4
Minimum Lot Area (s.f.)	2,900 (d) <u>Not Required</u>
<u>Maximum Residential Units Per Acre</u>	<u>20(d)</u>
Minimum Lot Width (ft.)	<u>460</u>
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	<u>See Section 1250.04(d)(1)A</u> Not Required
Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required
Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.15 T-5 CORE DOWNTOWN COMMERCIAL DISTRICT.

(a) Purpose

It is the purpose of this district to revitalize commercial areas which, through business relocation, substantial change in surrounding uses, changes in the market, or a combination thereof, require the orderly placement of business establishments to provide the maximum use of buildings to accommodate and respond to changes in vehicular and pedestrian traffic flow. To permit the full potential of this district, certain uses which would interfere with the general effectiveness of this District have been intentionally excluded, and uses permitted herein are intended to be strictly limited in their definition. Further, to promote uses that support a walkable downtown environment, mix of uses within a single building, and uses that create activity throughout the day and week.

(b) Permitted Uses

- Artisan/Maker Space
- Banquet and Meeting Hall (Section 1251.08)
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- ~~Carry Out Restaurant~~
- Catering Businesses
- Child Care Centers
- Distillery, Winery – w/ or w/o food
- Essential Services
- Event Center
- Financial Institutions
- ~~Full Service Restaurant~~
- Government/Public Uses (Section 1251.16)
- Hotel (Section 1251.20)
- Independent Senior Living with Services (Section 1251.21)
- Indoor Recreation
- Institutions of Higher Education
- ~~Limited Service Restaurant~~
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25)
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30)
- Medical or Dental Clinic ≤ 20,000 s.f.
- Microbrewery (Section 1251.35)

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Hospital > 20,000 s.f. (Section 1251.19)
- Parking as a Principal Use

<ul style="list-style-type: none"> • Motel (Section 1251.34) • Multi-Family Dwelling Units (Section 1251.33) • Nightclub • Office • Outdoor Recreation/Public (Section 1251.35) • Personal Service Establishments (Section 1251.38) • Private Club • Private K-12 Schools • Public K-12 Schools • Religious Institutions (Section 1251.42) • <u>Restaurant</u> <ul style="list-style-type: none"> ○ <u>Carry-Out</u> ○ <u>Drive-In</u> ○ <u>Full Service</u> ○ <u>Limited Service</u> • Retail Sales • Two Family Dwelling Units 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Accessory Dwelling Unit • Farmers Market (Section 1251.15) • <u>Food Truck</u> • Private Gardens (Section 1251.41) • State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(f) Dimension Regulations	
Lot Standards	T-5
Minimum Lot Area (sq. ft.)	<u>Not Required</u> 2,900(d)
<u>Maximum Residential Units Per Acre</u>	<u>20(d)</u>
Minimum Lot Width (ft.)	6 <u>30</u>

<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	<u>See Section 1250.04(d)(1)A Not Required</u>
Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required
Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.16 I-1 LIGHT INDUSTRIAL DISTRICT.

(a) Purpose	
<p>The I-1 Light Industrial District is intended to accommodate those industrial uses that generate noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is established as one in which the principal use of the land is for industrial activities wholly compatible with all other uses permitted in this District, commercial establishments not engaging in retail sales and service establishments which, if doing retail business, are of the type not generally requiring the customer to call at the place of business.</p>	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Artisan/Maker Space • Automobile or Vehicle Dealership (Section 1251.07) • Automobile Repair (Section 1251.05) • Automobile Service Station (Section 1251.06) • Brewpub • Carry Out Restaurant • Child Care Center • Distillery, Winery – w/ or w/o food • Drive In Restaurant • Drive-Thru <u>Restaurant Business</u> (Section 1251.14) • Essential Services • Farm Implements and Heavy Machinery Sales • Financial Institutions • Government/Public Uses (Section 1251.16) 	<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Adult Business (Section 1251.02) • Automobile Car Wash Establishment (Section 1251.04) • Bar, Tavern, or Saloon • Cemetery (Section 1251.11) • Funeral Homes, Mortuaries, and Crematoriums • Hospital > 20,000 s.f. (Section 1251.19) • Junk or Salvage Yard (Section 1251.22) • Kennels (Section 1251.23) • Nightclub • Parking as a Principal Use • Retail Sales

- Greenhouse/Nursery (Principal Use)
- Institutions of Higher Education
- ~~Limited Service Restaurant~~
- Manufacturing
- Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26)
- Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) (must be co-located with a Grower or Processor)
- Marihuana: Medical and Adult-Use Marihuana Grow Operation (Sections 1251.24, 1251.28)
- Marihuana: Medical and Adult-Use Marihuana Processing Facility (Sections 1251.24, 1251.29)
- Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30) (must be co-located with a Grower or Processor)
- Marihuana: Medical and Adult-Use Marihuana Safety Compliance Facility (Sections 1251.24, 1251.31)
- Marihuana: Medical and Adult-Use Marihuana Secure Transporter (Sections 1251.24, 1251.32)
- Microbrewery (Section 1251.34)
- Outdoor Recreation/Public (Section 1251.36)
- Religious Institutions (Section 1251.42)
- Research and Development
- Restaurant
 - Carry-Out
 - Drive-In
 - Drive-Thru (Section 1251.14)
 - Full Service
 - Limited Service
- Transportation and Logistics
- Utility-Scale Solar Energy Facility (Section 1251.52)
- Vehicle Repair, Major (Section 1251.53)
- Vehicle Repair, Minor
- Warehouse

<ul style="list-style-type: none"> Wholesale 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Existing Uses	
<ul style="list-style-type: none"> Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> Accessory Buildings (Section 1260.01) Office Outdoor Storage (Section 1251.37) Private Gardens (Section 1251.41) State Licensed Child Care Family Home, 1-7 Children (Section 1251.45) State Licensed Child Care Group Home, 8-14 Children (Section 1251.46) 	
(f) Dimension Regulations	
Lot Standard	I-1
Minimum Lot Area (s.f.)	2,900
<u>Maximum Residential Units Per Acre</u>	<u>NA</u>
Minimum Lot Width (ft.)	60
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	NA Not Required
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	50 (H)
Side Yard Setback (ft.)	25 (G)
Maximum Building Height	Not Required
Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

1240.17 I-2 HEAVY INDUSTRIAL DISTRICT.

(a) Purpose	
The purpose of this district is to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road and/or railroad and public and utility services.	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> Artisan/Maker Space Automobile Repair (Section 1251.05) 	<ul style="list-style-type: none"> Adaptive Reuse (Section 1251.01) Adult Business (Section 1251.01)

<ul style="list-style-type: none"> • Automobile Service Station (Section 1251.06) • Brewpub • <u>Carry Out Restaurant</u> • Child Care Centers • Distillery, Winery – w/ or w/o food • Drive-Thru <u>Restaurant Business</u> (Section 1251.14) • Essential Services • Farm Implements and Heavy Machinery Sales • Financial Institutions • Full Service Restaurant • Institutions of Higher Education • Kennels (Section 1251.23) • Limited Service Restaurant • Manufacturing • Marihuana: Adult-Use Marihuana Microbusiness (Sections 1251.24, 1251.26) • Marihuana: Adult-Use Marihuana Retailers (Sections 1251.24, 1251.25) (must be co-located with a Grower or Processor) • Marihuana: Medical and Adult-Use Marihuana Grow Operation (Sections 1251.24, 1251.28) • Marihuana: Medical and Adult-Use Marihuana Processing Facility (Sections 1251.24, 1251.29) • Marihuana: Medical Marihuana Provisioning Center (Sections 1251.24, 1251.30) (must be co-located with a Grower or Processor) • Marihuana Medical and Adult-Use Marihuana Safety Compliance Facility (Section 1251.24, 1251.31) • Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.24, 1251.32) • Microbrewery (Section 1251.35) • Outdoor Recreation/Public (Section 1251.36) • Religious Institutions (Section 1251.42) 	<ul style="list-style-type: none"> • Automobile Car Wash Establishment (Section 1251.04) • Bar, Tavern, or Saloon • Cemetery (Section 1251.11) • Hospital > 20,000 s.f. (Section 1251.19) • Junk or Salvage Yard (Section 1251.22) • Nightclub • Parking as a Principal Use • Retail Sales • Utility-Scale Wind Energy Facility (Section 1251.53)
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<ul style="list-style-type: none"> • Research and Development • <u>Restaurant</u> <ul style="list-style-type: none"> ○ <u>Carry-Out</u> ○ <u>Drive-In</u> ○ <u>Drive-Thru (Section 1251.14)</u> ○ <u>Full Service</u> ○ <u>Limited Service</u> • Transportation and Logistics • Utility-Scale Solar Energy Facility (Section 1251.52) • Vehicle Repair, Major (Section 1251.54) • <u>Vehicle Repair, Minor</u> • Warehouse • Wholesale 	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	
(d) Existing Uses	
<ul style="list-style-type: none"> • Single Family Dwelling Unit Detached 	
(e) Accessory Uses	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) • Carry-Out Restaurant • Outdoor Storage (Section 1251.37) • Office • Private Gardens (Section 1251.40) • State Licensed Child Care Family Home, 1-7 Children, with SLU approval (Section 1251.45) • State Licensed Child Care Group Home, 8-14 Children, with SLU approval (Section 1251.46) 	
(f) Dimension Regulations	
Lot Standards	I-2
Minimum Lot Area (s.f.)	2,900
<u>Maximum Residential Units Per Acre</u>	<u>NA</u>
Minimum Lot Width (ft.)	60
<u>Minimum Lot Depth (ft.)</u>	<u>100 (Section 1240(a)(7))</u>
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25 (h)
Side Yard Setback (ft.)	25 (h)

Maximum Building Height	Not Required
Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule the dimensional regulations above. Refer to Chapter 1251 for dimensional regulations for specific uses.	

1240.18 S SPARK DISTRICT.

(a) Purpose	
<p>It is the purpose of this district to encourage and facilitate redevelopment by implementing the following mixed-use policies:</p> <ol style="list-style-type: none"> 1. Mix of Land Compatible Land Uses: Permit a range of compatible land uses, such as residential (from single-family to multi-family), public, institutional, office, retail, personal services use, and appropriate general business uses. 2. Walkability: Create a walkable, pedestrian-oriented development that does not conflict with motorized traffic. 3. Building Location and Site Design: Ensure that buildings have a strong relationship to the street by requiring development to be human-scale through appropriate building location and site design, including developing areas that include civic spaces and pedestrian amenities and requiring on-street parking along interior streets. 4. Use of Buildings: Allow compatible mixed uses to be located in a single building. 	
(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> • Adaptive Reuse (Section 1251.01) • Arena/Theater • Artisan/Maker Space • Assisted Senior Living (Section 1251.03) • Banquet and Meeting Hall (Section 1251.08) • Bar, Tavern, or Saloon • Bookstore • Brewpub • Carry-Out Restaurant • Child Care Centers • Community Garden (Section 1251.10) • Distillery, Winery – w/ or w/o food • Drive-In Restaurant • Drive-Thru <u>Business Restaurant</u> (Section 1251.14) • Essential Services • Financial Institutions • Government/Public Uses (Section 1251.16) 	<ul style="list-style-type: none"> • Cemetery (Section 1251.11) • Convalescent Homes, Nursing Homes, or Homes for the Aged (Section 1251.13) • Private K-12 Schools • Kennels (Section 1251.23) • Marinas • Parking as a Principal Use

<ul style="list-style-type: none"> • Greenhouse/Nursery (Principal Use) • Hotel (Section 1251.20) • Independent Senior Living with Services (Section 1251.21) • Indoor Recreation • Institutions of Higher Education • Limited Service Restaurant • Medical or Dental Clinic < 20,000 s.f. • Microbrewery (Section 1251.35) • Motel (Section 1251.34) • Multi-Family Dwelling Units (Section 1251.33) • Nightclub • Office • Outdoor Recreation/Public (Section 1251.36) • Outdoor Recreation/Private (Section 1251.36) • Personal Service Establishments (Section 1251.40) • Public K-12 Schools • Religious Institutions (Section 1251.42) • Research and Development • <u>Restaurant</u> <ul style="list-style-type: none"> ○ <u>Carry-Out</u> ○ <u>Drive-In</u> ○ <u>Drive-Thru (Section 1251.14)</u> ○ <u>Full Service</u> ○ <u>Limited Service</u> • Retail Sales • Single Family Dwelling Unit Attached • Single Family Dwelling Unit Detached • Transportation and Logistics • Two-Family Dwelling Units • Warehouse • Wholesale 	
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.</p>	
<p>(d) Accessory Uses</p>	
<ul style="list-style-type: none"> • Accessory Buildings (Section 1260.02) 	

- Accessory Dwelling Unit
- Farmers Market (Section 1251.15)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Private Gardens (Section 1251.41)
- [State Licensed Child Care Family Home, 1-7 Children \(Section 1251.45\)](#)
- [State Licensed Child Care Group Home, 8-14 Children \(Section 1251.45\)](#)

(e) Dimension Regulations

Lot Standards	S
Minimum Lot Area (s.f.)	2,900 Not Required
Maximum Residential Units Per Acre	20
Minimum Lot Width (ft.)	60
Minimum Lot Depth (ft.)	100 (Section 1240(a)(7))
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	Not Required
Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required

Footnotes: Refer to Section 1241.04 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule these dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses. All development in the S Spark District is eligible for administrative approval subject to the discretion of the Zoning Administrator.

1240.19 OFFICIAL ZONING MAP AND INTERPRETATION.

The boundaries of the districts are shown upon the map which is made a part of this Zoning Code, which map is designated as the “Official Zoning Map.” Such map and all the notations, references and other information shown thereon are a part of this Zoning Code and have the same force and effect as if they were fully set forth or described herein.

Where, due to the scale, illegibility or detail of the map, there is uncertainty, contradiction or conflict as to the location of a district boundary, the interpretation of the exact location of such boundary shall be determined by the Zoning Board of Appeals.

(Ord. 10-2020.Passed 11-24-20.)

1240.20 DISTRICT BOUNDARY UNCERTAINTIES.

Where uncertainty exists or arises with respect to the boundaries of the various districts as shown on the zoning district map accompanying and made a part of this zoning ordinance in its original form, the following rules apply:

(a) The district boundaries are either streets, alleys, rights of way or watercourses, unless otherwise shown. Where such districts are bounded approximately by streets, alleys, rights of way or watercourses, the same shall be construed to be the boundaries of the districts unless such boundaries are fixed by dimensions as shown on the map.

(b) 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 the lot lines. Where such districts are bounded approximately by lot lines, the lot lines shall be construed to be the boundaries of the districts, unless the boundaries are fixed by dimensions as shown on the map.

(c) In any determined by the use of the scale appearing on the map, unless the same are indicated by dimensions as shown on the map.

(Ord. 10-2020.Passed 11-24-20.)

1240.21 ZONING DISTRICTS.

(a) Conformity with District Regulations Required. Except as hereinafter 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 shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for the district in which the building is located.

(3) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the yard 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 such building is located, except for as otherwise allowed in Chapter 1270.

(5) No building or structure shall be enlarged or altered and no use of a premises shall be changed in any way which increases its nonconformity, except for as otherwise allowed in Chapter 1270.

(6) The minimum yards, parking spaces and other open spaces, including the lot area per family, required by this Zoning Code for each and every building existing at the time of passage of this Zoning Code (November 24, 2020) or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Code.

(7) Every building hereinafter erected or structurally altered shall be on a lot, provided that a lot may be subdivided or a series of lots may be increased in number and decreased in size, so long as each new lot is not less than 100 feet in depth and in conformity with the width requirements of Chapter 1240. In no case shall there be more than one main building on one lot unless otherwise provided in this Zoning Code.

(b) Essential Services. Essential services shall be permitted as authorized and regulated by law and ordinances of the City. It is the intention of this Zoning Code to exempt such essential services from the application of this Zoning Code.

(c) Land Under Water; Streets. All areas within the City which are under water or a public right-of-way and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water or right-of-way area. If the water or right-of-way area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water or right-of-way area in a straight line until they meet the other district.

(d) Annexed Land.

(1) Whenever any areas are annexed to the City, one of the following conditions shall prevail:

A. All lots, tracts or land which may hereafter be annexed to the City shall be classified as being in whichever district as most clearly conforms to the zoning that existed in the annexed area. Such classifications shall be recommended by the Planning Commission to the City Commission and the City Commission shall approve the same by resolution.

B. If any lot, tract or land is not subject to zoning at the time of annexation, it shall be classified as R-1A Single-Family whenever the land is vacant and otherwise shall be classified into whatever district of this Zoning Code most closely conforms to the existing use of the annexed area. Such classification shall be approved in the same manner as described for property that is zoned when annexed.

(2) In all cases, there shall be a public hearing, within a reasonable time after annexation, on the question of a permanent zoning classification. The hearing before the Planning Commission and the subsequent action by the City Commission shall follow the procedure to establish amendments in accordance with Section 1281.01(c).

(e) Vacation of Streets. Whenever any street, alley or other public way is vacated by official action of the City Commission or by the courts, the zoning district adjoining each side of such street, alley or other public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

(f) Uses Not Specifically Mentioned. The City Zoning Administrator or their designee shall have the power to classify a use, which is not specifically mentioned in this Zoning Code, along with a comparable permitted or prohibited use for the purpose of the use regulations in any district. The City Planning and Zoning Administrator or their designee may refer these appeals to the Zoning Board of Appeals.

Chapter 1241
Schedule of Regulations

1241.01 STATEMENT OF PURPOSE.

The purpose of this Chapter is to provide area, height, and placement regulations for districts established by this Zoning Code.

1241.02 SCHEDULE OF REGULATIONS.

Schedule of Regulations									
Zoning District			Lot Area, Lot Width, and Building Coverage Requirements (Section 1247.07(a))		Minimum Yard Setbacks			Maximum Building Height	
	Max. Residential Units Per Acre	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Max. % Building Coverage	Front (ft.) (Section 1247.07 (b))	Side (ft.) (Section 1247.07(c))	Rear (ft.)	Feet	Stories
G, Green District	1	Not Required	150	Not Required	35	15	35	35	2.5
AG, Agricultural District	.33	Not Required	150	Not Required	(c)	(c)	(c)	35	2.5
R-1R, Single Family Residential District	1.45	Not Required	120	Not Required	35	15	35	35	2.5

R-1A, Single Family Residential District	5.8	Not Required	60	30	30	8	35	35	2.5
R-1B, Single Family Residential District	8.7	Not Required	50	30	25	6	30	35	2.5
R-2, Two Family Residential District	8.7	Not Required	50	25	25	5	25	35	2.5
R-3, Multiple Family District	15	Not Required	40	25	25 (f)	5 (f)	25 (f)	45	4
MFR, High Density Multiple Family District	20	Not Required	120	30	35	20	20	45	4
B-1, Corridor Commercial District	NA	Not Required	60	Not Required	35	20	20	50	3
B-2, Regional Commercial District	NA	25,000	150	Not Required	35	20	20	50	3
T-3, Neighborhood Commercial District (Section 1241.03 (i))	20(d)	Not Required	30	40	See Section 1250.04(d)(1)A 30	10 (g)	20 (h)	36	3

T-4, Downtown Commercial, Community Services, Community Open Space and Recreation (Section 1241.03(i))	20(d)	Not Required	40	Not Required	See Section 1250.04(d)(1)A	Not Required	Not Required	Not Required	Not Required
T5, Downtown Commercial District (Section 1241.03(i))	20(d)	Not Required	30	Not Required	See Section 1250.04(d)(1)A	Not Required	Not Required	Not Required	Not Required
I-1, Light Industrial District	NA	2,900	60	Not Required	25	25 (g)	50 (h)	Not Required	Not Required
I-2, Heavy Industrial District	NA	2,900	60	Not Required	25	25 (g)	50 (h)	Not Required	Not Required
S, Spark District	20	Not Required	60	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required
Footnotes: Refer to Section 1241.03 whenever a lowercase letter is referenced in parentheses. . Additionally, some uses have specification standards that overrule these dimensional regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.									

1241.03 FOOTNOTES TO SCHEDULE OF REGULATIONS.

(a) Whenever a lot has less area or width than required in this chapter, but was a lot of record at the time of the adoption of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020), such lot may be occupied by any of the uses permitted in the district in which it is located. The use must meet all of the other requirements of this Zoning Code.

(b) In R Districts, where required front yards exceed twenty-five feet, only one front yard in excess of twenty-five feet shall be required, except that south of I-94 on lots fronting on Beckley Road or Capital Avenue, S.W., all such front yards shall be a minimum of fifty feet.

(c) Thirty-five feet to dwelling only.

(d) The maximum residential density allowed in the MFR High Density Multiple Family District and the T-3 Neighborhood Commercial District shall not exceed twenty units per acre. There is no residential density limit in the T-4 and T-5 Districts. However, all other dimensional regulations in those districts shall apply.

(e) No new multifamily dwelling in the MFR High Density Multiple Family District shall be established having a site area of less than 7,500 sq. ft.

(f) Provided that the front and rear yards are increased by one foot for each foot of building height exceeding thirty-five feet, and that the side yards are increased over the minimum requirement by one foot for each two feet of building height over thirty-five feet.

(g) No side yard shall be required, except that a side yard shall be provided on the side of a lot or tract adjoining a residential use or district. If an alley separates such a lot from a residential use or district, no side yard shall be required.

(h) A rear yard shall be required only upon that portion of a lot or tract abutting on a residential district or adjacent to a residential use. Where a rear yard abuts an alley, the width of one-half of the alley may be considered part of the required yard.

(i) The schedule of regulations is intended to be complementary with the requirements of Section 1250.04, Form-Based Development Standards for the T-3, T-4, and T-5 Districts; however, in any instance where there is apparent conflict the provisions of Section 1250.04 shall control.

1241.04 HEIGHT REQUIREMENTS.

(a) Exceptions and Modifications.

(1) Chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, solariums, steeples, penthouses, stacks, stage towers, scenery lofts, tanks, water towers, ornamental towers and spires, wireless, television or radio towers and necessary mechanical appurtenances shall not be included in determining the height or number of stories of a building.

(2) The limitation on the number of stories shall not apply to buildings used exclusively for storage purposes, provided that such buildings do not exceed the height permitted in the district in which they are located.

(b) Airport Height Restrictions. Additional height limitations exist in areas designated on the official zoning map within approach zones at the Battle Creek Executive Airport at Kellogg Field. These restrictions are further delineated in Section 1250.03.

1241.05 LOT AREA AND WIDTH REQUIREMENTS.

(a) Exceptions.

(1) Two or more parcels, lots of record or platted lots, when contiguous and held in common ownership, may be treated as a single lot for purposes of the dimensional

requirements of this Zoning Code, provided that such lots are located in the same district. This does not prevent the use of the lots as separate stand-alone parcels.

(2) Where a single lot of record, platted lot or parcel of land is within two or more zoning districts, it may be treated as two or more lots for purposes of this Zoning Code, provided that each portion has the required frontage on a street or place and meets all of the other standards for the district in which it is located.

(3) Where a lot of record on the effective date of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020) is less than fifty feet in width, the required side yard may be reduced to 10% of the width of the lot, provided that no side yard is less than four feet.

(4) More than one main multiple dwelling or commercial or industrial building may be located upon a lot, provided that such building conforms to all yard requirements for the district in which the lot is located.

(5) For purposes of this Zoning Code, the width of a lot shall be determined to be the width at the required front yard setback line.

(b) Prohibition of Flag Lots. The creation of flag or panhandle lots is prohibited.

1241.06 SINGLE FAMILY RESIDENTIAL SITING REQUIREMENTS.

(a) Purpose and Application. This chapter is necessary in order for the City to more specifically address the special requirements and regulations associated with the on-site placement of manufactured housing to assure favorable comparison with site-built housing. However, it shall apply to all single-family dwellings.

(b) Location. The siting of a single-family dwelling may occur on any lot located in a district that permits such use, provided the dwelling meets the requirements established for that particular district and the requirements of this chapter.

(c) General Requirements.

(1) A single-family dwelling shall have a minimum first floor area of 450 square feet and a minimum width of twenty feet on the shortest side and a minimum internal height of seven and one-half feet.

(2) The building shall be located and constructed so as to meet the minimum off-street parking and loading requirements set forth in Chapter 1261, and conform to the Schedule of Regulations set forth in Chapter 1241, if located in an R District, any accessory buildings and uses shall meet the residential district requirements set forth in Section 1260.01.

(3) Construction of site-built and manufactured houses without mobile chassis shall be in compliance with the latest adopted Building Code of the City. Manufactured houses with mobile chassis, shall meet the requirements of the HUD Code.

(4) The dwelling shall be attached to a permanent foundation as required in the latest adopted Building Code of the City. Manufactured houses shall be supported and anchored as required by the latest adopted Building Code of the City, or as required by the Michigan Mobile Home Commission rules.

(5) When setting on a permanent foundation, wheels shall be removed from manufactured houses so equipped, and the screening of the towing mechanism, undercarriage or chassis shall be done with non-load bearing, fire-resistant skirting materials of similar or the same composition as the home's outside surface. Such screening shall be installed in a manner so as to resist damage under normal weather conditions, shall be vented and shall have an access panel provided for in accordance with the Michigan Mobile Home Commission rules.

(6) The dwelling shall be connected to a public sanitary sewer system if such exists within 200 feet of the structure or, if no public sewer is so available, a private septic tank may be established if it is approved by the County Health Department. The dwelling may be connected to a public water system if such is available, or to a private well approved by the County Health Department.

(7) Additions to dwellings shall be built in conformity with the latest adopted Building Code of the City, and shall be constructed with similar materials, be similar in appearance and be of similar quality of workmanship as in the original structure.

(8) Dwellings must include storage area, either in the basement, in an attic area, in closet areas or in a separate fully enclosed structure. Such storage area shall be at least 5% of the total square footage of interior living area of the dwelling or 525 cubic feet, whichever is less.

(9) Sixty percent of the roof configuration shall be a minimum of 2.5 inches per every twelve inches of run-slope and shall meet or exceed all applicable roof snow load and strength requirements.

(d) Design Standards.

(1) The dwelling shall be aesthetically compatible in design and appearance with adjacent existing residential buildings. Aesthetic compatibility shall not be construed to prohibit innovative design concepts involving, nor limit such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

(2) The aesthetic compatibility of design and appearance shall be determined by the Planning and Zoning Administrator upon review of the plans submitted for a particular dwelling.

(3) Determination of incompatibility of a particular dwelling may be appealed by an aggrieved party to the Zoning Board of Appeals within a period of fifteen days of the receipt of notice of the Planning and Zoning Administrator's decision.

(e) Exemption for Mobile Home Parks. The provisions of this chapter shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by State or Federal law.

1241.07 YARD REQUIREMENTS.

(a) Building Projections. Every part of a required yard shall be open to the sky and unobstructed by a building, except for the following may project into required yards:

(1) Accessory buildings as permitted in Section 1260.01.

(2) The ordinary projection of sills, belt courses, cornices, eaves and ornamental features not exceeding twelve inches.

(3) Permanent awnings projecting not more than four feet into a required yard.

(4) Terraces, uncovered porches, wheelchair ramps and ornamental features that do not rise more than four feet above the ground.

(b) Front Yards.

(1) Lots having frontage on a lake, brook, stream, river or other watercourse shall be provided with a required front yard on this water frontage, as well as that, which might be required on any street frontage as specified for the district in which it is situated.

(2) On corner lots, a front yard shall be required along each street.

(3) Interior lots having a frontage on two streets shall be provided with the required front yard on both streets.

(4) Where front yards have been established, or may be required on each of two intersecting streets, there shall be a front yard on each street side of a corner lot, with the following exceptions:

- A. In R Districts, where required front yards exceed twenty-five feet, only one front yard in excess of twenty-five feet shall be required, except that south of I-94 on lots fronting on Beckley Road or Capital Avenue, S.W., all such front yards shall be a minimum of fifty feet.
- B. The width of the principal building located on a lot of record need not be less than twenty-feet when the owner of record can show that the ownership and control of any adjacent lot or lots of record are by another person.

(5) Where 40% or more of frontages on the same side of a street between intersecting streets are developed with buildings that have a front yard less in depth than otherwise required by this chapter, new buildings shall be erected no closer to the street than the average front yard so established by the existing buildings on both sides of the lot to be used, except that this subsection shall not apply south of I-94 to lots fronting Beckley Road or Capital Avenue, S.W.

(6) Where alleys separate lots, the width of the alley shall not be considered in the computation of frontage, nor shall the alley be considered an intersecting street.

(7) No storage or parking of vehicles is permitted on any portion of a required front yard in any R District or T-3 District, except as such parking or storage may intermittently occur on legally authorized driveways and as otherwise may be permitted in this Zoning Code, unless otherwise allowed in this code.

(c) Side Yards.

(1) For the purpose of the side yard regulations, a two-family or multiple dwelling may be considered as one building occupying one lot.

(2) Whenever the wall of any building adjoining a side yard within any Single-Family or Two-Family Residential District exceeds a length of fifty feet, the width of the side yard shall be increased by one foot for each ten feet of wall length in excess of fifty feet.

(d) Exceptions for Commercial and Industrial Districts.

(1) Parking shall be permitted in the required front yard in any B-1, B-2, I-1 or I-2 District.

(2) Whenever a commercial or industrial district adjoins an R District or a residential use, no off-street parking required for the commercial or industrial development shall be located within the required yard within fifty feet from the residential structure or the R District boundary.

(3) Fences of a concealment type, not to include chain link, shall be erected on the common lot line whenever such lot line separates a Commercial or Industrial District from an R District or a residential structure. Such fence shall be installed concurrently with the commercial or industrial use of the land or building. The height of such fence shall conform to the requirements of Section 1260.02 (e).

Chapter 1241
Schedule of Regulations

1241.01 STATEMENT OF PURPOSE.

The purpose of this Chapter is to provide area, height, and placement regulations for districts established by this Zoning Code.

1241.02 SCHEDULE OF REGULATIONS.

Schedule of Regulations									
Zoning District		Lot Area, Lot Width, and Building Coverage Requirements (Section 1247.07(a))			Minimum Yard Setbacks			Maximum Building Height	
	<u>Max Residential Units Per Acre</u>	Min_min Lot Area (sq. ft.)	Min_min Lot Width (ft.)	Max_min %Perce nt-of Building Coverage	Front (ft.) (Section 1247.07 (b))	Side (ft.) (Section 1247.07 (c))	Rear (ft.)	Feet	Stories
G, Green District	<u>1</u>	43,560 <u>Not Required</u>	150	Not Required	35	15	35	35	2.5
AG, Agricultural District	<u>.33</u>	130,680 <u>Not Required</u>	150	Not Required	(c)	(c)	(c)	35	2.5
R-1R, Single Family	<u>1.45</u>	30,000	120	Not Required	35	15	35	35	2.5

Residential District		<u>Not Required</u>							
R-1A, Single Family Residential District	<u>5.8</u>	7,500 <u>Not Required</u>	60	30	30	8	35	35	2.5
R-1B, Single Family Residential District	<u>8.7</u>	5,000 <u>Not Required</u>	50	30	25	6	30	35	2.5
R-2, Two Family Residential District	<u>8.7</u>	5,000 <u>Not Required</u>	560	25	25	5	25	35	2.5
R-3, Multiple Family District	<u>15</u>	42,090 <u>Not Required</u>	460	25	25 (f)	5 (f)	25 (f)	45	4
MFR, High Density Multiple Family District	<u>20</u>	2,170 (d), (e) <u>Not Required</u>	120	30	35	20	20	45	4
B-1, Corridor Commercial District	<u>NA</u>	2,900 <u>Not Required</u>	60	Not Required	35	20	20	50	3
B-2, Regional Commercial District	<u>NA</u>	25,000	150	Not Required	35	20	20	50	3

T-3, Neighborhood Commercial District (Section 1241.03 (i))	<u>20(d)</u>	2,900 (d) <u>Not Required</u>	630	40	<u>See Section 1250.04(d) (1)A 30</u>	10 (g)	20 (h)	36	3
T-4, Downtown Commercial, Community Services, Community Open Space and Recreation (Section 1241.03(i))	<u>20(d)</u>	42,000 (d) <u>Not Required</u>	4660	Not Required	Not Required <u>See Section 1250.04(d) (1)A</u>	Not Required	Not Required	Not Required	Not Required
T5, Downtown Commercial District (Section 1241.03(i))	<u>20(d)</u>	2,900 (d) <u>Not Required</u>	630	Not Required	Not Required <u>See Section 1250.04(d) (1)A</u>	Not Required	Not Required	Not Required	Not Required
I-1, Light Industrial District	<u>NA</u>	2,900	60	Not Required	25	25 (g)	50 (h)	Not Required	Not Required
I-2, Heavy Industrial District	<u>NA</u>	2,900	60	Not Required	25	25 (g)	50 (h)	Not Required	Not Required
S, Spark District	<u>20</u>	2,900 <u>Not Required</u>	60	Not Required	Not Required	Not Required	Not Required	Not Required	Not Required
Footnotes: Refer to Section 1241.03 whenever a lowercase letter is referenced in parentheses. . Additionally, some uses have specification standards that overrule these dimensional regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.									

1241.03 FOOTNOTES TO SCHEDULE OF REGULATIONS.

(a) Whenever a lot has less area or width than required in this chapter, but was a lot of record at the time of the adoption of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020), such lot may be occupied by any of the uses permitted in the district in which it is located. The use must meet all of the other requirements of this Zoning Code.

(b) In R Districts, where required front yards exceed twenty-five feet, only one front yard in excess of twenty-five feet shall be required, except that south of I-94 on lots fronting on Beckley Road or Capital Avenue, S.W., all such front yards shall be a minimum of fifty feet.

(c) Thirty-five feet to dwelling only.

(d) The maximum residential density allowed in the MFR High Density Multiple Family District and the T-3 Neighborhood Commercial District shall not exceed twenty units per acre. There is no residential density limit in the T-4 and T-5 Districts. However, all other dimensional regulations in those districts shall apply.

(e) No new multifamily dwelling in the MFR High Density Multiple Family District shall be established having a site area of less than 7,500 sq. ft.

(f) Provided that the front and rear yards are increased by one foot for each foot of building height exceeding thirty-five feet, and that the side yards are increased over the minimum requirement by one foot for each two feet of building height over thirty-five feet.

(g) No side yard shall be required, except that a side yard shall be provided on the side of a lot or tract adjoining a residential use or district. If an alley separates such a lot from a residential use or district, no side yard shall be required.

(h) A rear yard shall be required only upon that portion of a lot or tract abutting on a residential district or adjacent to a residential use. Where a rear yard abuts an alley, the width of one-half of the alley may be considered part of the required yard.

(i) The schedule of regulations is intended to be complementary with the requirements of Section 1250.04, Form-Based Development Standards for the T-3, T-4, and T-5 Districts; however, in any instance where there is apparent conflict the provisions of Section 1250.04 shall control.

1241.04 HEIGHT REQUIREMENTS.

(a) Exceptions and Modifications.

(1) Chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, solariums, steeples, penthouses, stacks, stage towers, scenery lofts, tanks, water towers, ornamental towers and spires, wireless, television or radio towers and necessary mechanical appurtenances shall not be included in determining the height or number of stories of a building.

(2) The limitation on the number of stories shall not apply to buildings used exclusively for storage purposes, provided that such buildings do not exceed the height permitted in the district in which they are located.

(b) Airport Height Restrictions. Additional height limitations exist in areas designated on the official zoning map within approach zones at the Battle Creek Executive Airport at Kellogg Field. These restrictions are further delineated in Section 1250.03.

1241.05 LOT AREA AND WIDTH REQUIREMENTS.

(a) Exceptions.

(1) Two or more parcels, lots of record or platted lots, when contiguous and held in common ownership, may be treated as a single lot for purposes of the dimensional requirements of this Zoning Code, provided that such lots are located in the same district. This does not prevent the use of the lots as separate stand-alone parcels.

(2) Where a single lot of record, platted lot or parcel of land is within two or more zoning districts, it may be treated as two or more lots for purposes of this Zoning Code, provided that each portion has the required frontage on a street or place and meets all of the other standards for the district in which it is located.

(3) Where a lot of record on the effective date of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020) is less than fifty feet in width, the required side yard may be reduced to 10% of the width of the lot, provided that no side yard is less than four feet.

(4) More than one main multiple dwelling or commercial or industrial building may be located upon a lot, provided that such building conforms to all yard requirements for the district in which the lot is located.

(5) For purposes of this Zoning Code, the width of a lot shall be determined to be the width at the required front yard setback line.

(b) Prohibition of Flag Lots. The creation of flag or panhandle lots is prohibited.

1241.06 SINGLE FAMILY RESIDENTIAL SITING REQUIREMENTS.

(a) Purpose and Application. This chapter is necessary in order for the City to more specifically address the special requirements and regulations associated with the on-site placement of manufactured housing to assure favorable comparison with site-built housing. However, it shall apply to all single-family dwellings.

(b) Location. The siting of a single-family dwelling may occur on any lot located in a district that permits such use, provided the dwelling meets the requirements established for that particular district and the requirements of this chapter.

(c) General Requirements.

(1) A single-family dwelling shall have a minimum first floor area of 450 square feet and a minimum width of twenty feet on the shortest side and a minimum internal height of seven and one-half feet.

(2) The building shall be located and constructed so as to meet the minimum off-street parking and loading requirements set forth in Chapter 1261, and conform to the Schedule of Regulations set forth in Chapter 1241, if located in an R District, any accessory buildings and uses shall meet the residential district requirements set forth in Section 1260.01.

(3) Construction of site-built and manufactured houses without mobile chassis shall be in compliance with the latest adopted Building Code of the City. Manufactured houses with mobile chassis, shall meet the requirements of the HUD Code.

(4) The dwelling shall be attached to a permanent foundation as required in the latest adopted Building Code of the City. Manufactured houses shall be supported and anchored as required by the latest adopted Building Code of the City, or as required by the Michigan Mobile Home Commission rules.

(5) When setting on a permanent foundation, wheels shall be removed from manufactured houses so equipped, and the screening of the towing mechanism, undercarriage or chassis shall be done with non-load bearing, fire-resistant skirting materials of similar or the same composition as the home's outside surface. Such screening shall be installed in a manner so as to resist damage under normal weather conditions, shall be vented and shall have an access panel provided for in accordance with the Michigan Mobile Home Commission rules.

(6) The dwelling shall be connected to a public sanitary sewer system if such exists within 200 feet of the structure or, if no public sewer is so available, a private septic tank may be established if it is approved by the County Health Department. The dwelling may be connected to a public water system if such is available, or to a private well approved by the County Health Department.

(7) Additions to dwellings shall be built in conformity with the latest adopted Building Code of the City, and shall be constructed with similar materials, be similar in appearance and be of similar quality of workmanship as in the original structure.

(8) Dwellings must include storage area, either in the basement, in an attic area, in closet areas or in a separate fully enclosed structure. Such storage area shall be at least 5% of the total square footage of interior living area of the dwelling or 525 cubic feet, whichever is less.

(9) Sixty percent of the roof configuration shall be a minimum of 2.5 inches per every twelve inches of run-slope and shall meet or exceed all applicable roof snow load and strength requirements.

(d) Design Standards.

(1) The dwelling shall be aesthetically compatible in design and appearance with adjacent existing residential buildings. Aesthetic compatibility shall not be construed to prohibit innovative design concepts involving, nor limit such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

(2) The aesthetic compatibility of design and appearance shall be determined by the Planning and Zoning Administrator upon review of the plans submitted for a particular dwelling.

(3) Determination of incompatibility of a particular dwelling may be appealed by an aggrieved party to the Zoning Board of Appeals within a period of fifteen days of the receipt of notice of the Planning and Zoning Administrator's decision.

(e) Exemption for Mobile Home Parks. The provisions of this chapter shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by State or Federal law.

1241.07 YARD REQUIREMENTS.

(a) Building Projections. Every part of a required yard shall be open to the sky and unobstructed by a building, except for the following may project into required yards:

- (1) Accessory buildings as permitted in Section 1260.01.
- (2) The ordinary projection of sills, belt courses, cornices, eaves and ornamental features not exceeding twelve inches.
- (3) Permanent awnings projecting not more than four feet into a required yard.
- (4) Terraces, uncovered porches, wheelchair ramps and ornamental features that do not rise more than four feet above the ground.

(b) Front Yards.

(1) Lots having frontage on a lake, brook, stream, river or other watercourse shall be provided with a required front yard on this water frontage, as well as that which might be required on any street frontage as specified for the district in which it is situated.

(2) On corner lots, a front yard shall be required along each street.

(3) Interior lots having a frontage on two streets shall be provided with the required front yard on both streets.

(4) Where front yards have been established, or may be required on each of two intersecting streets, there shall be a front yard on each street side of a corner lot, with the following exceptions:

- A. In R Districts, where required front yards exceed twenty-five feet, only one front yard in excess of twenty-five feet shall be required, except that south of I-94 on lots fronting on Beckley Road or Capital Avenue, S.W., all such front yards shall be a minimum of fifty feet.
- B. The width of the principal building located on a lot of record need not be less than twenty-feet when the owner of record can show that the ownership and control of any adjacent lot or lots of record are by another person.

(5) Where 40% or more of frontages on the same side of a street between intersecting streets are developed with buildings that have a front yard less in depth than otherwise required by this chapter, new buildings shall be erected no closer to the street than the average front yard so established by the existing buildings on both sides of the lot to be used, except that this subsection shall not apply south of I-94 to lots fronting Beckley Road or Capital Avenue, S.W.

(6) Where alleys separate lots, the width of the alley shall not be considered in the computation of frontage, nor shall the alley be considered an intersecting street.

(7) No storage or parking of vehicles is permitted on any portion of a required front yard in any R District or T-3 District, except as such parking or storage may intermittently occur on legally authorized driveways and as otherwise may be permitted in this Zoning Code, unless otherwise allowed in this code.

(c) Side Yards.

(1) For the purpose of the side yard regulations, a two-family or multiple dwelling may be considered as one building occupying one lot.

(2) Whenever the wall of any building adjoining a side yard within any Single-Family or Two-Family Residential District exceeds a length of fifty feet, the width of the side yard shall be increased by one foot for each ten feet of wall length in excess of fifty feet.

(d) Exceptions for Commercial and Industrial Districts.

(1) Parking shall be permitted in the required front yard in any B-1, B-2, I-1 or I-2 District.

(2) Whenever a commercial or industrial district adjoins an R District or a residential use, no off-street parking required for the commercial or industrial development shall be located within the required yard within fifty feet from the residential structure or the R District boundary.

(3) Fences of a concealment type, not to include chain link, shall be erected on the common lot line whenever such lot line separates a Commercial or Industrial District from an R District or a residential structure. Such fence shall be installed concurrently with the commercial or industrial use of the land or building. The height of such fence shall conform to the requirements of Section 1260.02 (e).

CHAPTER 1251
Standards Applicable to Specific Uses

1251.01 ADAPTIVE REUSE

(a) Purpose. To allow for the adaptive reuse of vacant buildings in the city that have maintained their structural integrity but the use they were intended to serve is no longer needed, desired or allowed in the zoning district where they are located. The proposed use shall be in harmony with or beneficial to the surrounding uses and it must not do any of the following:

- (1) Promote undue concentration of traffic throughout the day or at any specific time-period that would be uncharacteristic or disruptive to the surrounding uses.
- (2) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of noise, smoke, fumes, glare, vibrations or odors.

1251.02 ADULT BUSINESSES.

(a) Purposes. In the development and execution of this chapter, it is recognized that there are some uses, which because of their very nature have serious operational characteristics, particularly when concentrated or when one or more of them are located in near proximity to residential zones, thereby having a deleterious effect upon adjacent areas. Regulation of these uses through location is necessary to ensure that the adverse effects of such uses will not contribute to the blighting or downgrading of the surrounding neighborhood. The provisions of this chapter are intended to prevent a concentration of these uses within any one area and to prevent deterioration or blighting of nearby residential neighborhoods.

(b) Restrictions on Location. An adult business may be located in the city only in accordance with the following restrictions:

(1) All such businesses shall be limited to areas zoned B-1, I-1 or I-2, excluding those areas so zoned within the boundaries of the Battle Creek Tax Increment Financing Authority District known as Fort Custer Industrial Park, as approved by the City Commission in Resolution 27, passed April 28, 1986, and amended by Resolution 338, passed September 9, 1986 and excluded from within the boundaries of the Dickman Road Business Improvement District established by City Commission Resolution 351 on September 7, 1999.

(2) No adult business shall be located within 1,000 feet of another adult business; within 1,000 feet of a church, school, or public park; or within 300 feet of a residential or agricultural zoning district.

(c) Miscellaneous Requirements.

(1) The height, yard, lot area, lot width, building coverage, sign and parking requirements of an adult business shall conform to the requirements for the zone in which it is located.

(2) The distance between an adult business and a church, school, public park, or a residential or agricultural zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the adult business or building containing an adult business to the nearest property line of the protected use or residential or agricultural district.

(3) No person shall reside in or permit any person to reside in the premises of an adult business.

(d) Exceptions. The provisions of this chapter regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes or medical clinics, or to the offices of a physician, surgeon, chiropractor, osteopath or physical therapist, duly licensed by the state, or to massage therapists licensed by the State under Part 179A of the Public Health Code, MCL. 333.17951 et seq.

(e) Penalty; Equitable Remedies.

(1) A person who violates or fails to comply with any of the provisions of this chapter is responsible for a Class F municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(2) Notwithstanding subsection (a) hereof, the city may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this chapter.

1251.03 ASSISTED SENIOR LIVING.

(a) Minimum Site Area. The minimum parcel area shall contain 2,000 square feet per living bed.

(b) Required Minimum Usable Floor Area in Square Feet Per Dwelling Unit.

(1) State of Michigan licensing requirements regulate assisted living unit size.

(2) No living unit within a senior housing development may contain more than two bedrooms.

(c) Maximum Building Height. The maximum building height in an assisted senior living development shall not exceed forty feet.

(d) Setbacks. The minimum setbacks for senior housing shall be:

(1) Front yard setback: Fifty feet.

(2) Side yard setback: Fifty feet.

(3) Rear yard setback: Fifty feet.

(e) Open Space. A minimum of 25% of the site, exclusive of existing or planned public road right-of-way, must be maintained as landscaped open space. Courtyards larger than 2,400 square feet may be counted as required open space. Recreation facilities, active and/or passive, including paved walkways and covered sitting areas shall be provided in a manner that meets the needs of the resident population.

(f) Building Facade and Length. Assisted senior living buildings must present a residential architectural image in terms of building facades, the composition and use of exterior wall surface materials, and building length. Any building façade longer than 100 feet must provide for variations in the outside wall and roof line.

1251.04 AUTOMOBILE CAR WASH ESTABLISHMENT.

(a) Pedestrian Access. The use must be located so as not to interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty (30) feet in width at the property line.

(c) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

1251.05 AUTOMOBILE REPAIR.

(a) Pedestrian Access. The use must be located so as not to interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty feet in width at the property line.

(c) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(d) Screening. All inoperable vehicles shall be enclosed by a sight-obscuring fence or wall of a minimum height of eight feet

1251.06 AUTOMOBILE SERVICE STATION.

(a) Pedestrian Access. The use must be located to not interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty feet in width at the property line.

(c) Pump Islands. Gasoline pumps and pump islands may be located in any required yard setback space but must be located at least twenty feet from any lot line.

(d) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(e) Indoor Activity Only. All activities, except those required to be performed at fuel pumps, must be carried on inside a building. If work is performed on a vehicle, such vehicle must be entirely within a building.

(f) Outdoor Facilities and Merchandise. The location of outdoor facilities (e.g., vacuums, air machines, etc.) and outdoor merchandise (e.g., coolers, propane tanks, etc.) must be shown on the site plan and must not interfere with vehicular and pedestrian circulation.

1251.07 AUTOMOBILE OR VEHICLE DEALERSHIP.

(a) Minimum Lot Size and Lot Width. Automobile or vehicle dealerships shall be located on a parcel of land containing no less than one-half acre and having a width of at least 100 feet at the front lot line.

(b) Outdoor Storage. Outdoor storage of disabled, damaged or unlicensed vehicles is prohibited, unless properly screened.

1251.08 BANQUET AND MEETING HALL.

Only permitted in T-5 if on second floor or above.

1251.09 BED AND BREAKFAST.

(a) Parking. Bed and breakfast establishments are permitted only when off-street parking is provided upon the lot or on adjoining property, which space is adequate to accommodate one car for each room available to tourists.

(b) Accessory Structures. No accessory buildings shall be used for bed and breakfast sleeping rooms unless they were originally constructed to accommodate residential use. No garage shall be used for bed and breakfast sleeping rooms.

1251.10 CAMPGROUND.

(a) Minimum Lot Size. Minimum campground size shall be five acres.

(b) Access. The campground shall provide vehicular access to a public street or road.

(c) Public Stations. Public stations, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities, shall be provided, uniformly throughout the campground at a ratio of not less than one such station for each twenty sites.

(d) Commercial Enterprises. No commercial enterprises shall be permitted to operate in the campground, except that convenience goods shopping may be provided.

(e) Campsite Setback. Campsites shall be located a minimum distance of fifty feet from property lines, and fifteen feet between all campsites.

1251.11 CEMETERY.

(a) Minimum Lot Size. Twenty acres.

(b) Setbacks. No building or structure may be closer than fifty feet from any property line.

1251.12 COMMUNITY GARDEN.

(a) Applicability. Community gardens are subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the community garden is located.

(b) Minimum Lot Size and Lot Width. Community gardens are a permitted use of vacant property that contains a minimum of 5,000 square feet and minimum width of fifty feet.

(c) General Requirements. The following provisions apply to community gardens:

(1) Plant beds shall be setback three feet from the property lines and the public right-of-way.

(2) Accessory buildings including greenhouses, storage sheds, and shade pavilions shall be permitted in the side or rear yard, subject to Section 1260.01, but shall not exceed 10% of the total lot area.

(3) Hoop houses are permitted as an accessory building but are not counted toward the allowable accessory building size limitation. The coverings must be maintained and remain intact, and removed when no longer in use for a period of six-months or longer.

(4) Compost piles must be located at least five feet from all adjoining property lines and a minimum of twenty feet from the nearest residential structure. Each compost bin/area shall be less than sixteen square feet in size.

(5) Rain catchment systems must be located at least five feet from all adjoining property lines.

(6) Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. Except for sales of plants produced within the community garden and sold at the farm stand, there shall be no retail sales on the site except that properties exceeding two acres may sell up to thirty percent of their overall farmers market inventory in the form of packaged food to complement the produce grown on premise. Alcohol sales shall be prohibited.

(7) The use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.

(8) Lighting, if provided, shall be a minimal amount and shielded so that all directly emitted light falls within the property.

(9) Fencing shall comply with Section 1260.02.

(10) Vehicle access to the site shall only be by way of a driveway constructed to city standards to avoid vehicle damage to the curb, sidewalk and any lawn area in the right-of-way.

(11) There are no minimum parking requirements, however any parking lot proposed and designed for four or more vehicles must be constructed in accordance with Section 1261.01 only after a site plan has been reviewed and approved in accordance with Section 1281.04.

(12) One freestanding sign consisting of no more than twelve square feet shall be allowed. Such sign shall otherwise comply with the applicable regulations of the zoning district in which it is located.

(13) Trash containers may be provided on site.

(14) Gardening activities shall be conducted in a manner which is consistent with the activities and noise levels of the neighborhood in which they are located.

(15) Educational activities relating to the community garden and food preparation may be held onsite where properties are 2 acres or more in size.

(d) Maintenance.

(1) Community gardens shall be maintained in an orderly and neat condition, free of noxious weeds or debris. Dead garden plants shall be removed regularly and, in any instance, no later than November 30 of each calendar year.

(2) Plants or ground cover other than grass shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.

(3) No plants except grass may be grown in the public right-of-way or within one foot of the public sidewalk. Grass must be maintained at a height that does not exceed nine inches.

(4) No plant material may grow to a height that interferes with a clear vision line of sight at street intersections or when entering or exiting driveways.

(5) Oats, wheat, and rye may be used as a winter cover crop, but not grown to full maturity in any season.

(6) Trash receptacles shall be located to the rear of the property.

(7) Walkways shall be unpaved and covered with mulch, gravel or other aggregate that is treated to control dust.

(8) Garden waste or other refuse that is not allowed as compost may not be stored or allowed to accumulate on the site.

(9) Compost piles are only for waste created on the property and they must be maintained. Compost shall not include meat, grease, fat, oil, bones, manure, or milk products.

(10) These uses shall not be detrimental to the physical environment or to the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, odors, chemical, or biological pollutants. Nothing associated with a community garden or commercial urban farm, including allowable fertilizers, pesticides, insecticides, herbicides, compost materials, and water collection receptacles shall emit odors that can be detected beyond the confines of the property containing the garden or be an inordinate attraction for mice, rats or other rodents.

(11) Tools, supplies, and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off the ground in an enclosed, locked structure when the site is unattended.

(12) The property shall be maintained to prevent the flow of stormwater, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.

(13) At such time garden activity ceases completely and the site will no longer be used for a garden, any raised planting beds, accessory buildings, and other above ground remains of the garden shall be promptly removed and the ground leveled and restored so it can be utilized for uses permitted in that zoning district

1251.13 CONVALESCENT HOME, NURSING HOME, OR HOME FOR THE AGED.

Such businesses may establish adult foster care centers within their own facilities as a permitted accessory use. Convalescent homes, nursing homes, and homes for the elderly shall be licensed by the State of Michigan. Such businesses, however, may establish adult foster care centers within their own facilities as a permitted accessory use, if such use is permitted within the district.

1251.14 DRIVE-THRU BUSINESS.

(a) Drive-Thru Window. A business with a drive-thru window shall provide a separate customer service station.

(b) Minimum Width. The traffic lane serving the drive-thru window shall be at least ten feet wide.

(c) By-Pass Lane. A by-pass lane or other suitable means of access to a public street shall be provided for vehicles that do not use the drive-thru window.

(d) Parking Spaces. Parking spaces located beyond drive-thru windows shall be designated for use of drive-thru window patrons.

1251.15 FARMER'S MARKET.

If the farmer's market is seasonal, the use will require special land use approval.

1251.16 GOVERNMENT/PUBLIC USES.

Public or semipublic service buildings, where permitted, may be erected to a height not exceeding sixty feet.

1251.17 GENERAL AND SPECIALIZED FARMS, INCLUDING CROPS AND THE RAISING AND KEEPING OF LIVESTOCK.

(a) Customary agricultural operations, including general farming, field crops, gardening, fruit orchards, nurseries, greenhouses and usual farm buildings, providing any farm building shall not be closer than fifty feet from any property line.

(b) General and specialized farms, including the raising and keeping for profit of cattle, hogs, horses, ponies, sheep and similar livestock on a lot having an area of not less than ten acres;

(c) Customary farm animals including horses, ponies, poultry, rabbits, goats, and similar small animals and similar livestock, may be kept on a noncommercial basis, for the enjoyment, use, and/or consumption by the occupants of the premises, when adequately housed and fenced on a parcel of land not less than 43,560 square feet (1 acre) in area, subject to the following conditions:

(1) No storage of manure or odor or dust producing materials or uses shall be permitted within 100 feet of any adjoining property line.

(2) A private stable for animals owned by the occupant may be kept, provided that the minimum area upon which one horse may be kept is one acre, and that one additional horse may be kept for each additional 20,000 square feet over one acre.

(3) Private stables or buildings housing farm animals shall not be closer than 100 feet from any adjoining property line.

1251.18 HOME OCCUPATIONS.

(a) Purpose. The purpose of this chapter is to provide for the regulation of certain business activities to be carried on or within residential districts when accessory and subordinate to the residential use, and which by their nature will not detract from the quality of residential neighborhoods.

(b) Home Occupation Defined. A home occupation is an activity carried out for consideration by a resident and conducted as an accessory use in the resident's dwelling unit. Consideration shall be defined as some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

(c) Regulations: Requirements. Home occupations engaged in within a Residential District by the resident of a dwelling unit shall comply with all of the following:

(1) Such occupation shall be carried on by one occupant within the principal building, excluding all outdoor activities, with no employees. Examples of such home occupations

include, but are not limited to, hairdressing, millinery, dressmaking, bookkeeping and accounting services, real estate and insurance sales and catalog sales.

(2) A babysitting service or family childcare home when not more than seven minor children are received for care and supervision for periods of less than eighteen hours a day, when unattended by a parent or legal guardian, is permitted.

(3) Home occupations shall be conducted by a person living within the dwelling and by no others, either as a principal or an employee. However, home occupations involving subordinate assistants who do not reside within the dwelling may be allowed by the Zoning Board of Appeals, where, in the Board's discretion, the same would not materially impair the residential character of the neighborhood.

(4) Home occupations shall be operated in their entirety within the dwelling and not within any garage or accessory building located upon the premises, except for incidental storage, which may be allowed within a residential type garage upon the premises.

(5) No external evidence of such home occupation shall be allowed indicating from the exterior that it is being used for anything but a dwelling. This includes the parking of commercial vehicles and temporary storage of any materials associated with a home occupation.

(6) The parking or storage of commercial vehicles at a residence is prohibited and in violation of this chapter. For purposes of this section, a commercial vehicle is any vehicle used to conduct a business or trade including but not limited to step vans, cargo vans, box trucks, stake beds, buses, tractor trailers, dump trucks, wreckers, trailers, earth moving equipment, cement mixers and other similar construction equipment that has two or more of the following characteristics:

- A. Exceeds a GVWR of 10,000 lbs.
- B. Exceeds seven feet in height.
- C. Exceeds twenty feet in length.
- D. Has more than two axles.
- E. Has more than four tires in contact with the ground.
- F. Can carry more than eight passengers.
- G. Is designed to sell food or merchandise directly from the vehicle.

(7) Home occupations may not be used as a meeting place, or rendezvous point for business activities or service operations before, during, or after shifts.

(8) No home occupation shall be conducted within a dwelling unless the same is clearly incidental and subordinate to the principal use of the premises for residential purposes.

(9) No home occupation shall involve the sale of goods from the premises.

(10) No service shall be sold or conducted upon or from the premises which would constitute a nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbances or lighting shall not be discernible beyond the boundaries of the property from which the home occupation is conducted.

(11) No home occupation requiring warehousing of retail or wholesale merchandise, or delivery of the same by large semitrailer-type trucks, shall be allowed.

(12) Paving of any yard area other than normal driveway areas to accommodate parking for home occupations is prohibited.

(13) No home occupation shall be allowed which utilizes more than twenty percent of the interior gross floor area of the inhabitable area of the dwelling and not, in any event, more than 300 square feet.

(14) In no instance shall the repair or sale of motor vehicles be permitted to be a home occupation.

(15) The permission for home occupations as provided herein is intended to secure flexibility in the application of this Zoning Code, but such permission is not intended to allow the essential residential character of a Residential District, in terms of use, traffic and appearance, to be changed in the slightest degree by the occurrence of nonresidential activities. Furthermore, no structural provisions shall be inherent in the design of the structure and no structural alterations shall be made for the accommodation of any home occupation. All activities, unless otherwise stated, shall be carried on indoors only, within the principal building.

(d) Other Requirements. The regulation of home occupations in this chapter shall not waive additional provisions that may be necessary to meet other local, state or federal requirements, including, but not limited to, the following:

(1) State, local or federal taxation or business licensing laws;

(2) All applicable State of Michigan regulations for the preparation and distribution of food and food products;

(3) Cosmetologists, land surveyors and other occupations requiring licensing by the Michigan Department of Licensing and Regulatory Affairs;

(4) Section 28.1814(1)(e) of the Uniform Traffic Code of the State of Michigan, which prohibits the parking of a motor vehicle on a public street for more than forty-eight continuous hours;

(5) The Child Care Organizations Act, Public Act 116 of 1973, as amended, being MCL 722.111 et seq. which provides for the licensing of child care facilities by the Michigan Department of Social Services. The Act defines family child care homes as private homes in which at least one but fewer than eight minor children are received for care and supervision for compensation for periods of less than twenty-four hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption.

(6) The Uniform Fire Code as it pertains to the storage of flammable materials, the use of mechanical or electrical equipment and the need to provide sufficient ingress and egress; and

(7) Private covenants or deed restrictions.

1251.19 HOSPITAL GREATER THAN TWENTY THOUSAND SQUARE FEET.

(a) Minimum Lot Size. All such hospitals shall be developed on sites consisting of at least five acres in area. Provided that there is a minimum of 1,500 square feet of lot area per bed.

(b) Minimum Setbacks. All structures and activity areas must be located at least 100 feet from all property lines.

(c) Screening. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence not less than six feet in height.

(d) Maximum Height. Public, semipublic or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

1251.20 HOTEL.

(a) Minimum Lot Area and Lot Width. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.

(b) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall in no way impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

1251.21 INDEPENDENT SENIOR LIVING WITH SERVICES.

(a) Minimum Site Area. The minimum site area shall contain 5,500 square feet per independent living unit.

(b) Required Minimum Usable Floor Area in Square Feet Per Dwelling Unit.

(1) Independent Living Units: Efficiency/studio, one-bedroom dwelling units, and two-bedroom dwelling units shall meet the minimum requirements of the Building Code.

(2) No living unit within a senior housing development may contain more than two bedrooms.

(c) Maximum Building Height. The maximum building height in a senior housing development shall not exceed forty feet.

(d) Setbacks. The minimum setbacks for senior housing shall be:

(1) Front yard setback: Fifty feet.

(2) Side yard setback: Fifty feet.

(3) Rear yard setback: Fifty feet.

(e) Open Space. A minimum of 25% of the site, exclusive of existing or planned public road right-of-way, must be maintained as landscaped open space. Courtyards larger than 2,400 square feet may be counted as required open space. Recreation facilities, active and/or passive, including paved walkways and covered sitting areas shall be provided in a manner that meets the needs of the resident population.

(f) Building Facade and Length. Senior housing buildings must present a residential architectural image in terms of building facades, the composition and use of exterior wall surface materials, and building length. Any building façade longer than 100 feet must provide for variations in the outside wall and roof line.

1251.22 JUNK OR SALVAGE YARD.

(a) Screening. Where a junk yard is adjacent to residential or commercial zoned properties or has frontage on a road or highway, a solid masonry wall or solid obscuring fence of eight feet in height or one foot above the height of the piles, whichever is greater, shall be constructed in the side and rear yards. The fence shall be placed on or inside the required side yard, or rear yard setback.

(b) Enclosed. There shall be no burning of tires, vehicle bodies, wiring, oil or waste products on the site, and all industrial processes, including the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.

(c) Truck Routes. Truck routes must be established for movement in and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties.

1251.23 KENNELS/VETERINARIAN.

(a) Screening. All outdoor runs or breeding areas shall be enclosed on all sides by an obscuring wall or fence not less than four feet in height.

(b) Setback. All outdoor runs and breeding areas shall be located at least fifty feet from any lot line and shall be not be located in the front yard.

1251.24 MARIHUANA: MARIHUANA BUSINESS REGULATIONS.

Refer to Chapter 835, Adult Use Marihuana Establishments, and/or Chapter 833 Medical Marihuana Facilities of the City of Battle Creek Codified Ordinances for business licensing requirements.

1251.25 MARIHUANA: ADULT USE MARIHUANA RETAILER ESTABLISHMENT.

Must be located at least 1,000 feet from day care centers, preschools, private or public K-12 schools and libraries, and, except for in the I-1 and I-2 Districts, must be located at least 1,000 feet away from a property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center. The setback measurements are between nearest property lines, regardless of ownership of property or licensee. In the I-1 and I-2 Districts, state licensed adult use marihuana retailers are permitted only when collocated with an adult use marihuana grower and/or processor.

1251.26 MARIHUANA: ADULT USE MARIHUANA MICROBUSINESS.

(a) Locational Specifications.

(1) The property at which the microbusiness will be located shall be at least 1,000 feet away from any property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

(2) The property at which the microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

(3) The property at which the microbusiness will be located shall not abut a Residential ("R") zoning district or a property with a residential use.

1251.27 MARIHUANA FACILITIES AND ESTABLISHMENTS.

(a) Purpose. The purpose of this chapter is to implement the provisions of the Michigan Medical Marihuana Act (MMA), Initiated Law 1 of 2008, as amended being MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, as amended, being MCL 333.2701 et seq., and the Michigan Regulation and Taxation of Marihuana Act (MRTMA), Initiated Law 1 of 2018, as amended, being MCL 333.27951 et seq. for establishing local zoning authority for the permitting of adult use marihuana establishments and medical marihuana facilities. Further, the purpose of this chapter also provides:

(1) A process for the city to legally facilitate the development of adult use marihuana establishments and medical marihuana facilities, which are otherwise illegal under federal law.

(2) A procedure for growing, processing, testing, transporting, and selling medical marihuana for qualified persons and selling adult use marihuana as permitted under the MRTMA.

(3) Zoning authority for the protection and preservation of public safety, welfare, and property value; and ensuring consistency with the future land use map of the Master Plan.

(4) A licensing and taxing authority to the city to defray costs to additional public safety, administrative, and enforcement with the result of facilitating development of adult use marihuana establishments and medical marihuana facilities.

(5) Additional economic industry and benefit to the community.

(b) Authority. With the adoption of the MMA of 2008, the MMFLA of 2016, and the MRTMA of 2018, the City of Battle Creek has legislative authority to establish zoning regulations, application processes and associated fees, and enforcement abilities for marihuana development without penalty consistent with the state laws.

(c) License and Permit Required; Application; Fee.

(1) Licenses required. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following licenses:

A. An approved operating license from the State;

B. An approved permit from the City pursuant to Chapter 833 and/or Chapter 835; and

(2) Permit type. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following permits where required:

A. Approved building permit and occupancy permit. All marihuana establishments and facilities shall require an approved building permit showing compliance with applicable zoning and building codes. A certificate of occupancy shall be issued once all applicable inspections are show satisfactory compliance with all zoning and building codes.

B. Approved site plan application. Certain medical marihuana facilities and adult use marihuana establishments shall require gaining an approved site plan application pursuant to Section 1281.04 Site Plan Review.

C. Approved special use permit, if required. Certain medical marihuana facilities and adult use marihuana establishments shall require an approved special use permit pursuant to Section 1281.05 Special Land Uses.

(d) Non-Conforming Uses.

(1) Medical marihuana dispensaries and growing operations, which may have been established under the auspices of the 2008 MMA but have not gained approved permits from the City shall not be considered legally non-conforming. Owners of such dispensaries or growing operations shall cease operation, or if applicable, obtain required permit pursuant to Section 1251.23.

(2) Medical marihuana dispensaries and growing operations, which may have been established under the auspices of the 2008 MMA and have approved permits from the City are considered legally non-conforming and may continue operating pursuant to Chapter 1270 Nonconforming Uses and Structures.

(e) Locational Standards. Pursuant to the 2016 MMFLA, 2018 MRTMA, and Section 1251.23, all types of state licensed marihuana establishments and facilities are allowed in zoning districts established by this chapter and within specific zoning districts provided in this Zoning Code.

(1) The official updated 'Marihuana Maps' of the City of Battle Creek will be maintained by the City's Planning Division.

(2) Co-location of licenses. Where State Licensed Marihuana Growers, Processors, Adult Use Retailers, and Provisioning Centers are co-located on a single property, the usable floor area of the Provisioning Center and Adult Use Retailer shall not exceed 10% of the gross square footage of the overall combine areas of the growing and provisioning areas.

(3) Only one state licensed provisioning center, microbusiness or retailer shall be allowed on a property within the area defined by property lines, except for colocations at same locations by the same licensee holder.

(f) Development, Operational Standards. The following regulations are applicable to all state licensed marihuana establishments and facilities.

(1) Marihuana location. Except when being transported by state licensed security transporter, all marihuana shall be located entirely inside a building having permanent foundation, walls, and roof.

A. Notwithstanding subsection (1), a roof on grow establishments or facilities may consist of a sturdy transparent material, such as glass, to allow sunlight into the growing areas of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting from escaping through the roof.

B. Walls enclosing marihuana growing establishments or facilities shall be constructed of a structurally-supportive load bearing brick, wood, or masonry construction from grade to eight feet in height.

(2) Signage. Notwithstanding Chapter 1263 Signs, only two signs per street frontage shall be permitted for any state licensed marihuana establishment or facility. Neon lighted signs are prohibited.

(3) Fence. Use of barb wire outside of the Industrial Districts is prohibited.

(4) Window glass on ground floor levels must be transparent and free from film or other materials that block visibility. Interior shades, curtains, etc. are permitted.

1251.28 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA GROW OPERATION.

Must be located at least 500 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care centers, preschools, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries;
- (e) Any Residential ("R") zoned property

1251.29 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA PROCESSING FACILITY.

Must be located at least 500 feet away from any Residential ("R") zoned property and at least 1000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care centers, preschools, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries.

1251.30 MARIHUANA: MEDICAL MARIHUANA PROVISIONING CENTER.

Must be located at least at least 1,000 feet away from day care centers, preschools, private or public K-12 schools and libraries, and, except for in the I-1 and I-2 Districts, must be located 1,000 feet away from a property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center. These setback measurements are between nearest property lines, regardless of ownership of property or licensee. In the I-1 and I-2 Districts, state licensed medical marihuana provisioning centers are permitted only when colocated with a medical marihuana grower and/or processor.

1251.31 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA SAFETY COMPLIANCE FACILITY.

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care centers, preschools, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries;
- (e) Any Residential ("R") zoned property.

1251.32 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA SECURE TRANSPORTER.

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care, preschool, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries;
- (e) Any Residential ("R") zoned property.

1251.33 MULTI-FAMILY DWELLING UNITS.

Location. Multiple family dwelling units shall be located only the second floor or above on Michigan Ave in the T4 and T5 zoning districts. Multiple family dwelling units are permitted on the ground floor everywhere else.

1251.34 MOTEL.

(a) Minimum Lot Area. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.

(b) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

1251.35 MICROBREWERY.

(a) Distribution. Wholesale distribution shall be prohibited.

(b) Setback. Microbreweries must be setback a minimum of 300 feet from any residence.

1251.36 OUTDOOR RECREATION.

Outdoor theaters according to the following:

(a) Compliance. The proposed internal design shall receive approval from the Building Inspector, Zoning Administrator, and the City Engineer as to adequacy of drainage, lighting, screening and other technical aspects.

(b) Direct Access. Outdoor recreation establishments shall abut directly upon a major thoroughfare of not less than 120 feet of right-of-way width.

(c) Ingress and Egress. Points of ingress and egress shall be available from abutting major thoroughfares of not less than 120 feet of right-of-way width and shall not be available from any residential street.

(d) Off-Street Waiting Space. Off-street waiting space shall be provided for all vehicles waiting or standing to enter the facility. No vehicle shall be permitted to wait or stand within a dedicated right of way.

(e) Screening. All lighting used to illuminate the area shall be so installed as to be confined within and directed onto the premises on which the outdoor recreation establishment is located.

1251.37 OUTDOOR STORAGE

Outdoor storage of retail products, construction material or equipment shall be confined to a concealment type fence enclosure per Section 1261.02 Fences, except that a reasonable amount of typically seasonal retail product may be stored near the primary building in an orderly fashion.

1251.38 PERSONAL-SCALE SOLAR ENERGY FACILITY.

Roof-mounted and wall-mounted solar energy systems for on-site use are permitted as personal-scale solar energy facilities, subject to the following regulations:

(a) Height. Roof-mounted systems must not extend more than three feet above the roofline nor will they extend above the maximum permitted height of the building to which it is attached.

(b) Location.

(1) Roof-mounted solar energy systems may be located anywhere on a roof of a principal or accessory structure. However, roof-mounted solar energy systems shall not protrude beyond the edge of the roof. A solar panel may function as a roof element, such as an awning.

(2) Wall-mounted solar energy systems may be located anywhere on the wall of a principal or accessory structure. Wall-mounted systems shall not extend above the edge of the roof.

(c) Performance Guarantee. All applications for a solar energy system must be accompanied by a performance guarantee sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04 (f) and Section 1281.046.

(d) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

1251.39 PERSONAL-SCALE WIND ENERGY FACILITY.

Personal-scale wind energy facilities designed to generate power for the property at which it is located are permitted, subject to the following regulations:

(a) Location. Personal-scale wind energy facilities may not fall within the front yard and must meet all of the applicable requirements of this Code.

(b) Maximum Wind Turbine Height. Ten feet above the highest point of the roof or ten feet above the maximum height of the zoning district, whichever is lower.

(c) Noise. A wind energy system must comply with the noise standards set forth in the City's ordinances.

(d) Shadow Flicker. The application for a wind energy system must include a shadow flicker analysis demonstrating impact on adjacent and nearby residential properties. Wind energy systems must be constructed in locations that minimize the impacts of shadow flicker on residences.

(e) Lighting. No wind energy system will be artificially lighted unless required by the Federal Aviation Administration (FAA).

(f) Appearance, Color, and Finish. The wind energy system must be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the

building permit. All wind energy systems will be a single non-reflective, non-obtrusive, matte finished color (e.g. white or gray).

(g) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires, must be located underground.

(h) Compliance with Electrical Code. Building permit applications for wind energy systems must be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(i) Construction Codes, Towers, and Interconnection Standards. Wind energy systems, including towers, must comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems including towers, must comply with the FAA requirements, and other applicable local and state regulations. A wind energy system connected to the public utility electrical grid must comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(j) System Access. Wind energy systems must be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(k) Safety. A wind energy system must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers must have lightning protection. If a tower is supported by guy wires, the wires must be clearly visible to a height of at least six feet above the guy wire anchors.

(l) Minimum Ground Clearance. The lowest extension of any blade or other exposed moving component of a tower mounted wind energy system must be at least twenty feet above the surrounding grade at its highest point within twenty feet of the base of the tower and at least twenty feet above any outdoor surface intended for human use, such as balconies or roof gardens, that are located below the wind energy system.

(m) Roof-Mounted Wind Energy Systems. Roof-mounted wind energy systems must be limited to roof mounting and must not be mounted on any other building wall or surface.

(n) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned wind energy generator and that such connection has been approved. Off-grid systems are exempt from this requirement.

1251.40 PERSONAL SERVICE ESTABLISHMENT

Personal service establishments requiring a state license must be licensed by the State of Michigan. Personal services establishments without required state licenses, if any, are not permitted in the City of Battle Creek.

1251.41 PRIVATE GARDEN

(a) Subject to Restrictions: Private gardens are allowed on any property when accessory to a permitted principal use and subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the private garden is located.

(b) Limitations: Private gardens are permitted on any vacant property less than one acre in size with the following limitations:

(1) Plant beds shall be set back three feet from property lines and the public right-of-way.

(2) Compost piles must be located at least five feet from all adjoining property lines and a minimum of 20 feet from the nearest residential structure. Each compost bin/area shall be less than 16 square feet in size.

(3) Rain catchment systems must be located at least five feet from all adjoining property lines.

(4) Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. and shall be setback three feet from the property line and the public right-of-way. Except for sales of plants produced within the private garden, there shall be no retail sales on the site.

(5) Use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.

(6) Decorative landscape lighting is permitted.

(7) Fencing shall comply with Section 1260.02.

1251.42 RELIGIOUS INSTITUTIONS.

(a) Noise. If music, bells, carolers, chimes or similar audio presentation are to be used, the expected use, times, durations and volumes shall be disclosed on the site plan.

(b) Site Plan. All uses of the structure, facility and land shall be completely described in a full use statement on the site plan, such uses as outdoor recreation areas, pavilions, memorial gardens, memorials, gathering areas and similar uses or activities shall be identified on the site plan.

(c) Maximum Height. Churches and temples may be erected to a height not exceeding seventy-five feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

(d) Minimum Size and Access. In residential districts religious institutions must be located on a parcel having at least one acre of land, and must be located on a major street as show on the major street plan.

1251.43 ROOMING AND BOARDING HOUSES.

Not more than four boarders are permitted in the R2 District and not more than ten boarders are permitted in the R3 District. In all cases the owner of the house must be the occupant and is responsible with maintenance and upkeep of the structure and property. Boarding and rooming homes must register with the City of Battle Creek and remain in compliance with Chapter 1462.

1251.44 SELF-STORAGE / MINI-STORAGE FACILITIES.

Such use shall be screened from exterior view by a solid, well maintained fence which is eight feet in height, and vehicles shall not be stored in a manner exceeding the height of the fence.

1251.45 STATE LICENSED CHILD CARE FAMILY HOME, ONE TO SEVEN CHILDREN.

(a) Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

(b) Limit on the Number of Children. The limit on the number of children at a child care family home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than four weeks in a calendar year.

1251.46 STATE LICENSED CHILD CARE GROUP HOME, EIGHT TO FOURTEEN CHILDREN.

(a) Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

(b) Limit on the Number of Children. The limit on the number of children at a child care family home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than four weeks in a calendar year.

1251.47 STATE LICENSED RESIDENTIAL FACILITY, ADULT FOSTER CARE FAMILY HOME, ONE THROUGH SIX PERSONS.

A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence. This does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

1251.48 STATE LICENSED RESIDENTIAL FACILITY, ADULT FOSTER CARE GROUP HOME FOR MORE THAN SEVEN THROUGH TWENTY RESIDENTS; COMMUNITY RESIDENTIAL FACILITY AND GROUP HOMES.

(a) For State Licensed Residential Facilities. This includes adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions. The licensee must permanently reside as a member of the household.

(b) Minimum Lot Size. Is located on a lot that is not less than one-half acre and has not less than 500 square feet of lot area per person, including patients, employees and other residents;

(c) Front Yard Setback. Provides a front yard of not less than fifty feet;

(d) Side Yard Setback. Provides side yards of an aggregate of fifty feet and in no instance less than fifteen feet.

1251.49 TRANSITIONAL AND SUPPORTIVE RESIDENTIAL HOUSING UP TO SIX PERSONS.

(a) Register. Transitional and supportive residential homes must register with the City of Battle Creek and remain in compliance with Chapter 1462 and Chapter 818.

(1) Supportive services. Prior to approval, applicant shall provide documentation describing the onsite (and any offsite) supportive services that will be provided to the residents.

Documentation shall also indicate the name of the entity(ies) that will provide the supportive services.

(2) Residents. All residents within the house shall share a bond among themselves which together seek the same transitional or support service purpose.

(b) Parking. Off-street parking shall be provided on the basis of at least one space per three residents, plus an additional space for each employee (if applicable).

(c) Structure Exterior. The structure shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood, including applicable development standards and design guidelines.

(d) Signage. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify it as a transitional or supportive home.

(e) Occupancy. Must comply with Property Maintenance Code Section 404 Occupancy Limitations and shall not exceed more than two persons per habitable bedroom.

1251.50 TRANSITIONAL AND SUPPORTIVE RESIDENTIAL HOUSING FOR MORE THAN SIX PERSONS.

(a) Register. Transitional and supportive residential homes must register with the City of Battle Creek and remain in compliance with Chapter 1462 and Chapter 818.

(1) Supportive services. Prior to approval, applicant shall provide documentation describing the onsite (and any offsite) supportive services that will be provided to the residents. Documentation shall also indicate the name of the entity(ies) that will provide the supportive services.

(2) Residents. All residents within the house shall share a bond among themselves which together seek the same transitional or support service purpose.

(b) Parking. Off-street parking shall be provided on the basis of at least one space per three residents, plus an additional space for each employee (if applicable).

(c) Structure exterior. The structure shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood, including applicable development standards and design guidelines.

(d) Signage. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify it as a transitional or supportive home.

(ez) Occupancy. Must comply with Property Maintenance Code Section 404 Occupancy Limitations and shall not exceed more than two persons per habitable bedroom.

1251.51 TELECOMMUNICATION TOWERS.

(a) New Facilities. New wireless telecommunications facilities, as defined in the Michigan Zoning Enabling Act, shall be permitted by special use approval in all zoning districts, regardless of whether a new support structure (tower) will be constructed or not, subject to the following standards:

(1) Before constructing a new facility, the applicant must demonstrate that they cannot achieve the needed service improvement by co-locating at an existing facility.

A. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the City, to demonstrate the needed service improvement and why co-location is not possible.

B. If an owner or operator of an existing tower refuses to allow a co-location, written evidence of the denial of the co-location request must be submitted to the City, and must include the reason for the denial.

(2) To the extent practical, all ground equipment associated with the facility must be enclosed within a locked building.

(3) Information must be submitted showing that the facility is in compliance with all applicable FCC regulations regarding radio frequency emissions.

(4) Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.

(5) Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence.

(6) If a new tower is to be constructed for the facility, it shall meet the following standards:

A. The tower must be set back from all property lines by a distance equal to 1.5 times its height.

B. Lighting on the tower shall be prohibited unless required by the Federal Aviation Administration.

C. The tower must be a monopole design. Guyed and lattice towers are prohibited.

D. No signage shall be placed upon the tower structure.

E. The tower must be the shortest possible height required to provide the service desired by the applicant. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the City, to demonstrate the needed service improvement and why the requested height is necessary. The City may request further information, including propagation maps, demonstrating the service at lower heights, in order to determine for itself whether the requested height is necessary.

F. The base of the tower and all associated equipment must be surrounded by a locked, opaque screening fence meeting the standards of the zoning district that the tower is located within.

G. The applicant must demonstrate the number of colocation sites that will be available on the tower.

H. A structural analysis, signed and sealed by a licensed engineer, must be submitted demonstrating that the proposed tower will be able to support all proposed antennae, including co-locations.

I. The applicant must submit renderings or photo-sims of the proposed tower as viewed from the following locations:

1. The nearest public roadway.
2. The nearest residential use.
3. Any other location requested by the City from which the tower may potentially be visible.

J. The applicant must pay all required fees, as designated by the City Commission.

(b) Co-Locations and Modifications to Existing Facilities.

(1) Co-locations and modifications to existing facilities shall not require special use or site plan approval, except as described in Subsection (2), below. The Zoning Administrator shall have the authority to approve all co-locations and modifications that meet the standards of this Section, and shall be able to request the input and recommendation of the Planner and Engineer at their discretion.

(2) Under the following circumstances, co-locations and modifications shall require special use approval, regardless of the zoning district they are located in:

A. The applicant proposes to increase the height of an existing tower by more than twenty feet, or 10% of its original height, whichever is greater.

B. The applicant proposes to increase the width of the tower by more than the minimum necessary for structural stability given existing and proposed antennae.

C. The applicant proposes to increase the ground-level compound to more than 2,500 square feet in area.

(3) Co-locations and modifications must meet the following standards in order to be approved, either administratively or by special use.

A. The applicant must submit a structural analysis, signed and sealed by a licensed engineer, demonstrating that the tower, in its present condition, has the structural capacity to support any proposed new antennae or other tower-mounted equipment.

B. The applicant must submit the results of an inspection of the condition of the tower and equipment compound, noting any potential problems with the facility that could impact the health, safety, and welfare of the surrounding area, or the effective provision of service from the facility. Any concerns raised by the inspection must be corrected during construction of the modification of the co-location.

C. Information must be submitted showing that the facility is in compliance with all applicable Federal Communications Commission regulations regarding radio frequency emissions.

D. Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.

E. No lighting may be added to the tower unless required by the Federal Aviation Administration.

F. Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence. No signage shall be placed upon the tower structure.

G. The applicant must pay all required fees, as designated by the City Commission.

(c) Timeline for Approval. The City will comply with all state and federal requirements for approval timelines. In the event of changes to federal or state law, this section shall be void and the laws in place at the time of application shall be followed.

(1) For new facilities, the City shall request all required information within fourteen business days of the application being filed with the Inspection Division. The City shall issue a decision on the special use within ninety days of the application being deemed complete by the City.

(2) For modifications and co-locations, the City shall request all required information within fourteen business days of the application being filed with the Inspection Division. The Building Official shall issue an administrative approval within sixty days of the application being deemed complete by the City.

(3) Once the City has notified an applicant that an application is incomplete, if the applicant does not provide any new information for 180 days, the application will be deemed to have been withdrawn. Any new information submitted after 180 days shall be deemed a new application for the purposes of this Zoning Code and the Michigan Zoning Enabling Act.

(d) Abandonment and Removal. At the time of application for a new tower structure, the applicant shall, at its cost and expense, be required to execute and file with the City a bond in an amount of at least one hundred-fifty thousand dollars (\$150,000.00). If the tower is not used for as a wireless telecommunications facility for any period of six consecutive months, it must be removed at the expense of the property owner and/or owner of the tower. If the property owner and/or owner of the tower fail to remove the tower, the bond shall be forfeited, and the bond amount shall be used by the City to remove the tower.

1251.52 UTILITY-SCALE SOLAR ENERGY FACILITY.

Roof-mounted, wall-mounted, and ground-mounted solar energy systems are permitted as utility-scale solar energy facilities, subject to the following regulations:

(a) Location and Setbacks. Solar energy systems must be located in the rear of the principal building. Solar energy systems must also meet the minimum setbacks of the zoning district.

(b) Height. The height of the solar energy system and any mounts must not exceed ten feet when oriented at maximum tilt.

(c) Screening. Evergreen landscaping, sight obscuring fencing, or the combination of the two, must be provided to screen the racking (i.e., the framing below the panels) from view on all sides.

(d) Power Lines. All power lines between solar panels and inverters must be placed underground.

(e) Performance Guarantee. All applications for a solar energy system must be accompanied by a performance guarantee sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04(f).

(f) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(g) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned solar energy system and that such connection has been approved. Systems for on-site use are exempt from this requirement.

1251.53 UTILITY-SCALE WIND ENERGY FACILITY.

(a) Location. Utility-scale wind energy facilities may not fall within the front yard and must meet all of the applicable requirements of this Code.

(b) Minimum Lot Area. Must be located on a lot with a minimum area of one acre.

(c) Maximum Wind Turbine Height. Seventy feet.

(d) Noise. A wind energy system must comply with the noise standards set forth in the City's ordinances.

(e) Shadow Flicker. The application for a wind energy system must include a shadow flicker analysis demonstrating impact on adjacent and nearby residential properties. Wind energy systems must be constructed in locations that minimize the impacts of shadow flicker on residences.

(f) Lighting. No wind energy system will be artificially lighted unless required by the Federal Aviation Administration (FAA).

(g) Appearance, Color, and Finish. The wind energy system must be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems will be a single non-reflective, non-obtrusive, matte finished color (e.g. white or gray).

(h) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires, must be located underground.

(i) Compliance with Electrical Code. Building permit applications for wind energy systems must be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(j) Construction Codes, Towers, and Interconnection Standards. Wind energy systems, including towers, must comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems including towers, must comply with the FAA requirements, and other applicable local and state regulations. A wind energy system connected to the public utility electrical grid must comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(k) System Access. Wind energy systems must be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(l) Safety. A wind energy system must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers must have lightning

protection. If a tower is supported by guy wires, the wires must be clearly visible to a height of at least six feet above the guy wire anchors.

(m) Minimum Ground Clearance. The lowest extension of any blade or other exposed moving component of a tower mounted wind energy system must be at least twenty feet above the surrounding grade at its highest point within twenty feet of the base of the tower and at least twenty feet above any outdoor surface intended for human use, such as balconies or roof gardens, that are located below the wind energy system.

(n) Roof-Mounted Wind Energy Systems. Roof-mounted wind energy systems must be limited to roof mounting and must not be mounted on any other building wall or surface.

(o) Performance Guarantee. All applications for a wind energy system must be accompanied by a performance guarantee in an amount sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04(f).

(p) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(q) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned wind energy generator and that such connection has been approved. Off-grid systems are exempt from this requirement.

1251.54 VEHICLE REPAIR, MAJOR.

Truck parking areas, maneuvering lanes, and access ways to public streets must be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.

CHAPTER 1251
Standards Applicable to Specific Uses

1251.01 ADAPTIVE REUSE

(a) Purpose. To allow for the adaptive reuse of vacant buildings in the city that have maintained their structural integrity but the use they were intended to serve is no longer needed, desired or allowed in the zoning district where they are located. The proposed use shall be in harmony with or beneficial to the surrounding uses and it must not do any of the following:

- (1) Promote undue concentration of traffic throughout the day or at any specific time-period that would be uncharacteristic or disruptive to the surrounding uses.
- (2) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of noise, smoke, fumes, glare, vibrations or odors.

1251.02 ADULT BUSINESSES.

(a) Purposes. In the development and execution of this chapter, it is recognized that there are some uses, which because of their very nature have serious operational characteristics, particularly when concentrated or when one or more of them are located in near proximity to residential zones, thereby having a deleterious effect upon adjacent areas. Regulation of these uses through location is necessary to ensure that the adverse effects of such uses will not contribute to the blighting or downgrading of the surrounding neighborhood. The provisions of this chapter are intended to prevent a concentration of these uses within any one area and to prevent deterioration or blighting of nearby residential neighborhoods.

(b) Restrictions on Location. An adult business may be located in the city only in accordance with the following restrictions:

(1) All such businesses shall be limited to areas zoned B-1, I-1 or I-2, excluding those areas so zoned within the boundaries of the Battle Creek Tax Increment Financing Authority District known as Fort Custer Industrial Park, as approved by the City Commission in Resolution 27, passed April 28, 1986, and amended by Resolution 338, passed September 9, 1986 and excluded from within the boundaries of the Dickman Road Business Improvement District established by City Commission Resolution 351 on September 7, 1999.

(2) No adult business shall be located within 1,000 feet of another adult business; within 1,000 feet of a church, school, or public park; or within 300 feet of a residential or agricultural zoning district.

(c) Miscellaneous Requirements.

(1) The height, yard, lot area, lot width, building coverage, sign and parking requirements of an adult business shall conform to the requirements for the zone in which it is located.

(2) The distance between an adult business and a church, school, public park, or a residential or agricultural zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the adult business or building containing an adult business to the nearest property line of the protected use or residential or agricultural district.

(3) No person shall reside in or permit any person to reside in the premises of an adult business.

(d) Exceptions. The provisions of this chapter regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes or medical clinics, or to the offices of a physician, surgeon, chiropractor, osteopath or physical therapist, duly licensed by the state, or to massage therapists licensed by the State under Part 179A of the Public Health Code, MCL. 333.17951 et seq.

(e) Penalty; Equitable Remedies.

(1) A person who violates or fails to comply with any of the provisions of this chapter is responsible for a Class F municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(2) Notwithstanding subsection (a) hereof, the city may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this chapter.

1251.03 ASSISTED SENIOR LIVING.

(a) Minimum Site Area. The minimum parcel area shall contain 2,000 square feet per living bed.

(b) Required Minimum Usable Floor Area in Square Feet Per Dwelling Unit.

(1) State of Michigan licensing requirements regulate assisted living unit size.

(2) No living unit within a senior housing development may contain more than two bedrooms.

(c) Maximum Building Height. The maximum building height in an assisted senior living development shall not exceed forty feet.

(d) Setbacks. The minimum setbacks for senior housing shall be:

(1) Front yard setback: Fifty feet.

(2) Side yard setback: Fifty feet.

(3) Rear yard setback: Fifty feet.

(e) Open Space. A minimum of 25% of the site, exclusive of existing or planned public road right-of-way, must be maintained as landscaped open space. Courtyards larger than 2,400 square feet may be counted as required open space. Recreation facilities, active and/or passive, including paved walkways and covered sitting areas shall be provided in a manner that meets the needs of the resident population.

(f) Building Facade and Length. Assisted senior living buildings must present a residential architectural image in terms of building facades, the composition and use of exterior wall surface materials, and building length. Any building façade longer than 100 feet must provide for variations in the outside wall and roof line.

1251.04 AUTOMOBILE CAR WASH ESTABLISHMENT.

(a) Pedestrian Access. The use must be located so as not to interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty (30) feet in width at the property line.

(c) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

1251.05 AUTOMOBILE REPAIR.

(a) Pedestrian Access. The use must be located so as not to interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty feet in width at the property line.

(c) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(d) Screening. All inoperable vehicles shall be enclosed by a sight-obscuring fence or wall of a minimum height of eight feet

1251.06 AUTOMOBILE SERVICE STATION.

(a) Pedestrian Access. The use must be located to not interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty feet in width at the property line.

(c) Pump Islands. Gasoline pumps and pump islands may be located in any required yard setback space but must be located at least twenty feet from any lot line.

(d) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(e) Indoor Activity Only. All activities, except those required to be performed at fuel pumps, must be carried on inside a building. If work is performed on a vehicle, such vehicle must be entirely within a building.

(f) Outdoor Facilities and Merchandise. The location of outdoor facilities (e.g., vacuums, air machines, etc.) and outdoor merchandise (e.g., coolers, propane tanks, etc.) must be shown on the site plan and must not interfere with vehicular and pedestrian circulation.

1251.07 AUTOMOBILE OR VEHICLE DEALERSHIP.

(a) Minimum Lot Size and Lot Width. Automobile or vehicle dealerships shall be located on a parcel of land containing no less than one-half acre and having a width of at least 100 feet at the front lot line.

(b) Outdoor Storage. Outdoor storage of disabled, damaged or unlicensed vehicles is prohibited, unless properly screened.

1251.08 BANQUET AND MEETING HALL.

Only permitted in T-5 if on second floor or above.

1251.09 BED AND BREAKFAST.

(a) Parking. Bed and breakfast establishments are permitted only when off-street parking is provided upon the lot or on adjoining property, which space is adequate to accommodate one car for each room available to tourists.

(b) Accessory Structures. No accessory buildings shall be used for bed and breakfast sleeping rooms unless they were originally constructed to accommodate residential use. No garage shall be used for bed and breakfast sleeping rooms.

1251.10 CAMPGROUND.

(a) Minimum Lot Size. Minimum campground size shall be five acres.

(b) Access. The campground shall provide vehicular access to a public street or road.

(c) Public Stations. Public stations, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities, shall be provided, uniformly throughout the campground at a ratio of not less than one such station for each twenty sites.

(d) Commercial Enterprises. No commercial enterprises shall be permitted to operate in the campground, except that convenience goods shopping may be provided.

(e) Campsite Setback. Campsites shall be located a minimum distance of fifty feet from property lines, and fifteen feet between all campsites.

1251.11 CEMETERY.

(a) Minimum Lot Size. Twenty acres.

(b) Setbacks. No building or structure may be closer than fifty feet from any property line.

1251.12 COMMUNITY GARDEN.

(a) Applicability. Community gardens are subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the community garden is located.

(b) Minimum Lot Size and Lot Width. Community gardens are a permitted use of vacant property that contains a minimum of 5,000 square feet and minimum width of fifty feet.

(c) General Requirements. The following provisions apply to community gardens:

(1) Plant beds shall be setback three feet from the property lines and the public right-of-way.

(2) Accessory buildings including greenhouses, storage sheds, and shade pavilions shall be permitted in the side or rear yard, subject to Section 1260.01, but shall not exceed 10% of the total lot area.

(3) Hoop houses are permitted as an accessory building but are not counted toward the allowable accessory building size limitation. The coverings must be maintained and remain intact, and removed when no longer in use for a period of six-months or longer.

(4) Compost piles must be located at least five feet from all adjoining property lines and a minimum of twenty feet from the nearest residential structure. Each compost bin/area shall be less than sixteen square feet in size.

(5) Rain catchment systems must be located at least five feet from all adjoining property lines.

(6) Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. Except for sales of plants produced within the community garden and sold at the farm stand, there shall be no retail sales on the site except that properties exceeding two acres may sell up to thirty percent of their overall farmers market inventory in the form of packaged food to complement the produce grown on premise. Alcohol sales shall be prohibited.

(7) The use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.

(8) Lighting, if provided, shall be a minimal amount and shielded so that all directly emitted light falls within the property.

(9) Fencing shall comply with Section 1260.02.

(10) Vehicle access to the site shall only be by way of a driveway constructed to city standards to avoid vehicle damage to the curb, sidewalk and any lawn area in the right-of-way.

(11) There are no minimum parking requirements, however any parking lot proposed and designed for four or more vehicles must be constructed in accordance with Section 1261.01 only after a site plan has been reviewed and approved in accordance with Section 1281.04.

(12) One freestanding sign consisting of no more than twelve square feet shall be allowed. Such sign shall otherwise comply with the applicable regulations of the zoning district in which it is located.

(13) Trash containers may be provided on site.

(14) Gardening activities shall be conducted in a manner which is consistent with the activities and noise levels of the neighborhood in which they are located.

(15) Educational activities relating to the community garden and food preparation may be held onsite where properties are 2 acres or more in size.

(d) Maintenance.

(1) Community gardens shall be maintained in an orderly and neat condition, free of noxious weeds or debris. Dead garden plants shall be removed regularly and, in any instance, no later than November 30 of each calendar year.

(2) Plants or ground cover other than grass shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.

(3) No plants except grass may be grown in the public right-of-way or within one foot of the public sidewalk. Grass must be maintained at a height that does not exceed nine inches.

(4) No plant material may grow to a height that interferes with a clear vision line of sight at street intersections or when entering or exiting driveways.

(5) Oats, wheat, and rye may be used as a winter cover crop, but not grown to full maturity in any season.

(6) Trash receptacles shall be located to the rear of the property.

(7) Walkways shall be unpaved and covered with mulch, gravel or other aggregate that is treated to control dust.

(8) Garden waste or other refuse that is not allowed as compost may not be stored or allowed to accumulate on the site.

(9) Compost piles are only for waste created on the property and they must be maintained. Compost shall not include meat, grease, fat, oil, bones, manure, or milk products.

(10) These uses shall not be detrimental to the physical environment or to the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, odors, chemical, or biological pollutants. Nothing associated with a community garden or commercial urban farm, including allowable fertilizers, pesticides, insecticides, herbicides, compost materials, and water collection receptacles shall emit odors that can be detected beyond the confines of the property containing the garden or be an inordinate attraction for mice, rats or other rodents.

(11) Tools, supplies, and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off the ground in an enclosed, locked structure when the site is unattended.

(12) The property shall be maintained to prevent the flow of stormwater, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.

(13) At such time garden activity ceases completely and the site will no longer be used for a garden, any raised planting beds, accessory buildings, and other above ground remains of the garden shall be promptly removed and the ground leveled and restored so it can be utilized for uses permitted in that zoning district

1251.13 CONVALESCENT HOME, NURSING HOME, OR HOME FOR THE AGED.

Such businesses may establish adult foster care centers within their own facilities as a permitted accessory use. Convalescent homes, nursing homes, and homes for the elderly shall be licensed by the State of Michigan. Such businesses, however, may establish adult foster care centers within their own facilities as a permitted accessory use, if such use is permitted within the district.

1251.14 DRIVE-THRU BUSINESS.

(a) Drive-Thru Window. A business with a drive-thru window shall provide a separate customer service station.

(b) Minimum Width. The traffic lane serving the drive-thru window shall be at least ten feet wide.

(c) By-Pass Lane. A by-pass lane or other suitable means of access to a public street shall be provided for vehicles that do not use the drive-thru window.

(d) Parking Spaces. Parking spaces located beyond drive-thru windows shall be designated for use of drive-thru window patrons.

1251.15 FARMER'S MARKET.

If the farmer's market is seasonal, the use will require special land use approval.

1251.16 GOVERNMENT/PUBLIC USES.

Public or semipublic service buildings, where permitted, may be erected to a height not exceeding sixty feet.

1251.17 GENERAL AND SPECIALIZED FARMS, INCLUDING CROPS AND THE RAISING AND KEEPING OF LIVESTOCK.

(a) Customary agricultural operations, including general farming, field crops, gardening, fruit orchards, nurseries, greenhouses and usual farm buildings, providing any farm building shall not be closer than fifty feet from any property line.

(b) General and specialized farms, including the raising and keeping for profit of cattle, hogs, horses, ponies, sheep and similar livestock on a lot having an area of not less than ten acres;

(c) Customary farm animals including horses, ponies, poultry, rabbits, goats, and similar small animals and similar livestock, may be kept on a noncommercial basis, for the enjoyment, use, and/or consumption by the occupants of the premises, when adequately housed and fenced on a parcel of land not less than 43,560 square feet (1 acre) in area, subject to the following conditions:

(1) No storage of manure or odor or dust producing materials or uses shall be permitted within 100 feet of any adjoining property line.

(2) A private stable for animals owned by the occupant may be kept, provided that the minimum area upon which one horse may be kept is one acre, and that one additional horse may be kept for each additional 20,000 square feet over one acre.

(3) Private stables or buildings housing farm animals shall not be closer than 100 feet from any adjoining property line.

1251.18 HOME OCCUPATIONS.

(a) Purpose. The purpose of this chapter is to provide for the regulation of certain business activities to be carried on or within residential districts when accessory and subordinate to the residential use, and which by their nature will not detract from the quality of residential neighborhoods.

(b) Home Occupation Defined. A home occupation is an activity carried out for consideration by a resident and conducted as an accessory use in the resident's dwelling unit. Consideration shall be defined as some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

(c) Regulations: Requirements. Home occupations engaged in within a Residential District by the resident of a dwelling unit shall comply with all of the following:

(1) Such occupation shall be carried on by one occupant within the principal building, excluding all outdoor activities, with no employees. Examples of such home occupations

include, but are not limited to, hairdressing, millinery, dressmaking, bookkeeping and accounting services, real estate and insurance sales and catalog sales.

(2) A babysitting service or family childcare home when not more than seven minor children are received for care and supervision for periods of less than eighteen hours a day, when unattended by a parent or legal guardian, is permitted.

(3) Home occupations shall be conducted by a person living within the dwelling and by no others, either as a principal or an employee. However, home occupations involving subordinate assistants who do not reside within the dwelling may be allowed by the Zoning Board of Appeals, where, in the Board's discretion, the same would not materially impair the residential character of the neighborhood.

(4) Home occupations shall be operated in their entirety within the dwelling and not within any garage or accessory building located upon the premises, except for incidental storage, which may be allowed within a residential type garage upon the premises.

(5) No external evidence of such home occupation shall be allowed indicating from the exterior that it is being used for anything but a dwelling. This includes the parking of commercial vehicles and temporary storage of any materials associated with a home occupation.

(6) The parking or storage of commercial vehicles at a residence is prohibited and in violation of this chapter. For purposes of this section, a commercial vehicle is any vehicle used to conduct a business or trade including but not limited to step vans, cargo vans, box trucks, stake beds, buses, tractor trailers, dump trucks, wreckers, trailers, earth moving equipment, cement mixers and other similar construction equipment that has two or more of the following characteristics:

- A. Exceeds a GVWR of 10,000 lbs.
- B. Exceeds seven feet in height.
- C. Exceeds twenty feet in length.
- D. Has more than two axles.
- E. Has more than four tires in contact with the ground.
- F. Can carry more than eight passengers.
- G. Is designed to sell food or merchandise directly from the vehicle.

(7) Home occupations may not be used as a meeting place, or rendezvous point for business activities or service operations before, during, or after shifts.

(8) No home occupation shall be conducted within a dwelling unless the same is clearly incidental and subordinate to the principal use of the premises for residential purposes.

(9) No home occupation shall involve the sale of goods from the premises.

(10) No service shall be sold or conducted upon or from the premises which would constitute a nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbances or lighting shall not be discernible beyond the boundaries of the property from which the home occupation is conducted.

(11) No home occupation requiring warehousing of retail or wholesale merchandise, or delivery of the same by large semitrailer-type trucks, shall be allowed.

(12) Paving of any yard area other than normal driveway areas to accommodate parking for home occupations is prohibited.

(13) No home occupation shall be allowed which utilizes more than twenty percent of the interior gross floor area of the inhabitable area of the dwelling and not, in any event, more than 300 square feet.

(14) In no instance shall the repair or sale of motor vehicles be permitted to be a home occupation.

(15) The permission for home occupations as provided herein is intended to secure flexibility in the application of this Zoning Code, but such permission is not intended to allow the essential residential character of a Residential District, in terms of use, traffic and appearance, to be changed in the slightest degree by the occurrence of nonresidential activities. Furthermore, no structural provisions shall be inherent in the design of the structure and no structural alterations shall be made for the accommodation of any home occupation. All activities, unless otherwise stated, shall be carried on indoors only, within the principal building.

(d) Other Requirements. The regulation of home occupations in this chapter shall not waive additional provisions that may be necessary to meet other local, state or federal requirements, including, but not limited to, the following:

(1) State, local or federal taxation or business licensing laws;

(2) All applicable State of Michigan regulations for the preparation and distribution of food and food products;

(3) Cosmetologists, land surveyors and other occupations requiring licensing by the Michigan Department of Licensing and Regulatory Affairs;

(4) Section 28.1814(1)(e) of the Uniform Traffic Code of the State of Michigan, which prohibits the parking of a motor vehicle on a public street for more than forty-eight continuous hours;

(5) The Child Care Organizations Act, Public Act 116 of 1973, as amended, being MCL 722.111 et seq. which provides for the licensing of child care facilities by the Michigan Department of Social Services. The Act defines family child care homes as private homes in which at least one but fewer than eight minor children are received for care and supervision for compensation for periods of less than twenty-four hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption.

(6) The Uniform Fire Code as it pertains to the storage of flammable materials, the use of mechanical or electrical equipment and the need to provide sufficient ingress and egress; and

(7) Private covenants or deed restrictions.

1251.19 HOSPITAL GREATER THAN TWENTY THOUSAND SQUARE FEET.

(a) Minimum Lot Size. All such hospitals shall be developed on sites consisting of at least five acres in area. Provided that there is a minimum of 1,500 square feet of lot area per bed.

(b) Minimum Setbacks. All structures and activity areas must be located at least 100 feet from all property lines.

(c) Screening. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence not less than six feet in height.

(d) Maximum Height. Public, semipublic or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

1251.20 HOTEL.

(a) Minimum Lot Area and Lot Width. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.

(b) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall in no way impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

1251.21 INDEPENDENT SENIOR LIVING WITH SERVICES.

(a) Minimum Site Area. The minimum site area shall contain 5,500 square feet per independent living unit.

(b) Required Minimum Usable Floor Area in Square Feet Per Dwelling Unit.

(1) Independent Living Units: Efficiency/studio, one-bedroom dwelling units, and two-bedroom dwelling units shall meet the minimum requirements of the Building Code.

(2) No living unit within a senior housing development may contain more than two bedrooms.

(c) Maximum Building Height. The maximum building height in a senior housing development shall not exceed forty feet.

(d) Setbacks. The minimum setbacks for senior housing shall be:

(1) Front yard setback: Fifty feet.

(2) Side yard setback: Fifty feet.

(3) Rear yard setback: Fifty feet.

(e) Open Space. A minimum of 25% of the site, exclusive of existing or planned public road right-of-way, must be maintained as landscaped open space. Courtyards larger than 2,400 square feet may be counted as required open space. Recreation facilities, active and/or passive, including paved walkways and covered sitting areas shall be provided in a manner that meets the needs of the resident population.

(f) Building Facade and Length. Senior housing buildings must present a residential architectural image in terms of building facades, the composition and use of exterior wall surface materials, and building length. Any building façade longer than 100 feet must provide for variations in the outside wall and roof line.

1251.22 JUNK OR SALVAGE YARD.

(a) Screening. Where a junk yard is adjacent to residential or commercial zoned properties or has frontage on a road or highway, a solid masonry wall or solid obscuring fence of eight feet in height or one foot above the height of the piles, whichever is greater, shall be constructed in the side and rear yards. The fence shall be placed on or inside the required side yard, or rear yard setback.

(b) Enclosed. There shall be no burning of tires, vehicle bodies, wiring, oil or waste products on the site, and all industrial processes, including the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.

(c) Truck Routes. Truck routes must be established for movement in and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties.

1251.23 KENNELS/VETERINARIAN.

(a) Screening. All outdoor runs or breeding areas shall be enclosed on all sides by an obscuring wall or fence not less than four feet in height.

(b) Setback. All outdoor runs and breeding areas shall be located at least fifty feet from any lot line and shall be not be located in the front yard.

1251.24 MARIHUANA: MARIHUANA BUSINESS REGULATIONS.

Refer to Chapter 835, Adult Use Marihuana Establishments, and/or Chapter 833 Medical Marihuana Facilities of the City of Battle Creek Codified Ordinances for business licensing requirements.

1251.25 MARIHUANA: ADULT USE MARIHUANA RETAILER ESTABLISHMENT.

Must be located at least 1,000 feet from day care centers, preschools, private or public K-12 schools and libraries, and, except for in the I-1 and I-2 Districts, must be located at least 1,000 feet away from a property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center. The setback measurements are between nearest property lines, regardless of ownership of property or licensee. In the I-1 and I-2 Districts, state licensed adult use marihuana retailers are permitted only when collocated with an adult use marihuana grower and/or processor.

1251.26 MARIHUANA: ADULT USE MARIHUANA MICROBUSINESS.

(a) Locational Specifications.

(1) The property at which the microbusiness will be located shall be at least 1,000 feet away from any property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

(2) The property at which the microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

(3) The property at which the microbusiness will be located shall not abut a Residential ("R") zoning district or a property with a residential use.

1251.27 MARIHUANA FACILITIES AND ESTABLISHMENTS.

(a) Purpose. The purpose of this chapter is to implement the provisions of the Michigan Medical Marihuana Act (MMA), Initiated Law 1 of 2008, as amended being MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, as amended, being MCL 333.2701 et seq., and the Michigan Regulation and Taxation of Marihuana Act (MRTMA), Initiated Law 1 of 2018, as amended, being MCL 333.27951 et seq. for establishing local zoning authority for the permitting of adult use marihuana establishments and medical marihuana facilities. Further, the purpose of this chapter also provides:

(1) A process for the city to legally facilitate the development of adult use marihuana establishments and medical marihuana facilities, which are otherwise illegal under federal law.

(2) A procedure for growing, processing, testing, transporting, and selling medical marihuana for qualified persons and selling adult use marihuana as permitted under the MRTMA.

(3) Zoning authority for the protection and preservation of public safety, welfare, and property value; and ensuring consistency with the future land use map of the Master Plan.

(4) A licensing and taxing authority to the city to defray costs to additional public safety, administrative, and enforcement with the result of facilitating development of adult use marihuana establishments and medical marihuana facilities.

(5) Additional economic industry and benefit to the community.

(b) Authority. With the adoption of the MMA of 2008, the MMFLA of 2016, and the MRTMA of 2018, the City of Battle Creek has legislative authority to establish zoning regulations, application processes and associated fees, and enforcement abilities for marihuana development without penalty consistent with the state laws.

(c) License and Permit Required; Application; Fee.

(1) Licenses required. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following licenses:

A. An approved operating license from the State;

B. An approved permit from the City pursuant to Chapter 833 and/or Chapter 835; and

(2) Permit type. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following permits where required:

A. Approved building permit and occupancy permit. All marihuana establishments and facilities shall require an approved building permit showing compliance with applicable zoning and building codes. A certificate of occupancy shall be issued once all applicable inspections are show satisfactory compliance with all zoning and building codes.

B. Approved site plan application. Certain medical marihuana facilities and adult use marihuana establishments shall require gaining an approved site plan application pursuant to Section 1281.04 Site Plan Review.

C. Approved special use permit, if required. Certain medical marihuana facilities and adult use marihuana establishments shall require an approved special use permit pursuant to Section 1281.05 Special Land Uses.

(d) Non-Conforming Uses.

(1) Medical marihuana dispensaries and growing operations, which may have been established under the auspices of the 2008 MMA but have not gained approved permits from the City shall not be considered legally non-conforming. Owners of such dispensaries or growing operations shall cease operation, or if applicable, obtain required permit pursuant to Section 1251.23.

(2) Medical marihuana dispensaries and growing operations, which may have been established under the auspices of the 2008 MMA and have approved permits from the City are considered legally non-conforming and may continue operating pursuant to Chapter 1270 Nonconforming Uses and Structures.

(e) Locational Standards. Pursuant to the 2016 MMFLA, 2018 MRTMA, and Section 1251.23, all types of state licensed marihuana establishments and facilities are allowed in zoning districts established by this chapter and within specific zoning districts provided in this Zoning Code.

(1) The official updated 'Marihuana Maps' of the City of Battle Creek will be maintained by the City's Planning Division.

(2) Co-location of licenses. Where State Licensed Marihuana Growers, Processors, Adult Use Retailers, and Provisioning Centers are co-located on a single property, the usable floor area of the Provisioning Center and Adult Use Retailer shall not exceed 10% of the gross square footage of the overall combine areas of the growing and provisioning areas.

(3) Only one state licensed provisioning center, microbusiness or retailer shall be allowed on a property within the area defined by property lines, except for colocations at same locations by the same licensee holder.

(f) Development, Operational Standards. The following regulations are applicable to all state licensed marihuana establishments and facilities.

(1) Marihuana location. Except when being transported by state licensed security transporter, all marihuana shall be located entirely inside a building having permanent foundation, walls, and roof.

A. Notwithstanding subsection (1), a roof on grow establishments or facilities may consist of a sturdy transparent material, such as glass, to allow sunlight into the growing areas of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting from escaping through the roof.

B. Walls enclosing marihuana growing establishments or facilities shall be constructed of a structurally-supportive load bearing brick, wood, or masonry construction from grade to eight feet in height.

(2) Signage. Notwithstanding Chapter 1263 Signs, only two signs per street frontage shall be permitted for any state licensed marihuana establishment or facility. Neon lighted signs are prohibited.

(3) Fence. Use of barb wire outside of the Industrial Districts is prohibited.

(4) Window glass on ground floor levels must be transparent and free from film or other materials that block visibility. Interior shades, curtains, etc. are permitted.

1251.28 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA GROW OPERATION.

Must be located at least 500 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care centers, preschools, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries;
- (e) Any Residential ("R") zoned property

1251.29 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA PROCESSING FACILITY.

Must be located at least 500 feet away from any Residential ("R") zoned property and at least 1000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care centers, preschools, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries.

1251.30 MARIHUANA: MEDICAL MARIHUANA PROVISIONING CENTER.

Must be located at least at least 1,000 feet away from day care centers, preschools, private or public K-12 schools and libraries, and, except for in the I-1 and I-2 Districts, must be located 1,000 feet away from a property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center. These setback measurements are between nearest property lines, regardless of ownership of property or licensee. In the I-1 and I-2 Districts, state licensed medical marihuana provisioning centers are permitted only when colocated with a medical marihuana grower and/or processor.

1251.31 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA SAFETY COMPLIANCE FACILITY.

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care centers, preschools, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries;
- (e) Any Residential ("R") zoned property.

1251.32 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA SECURE TRANSPORTER.

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Child care, preschool, private or public K-12 schools;
- (c) Public parks;
- (d) Libraries;
- (e) Any Residential ("R") zoned property.

1251.33 MULTI-FAMILY DWELLING UNITS.

~~—(a) Minimum Lot Area. No dwelling shall be established having an area or width less than that specified in the R-1R District. However, for multiple family housing, the average lot area per family or dwelling unit shall be not less than 2,170 square feet allowing up to twenty units per acre.~~

~~—(b) Location. Multiple family dwelling units shall be located only the second floor or above on Michigan Ave in the T4 and T5 zoning districts. Multiple family dwelling units are permitted on the ground floor everywhere else.~~

1251.34 MOTEL.

(a) Minimum Lot Area. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.

(b) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

1251.35 MICROBREWERY.

- (a) Distribution. Wholesale distribution shall be prohibited.
- (b) Setback. Microbreweries must be setback a minimum of 300 feet from any residence.

1251.36 OUTDOOR RECREATION.

Outdoor theaters according to the following:

(a) Compliance. The proposed internal design shall receive approval from the Building Inspector, Zoning Administrator, and the City Engineer as to adequacy of drainage, lighting, screening and other technical aspects.

(b) Direct Access. Outdoor recreation establishments shall abut directly upon a major thoroughfare of not less than 120 feet of right-of-way width.

(c) Ingress and Egress. Points of ingress and egress shall be available from abutting major thoroughfares of not less than 120 feet of right-of-way width and shall not be available from any residential street.

(d) Off-Street Waiting Space. Off-street waiting space shall be provided for all vehicles waiting or standing to enter the facility. No vehicle shall be permitted to wait or stand within a dedicated right of way.

(e) Screening. All lighting used to illuminate the area shall be so installed as to be confined within and directed onto the premises on which the outdoor recreation establishment is located.

1251.37 OUTDOOR STORAGE

Outdoor storage of retail products, construction material or equipment shall be confined to a concealment type fence enclosure per Section 1261.02 Fences, except that a reasonable amount of typically seasonal retail product may be stored near the primary building in an orderly fashion.

1251.38 PERSONAL-SCALE SOLAR ENERGY FACILITY.

Roof-mounted and wall-mounted solar energy systems for on-site use are permitted as personal-scale solar energy facilities, subject to the following regulations:

(a) Height. Roof-mounted systems must not extend more than three feet above the roofline nor will they extend above the maximum permitted height of the building to which it is attached.

(b) Location.

(1) Roof-mounted solar energy systems may be located anywhere on a roof of a principal or accessory structure. However, roof-mounted solar energy systems shall not protrude beyond the edge of the roof. A solar panel may function as a roof element, such as an awning.

(2) Wall-mounted solar energy systems may be located anywhere on the wall of a principal or accessory structure. Wall-mounted systems shall not extend above the edge of the roof.

(c) Performance Guarantee. All applications for a solar energy system must be accompanied by a performance guarantee sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04 (f) and Section 1281.046.

(d) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

1251.39 PERSONAL-SCALE WIND ENERGY FACILITY.

Personal-scale wind energy facilities designed to generate power for the property at which it is located are permitted, subject to the following regulations:

(a) Location. Personal-scale wind energy facilities may not fall within the front yard and must meet all of the applicable requirements of this Code.

(b) Maximum Wind Turbine Height. Ten feet above the highest point of the roof or ten feet above the maximum height of the zoning district, whichever is lower.

(c) Noise. A wind energy system must comply with the noise standards set forth in the City's ordinances.

(d) Shadow Flicker. The application for a wind energy system must include a shadow flicker analysis demonstrating impact on adjacent and nearby residential properties. Wind energy

systems must be constructed in locations that minimize the impacts of shadow flicker on residences.

(e) Lighting. No wind energy system will be artificially lighted unless required by the Federal Aviation Administration (FAA).

(f) Appearance, Color, and Finish. The wind energy system must be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems will be a single non-reflective, non-obtrusive, matte finished color (e.g. white or gray).

(g) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires, must be located underground.

(h) Compliance with Electrical Code. Building permit applications for wind energy systems must be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(i) Construction Codes, Towers, and Interconnection Standards. Wind energy systems, including towers, must comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems including towers, must comply with the FAA requirements, and other applicable local and state regulations. A wind energy system connected to the public utility electrical grid must comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(j) System Access. Wind energy systems must be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(k) Safety. A wind energy system must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers must have lightning protection. If a tower is supported by guy wires, the wires must be clearly visible to a height of at least six feet above the guy wire anchors.

(l) Minimum Ground Clearance. The lowest extension of any blade or other exposed moving component of a tower mounted wind energy system must be at least twenty feet above the surrounding grade at its highest point within twenty feet of the base of the tower and at least twenty feet above any outdoor surface intended for human use, such as balconies or roof gardens, that are located below the wind energy system.

(m) Roof-Mounted Wind Energy Systems. Roof-mounted wind energy systems must be limited to roof mounting and must not be mounted on any other building wall or surface.

(n) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned wind energy generator and that such connection has been approved. Off-grid systems are exempt from this requirement.

1251.40 PERSONAL SERVICE ESTABLISHMENT

Personal service establishments requiring a state license must be licensed by the State of Michigan. Personal services establishments without required state licenses, if any, are not permitted in the City of Battle Creek.

1251.41 PRIVATE GARDEN

(a) Subject to Restrictions: Private gardens are allowed on any property when accessory to a permitted principal use and subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the private garden is located.

(b) Limitations: Private gardens are permitted on any vacant property less than one acre in size with the following limitations:

(1) Plant beds shall be set back three feet from property lines and the public right-of-way.

(2) Compost piles must be located at least five feet from all adjoining property lines and a minimum of 20 feet from the nearest residential structure. Each compost bin/area shall be less than 16 square feet in size.

(3) Rain catchment systems must be located at least five feet from all adjoining property lines.

(4) Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. and shall be setback three feet from the property line and the public right-of-way. Except for sales of plants produced within the private garden, there shall be no retail sales on the site.

(5) Use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.

(6) Decorative landscape lighting is permitted.

(7) Fencing shall comply with Section 1260.02.

1251.42 RELIGIOUS INSTITUTIONS.

(a) Noise. If music, bells, carolers, chimes or similar audio presentation are to be used, the expected use, times, durations and volumes shall be disclosed on the site plan.

(b) Site Plan. All uses of the structure, facility and land shall be completely described in a full use statement on the site plan, such uses as outdoor recreation areas, pavilions, memorial gardens, memorials, gathering areas and similar uses or activities shall be identified on the site plan.

(c) Maximum Height. Churches and temples may be erected to a height not exceeding seventy-five feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

(d) Minimum Size and Access. In residential districts religious institutions must be located on a parcel having at least one acre of land, and must be located on a major street as show on the major street plan.

1251.43 ROOMING AND BOARDING HOUSES.

Not more than four boarders are permitted in the R2 District and not more than ten boarders are permitted in the R3 District. In all cases the owner of the house must be the occupant and is responsible with maintenance and upkeep of the structure and property. Boarding and rooming homes must register with the City of Battle Creek and remain in compliance with Chapter 1462.

1251.44 SELF-STORAGE / MINI-STORAGE FACILITIES.

Such use shall be screened from exterior view by a solid, well maintained fence which is eight feet in height, and vehicles shall not be stored in a manner exceeding the height of the fence.

1251.45 STATE LICENSED CHILD CARE FAMILY HOME, ONE TO SEVEN CHILDREN.

(a) Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

(b) Limit on the Number of Children. The limit on the number of children at a child care family home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than four weeks in a calendar year.

1251.46 STATE LICENSED CHILD CARE GROUP HOME, EIGHT TO FOURTEEN CHILDREN.

(a) Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

(b) Limit on the Number of Children. The limit on the number of children at a child care family home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than four weeks in a calendar year.

1251.47 STATE LICENSED RESIDENTIAL FACILITY, ADULT FOSTER CARE FAMILY HOME, ONE THROUGH SIX PERSONS.

A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence. This does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

1251.48 STATE LICENSED RESIDENTIAL FACILITY, ADULT FOSTER CARE GROUP HOME FOR MORE THAN SEVEN THROUGH TWENTY RESIDENTS; COMMUNITY RESIDENTIAL FACILITY AND GROUP HOMES.

(a) For State Licensed Residential Facilities. This includes adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions. The licensee must permanently reside as a member of the household.

(b) Minimum Lot Size. Is located on a lot that is not less than one-half acre and has not less than 500 square feet of lot area per person, including patients, employees and other residents;

(c) Front Yard Setback. Provides a front yard of not less than fifty feet;

(d) Side Yard Setback. Provides side yards of an aggregate of fifty feet and in no instance less than fifteen feet.

1251.49 TRANSITIONAL AND SUPPORTIVE RESIDENTIAL HOUSING UP TO SIX PERSONS.

(a) Register. Transitional and supportive residential homes must register with the City of Battle Creek and remain in compliance with Chapter 1462 and Chapter 818.

(1) Supportive services. Prior to approval, applicant shall provide documentation describing the onsite (and any offsite) supportive services that will be provided to the residents. Documentation shall also indicate the name of the entity(ies) that will provide the supportive services.

(2) Residents. All residents within the house shall share a bond among themselves which together seek the same transitional or support service purpose.

(b) Parking. Off-street parking shall be provided on the basis of at least one space per three residents, plus an additional space for each employee (if applicable).

(c) Structure Exterior. The structure shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood, including applicable development standards and design guidelines.

(d) Signage. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify it as a transitional or supportive home.

(e) Occupancy. Must comply with Property Maintenance Code Section 404 Occupancy Limitations and shall not exceed more than two persons per habitable bedroom.

1251.50 TRANSITIONAL AND SUPPORTIVE RESIDENTIAL HOUSING FOR MORE THAN SIX PERSONS.

(a) Register. Transitional and supportive residential homes must register with the City of Battle Creek and remain in compliance with Chapter 1462 and Chapter 818.

(1) Supportive services. Prior to approval, applicant shall provide documentation describing the onsite (and any offsite) supportive services that will be provided to the residents. Documentation shall also indicate the name of the entity(ies) that will provide the supportive services.

(2) Residents. All residents within the house shall share a bond among themselves which together seek the same transitional or support service purpose.

(b) Parking. Off-street parking shall be provided on the basis of at least one space per three residents, plus an additional space for each employee (if applicable).

(c) Structure exterior. The structure shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood, including applicable development standards and design guidelines.

(d) Signage. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify it as a transitional or supportive home.

(e) Occupancy. Must comply with Property Maintenance Code Section 404 Occupancy Limitations and shall not exceed more than two persons per habitable bedroom.

1251.51 TELECOMMUNICATION TOWERS.

(a) New Facilities. New wireless telecommunications facilities, as defined in the Michigan Zoning Enabling Act, shall be permitted by special use approval in all zoning districts, regardless of whether a new support structure (tower) will be constructed or not, subject to the following standards:

(1) Before constructing a new facility, the applicant must demonstrate that they cannot achieve the needed service improvement by co-locating at an existing facility.

A. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the City, to demonstrate the needed service improvement and why co-location is not possible.

B. If an owner or operator of an existing tower refuses to allow a co-location, written evidence of the denial of the co-location request must be submitted to the City, and must include the reason for the denial.

(2) To the extent practical, all ground equipment associated with the facility must be enclosed within a locked building.

(3) Information must be submitted showing that the facility is in compliance with all applicable FCC regulations regarding radio frequency emissions.

(4) Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.

(5) Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence.

(6) If a new tower is to be constructed for the facility, it shall meet the following standards:

A. The tower must be set back from all property lines by a distance equal to 1.5 times its height.

B. Lighting on the tower shall be prohibited unless required by the Federal Aviation Administration.

C. The tower must be a monopole design. Guyed and lattice towers are prohibited.

D. No signage shall be placed upon the tower structure.

E. The tower must be the shortest possible height required to provide the service desired by the applicant. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the City, to demonstrate the needed service improvement and why the requested height is necessary. The City may request further information, including propagation maps, demonstrating the service at lower heights, in order to determine for itself whether the requested height is necessary.

F. The base of the tower and all associated equipment must be surrounded by a locked, opaque screening fence meeting the standards of the zoning district that the tower is located within.

G. The applicant must demonstrate the number of colocation sites that will be available on the tower.

H. A structural analysis, signed and sealed by a licensed engineer, must be submitted demonstrating that the proposed tower will be able to support all proposed antennae, including co-locations.

I. The applicant must submit renderings or photo-sims of the proposed tower as viewed from the following locations:

1. The nearest public roadway.
2. The nearest residential use.
3. Any other location requested by the City from which the tower may potentially be visible.

J. The applicant must pay all required fees, as designated by the City Commission.

(b) Co-Locations and Modifications to Existing Facilities.

(1) Co-locations and modifications to existing facilities shall not require special use or site plan approval, except as described in Subsection (2), below. The Zoning Administrator shall have the authority to approve all co-locations and modifications that meet the standards of this Section, and shall be able to request the input and recommendation of the Planner and Engineer at their discretion.

(2) Under the following circumstances, co-locations and modifications shall require special use approval, regardless of the zoning district they are located in:

A. The applicant proposes to increase the height of an existing tower by more than twenty feet, or 10% of its original height, whichever is greater.

B. The applicant proposes to increase the width of the tower by more than the minimum necessary for structural stability given existing and proposed antennae.

C. The applicant proposes to increase the ground-level compound to more than 2,500 square feet in area.

(3) Co-locations and modifications must meet the following standards in order to be approved, either administratively or by special use.

A. The applicant must submit a structural analysis, signed and sealed by a licensed engineer, demonstrating that the tower, in its present condition, has the structural capacity to support any proposed new antennae or other tower-mounted equipment.

B. The applicant must submit the results of an inspection of the condition of the tower and equipment compound, noting any potential problems with the facility that could impact the health, safety, and welfare of the surrounding area, or the effective provision of service from the facility. Any concerns raised by the inspection must be corrected during construction of the modification of the co-location.

C. Information must be submitted showing that the facility is in compliance with all applicable Federal Communications Commission regulations regarding radio frequency emissions.

D. Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.

E. No lighting may be added to the tower unless required by the Federal Aviation Administration.

F. Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence. No signage shall be placed upon the tower structure.

G. The applicant must pay all required fees, as designated by the City Commission.

(c) Timeline for Approval. The City will comply with all state and federal requirements for approval timelines. In the event of changes to federal or state law, this section shall be void and the laws in place at the time of application shall be followed.

(1) For new facilities, the City shall request all required information within fourteen business days of the application being filed with the Inspection Division. The City shall issue a decision on the special use within ninety days of the application being deemed complete by the City.

(2) For modifications and co-locations, the City shall request all required information within fourteen business days of the application being filed with the Inspection Division. The Building Official shall issue an administrative approval within sixty days of the application being deemed complete by the City.

(3) Once the City has notified an applicant that an application is incomplete, if the applicant does not provide any new information for 180 days, the application will be deemed to have been withdrawn. Any new information submitted after 180 days shall be deemed a new application for the purposes of this Zoning Code and the Michigan Zoning Enabling Act.

(d) Abandonment and Removal. At the time of application for a new tower structure, the applicant shall, at its cost and expense, be required to execute and file with the City a bond in an amount of at least one hundred-fifty thousand dollars (\$150,000.00). If the tower is not used for as a wireless telecommunications facility for any period of six consecutive months, it must be removed at the expense of the property owner and/or owner of the tower. If the property owner and/or owner of the tower fail to remove the tower, the bond shall be forfeited, and the bond amount shall be used by the City to remove the tower.

1251.52 UTILITY-SCALE SOLAR ENERGY FACILITY.

Roof-mounted, wall-mounted, and ground-mounted solar energy systems are permitted as utility-scale solar energy facilities, subject to the following regulations:

(a) Location and Setbacks. Solar energy systems must be located in the rear of the principal building. Solar energy systems must also meet the minimum setbacks of the zoning district.

(b) Height. The height of the solar energy system and any mounts must not exceed ten feet when oriented at maximum tilt.

(c) Screening. Evergreen landscaping, sight obscuring fencing, or the combination of the two, must be provided to screen the racking (i.e., the framing below the panels) from view on all sides.

(d) Power Lines. All power lines between solar panels and inverters must be placed underground.

(e) Performance Guarantee. All applications for a solar energy system must be accompanied by a performance guarantee sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04(f).

(f) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(g) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned solar energy system and that such connection has been approved. Systems for on-site use are exempt from this requirement.

1251.53 UTILITY-SCALE WIND ENERGY FACILITY.

(a) Location. Utility-scale wind energy facilities may not fall within the front yard and must meet all of the applicable requirements of this Code.

(b) Minimum Lot Area. Must be located on a lot with a minimum area of one acre.

(c) Maximum Wind Turbine Height. Seventy feet.

(d) Noise. A wind energy system must comply with the noise standards set forth in the City's ordinances.

(e) Shadow Flicker. The application for a wind energy system must include a shadow flicker analysis demonstrating impact on adjacent and nearby residential properties. Wind energy systems must be constructed in locations that minimize the impacts of shadow flicker on residences.

(f) Lighting. No wind energy system will be artificially lighted unless required by the Federal Aviation Administration (FAA).

(g) Appearance, Color, and Finish. The wind energy system must be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems will be a single non-reflective, non-obtrusive, matte finished color (e.g. white or gray).

(h) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires, must be located underground.

(i) Compliance with Electrical Code. Building permit applications for wind energy systems must be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(j) Construction Codes, Towers, and Interconnection Standards. Wind energy systems, including towers, must comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems including towers, must comply with the

FAA requirements, and other applicable local and state regulations. A wind energy system connected to the public utility electrical grid must comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(k) System Access. Wind energy systems must be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(l) Safety. A wind energy system must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers must have lightning protection. If a tower is supported by guy wires, the wires must be clearly visible to a height of at least six feet above the guy wire anchors.

(m) Minimum Ground Clearance. The lowest extension of any blade or other exposed moving component of a tower mounted wind energy system must be at least twenty feet above the surrounding grade at its highest point within twenty feet of the base of the tower and at least twenty feet above any outdoor surface intended for human use, such as balconies or roof gardens, that are located below the wind energy system.

(n) Roof-Mounted Wind Energy Systems. Roof-mounted wind energy systems must be limited to roof mounting and must not be mounted on any other building wall or surface.

(o) Performance Guarantee. All applications for a wind energy system must be accompanied by a performance guarantee in an amount sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04(f).

(p) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(q) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned wind energy generator and that such connection has been approved. Off-grid systems are exempt from this requirement.

1251.54 VEHICLE REPAIR, MAJOR.

Truck parking areas, maneuvering lanes, and access ways to public streets must be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.

CHAPTER 1260
General Provisions

1260.01 ACCESSORY BUILDINGS AND USES.

(a) Application.

(1) Accessory buildings include, but are not limited to: pool houses; storage buildings; patio covers; garages; carports; workshops; greenhouses; gazebos; tree-houses; play structures; and permanent or temporary tent structures including those intended to shelter vehicles.

(2) Any non-habitable portion of the main residential building that is used for an accessory use including parking and/or storage of vehicles or personal property and is structurally attached to the main residential building shall be considered a part of the main residential building and shall conform to all regulations of this Zoning Code applicable to main residential buildings. "Attached" for the purposes of this regulation is defined as being integrated visually, structurally, and architecturally with the main residential building, containing a common roof, and permitting access between the habitable and non-habitable areas either internally or under the common roof. If the common roof serves as an unenclosed connection between the two areas, they shall be considered attached if the length of the connection does not exceed the length of the non-habitable portion by more than 50% or twenty feet, whichever is less.

(3) Accessory uses of a dwelling shall be limited as provided in Section [1230.06](#), but are deemed to include uses that are performed for personal enjoyment, amusement or recreation including hobby workshops, gardens, swimming pools for the use by the occupants, driveways, and the parking and/or storage of vehicles and other personal property.

(4) Accessory buildings or structures used in accordance with a permitted agricultural use are exempt from the provisions of this chapter.

(5) Landscape features including plantings, light poles, flag poles, planters, and statuary are exempt from the provisions of this chapter if they do not require a building permit and they do not restrict visibility from intersections or driveways.

(b) General Requirements.

(1) Construction of accessory buildings for one and two-family dwellings in the AG and R Districts shall conform to the following regulations except as may otherwise be provided in this Zoning Code. Accessory buildings for other permitted uses in the A and R districts and for permitted uses in other districts shall be constructed in accordance with regulations for main buildings in those districts.

(2) Any accessory building may not be constructed on a lot or parcel of land until and unless a main building is first constructed on the lot or parcel.

(3) Accessory buildings are allowed to be serviced by utilities including water, gas, electrical, and sanitary sewer, but in no case shall an accessory building contain kitchen facilities or be used for dwelling purposes.

(c) Size.

(1) All accessory buildings shall not exceed 10% of the lot area, excluding areas devoted to public road rights-of-way or private access easements.

(2) The totality of all accessory buildings shall not occupy in excess of 50% of a rear yard and shall comply with the building coverage requirements of [Chapter 1241](#).

(3) The maximum size of the floor area of any one accessory building shall be contingent upon meeting the requirements of 1260.01(c)(1) and (2). The floor area shall be measured using the exterior wall dimensions.

(d) Height. Accessory buildings shall not exceed sixteen feet in height.

(e) Location.

(1) Accessory buildings shall not be erected in the front yard of a lot or parcel, unless otherwise provided herein. In accordance with Section [1241.07\(b\)](#) of this Zoning Code, front yards are located adjacent to all street frontages for parcels having frontage on two or more streets. Parcels having frontage on a lake, brook, stream, river or other watercourse shall be allowed an accessory building in the waterfront front yard if the building complies with the setback or in the street front yard if the waterfront yard prohibits the placement due to naturally occurring circumstances (topography) with approval from the Planning and Zoning Administrator.

(2) Accessory buildings may be erected in the side or rear yard, or the secondary front yard, as regulated herein:

A. Where the main residential building contains a secondary front yard as defined under Section 1230.06(214)C. accessory buildings may be erected:

1. In the secondary front yard of a through lot where the building is set back 25 feet from the rear lot line; or

2. In the secondary front yard of a corner lot where the building is set back 25 feet from the lot line abutting a street and be no closer to the front lot line as defined under Section 1230.06(214)C. than the primary building.

(3) Accessory buildings shall not be closer than three feet from all side and rear lot lines, including the roof overhang.

(4) Accessory buildings may not be closer than ten feet to the main building or another accessory building unless otherwise permitted under building code provisions.

(5) Wherever a required rear yard abuts the required side yard of an adjacent lot, accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot.

(6) Swimming pools and hot tubs shall not be nearer than six feet from the side or rear lot line. No swimming pool or hot tub shall be in any primary front yard.

(7) In no instance shall an accessory building be located within a dedicated easement right-of-way.

1260.02 Fences

(a) Short Title. This section may be referred to and cited as the "Fence Ordinance of the City of Battle Creek" or just the "the Fence Ordinance."

(b) Purpose. The purpose of this chapter is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and

complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties to light, air and view.

(c) Permit Required; Application; Fee.

(1) No person shall construct or cause to be constructed any permanent fence upon property within the City without first obtaining a permit therefor, unless otherwise stated. A permit shall not be required for painting or for repairs not affecting more than 25% of the fence performed within a one-year period provided that the height, location, and style of the repairs do not change.

(2) A fee in the amount established by the City Commission shall be paid for such permit and shall be submitted along with the application for the permit.

(3) A permit is not required for fences used for agricultural purposes where agriculture is the principal use, fences that can be installed or removed without the means of tools or machinery, or for shrubs or hedges planted to serve as a fence.

(d) General Provisions for All Fences.

(1) Location. No fence shall be located in a public right-of-way.

(2) In no circumstance shall any fence be erected or maintained within 25 feet of the corner property line at a street intersection so as to interfere with traffic visibility across the corner of streets or alleys.

(3) All fences:

A. In the front yard shall have a minimum transparent surface area of 50%:

B. In a secondary front yard created by a through lot, a fence may be erected 25 feet or more from the rear property line up to 6 feet in height with no transparency requirement.

C. In a secondary front yard created by a corner lot, a fence may be erected 25 feet or more from the exterior side lot line up to 6 feet in height with no transparency requirement.

(3) Decorative architectural features on fences shall not be included in the measured height of a fence so long as they do not extend more than nine inches above the maximum height and have a minimum spacing of five feet between features.

(4) Legally existing, nonconforming fences will be required to comply with this section when any change or repair is made to the fence affecting more than 25% of the fence surface within a one-year period. This provision does not include the painting of a fence.

(5) For purposes of this chapter, retaining walls are not considered a fence; however, any retaining wall exceeding four feet in height requires a minimum four-foot-tall fence erected along the highest elevation of the wall. For terraced retaining walls, any section of retaining wall that is over four feet in height where there is less than a three-foot-wide landing, there shall be a minimum four-foot-tall fence erected along the highest elevation of subject property grade.

(6) Solid fences or walls are required to completely conceal and enclose dumpsters with a capacity of two yards or more, and must extend at least six inches above the height of the dumpster being concealed. Chain link shall not be used to enclose dumpsters with a capacity of two yards or more.

(7) Construction fences not to exceed eight feet in height to secure the construction site are permitted for a period of one year or while a construction permit is open, whichever timeframe is less.

(8) Snow fences are permitted between November 1st and May 31st at a height and location for permanent fences in the district where the property is located.

(e) General Provisions by Zoning District and Use.

(1) Agricultural Districts. No restrictions are imposed to limit the size, type or location of fences in an agricultural district when used for agricultural purposes.

(2) Residential Districts and properties used for residential purposes regardless of zoning district. No fence in a primary and required secondary front yard shall exceed four feet in height and no fence in any rear or side yard shall exceed six feet in height.

(3) Commercial Districts.

A. No fence in a primary front yard shall exceed four feet in height. No fence in any side or rear yard shall exceed eight feet in height unless the fence is used to enclose outdoor retail displays, is contiguous to the principal use, and is not more than twenty feet tall or up to height of building, whichever the lessor.

B. Fences, walls, and/or plantings of complete concealment type measuring six feet in height shall be constructed at the common side or rear lot line between all building and parking areas whenever a commercial or office use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the commercial or office use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Planning and Zoning Administrator or their designee.

C. Storage yards for motor vehicles for salvage shall be governed by Section [1251.22](#).

(4) Industrial Districts.

A. No fence in a front yard shall exceed six feet in height. No fence in any side or rear yard shall exceed ten feet in height unless the fence is used to enclose outdoor storage areas, is contiguous to the principal use, and is not more than 20 feet tall.

B. Fences, walls, berms, or plantings of complete concealment type measuring six feet in height shall be constructed at the common side or rear lot line between all buildings and parking areas whenever an industrial use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the industrial use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Planning and Zoning Administrator or their designee.

C. Storage yards for motor vehicles for salvage shall be governed by Section [1251.22](#).

(f) Construction and Maintenance.

(1) Any fence or hedge, under construction or completed, which, through lack of repair, neglect, type of construction, placement or otherwise, is a hazard or endangers any person, animal or property, is hereby deemed a violation of this code. A fence may not interrupt traffic

patterns, parking spaces, maneuvering lanes, drainage areas, or cause visibility obstructions to cars or pedestrians at driveways and sidewalks.

(2) Fence posts must be set firmly in the ground and at a depth that will support the structure of the fence.

(3) Fences may be constructed from wrought iron, vinyl, wood pickets, stone, brick, chain link, or any other generally accepted fencing material. In no instance shall a fence be constructed from pallets, twigs, pressed board, plywood, scrap lumber or other nontraditional fencing material without the Planning and Zoning Administrator or their designee's approval.

(4) The owner of any fence shall maintain a fence by painting, treating, trimming, repairing or removal, as necessary to maintain the fence in a safe and reasonably attractive condition. A fence that is dangerous to public safety, health or general welfare as determined by the Planning and Zoning Administrator or their designee is considered a violation and the City may commence proceedings for the abatement thereof.

(g) Prohibited Fencing.

(1) No fence erected within the City limits shall be electrically charged in any manner unless the fence is buried beneath the ground unless authorized or permitted elsewhere in this chapter.

(2) No fence shall be constructed of barbed wire, razor wire, concertina strands, single wire, cattle fencing, or similar materials; provided however that a fence which includes barbed wire strands may be used to enclose hazardous materials or land uses, or where such additional security is appropriate for land used for commercial or industrial purposes, in the discretion of the Planning and Zoning Administrator or their designee, provided that only three strands are used, not more than a total of nine inches in height. Above ground electric fences and barbed wire fences are permitted for agricultural purposes in an agricultural zone.

(h) Exceptions.

(1) The height and location restrictions of this chapter shall not apply to schools, public recreation areas, public utilities, or any other use that the Planning and Zoning Administrator or their designee deems necessary to preserve the safety and protection of the public.

(2) Any conflict between this section and any ordinance, statute, or regulation regarding fences around swimming pools shall be controlled by that ordinance, statute, or regulation regarding swimming pools.

(3) Fences around public property and public and private recreation areas to enclose tennis courts, basketball courts, schools, church playgrounds, or other similar areas are permitted at a height not to exceed ten feet high, provided that all yard setbacks are maintained and that no obstruction to visibility is created thereby.

CHAPTER 1260
General Provisions

1260.01 ACCESSORY BUILDINGS AND USES.

(a) Application.

(1) Accessory buildings include, but are not limited to: pool houses; storage buildings; patio covers; garages; carports; workshops; greenhouses; gazebos; tree-houses; play structures; and permanent or temporary tent structures including those intended to shelter vehicles.

(2) Any non-habitable portion of the main residential building that is used for an accessory use including parking and/or storage of vehicles or personal property and is structurally attached to the main residential building shall be considered a part of the main residential building and shall conform to all regulations of this Zoning Code applicable to main residential buildings. "Attached" for the purposes of this regulation is defined as being integrated visually, structurally, and architecturally with the main residential building, containing a common roof, and permitting access between the habitable and non-habitable areas either internally or under the common roof. If the common roof serves as an unenclosed connection between the two areas, they shall be considered attached if the length of the connection does not exceed the length of the non-habitable portion by more than 50% or twenty feet, whichever is less.

(3) Accessory uses of a dwelling shall be limited as provided in Section [1230.06](#), but are deemed to include uses that are performed for personal enjoyment, amusement or recreation including hobby workshops, gardens, swimming pools for the use by the occupants, driveways, and the parking and/or storage of vehicles and other personal property.

(4) Accessory buildings or structures used in accordance with a permitted agricultural use are exempt from the provisions of this chapter.

(5) Landscape features including plantings, light poles, flag poles, planters, and statuary are exempt from the provisions of this chapter if they do not require a building permit and they do not restrict visibility from intersections or driveways.

(b) General Requirements.

(1) Construction of accessory buildings for one and two-family dwellings in the AG and R Districts shall conform to the following regulations except as may otherwise be provided in this Zoning Code. Accessory buildings for other permitted uses in the A and R districts and for permitted uses in other districts shall be constructed in accordance with regulations for main buildings in those districts.

(2) Any accessory building may not be constructed on a lot or parcel of land until and unless a main building is first constructed on the lot or parcel.

(3) Accessory buildings are allowed to be serviced by utilities including water, gas, electrical, and sanitary sewer, but in no case shall an accessory building contain kitchen facilities or be used for dwelling purposes.

(c) Size.

(1) All accessory buildings shall not exceed 10% of the lot area, excluding areas devoted to public road rights-of-way or private access easements.

(2) The totality of all accessory buildings shall not occupy in excess of 50% of a rear yard and shall comply with the building coverage requirements of [Chapter 1241](#).

(3) The maximum size of the floor area of any one accessory building shall ~~not exceed 1,500 square feet~~ be contingent upon meeting the requirements of 1260.01(c)(1) and (2). The floor area shall be measured using the exterior wall dimensions.

(d) Height. Accessory buildings shall not exceed ~~sixteen~~ fourteen feet in height ~~or the height of the main residential building, whichever is less~~.

(e) Location.

(1) Accessory buildings shall not be erected in the front yard of a lot or parcel, unless otherwise provided herein. In accordance with Section 1241.07(b) of this Zoning Code, front yards are located adjacent to all street frontages for parcels having frontage on two or more streets. Parcels having frontage on a lake, brook, stream, river or other watercourse shall be allowed an accessory building in the waterfront front yard if the building complies with the setback or in the street front yard if the waterfront yard prohibits the placement due to naturally occurring circumstances (topography) with approval from the Planning and Zoning Administrator.

(2) Accessory buildings may be erected in the side or rear yard, or the secondary front yard, as regulated herein:

A. Where the main residential building contains a secondary front yard as defined under Section 1230.06(214)C, accessory buildings may be erected:

1. In the secondary front yard of a through lot where the building is set back 25 feet from the rear lot line; or

2. In the secondary front yard of a corner lot where the building is set back 25 feet from the lot line abutting a street and be no closer to the front lot line as defined under Section 1230.06(214)C, than the primary building.

(3) Accessory buildings shall not be closer than three feet from all side and rear lot lines, including the roof overhang.

(4) Accessory buildings may not be closer than ten feet to the main building or another accessory building unless otherwise permitted under building code provisions.

(5) Wherever a required rear yard abuts the required side yard of an adjacent lot, accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot.

(6) Swimming pools and hot tubs shall not be nearer than six feet from the side or rear lot line. No swimming pool or hot tub shall be in any primary front yard.

(7) In no instance shall an accessory building be located within a dedicated easement right-of-way.

1260.02 Fences

(a) Short Title. This section may be referred to and cited as the "Fence Ordinance of the City of Battle Creek" or just the "the Fence Ordinance."

(b) Purpose. The purpose of this chapter is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and

complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties to light, air and view.

(c) Permit Required; Application; Fee.

(1) No person shall construct or cause to be constructed any permanent fence upon property within the City without first obtaining a permit therefor, unless otherwise stated. A permit shall not be required for painting or for repairs not affecting more than 25% of the fence performed within a one-year period provided that the height, location, and style of the repairs do not change.

(2) A fee in the amount established by the City Commission shall be paid for such permit and shall be submitted along with the application for the permit.

(3) A permit is not required for fences used for agricultural purposes where agriculture is the principal use, fences that can be installed or removed without the means of tools or machinery, or for shrubs or hedges planted to serve as a fence.

(d) General Provisions for All Fences.

(1) Location. No fence shall be located in a public right-of-way.

(2) In no circumstance shall any fence be erected or maintained within 25 feet of the corner property line at a street intersection so as to interfere with traffic visibility across the corner of streets or alleys.

(3) All fences:

A. In the front yard shall have a minimum transparent surface area of 50%:

B. In a secondary front yard created by a through lot, a fence may be erected 25 feet or more from the rear property line up to 6 feet in height with no transparency requirement.

C. In a secondary front yard created by a corner lot, a fence may be erected 25 feet or more from the exterior side lot line up to 6 feet in height with no transparency requirement.

(3) Decorative architectural features on fences shall not be included in the measured height of a fence so long as they do not extend more than nine inches above the maximum height and have a minimum spacing of five feet between features.

(4) Legally existing, nonconforming fences will be required to comply with this section when any change or repair is made to the fence affecting more than 25% of the fence surface within a one-year period. This provision does not include the painting of a fence.

(5) For purposes of this chapter, retaining walls are not considered a fence; however, any retaining wall exceeding four feet in height requires a minimum four-foot-tall fence erected along the highest elevation of the wall. For terraced retaining walls, any section of retaining wall that is over four feet in height where there is less than a three-foot-wide landing, there shall be a minimum four-foot-tall fence erected along the highest elevation of subject property grade.

(6) Solid fences or walls are required to completely conceal and enclose dumpsters with a capacity of two yards or more, and must extend at least six inches above the height of the dumpster being concealed. Chain link shall not be used to enclose dumpsters with a capacity of two yards or more.

(7) Construction fences not to exceed eight feet in height to secure the construction site are permitted for a period of one year or while a construction permit is open, whichever timeframe is less.

(8) Snow fences are permitted between November 1st and May 31st at a height and location for permanent fences in the district where the property is located.

(e) General Provisions by Zoning District and Use.

(1) Agricultural Districts. No restrictions are imposed to limit the size, type or location of fences in an agricultural district when used for agricultural purposes.

(2) Residential Districts and properties used for residential purposes regardless of zoning district. No fence in a primary and required secondary front yard shall exceed four feet in height and no fence in any rear or side yard shall exceed six feet in height.

(3) Commercial Districts.

A. No fence in a primary front yard shall exceed four feet in height. No fence in any side or rear yard shall exceed eight feet in height unless the fence is used to enclose outdoor retail displays, is contiguous to the principal use, and is not more than twenty feet tall or up to height of building, whichever the lessor.

B. Fences, walls, and/or plantings of complete concealment type measuring six feet in height shall be constructed at the common side or rear lot line between all building and parking areas whenever a commercial or office use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the commercial or office use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Planning and Zoning Administrator or their designee.

C. Storage yards for motor vehicles for salvage shall be governed by Section [1251.22](#).

(4) Industrial Districts.

A. No fence in a front yard shall exceed six feet in height. No fence in any side or rear yard shall exceed ten feet in height unless the fence is used to enclose outdoor storage areas, is contiguous to the principal use, and is not more than 20 feet tall.

B. Fences, walls, berms, or plantings of complete concealment type measuring six feet in height shall be constructed at the common side or rear lot line between all buildings and parking areas whenever an industrial use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the industrial use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Planning and Zoning Administrator or their designee.

C. Storage yards for motor vehicles for salvage shall be governed by Section [1251.22](#).

(f) Construction and Maintenance.

(1) Any fence or hedge, under construction or completed, which, through lack of repair, neglect, type of construction, placement or otherwise, is a hazard or endangers any person, animal or property, is hereby deemed a violation of this code. A fence may not interrupt traffic

patterns, parking spaces, maneuvering lanes, drainage areas, or cause visibility obstructions to cars or pedestrians at driveways and sidewalks.

(2) Fence posts must be set firmly in the ground and at a depth that will support the structure of the fence.

(3) Fences may be constructed from wrought iron, vinyl, wood pickets, stone, brick, chain link, or any other generally accepted fencing material. In no instance shall a fence be constructed from pallets, twigs, pressed board, plywood, scrap lumber or other nontraditional fencing material without the Planning and Zoning Administrator or their designee's approval.

(4) The owner of any fence shall maintain a fence by painting, treating, trimming, repairing or removal, as necessary to maintain the fence in a safe and reasonably attractive condition. A fence that is dangerous to public safety, health or general welfare as determined by the Planning and Zoning Administrator or their designee is considered a violation and the City may commence proceedings for the abatement thereof.

(g) Prohibited Fencing.

(1) No fence erected within the City limits shall be electrically charged in any manner unless the fence is buried beneath the ground unless authorized or permitted elsewhere in this chapter.

(2) No fence shall be constructed of barbed wire, razor wire, concertina strands, single wire, cattle fencing, or similar materials; provided however that a fence which includes barbed wire strands may be used to enclose hazardous materials or land uses, or where such additional security is appropriate for land used for commercial or industrial purposes, in the discretion of the Planning and Zoning Administrator or their designee, provided that only three strands are used, not more than a total of nine inches in height. Above ground electric fences and barbed wire fences are permitted for agricultural purposes in an agricultural zone.

(h) Exceptions.

(1) The height and location restrictions of this chapter shall not apply to schools, public recreation areas, public utilities, or any other use that the Planning and Zoning Administrator or their designee deems necessary to preserve the safety and protection of the public.

(2) Any conflict between this section and any ordinance, statute, or regulation regarding fences around swimming pools shall be controlled by that ordinance, statute, or regulation regarding swimming pools.

(3) Fences around public property and public and private recreation areas to enclose tennis courts, basketball courts, schools, church playgrounds, or other similar areas are permitted at a height not to exceed ten feet high, provided that all yard setbacks are maintained and that no obstruction to visibility is created thereby.

CHAPTER 1281 Administrative Procedures

1281.01 ZONING ORDINANCE/ MAP AMENDMENTS.

(a) Initiation. The City Commission may amend, supplement or change the regulations or the district boundaries of this Zoning Code pursuant to the authority and according to the procedure set forth in The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. Changes in the text of this Zoning Code may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission; or
- (3) Any interested person or organization through a petition, which shall not be initiated for the same property more often than once every twelve months.

Changes in zoning district boundaries may be proposed by:

- (1) The City Commission;
 - (2) The Planning Commission;
 - (3) The owner(s) of the premises concerned; or
 - (4) The designated agent of a person having an ownership interest in the property.
- (b) Definition. An amendment to this Zoning Code shall be deemed to be any change to the text or to the official map, including:

- (1) Petitions for zoning ordinance amendments; or
- (2) Conditional rezonings.

(c) Amendment Review Procedures. The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

(1) Technical review. Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate City departments and divisions and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated City consultants for review.

(2) Public hearing. A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., as summarized below:

A. On any amendment to this Zoning Code, the Planning Commission shall hold a public hearing prior to the amendment being referred to the City Commission for action. A record of the comments received at the public hearing shall become a part of the Planning Commission report and recommendation to the City Commission. The following requirements shall pertain to public hearings held before the Planning Commission:

1. Not less than fifteen-day notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the City.

2. Not less than fifteen-day notice of the date, time and place of the hearing shall be given, by regular mail, to each public utility company and to each railroad company owning or operating any public utility or railroad within the City that registers its name and mailing address with the City Clerk for the purpose of receiving such notices.

3. Not less than fifteen-day notice shall be given, by regular mail, to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property affected by the amendment, as listed in the most current assessment roll and to the occupants of all structures with 300 feet of the subject property regardless whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, then 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.

4. The notice under subsection 3. above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen days before the date the request will be considered. If the name of the occupant is not known, then the term "occupant" may be used for the intended recipient of the notice. However, failure of property owners to receive such notice, shall not invalidate the amendment.

5. A notice under this section shall do all of the following:

a. Describe the nature of the request.

b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the

property. If there are no street addresses, then other means of identification may be used.

c. State when and where the request will be considered.

d. Indicate when and where written comments will be received concerning the request.

6. For any group of adjacent properties numbering eleven or more that is proposed for rezoning, the requirements of above subsection iii), and the requirement of above subsection 5.b., that street addresses be listed do not apply to that group of adjacent properties.

(3) Planning Commission consideration of proposed amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Commission.

(4) City Commission action on proposed amendment. Upon receipt of the report and recommendation from the Planning Commission, the City Commission may approve or deny the proposed amendment. If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official zoning map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in this Zoning Code.

A. The City Commission, upon receipt of the Planning Commission study and report, shall publish a notice indicating the proposed amendment, proposed use and affected property in a newspaper of general circulation in the City. Such notice shall be published at least five days before the City Commission meeting, and shall indicate the time, date and place of such meeting.

(d) Standards of Review for Amendments. In considering any petition for an amendment to the text of this Zoning Code or to the zoning map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the area shall be considered.

(2) Consistency with the basic intent and purpose of this Zoning Code.

(3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(4) The capacity of the City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

(5) That conditions have changed since the Zoning Code was adopted or there was an error in the Zoning Code that justifies the amendment.

(6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

(7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

(11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

(e) Notice of Adoption of Amendment. Following adoption of an amendment by the City Commission, one notice of adoption shall be filed with the City Clerk and one notice shall be published in a newspaper of general circulation in the City within fifteen days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall be maintained by the Planning and Zoning Administrator and include all of the following information:

(1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Battle Creek."

(2) In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

(f) Referendum.

(1) Within seven days after publication of the Zoning Ordinance, a registered elector residing in the zoning jurisdiction of the City may file with the City Clerk a notice of intent to file a petition under this section, in accordance with Section 401 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3401.

(2) If a notice of intent is filed under subsection (1) above, the petitioner shall have thirty days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction of the City not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the City Clerk requesting the submission of the zoning ordinance or part of the zoning ordinance to the electors residing in the zoning jurisdiction of the City for their approval, in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3402.

(3) Whenever there is a conflict between this section of the Zoning Ordinance or the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., shall govern.

(g) Conditional Rezoning.

(1) Intent. The Planning Commission and City Commission recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this Zoning Code to accomplish, among other things, the objectives of the zoning ordinance and the master plan to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

A. "Rezoning Conditions" shall mean conditions regarding the development and use of property proposed by the applicant and approved by the City as part of an approval under this section, including review and recommendation by the Planning Commission.

B. "Rezoning with Conditions Agreement" shall mean a written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the City has approved a rezoning with conditions.

C. "Rezoning with Conditions Plan" shall mean a plan of the property which is the subject of a rezoning with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the rezoning with conditions plan shall be determined by the applicant, subject to approval of the City Commission after recommendation by the Planning Commission.

D. "Rezoning" shall mean the amendment of this Zoning Code to change the zoning map classification on property from its existing district to a new district classification.

(3) Authorization and eligibility.

A. The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

B. In order to be eligible for consideration of a rezoning with conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a rezoning with conditions agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.

2. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.

3. Preservation of open space, natural resources and/or natural features.

4. Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.

5. Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City ordinance.

6. Limitations on permissible uses of the property.

7. Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and review procedures.

A. Application.

1. At the time of making application for amendment of this Zoning Code seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a rezoning with conditions to apply in conjunction with the rezoning.

2. The application, which may be amended by the applicant during the process of consideration, shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.

3. An application for a rezoning with conditions shall include a rezoning with conditions agreement ("the agreement"). The agreement shall set forth the rezoning conditions and may incorporate a rezoning with conditions plan.

4. The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

B. Planning Commission review.

1. The proposed rezoning with conditions shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the zoning ordinance.

2. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Commission on the proposed rezoning with conditions.

C. City Commission review. Upon recommendation by the Planning Commission, the City Commission shall make a final determination to approve or deny the rezoning with conditions as offered by the applicant. The City Commission may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The City Commission's deliberations shall include, but not be limited to, a consideration of the review criteria for a rezoning with conditions.

(5) Review criteria. A rezoning with conditions shall only be approved if it meets the following requirements and standards:

A. The proposed rezoning with conditions will further the goals and objectives of the city master plan.

B. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the rezoning with conditions agreement).

C. The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area

and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

1. Development and use of the property shall be subject to the more restrictive requirements shown or specified in the rezoning with conditions agreement, and/or in other conditions and provisions set forth in the rezoning with conditions agreement required as part of the rezoning with conditions approval. Such rezoning with conditions agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

2. As part of the grant of final approval of a rezoning with conditions, the City Commission shall be authorized to grant modifications to the strict terms of the zoning ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the City Commission finding that each zoning ordinance provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the city master plan and compatible with the surrounding area.

D. The proposed rezoning with conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence Of the use of a rezoning with conditions.

E. As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the rezoning with conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Commission and Planning Commission.

F. The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

G. Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the rezoning with conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.

H. The offered condition(s) are beneficial to the public good and likely to be enforceable.

I. The condition does not have the same effect as a use variance.

J. The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of approval. Approval of the rezoning with conditions and rezoning with conditions agreement confirms only the rezoning of the property, subject to any conditions reflected in the rezoning with conditions agreement and after recordation as set forth in subsection (8) below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The zoning map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Corridor Commercial District (CR, Rezoning with Conditions)", with a zoning map designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the rezoning with conditions agreement. No development or use of the land inconsistent with the conditions of the rezoning with conditions agreement shall be permitted.

(7) Compliance with conditions.

A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the rezoning with conditions agreement. Any failure to comply with a condition contained within the rezoning with conditions agreement shall constitute a violation of this Zoning Code and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

B. No permit or approval shall be granted under this Zoning Code for any use or development that is contrary to an applicable rezoning with conditions agreement.

(8) Period of approval.

A. The rezoning with conditions and agreement shall expire after a period of one year from the effective date of the rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two years unless development of the property is substantially begun within such two year period and proceeds diligently and in good faith as required by ordinance to completion.

B. In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one year and bona fide development has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the rezoning with conditions agreement shall be void and of no effect.

C. The property owner may apply for a one year extension two times. The request must be submitted to the Planning Division before the approval time limit

expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Commission finds that there has not been a change in circumstances that would render the rezoning with conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

An extension request shall be considered by the City Commission following a recommendation by the Planning Commission.

D. If the rezoning with conditions becomes void in the manner provided in this section, the following procedures shall apply:

1. The property owner may seek a new rezoning of the property within thirty days of the expiration of the period of approval.

2. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.3405(2)(as amended). The City Commission shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Code.

3. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with conditions agreement requirements. A rezoning with conditions agreement shall be executed between the applicant and the City at the time of City Commission approval of a rezoning with conditions.

A. Rezoning with conditions agreements shall, at a minimum, contain all of the following items:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.

2. A statement acknowledging that the rezoning with conditions was proposed by the applicant, and, further agreement and acknowledgment that the conditions and rezoning with conditions agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

3. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the rezoning with conditions agreement.

4. Agreement and understanding that the approval and rezoning with conditions agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.

5. The date upon which the rezoning with conditions becomes void, as specified in Section 1281.01(g)(8). If the City Council grants an extension of approval, a new rezoning with conditions agreement with the new expiration date shall be recorded.

6. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 1281.01(g)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

7. Agreement and understanding that each of the requirements and conditions in the rezoning with conditions agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

8. A legal description of the property affected by the rezoning with conditions.

9. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

10. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

B. A rezoning with conditions plan may be included as an exhibit to the agreement. The rezoning with conditions plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a rezoning with conditions plan as an exhibit to a rezoning with conditions agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of rezoning with conditions agreement. Amendment of a rezoning with conditions agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with conditions.

(11) Recordation of rezoning with conditions agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, and, after recordation of the rezoning with conditions agreement, whichever is later. All rezoning with conditions agreements shall be recorded with the Calhoun County Register of Deeds.

(12) Termination. The City Commission shall be the only body with the authority to terminate a rezoning with conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination shall comply with any applicable provisions of this Zoning Code or the rezoning with conditions agreement. If the agreement is terminated, the City shall follow the procedures in Section 1281.01 (g)(8)D.

(13) City right to rezone. Nothing in the rezoning with conditions agreement or in the provisions of this section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a rezoning with conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Zoning Code and the Michigan Zoning Enabling Act.

(14) If land that is subject to a rezoning with conditions agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no rezoning with conditions agreement, the rezoning with conditions agreement attached to the former zoning classification shall cease to be in effect. In such a case, the Planning and Zoning Administrator or their designee shall record with the Calhoun County Register of Deeds a notice that the rezoning with conditions is no longer in effect upon the property owner's written request.

(h) Fees. Petitions for an amendment to this Zoning Code shall be accompanied by a fee as prescribed in the schedule provided for in Section 802.24 . Such fee is applicable when filing a petition for zoning reclassification or special use permits and is nonrefundable.

(i) Protest Petition. An amendment to a zoning ordinance is subject to a protest petition under Section 1281.08 .

(j) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board provided for under this chapter.

1281.02 CERTIFICATES OF OCCUPANCY.

(a) Subsequent to the effective date of this Zoning Code (Adopted on November 24, 2020), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with this Zoning Code.

(b) No permit for excavation, or the erection or alteration of, any building or premise shall be issued before the application has been approved for such activities, and no building or premises shall be occupied until a certificate of occupancy is issued by the Chief Building Official or their designee or agent. (c) A record of all certificates of occupancy shall be kept on file in the Inspections Division office. Copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in buildings affected by such certificates.

1281.03 APPLICATIONS FOR BUILDING PERMITS AND ZONING PERMITS; RECORDS.

(a) It shall be unlawful for any person to commence excavation for construction of any building or structure, structural changes or repairs in any existing building, a change in use, or moving of an existing building without first obtaining a zoning permit and/or

building permit from the City of Battle Creek. No permit shall be issued for construction, alteration or remodeling of any building or structure, or change in use, until an application has been submitted in accordance with the provision of this Zoning Code showing that the construction proposed is in compliance with the provisions of this Zoning Code and with the Building Code adopted by the City. "Alteration" or "repair" of an existing building or structure, shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress, use, or any other changes regulated by the Building Code of the City, the Housing Law of Michigan, Public Act 167 of 1917, as amended, being MCL 125.401 et seq., this Zoning Code, except for minor repairs or changes not involving any of the aforesaid provisions.

(b) Each application for a zoning permit shall contain all required information specified in Section 1281.04(d). A record of applications and plot plans shall be kept in the offices of the Planning Division.

(c) Zoning permits are required for activities detailed in Section 1281.04(c), and as otherwise specified in this Zoning Code.

(d) No building, plumbing, electrical, drainage or other permit shall be issued until the City of Battle Creek has determined that the plans and designated use indicate that the proposed structure and lot will conform to the provisions of this Zoning Code.

1281.04 SITE PLAN REVIEW.

(a) Purpose. It is the purpose of this chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. Site plan approval shall be required before building permits are granted by the City for parcels subject to this chapter. The regulations contained in this chapter are intended to promote:

- (1) Safe and convenient vehicle and pedestrian traffic movements, both within a site and in relation to access streets;
- (2) Harmonious relationships between buildings, structures and uses, both within a site and within adjacent sites;
- (3) Conservation of natural amenities and resources; and
- (4) Compliance with all other applicable regulations of this Zoning Code.

(b) Application.

(1) Applications for site plan approval shall be available at the Planning Division and a complete application packet shall be filed with the Inspections Division. A complete application packet shall consist of a completed application, a digital format of the site plan and other applicable drawings, supporting information, and the review fee established by Section 802.24.

(2) All requirements for site plan approval shall be filed with the Inspections Division at one time, as a complete single submittal.

(3) Once a complete application, site plan, and other materials are submitted, the Planning and Zoning Administrator or their designee will schedule a review at the earliest possible date.

(4) Any additional information requested by city staff must be submitted no later than 180 days from the date a complete application is filed. The application shall expire if the requested additional information is not received by the end of the 180 day period. An applicant may submit a new application and fee.

(c) Required Review Based on Proposed Activity. The table below details which type of reviews are required based on the proposed activity.

Proposed Activity	Administrative Review of Site Plan Per Section 1281.04	Administrative Review of Building and Zoning Permits Per Section 1281.03	Planning/City Commission Review Per Section 1281.05
Any proposed new building or parking area or where an alteration, addition, or expansion of existing developments constitute an increase or reduction to the existing buildings or parking area of more than ten percent (10%)	●		
Projects where less than a ten percent (10%) increase or reduction of the building or parking will occur shall adhere to review requirements as outlined in the Stormwater Management Program Technical Reference Manual.		●	
Planned Unit Developments	●		●
Parking lot mill and repave projects where an approved site plan is not on file	●		

Special land uses	●		●
Adult Use Marihuana Microbusiness located in B-1,B-2, I-1 and I-2	●		
Adult Use Marihuana Microbusiness located in T-3	●		●
Adult Use Marihuana Retailers located in B-1, B-2, T-4, T-5, I-1, and I-2	●		
Adult Use Marihuana Retailers located in T-3	●		●
Medical Marihuana Provisioning Center located in B-1, B-2, T-4, T-5, I-1, and I-2	●		
Medical Marihuana Provisioning Center located in T-3	●		●
Medical and Adult Use Marihuana Grow Operation located in I-1 and I-2	●		
Medical and Adult Use Marihuana Processing Facility located in I-1 and I-2	●		
Medical and Adult Use Safety Compliance Facility located in B-1, I-1 and I-2	●		
Medical and Adult Use Secure Transporter located in B-1, I-1 and I-2	●		
Medical and Adult Use Excess Grow Operation located in I-1 and I-2	●		
Driveway or curb cut relocation where the new driveway will be relocated within 25 feet of the existing driveway location or where a driveway or curb cut is being totally eliminated		●	
Construction and development on any parcel of land proposing or having multi-family, commercial, or industrial uses	●		
Site improvements that include landscaping, lighting, site access, and parking lot grading, layout, and new off-street parking	●		
Landscaping that is less than 25% of the parcel size or 5,000 square feet, whichever is less		●	
Re-paving of an off-street parking lot, provided there are no grading changes and no changes to the configuration of the parking lot layout		●	
Construction of and/or the conversion of an existing structure to one (1) or more units meeting the definition of a State Licensed Residential Facility		●	

Construction or replacement of a fence, shed, signage, or driveway			
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(1) Site plan review shall not be required for the following:

- A. Detached single-family housing and related parking;
- B. Two-family dwelling units and related parking;
- C. Agricultural uses; and

D. Nonresidential accessory buildings no more than 120 square feet in area and all residential accessory buildings.

(2) No grading, removal of trees or other vegetation, land-filling or construction of improvements shall commence for any project which requires site plan approval until a site plan is approved and is in effect and any other applicable permits are obtained.

(d) Site Development Plans. All site development plans shall be prepared on standard twenty-four inch by thirty-six inch, or thirty-six inch by forty-two inch, architectural or engineering sheets, and are required to incorporate the following information, unless waived by the Planning and Zoning Administrator or their designee:

Site Plan Required Information:

- (1) The title of the proposed project;
- (2) The name of the property owner, proprietor or project director;
- (3) The location of the project, the street name and the address;
- (4) Professional seal of the architect, engineer or designer, and their name, address, phone number, and email address, if available;
- (5) The date drawn and subsequent revision dates;
- (6) The scale of the drawing, the north directional arrow, and vicinity map showing location of project;
- (7) Provide all dimensions, including property lines, easements and rights-of-way, existing and proposed buildings building setback lines, site improvements; gross and net acreage, and zoning classification of the site and adjacent properties;
- (8) Location of adjacent property lines, buildings and structures, sidewalks, parking lots, rights-of-ways, abutting streets, curb cuts, and access easements within 100 feet of the subject property;
- (9) Existing man-made or natural features such as wetlands, waterways, woodlands, and areas with slopes greater than 10%, with an indication of which features will be retained or removed;

(10) The topography, existing and proposed, including contours with a maximum of two-foot contours, or spot elevations sufficient to determine the topography of the site, so as to clearly indicate required cutting, filling, and grading. The site plan shall contain arrows indicating direction of drainage and stormwater calculations;

(11) Location and dimension of existing and proposed buildings or structures, including intended uses, floor area, number of floors, width, length, height, number of types of dwelling units (where applicable), and setback distances;

(12) The location of sidewalks, rights-of-ways, abutting streets, curb cuts, and access easements, ingress and egress drives, both existing and proposed, to thoroughfares, showing traffic patterns into the site from the same, including ultimate pavement width, deceleration lanes and the like; the location of private and public pedestrian walkways;

(13) On-site traffic circulation and parking areas, including the number and size of parking bays, width of maneuvering aisles, designation of fire lanes, the location and size of handicapped parking, surface materials and striping of the parking lot surface to delineate parking bays and individual spaces;

(14) The location of loading berths, truck docks, truck wells, service drives and exterior parking lot lighting, including photometric plan;

(15) The location and size of all existing and proposed public and private utilities above and below ground proposed to service the project and the location of any public or private utility easements, to include water, gas, electric, cable, stormwater, stormsewer, catch basins, and fire hydrants;

(16) The spatial relationship of buildings on the site, including pedestrian walkways, protective or retaining walls, fences, landscaped buffers, either existing or proposed, and the materials to be utilized, if required;

(17) The location of signs, either existing or proposed, and an indication of their size, height and design pursuant to City sign regulations;

(18) A landscaping plan of the site, including greenbelts or buffers if required, and the identification of all plant and landscape material to be utilized as to type, size and location;

(19) The location and proposed method of screening trash refuse receptacles;

(20) Location of outdoor storage/display areas including a description of the items to be located outdoors, as well as the location and description of required screening;

(21) Storage and containment areas if the use of hazardous substances is involved; and

(22) Any additional information as may be required of the applicant to properly evaluate the proposed development.

(e) Standards for Consideration. The following shall be the standards for consideration of all plans for developments submitted for site plan approval:

(1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjacent properties and the type and size of buildings.

(2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by topographic modifications, which result in maximum harmony with adjacent areas.

(3) The site plan shall provide reasonable visual and sound privacy for all occupants located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(4) All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practical means to all sides as may be required by the Building and/or Fire Code.

(5) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(6) There shall be provided a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

(7) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves an adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the City Engineer and/or any other entity having authority over said roadway.

(8) Where the Planning Division, City Engineer, or Traffic Engineer finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, they shall require marginal access drives as follows:

A. For a narrow frontage of less than 120 feet, the design will require a single outlet.

B. For a series of adjacent frontages in a developing area, a service road shall be constructed and a single marginal access drive shall serve all establishments fronting thereon, with road cuts not closer than 330 feet centerline to centerline, or 330 feet from a street intersection.

C. The overall design of a marginal access drive shall uphold the purposes of this chapter, promote the public safety, and serve the public interest.

D. Marginal access drives shall be required only if the concept is reasonable in terms of the land available for such an improvement.

(9) All site plans shall be designed in accordance with the City of Battle Creek Stormwater Management Program Technical Reference Manual. All stormwater shall be detained on site for controlled release. Attention shall be given to proper site drainage to ensure neighboring properties will not be adversely affected.

(10) Loading and unloading areas and outside storage areas which face or are visible from residential uses or districts or public thoroughfares, shall be screened by a six foot solid screening fence (concealment screening) and plant materials no less than six feet in height.

(11) Trash containers must be stored in a trash enclosure constructed of solid screening fence (concealment screening) on all four sides from four inches above the ground to six inches above the trash container. The enclosure shall not be located in the front yard unless the Planning and Zoning Administrator or their designee finds that there is no other feasible location.

(12) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(13) Development occurring within the City of Battle Creek wellhead protection area, in accordance with Chapter 1041, shall comply with the requirements established in the performance standards as administered by the Department of Public Works.

(f) Decisions and approval.

(1) The Planning Division, the Inspection Division, and the Department of Public Works shall be responsible for reviewing site plans, and the Planning and Zoning Administrator or their designee shall be responsible for granting approval. A decision approving, conditionally approving, or rejecting a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted City planning documents, other applicable ordinances, and state and federal statutes.

(2) Any revisions to the site plan shall be submitted in accordance with Section 1281.04(b).

(3) If approved, the site plan shall become part of the record of approval, and subsequent actions related to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.

(4) A site plan approved under this section shall be valid for a period of one year. If construction has not commenced within this time period, or if construction has ceased for more than one year, the site plan shall become null and void. Thirty days prior to the expiration of an approved final site plan, an applicant may make application for a six-month extension of the site plan. The extension shall be granted if the Planning and Zoning Administrator or designee finds good cause for the extension and that zoning

regulations and site conditions of the subject property and adjacent properties have not changed since the approval.

(5) Performance guarantee. In accordance with the Michigan Zoning Enabling Act, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City, in an amount to cover the estimated cost of the improvements associated with the project, be deposited with the City Clerk to insure faithful completion of the improvements as set out in the site plan approved by the Planning and Zoning Administrator or their designee. If the City has required a performance guarantee, then it shall be subject to the following terms and conditions:

A. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee until it is prepared to issue the permit.

B. Rebates of cash deposits. Where the performance guarantee has been made in the form of a cash deposit, the performance guarantor shall be entitled to a rebate of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements as satisfactory work progresses. The performance guarantor may request the rebates in three equal installments each time one-third of the entire required work has been satisfactorily completed in accordance with the final approved site plan, including any approved amendments.

C. Failure to complete improvements. If the performance guarantor fails to complete the improvements as approved in the final approved site plan within such time period as is required by the conditions or guarantees as outlined above, then the City may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the irrevocable letter of credit, or shall take the necessary steps to require performance by the bonding company.

(g) Appeals. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Planning Division, the City Engineer or the Traffic Engineer as it relates to this chapter. Such appeal shall be taken within such time as is prescribed by Section 1280.03.

(h) Amendments. All site improvements shall conform to the final site plan. A site plan may be amended upon application and in accordance with the procedure herein. The Planning and Zoning Administrator or their designee shall have the authority to determine if a proposed change requires an amendment to an approved final site plan, provided that a revised final site drawing be submitted showing such minor changes, for purposes of record.

(i) As-Built Plan. After construction has concluded, as-built plans shall be submitted to ensure compliance with final site plan approval.

(j) Violations and Penalties.

(1) All site improvements shall conform to the final approved site plan, unless an amendment has been approved by the Planning and Zoning Administrator or their

designee. If an amendment has not been approved, the Planning Division may require the applicant to correct any physical changes to the site that were completed without proper approval so as to conform to the approved final site plan.

(2) Stop work order. If improvements and/or construction is being undertaken contrary to this Chapter or the final approved site plan, including any approved amendments, the Planning and Zoning Administrator or their designee shall give written notice to the holder of the building permit, or if a building permit has not been issued, then to the person doing the construction and/or improvements, notifying them of the violation of this Chapter, or other applicable laws and ordinances. If the person doing the construction is not known, or cannot be located with reasonable effort, then the notice may be delivered to the person in charge of, or apparently in charge of, the construction/improvements. If the holder of the permit or the person doing the construction or improvements fails to correspond with the City to show good cause within one full working day after notice is delivered, the Planning and Zoning Administrator or their designee shall cause a written order to stop construction and/or improvements to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction and/or improvements in violation of a stop work order, except with permission of the Zoning Administrator or their designee to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction and/or improvements is not obeyed, the Planning and Zoning Administrator or their designee may apply to the Calhoun County circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(3) A person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil infraction fines provided in Section 202.98.

1281.05 SPECIAL LAND USES.

(a) Application for Special Uses; Certificates of Occupancy. An application to build or occupy any of the special uses described in Section 1240.02 shall be submitted in accordance with the following procedure:

(1) Applications shall be submitted through the Planning Division to the Planning Commission. A copy of the application shall be forwarded to the City Commission. Each application shall be accompanied by a nonrefundable filing fee as established in the fee, bond and insurance schedule.

(2) Every application shall be accompanied by the following information and data:

A. A special use petition form supplied by the Planning Division;

B. A site plan, plot plan or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their proposed uses;

C. Preliminary plans and specifications of the proposed development and for all intended construction; and

D. A statement with supporting evidence regarding the required findings specified in Section 1281.05(c).

(3) Before authorization by the City Commission of any of the special uses referred to in this chapter, the Planning Commission shall cause a study and report concerning the effect of the proposed use on the master plan and on the character and development of the neighborhood.

(4) The Planning Commission may recommend, and the City Commission may impose, such conditions or restrictions upon the construction, location and operation of a special use as is deemed necessary to secure the general objectives of this Zoning Code and to preserve the value of property in the neighborhood. Any proposed special use shall otherwise comply with all of the requirements set forth in this Zoning Code for the district in which the use is located, except that the City Planning Commission may permit hospitals and institutions to exceed the height limitations of such district.

(5) A special uses permit shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months. The written application to request a six month extension shall be filed with the Planning Division no later than 60 days prior to expiration.

(b) Hearings and Notices. (Requirements for public hearing and hearing notices are the same as for an amendment to the Zoning Code as specified in Section 1281.01 (c)(2).

(c) Decision on Application; Basis for Determination.

(1) The City Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

(2) Before approving, or approving with conditions, a request for a special land use, the Planning Commission and the City Commission shall establish that the general standards specified in the following shall be satisfied by the completion and operation of a proposed development:

A. The use will be harmonious with and in accordance with the general objectives of the master plan.

B. The use will be designed, constructed, operated and maintained so as to be compatible with adjacent uses of land, the natural environment, and harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

C. The use will not be hazardous or disturbing to existing or future neighboring uses.

D. The use will be an improvement to property in the immediate vicinity and to the community as a whole.

E. The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

F. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

H. The use will be consistent with the intent and purpose of this Zoning Code.

(3) A request for approval of a special land use shall be approved (except requests for approval of a group child care home, which are discretionary approvals) if the request is in compliance with the standards stated in this ordinance, the conditions imposed under this Zoning Code and other applicable ordinances, and state and federal statutes.

(d) Approval of Special Land Use with Conditions.

(1) Reasonable conditions may be required with the approval of a special land use. The conditions may include 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, to protect the natural environment and conserve natural resources and energy, to 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 the following requirements:

A. Be designed to protect the 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 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 requirements, be related to the standards established in this zoning 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 land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

(3) To ensure compliance with any conditions imposed pursuant to the section, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City covering the estimated cost of necessary improvements be deposited with the City Clerk to insure faithful completion of the improvements relative to the imposed conditions. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the special use. Refer to Section 1281.04(f)(4).

(e) Reapplication.

(1) No application for a special use permit shall be submitted for the same property, or any part thereof, or as part of a larger parcel, for a period of six months from the date of Planning Commission decision on a special use application for the property, except on grounds of newly discovered evidence or proof of changed conditions found, in the discretion of the Planning Commission, to be sufficient to justify a reconsideration.

(2) As used in this section, “newly discovered evidence” means a finding that the evidence itself, not merely its materiality, is newly discovered; that the evidence is not cumulative; that the evidence is such as to render a different result probable on rehearing; and that the evidence could not, with reasonable diligence, have been discovered and produced at the time of the original hearing.

(3) For purposes of this section, “proof of changed conditions” shall not include an application for another or different special use than that originally requested.

1281.06 ENFORCEMENT BY ZONING ADMINISTRATOR; APPEALS.

The Planning and Zoning Administrator or their designee shall enforce this Zoning Code. The officers and employees of the City, especially all of the members of the Police Department, shall assist the Planning and Zoning Administrator or their designee by reporting to the Administrator upon observing new construction, reconstruction or land uses or upon observed violations. An appeal from a decision of the Planning and Zoning Administrator or their designee may be made to the Zoning Board of Appeals as provided in Section 1280.03.

1281.07 INTERPRETATION, PURPOSE AND CONFLICTS.

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. This Zoning Code is not intended to interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this Zoning Code, or which shall be adopted or issued pursuant to a law relating to the use of buildings or premises and likewise not in conflict with any of the provisions of this

Zoning Code, nor is this Zoning Code intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties, provided that where this Zoning Code imposes a greater restriction upon the use of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the provisions of this Zoning Code shall control.

1281.08 PROTEST PETITION, SUBMISSION OF ORDINANCES TO ELECTORS.

(a) An amendment to the zoning ordinance is subject to a protest petition as required by this subsection. If a protest petition is filed, then approval of the amendment to the zoning ordinance shall require a 2/3 vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment and shall be signed by one or more of the following:

(1) The owners of at least 20% of the area of land included in the proposed change.

(2) The owners of at least 20% 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.

(b) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (a) above.

1281.09 REQUIREMENT OF PAYMENT OF FEES.

The City may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

1281.10 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

CHAPTER 1281 Administrative Procedures

1281.01 ZONING ORDINANCE/ MAP AMENDMENTS.

(a) Initiation. The City Commission may amend, supplement or change the regulations or the district boundaries of this Zoning Code pursuant to the authority and according to the procedure set forth in The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. Changes in the text of this Zoning Code may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission; or
- (3) Any interested person or organization through a petition, which shall not be initiated for the same property more often than once every twelve months.

Changes in zoning district boundaries may be proposed by:

- (1) The City Commission;
 - (2) The Planning Commission;
 - (3) The owner(s) of the premises concerned; or
 - (4) The designated agent of a person having an ownership interest in the property.
- (b) Definition. An amendment to this Zoning Code shall be deemed to be any change to the text or to the official map, including:

- (1) Petitions for zoning ordinance amendments; or
- (2) Conditional rezonings.

(c) Amendment Review Procedures. The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

(1) Technical review. Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate City departments and divisions and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated City consultants for review.

(2) Public hearing. A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., as summarized below:

A. On any amendment to this Zoning Code, the Planning Commission shall hold a public hearing prior to the amendment being referred to the City Commission for action. A record of the comments received at the public hearing shall become a part of the Planning Commission report and recommendation to the City Commission. The following requirements shall pertain to public hearings held before the Planning Commission:

1. Not less than fifteen-day notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the City.

2. Not less than fifteen-day notice of the date, time and place of the hearing shall be given, by regular mail, to each public utility company and to each railroad company owning or operating any public utility or railroad within the City that registers its name and mailing address with the City Clerk for the purpose of receiving such notices.

3. Not less than fifteen-day notice shall be given, by regular mail, to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property affected by the amendment, as listed in the most current assessment roll and to the occupants of all structures with 300 feet of the subject property regardless whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, then 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.

4. The notice under subsection 3. above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen days before the date the request will be considered. If the name of the occupant is not known, then the term "occupant" may be used for the intended recipient of the notice. However, failure of property owners to receive such notice, shall not invalidate the amendment.

5. A notice under this section shall do all of the following:

a. Describe the nature of the request.

b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the

property. If there are no street addresses, then other means of identification may be used.

c. State when and where the request will be considered.

d. Indicate when and where written comments will be received concerning the request.

6. For any group of adjacent properties numbering eleven or more that is proposed for rezoning, the requirements of above subsection iii), and the requirement of above subsection 5.b., that street addresses be listed do not apply to that group of adjacent properties.

(3) Planning Commission consideration of proposed amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Commission.

(4) City Commission action on proposed amendment. Upon receipt of the report and recommendation from the Planning Commission, the City Commission may approve or deny the proposed amendment. If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official zoning map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in this Zoning Code.

A. The City Commission, upon receipt of the Planning Commission study and report, shall publish a notice indicating the proposed amendment, proposed use and affected property in a newspaper of general circulation in the City. Such notice shall be published at least five days before the City Commission meeting, and shall indicate the time, date and place of such meeting.

(d) Standards of Review for Amendments. In considering any petition for an amendment to the text of this Zoning Code or to the zoning map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the area shall be considered.

(2) Consistency with the basic intent and purpose of this Zoning Code.

(3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(4) The capacity of the City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

(5) That conditions have changed since the Zoning Code was adopted or there was an error in the Zoning Code that justifies the amendment.

(6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

(7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

(11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

(e) Notice of Adoption of Amendment. Following adoption of an amendment by the City Commission, one notice of adoption shall be filed with the City Clerk and one notice shall be published in a newspaper of general circulation in the City within fifteen days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall be maintained by the Planning and Zoning Administrator and include all of the following information:

(1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City of Battle Creek."

(2) In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

(f) Referendum.

(1) Within seven days after publication of the Zoning Ordinance, a registered elector residing in the zoning jurisdiction of the City may file with the City Clerk a notice of intent to file a petition under this section, in accordance with Section 401 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3401.

(2) If a notice of intent is filed under subsection (1) above, the petitioner shall have thirty days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction of the City not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the City Clerk requesting the submission of the zoning ordinance or part of the zoning ordinance to the electors residing in the zoning jurisdiction of the City for their approval,, in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3402.

(3) Whenever there is a conflict between this section of the Zoning Ordinance or the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., shall govern.

(g) Conditional Rezoning.

(1) Intent. The Planning Commission and City Commission recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this Zoning Code to accomplish, among other things, the objectives of the zoning ordinance and the master plan to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

A. "Rezoning Conditions" shall mean conditions regarding the development and use of property proposed by the applicant and approved by the City as part of an approval under this section, including review and recommendation by the Planning Commission.

B. "Rezoning with Conditions Agreement" shall mean a written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the City has approved a rezoning with conditions.

C. "Rezoning with Conditions Plan" shall mean a plan of the property which is the subject of a rezoning with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the rezoning with conditions plan shall be determined by the applicant, subject to approval of the City Commission after recommendation by the Planning Commission.

D. "Rezoning" shall mean the amendment of this Zoning Code to change the zoning map classification on property from its existing district to a new district classification.

(3) Authorization and eligibility.

A. The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

B. In order to be eligible for consideration of a rezoning with conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a rezoning with conditions agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.

2. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.

3. Preservation of open space, natural resources and/or natural features.

4. Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.

5. Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City ordinance.

6. Limitations on permissible uses of the property.

7. Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and review procedures.

A. Application.

1. At the time of making application for amendment of this Zoning Code seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a rezoning with conditions to apply in conjunction with the rezoning.

2. The application, which may be amended by the applicant during the process of consideration, shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.

3. An application for a rezoning with conditions shall include a rezoning with conditions agreement ("the agreement"). The agreement shall set forth the rezoning conditions and may incorporate a rezoning with conditions plan.

4. The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

B. Planning Commission review.

1. The proposed rezoning with conditions shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the zoning ordinance.

2. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Commission on the proposed rezoning with conditions.

C. City Commission review. Upon recommendation by the Planning Commission, the City Commission shall make a final determination to approve or deny the rezoning with conditions as offered by the applicant. The City Commission may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The City Commission's deliberations shall include, but not be limited to, a consideration of the review criteria for a rezoning with conditions.

(5) Review criteria. A rezoning with conditions shall only be approved if it meets the following requirements and standards:

A. The proposed rezoning with conditions will further the goals and objectives of the city master plan.

B. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the rezoning with conditions agreement).

C. The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area

and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

1. Development and use of the property shall be subject to the more restrictive requirements shown or specified in the rezoning with conditions agreement, and/or in other conditions and provisions set forth in the rezoning with conditions agreement required as part of the rezoning with conditions approval. Such rezoning with conditions agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

2. As part of the grant of final approval of a rezoning with conditions, the City Commission shall be authorized to grant modifications to the strict terms of the zoning ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the City Commission finding that each zoning ordinance provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the city master plan and compatible with the surrounding area.

D. The proposed rezoning with conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence Of the use of a rezoning with conditions.

E. As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the rezoning with conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Commission and Planning Commission.

F. The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

G. Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the rezoning with conditions without negatively impacting the delivery of public services to other properties in the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.

H. The offered condition(s) are beneficial to the public good and likely to be enforceable.

I. The condition does not have the same effect as a use variance.

J. The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of approval. Approval of the rezoning with conditions and rezoning with conditions agreement confirms only the rezoning of the property, subject to any conditions reflected in the rezoning with conditions agreement and after recordation as set forth in subsection (8) below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The zoning map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Corridor Commercial District (CR, Rezoning with Conditions)", with a zoning map designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the rezoning with conditions agreement. No development or use of the land inconsistent with the conditions of the rezoning with conditions agreement shall be permitted.

(7) Compliance with conditions.

A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the rezoning with conditions agreement. Any failure to comply with a condition contained within the rezoning with conditions agreement shall constitute a violation of this Zoning Code and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

B. No permit or approval shall be granted under this Zoning Code for any use or development that is contrary to an applicable rezoning with conditions agreement.

(8) Period of approval.

A. The rezoning with conditions and agreement shall expire after a period of one year from the effective date of the rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two years unless development of the property is substantially begun within such two year period and proceeds diligently and in good faith as required by ordinance to completion.

B. In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one year and bona fide development has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the rezoning with conditions agreement shall be void and of no effect.

C. The property owner may apply for a one year extension two times. The request must be submitted to the Planning Division before the approval time limit

expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Commission finds that there has not been a change in circumstances that would render the rezoning with conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

An extension request shall be considered by the City Commission following a recommendation by the Planning Commission.

D. If the rezoning with conditions becomes void in the manner provided in this section, the following procedures shall apply:

1. The property owner may seek a new rezoning of the property within thirty days of the expiration of the period of approval.

2. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.3405(2)(as amended). The City Commission shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Code.

3. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with conditions agreement requirements. A rezoning with conditions agreement shall be executed between the applicant and the City at the time of City Commission approval of a rezoning with conditions.

A. Rezoning with conditions agreements shall, at a minimum, contain all of the following items:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.

2. A statement acknowledging that the rezoning with conditions was proposed by the applicant, and, further agreement and acknowledgment that the conditions and rezoning with conditions agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

3. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the rezoning with conditions agreement.

4. Agreement and understanding that the approval and rezoning with conditions agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.

5. The date upon which the rezoning with conditions becomes void, as specified in Section 1281.01(g)(8). If the City Council grants an extension of approval, a new rezoning with conditions agreement with the new expiration date shall be recorded.

6. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 1281.01(g)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

7. Agreement and understanding that each of the requirements and conditions in the rezoning with conditions agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

8. A legal description of the property affected by the rezoning with conditions.

9. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

10. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

B. A rezoning with conditions plan may be included as an exhibit to the agreement. The rezoning with conditions plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a rezoning with conditions plan as an exhibit to a rezoning with conditions agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of rezoning with conditions agreement. Amendment of a rezoning with conditions agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with conditions.

(11) Recordation of rezoning with conditions agreement. A rezoning with conditions shall become effective following publication in the manner provided by law, and, after recordation of the rezoning with conditions agreement, whichever is later. All rezoning with conditions agreements shall be recorded with the Calhoun County Register of Deeds.

(12) Termination. The City Commission shall be the only body with the authority to terminate a rezoning with conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination shall comply with any applicable provisions of this Zoning Code or the rezoning with conditions agreement. If the agreement is terminated, the City shall follow the procedures in Section 1281.01 (g)(8)D.

(13) City right to rezone. Nothing in the rezoning with conditions agreement or in the provisions of this section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a rezoning with conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Zoning Code and the Michigan Zoning Enabling Act.

(14) If land that is subject to a rezoning with conditions agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no rezoning with conditions agreement, the rezoning with conditions agreement attached to the former zoning classification shall cease to be in effect. In such a case, the Planning and Zoning Administrator or their designee shall record with the Calhoun County Register of Deeds a notice that the rezoning with conditions is no longer in effect upon the property owner's written request.

(h) Fees. Petitions for an amendment to this Zoning Code shall be accompanied by a fee as prescribed in the schedule provided for in Section 802.24 . Such fee is applicable when filing a petition for zoning reclassification or special use permits and is nonrefundable.

(i) Protest Petition. An amendment to a zoning ordinance is subject to a protest petition under Section 1281.08 .

(j) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board provided for under this chapter.

1281.02 CERTIFICATES OF OCCUPANCY.

(a) Subsequent to the effective date of this Zoning Code (Adopted on November 24, 2020), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with this Zoning Code.

(b) No permit for excavation, or the erection or alteration of, any building or premise shall be issued before the application has been approved for such activities, and no building or premises shall be occupied until a certificate of occupancy is issued by the Chief Building Official or their designee or agent. (c) A record of all certificates of occupancy shall be kept on file in the Inspections Division office. Copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in buildings affected by such certificates.

1281.03 APPLICATIONS FOR BUILDING PERMITS AND ZONING PERMITS; RECORDS.

(a) It shall be unlawful for any person to commence excavation for construction of any building or structure, structural changes or repairs in any existing building, a change in use, or moving of an existing building without first obtaining a zoning permit and/or

building permit from the City of Battle Creek. No permit shall be issued for construction, alteration or remodeling of any building or structure, or change in use, until an application has been submitted in accordance with the provision of this Zoning Code showing that the construction proposed is in compliance with the provisions of this Zoning Code and with the Building Code adopted by the City. "Alteration" or "repair" of an existing building or structure, shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress, use, or any other changes regulated by the Building Code of the City, the Housing Law of Michigan, Public Act 167 of 1917, as amended, being MCL 125.401 et seq., this Zoning Code, except for minor repairs or changes not involving any of the aforesaid provisions.

(b) Each application for a zoning permit shall contain all required information specified in Section 1281.04(d). A record of applications and plot plans shall be kept in the offices of the Planning Division.

(c) Zoning permits are required for activities detailed in Section 1281.04(c), and as otherwise specified in this Zoning Code.

(d) No building, plumbing, electrical, drainage or other permit shall be issued until the City of Battle Creek has determined that the plans and designated use indicate that the proposed structure and lot will conform to the provisions of this Zoning Code.

1281.04 SITE PLAN REVIEW.

(a) Purpose. It is the purpose of this chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. Site plan approval shall be required before building permits are granted by the City for parcels subject to this chapter. The regulations contained in this chapter are intended to promote:

- (1) Safe and convenient vehicle and pedestrian traffic movements, both within a site and in relation to access streets;
- (2) Harmonious relationships between buildings, structures and uses, both within a site and within adjacent sites;
- (3) Conservation of natural amenities and resources; and
- (4) Compliance with all other applicable regulations of this Zoning Code.

(b) Application.

(1) Applications for site plan approval shall be available at the Planning Division and a complete application packet shall be filed with the Inspections Division. A complete application packet shall consist of a completed application, a digital format of the site plan and other applicable drawings, supporting information, and the review fee established by Section 802.24.

(2) All requirements for site plan approval shall be filed with the Inspections Division at one time, as a complete single submittal.

(3) Once a complete application, site plan, and other materials are submitted, the Planning and Zoning Administrator or their designee will schedule a review at the earliest possible date.

(4) Any additional information requested by city staff must be submitted no later than 180 days from the date a complete application is filed. The application shall expire if the requested additional information is not received by the end of the 180 day period. An applicant may submit a new application and fee.

(c) Required Review Based on Proposed Activity. The table below details which type of reviews are required based on the proposed activity.

Proposed Activity	Administrative Review of Site Plan Per Section 1281.04	Administrative Review of Building and Zoning Permits Per Section 1281.03	Planning/City Commission Review Per Section 1281.05
Any proposed new building or parking area or where an alteration, addition, or expansion of existing developments constitute an increase or reduction to the existing buildings or parking area of more than ten percent (10%)	●		
Projects where less than a ten percent (10%) increase or reduction of the building or parking will occur shall adhere to review requirements as outlined in the Stormwater Management Program Technical Reference Manual.		●	
Planned Unit Developments	●		●
Parking lot mill and repave projects where an approved site plan is not on file	●		

Special land uses	●		●
Adult Use Marihuana Microbusiness located in B-1,B-2, I-1 and I-2	●		
Adult Use Marihuana Microbusiness located in T-3	●		●
Adult Use Marihuana Retailers located in B-1, B-2, T-4, T-5, I-1, and I-2	●		
Adult Use Marihuana Retailers located in T-3	●		●
Medical Marihuana Provisioning Center located in B-1, B-2, T-4, T-5, I-1, and I-2	●		
Medical Marihuana Provisioning Center located in T-3	●		●
Medical and Adult Use Marihuana Grow Operation located in I-1 and I-2	●		
Medical and Adult Use Marihuana Processing Facility located in I-1 and I-2	●		
Medical and Adult Use Safety Compliance Facility located in B-1, I-1 and I-2	●		
Medical and Adult Use Secure Transporter located in B-1, I-1 and I-2	●		
Medical and Adult Use Excess Grow Operation located in I-1 and I-2	●		
Driveway or curb cut relocation where the new driveway will be relocated within 25 feet of the existing driveway location or where a driveway or curb cut is being totally eliminated		●	
Construction and development on any parcel of land proposing or having multi-family, commercial, or industrial uses	●		
Site improvements that include landscaping, lighting, site access, and parking lot grading, layout, and new off-street parking	●		
Landscaping that is less than 25% of the parcel size or 5,000 square feet, whichever is less		●	
Re-paving of an off-street parking lot, provided there are no grading changes and no changes to the configuration of the parking lot layout		●	
Construction of and/or the conversion of an existing structure to one (1) or more units meeting the definition of a State Licensed Residential Facility		●	

Construction or replacement of a fence, shed, signage, or driveway			
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(1) Site plan review shall not be required for the following:

- A. Detached single-family housing and related parking;
- B. Two-family dwelling units and related parking;
- C. Agricultural uses; and

D. Nonresidential accessory buildings no more than 120 square feet in area and all residential accessory buildings.

(2) No grading, removal of trees or other vegetation, land-filling or construction of improvements shall commence for any project which requires site plan approval until a site plan is approved and is in effect and any other applicable permits are obtained.

(d) Site Development Plans. All site development plans shall be prepared on standard twenty-four inch by thirty-six inch, or thirty-six inch by forty-two inch, architectural or engineering sheets, and are required to incorporate the following information, unless waived by the Planning and Zoning Administrator or their designee:

Site Plan Required Information:

- (1) The title of the proposed project;
- (2) The name of the property owner, proprietor or project director;
- (3) The location of the project, the street name and the address;
- (4) Professional seal of the architect, engineer or designer, and their name, address, phone number, and email address, if available;
- (5) The date drawn and subsequent revision dates;
- (6) The scale of the drawing, the north directional arrow, and vicinity map showing location of project;
- (7) Provide all dimensions, including property lines, easements and rights-of-way, existing and proposed buildings building setback lines, site improvements; gross and net acreage, and zoning classification of the site and adjacent properties;
- (8) Location of adjacent property lines, buildings and structures, sidewalks, parking lots, rights-of-ways, abutting streets, curb cuts, and access easements within 100 feet of the subject property;
- (9) Existing man-made or natural features such as wetlands, waterways, woodlands, and areas with slopes greater than 10%, with an indication of which features will be retained or removed;

(10) The topography, existing and proposed, including contours with a maximum of two-foot contours, or spot elevations sufficient to determine the topography of the site, so as to clearly indicate required cutting, filling, and grading. The site plan shall contain arrows indicating direction of drainage and stormwater calculations;

(11) Location and dimension of existing and proposed buildings or structures, including intended uses, floor area, number of floors, width, length, height, number of types of dwelling units (where applicable), and setback distances;

(12) The location of sidewalks, rights-of-ways, abutting streets, curb cuts, and access easements, ingress and egress drives, both existing and proposed, to thoroughfares, showing traffic patterns into the site from the same, including ultimate pavement width, deceleration lanes and the like; the location of private and public pedestrian walkways;

(13) On-site traffic circulation and parking areas, including the number and size of parking bays, width of maneuvering aisles, designation of fire lanes, the location and size of handicapped parking, surface materials and striping of the parking lot surface to delineate parking bays and individual spaces;

(14) The location of loading berths, truck docks, truck wells, service drives and exterior parking lot lighting, including photometric plan;

(15) The location and size of all existing and proposed public and private utilities above and below ground proposed to service the project and the location of any public or private utility easements, to include water, gas, electric, cable, stormwater, stormsewer, catch basins, and fire hydrants;

(16) The spatial relationship of buildings on the site, including pedestrian walkways, protective or retaining walls, fences, landscaped buffers, either existing or proposed, and the materials to be utilized, if required;

(17) The location of signs, either existing or proposed, and an indication of their size, height and design pursuant to City sign regulations;

(18) A landscaping plan of the site, including greenbelts or buffers if required, and the identification of all plant and landscape material to be utilized as to type, size and location;

(19) The location and proposed method of screening trash refuse receptacles;

(20) Location of outdoor storage/display areas including a description of the items to be located outdoors, as well as the location and description of required screening;

(21) Storage and containment areas if the use of hazardous substances is involved; and

(22) Any additional information as may be required of the applicant to properly evaluate the proposed development.

(e) Standards for Consideration. The following shall be the standards for consideration of all plans for developments submitted for site plan approval:

(1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjacent properties and the type and size of buildings.

(2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by topographic modifications, which result in maximum harmony with adjacent areas.

(3) The site plan shall provide reasonable visual and sound privacy for all occupants located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(4) All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practical means to all sides as may be required by the Building and/or Fire Code.

(5) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(6) There shall be provided a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

(7) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves an adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the City Engineer and/or any other entity having authority over said roadway.

(8) Where the Planning Division, City Engineer, or Traffic Engineer finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, they shall require marginal access drives as follows:

A. For a narrow frontage of less than 120 feet, the design will require a single outlet.

B. For a series of adjacent frontages in a developing area, a service road shall be constructed and a single marginal access drive shall serve all establishments fronting thereon, with road cuts not closer than 330 feet centerline to centerline, or 330 feet from a street intersection.

C. The overall design of a marginal access drive shall uphold the purposes of this chapter, promote the public safety, and serve the public interest.

D. Marginal access drives shall be required only if the concept is reasonable in terms of the land available for such an improvement.

(9) All site plans shall be designed in accordance with the City of Battle Creek Stormwater Management Program Technical Reference Manual. All stormwater shall be detained on site for controlled release. Attention shall be given to proper site drainage to ensure neighboring properties will not be adversely affected.

(10) Loading and unloading areas and outside storage areas which face or are visible from residential uses or districts or public thoroughfares, shall be screened by a six foot solid screening fence (concealment screening) and plant materials no less than six feet in height.

(11) Trash containers must be stored in a trash enclosure constructed of solid screening fence (concealment screening) on all four sides from four inches above the ground to six inches above the trash container. The enclosure shall not be located in the front yard unless the Planning and Zoning Administrator or their designee finds that there is no other feasible location.

(12) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(13) Development occurring within the City of Battle Creek wellhead protection area, in accordance with Chapter 1041, shall comply with the requirements established in the performance standards as administered by the Department of Public Works.

(f) Decisions and approval.

(1) The Planning Division, the Inspection Division, and the Department of Public Works shall be responsible for reviewing site plans, and the Planning and Zoning Administrator or their designee shall be responsible for granting approval. A decision approving, conditionally approving, or rejecting a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted City planning documents, other applicable ordinances, and state and federal statutes.

(2) Any revisions to the site plan shall be submitted in accordance with Section 1281.04(b).

(3) If approved, the site plan shall become part of the record of approval, and subsequent actions related to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.

(4) A site plan approved under this section shall be valid for a period of one year. If construction has not commenced within this time period, or if construction has ceased for more than one year, the site plan shall become null and void. Thirty days prior to the expiration of an approved final site plan, an applicant may make application for a six-month extension of the site plan. The extension shall be granted if the Planning and Zoning Administrator or designee finds good cause for the extension and that zoning

regulations and site conditions of the subject property and adjacent properties have not changed since the approval.

(5) Performance guarantee. In accordance with the Michigan Zoning Enabling Act, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City, in an amount to cover the estimated cost of the improvements associated with the project, be deposited with the City Clerk to insure faithful completion of the improvements as set out in the site plan approved by the Planning and Zoning Administrator or their designee. If the City has required a performance guarantee, then it shall be subject to the following terms and conditions:

A. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee until it is prepared to issue the permit.

B. Rebates of cash deposits. Where the performance guarantee has been made in the form of a cash deposit, the performance guarantor shall be entitled to a rebate of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements as satisfactory work progresses. The performance guarantor may request the rebates in three equal installments each time one-third of the entire required work has been satisfactorily completed in accordance with the final approved site plan, including any approved amendments.

C. Failure to complete improvements. If the performance guarantor fails to complete the improvements as approved in the final approved site plan within such time period as is required by the conditions or guarantees as outlined above, then the City may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the irrevocable letter of credit, or shall take the necessary steps to require performance by the bonding company.

(g) Appeals. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Planning Division, the City Engineer or the Traffic Engineer as it relates to this chapter. Such appeal shall be taken within such time as is prescribed by Section 1280.03.

(h) Amendments. All site improvements shall conform to the final site plan. A site plan may be amended upon application and in accordance with the procedure herein. The Planning and Zoning Administrator or their designee shall have the authority to determine if a proposed change requires an amendment to an approved final site plan, provided that a revised final site drawing be submitted showing such minor changes, for purposes of record.

(i) As-Built Plan. After construction has concluded, as-built plans shall be submitted to ensure compliance with final site plan approval.

(j) Violations and Penalties.

(1) All site improvements shall conform to the final approved site plan, unless an amendment has been approved by the Planning and Zoning Administrator or their

designee. If an amendment has not been approved, the Planning Division may require the applicant to correct any physical changes to the site that were completed without proper approval so as to conform to the approved final site plan.

(2) Stop work order. If improvements and/or construction is being undertaken contrary to this Chapter or the final approved site plan, including any approved amendments, the Planning and Zoning Administrator or their designee shall give written notice to the holder of the building permit, or if a building permit has not been issued, then to the person doing the construction and/or improvements, notifying them of the violation of this Chapter, or other applicable laws and ordinances. If the person doing the construction is not known, or cannot be located with reasonable effort, then the notice may be delivered to the person in charge of, or apparently in charge of, the construction/improvements. If the holder of the permit or the person doing the construction or improvements fails to correspond with the City to show good cause within one full working day after notice is delivered, the Planning and Zoning Administrator or their designee shall cause a written order to stop construction and/or improvements to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction and/or improvements in violation of a stop work order, except with permission of the Zoning Administrator or their designee to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction and/or improvements is not obeyed, the Planning and Zoning Administrator or their designee may apply to the Calhoun County circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(3) A person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil infraction fines provided in Section 202.98.

1281.05 SPECIAL LAND USES.

(a) Application for Special Uses; Certificates of Occupancy. An application to build or occupy any of the special uses described in Section 1240.02 shall be submitted in accordance with the following procedure:

(1) Applications shall be submitted through the Planning Division to the Planning Commission. A copy of the application shall be forwarded to the City Commission. Each application shall be accompanied by a nonrefundable filing fee as established in the fee, bond and insurance schedule.

(2) Every application shall be accompanied by the following information and data:

A. A special use petition form supplied by the Planning Division;

B. A site plan, plot plan or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their proposed uses;

C. Preliminary plans and specifications of the proposed development and for all intended construction; and

D. A statement with supporting evidence regarding the required findings specified in Section 1281.05(c).

(3) Before authorization by the City Commission of any of the special uses referred to in this chapter, the Planning Commission shall cause a study and report concerning the effect of the proposed use on the master plan and on the character and development of the neighborhood.

(4) The Planning Commission may recommend, and the City Commission may impose, such conditions or restrictions upon the construction, location and operation of a special use as is deemed necessary to secure the general objectives of this Zoning Code and to preserve the value of property in the neighborhood. Any proposed special use shall otherwise comply with all of the requirements set forth in this Zoning Code for the district in which the use is located, except that the City Planning Commission may permit hospitals and institutions to exceed the height limitations of such district.

(5) A special uses permit shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months. The written application to request a six month extension shall be filed with the Planning Division no later than 60 days prior to expiration.

(b) Hearings and Notices. (Requirements for public hearing and hearing notices are the same as for an amendment to the Zoning Code as specified in Section 1281.01 (c)(2).

(c) Decision on Application; Basis for Determination.

(1) The City Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

(2) Before approving, or approving with conditions, a request for a special land use, the Planning Commission and the City Commission shall establish that the general standards specified in the following shall be satisfied by the completion and operation of a proposed development:

A. The use will be harmonious with and in accordance with the general objectives of the master plan.

B. The use will be designed, constructed, operated and maintained so as to be compatible with adjacent uses of land, the natural environment, and harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

C. The use will not be hazardous or disturbing to existing or future neighboring uses.

D. The use will be an improvement to property in the immediate vicinity and to the community as a whole.

E. The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

F. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

H. The use will be consistent with the intent and purpose of this Zoning Code.

(3) A request for approval of a special land use shall be approved (except requests for approval of a group child care home, which are discretionary approvals) if the request is in compliance with the standards stated in this ordinance, the conditions imposed under this Zoning Code and other applicable ordinances, and state and federal statutes.

(d) Approval of Special Land Use with Conditions.

(1) Reasonable conditions may be required with the approval of a special land use. The conditions may include 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, to protect the natural environment and conserve natural resources and energy, to 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 the following requirements:

A. Be designed to protect the 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 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 requirements, be related to the standards established in this zoning 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 land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

(3) To ensure compliance with any conditions imposed pursuant to the section, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City covering the estimated cost of necessary improvements be deposited with the City Clerk to insure faithful completion of the improvements relative to the imposed conditions. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the special use. Refer to Section 1281.04(f)(4).

(e) Reapplication.

(1) No application for a special use permit shall be submitted for the same property, or any part thereof, or as part of a larger parcel, for a period of six months from the date of Planning Commission decision on a special use application for the property, except on grounds of newly discovered evidence or proof of changed conditions found, in the discretion of the Planning Commission, to be sufficient to justify a reconsideration.

(2) As used in this section, “newly discovered evidence” means a finding that the evidence itself, not merely its materiality, is newly discovered; that the evidence is not cumulative; that the evidence is such as to render a different result probable on rehearing; and that the evidence could not, with reasonable diligence, have been discovered and produced at the time of the original hearing.

(3) For purposes of this section, “proof of changed conditions” shall not include an application for another or different special use than that originally requested.

1281.06 ENFORCEMENT BY ZONING ADMINISTRATOR; APPEALS.

The Planning and Zoning Administrator or their designee shall enforce this Zoning Code. The officers and employees of the City, especially all of the members of the Police Department, shall assist the Planning and Zoning Administrator or their designee by reporting to the Administrator upon observing new construction, reconstruction or land uses or upon observed violations. An appeal from a decision of the Planning and Zoning Administrator or their designee may be made to the Zoning Board of Appeals as provided in Section 1280.03.

1281.07 INTERPRETATION, PURPOSE AND CONFLICTS.

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. This Zoning Code is not intended to interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this Zoning Code, or which shall be adopted or issued pursuant to a law relating to the use of buildings or premises and likewise not in conflict with any of the provisions of this

Zoning Code, nor is this Zoning Code intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties, provided that where this Zoning Code imposes a greater restriction upon the use of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the provisions of this Zoning Code shall control.

1281.08 PROTEST PETITION, SUBMISSION OF ORDINANCES TO ELECTORS.

(a) An amendment to the zoning ordinance is subject to a protest petition as required by this subsection. If a protest petition is filed, then approval of the amendment to the zoning ordinance shall require a 2/3 vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment and shall be signed by one or more of the following:

(1) The owners of at least 20% of the area of land included in the proposed change.

(2) The owners of at least 20% 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.

(b) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (a) above.

1281.09 REQUIREMENT OF PAYMENT OF FEES.

The City may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

1281.10 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for February 28, 2024**

MEETING CALLED TO ORDER: By Commissioner Gray at 4:01 p.m.

ATTENDANCE: Roll call was taken.

Commission Members Present:

Comm. Gray, present

Comm. Godfrey III, present

Comm. O'Donnell, present

Comm. Hughes, present

Comm. Morris, present

Comm. Denison, present

Comm. Moton, absent

Comm. White, absent

Mayor Behnke, present

Staff Present: Melody Carlsen, Administrative Assistant, Marcel Stoetzel, Deputy City Attorney, CJ Sivak-Schwennesen, Planner, Darcy Schmitt, Planning Supervisor.

APPROVAL OF MINUTES: December 20, 2023 Capital Improvement Plan Workshop, December 20, 2023 Meeting.

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE DECEMBER 20, 2023 CAPITAL IMPROVEMENT PLAN WORKSHOP MINUTES AND THE DECEMBER 20, 2023 PLANNING COMMISSION MEETING MINUTES, SECONDED BY COMMISSIONER MORRIS.

ROLL VOTE: Commissioner Gray asked everyone in favor to signify by saying "aye".

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE:

Correspondence from resident, Sheila McDonald in opposition of #R1-24 rezoning along E. Michigan Avenue was submitted to the Chairperson. Read by Melody Carlson.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

A) ZONING MAP AMENDMENT #R1-24

Petition from the City of Battle Creek to rezone properties along E. Michigan Avenue, between Caine Street, and Stiles Street currently zoned "R-3 Multiple-Family Residential District" and "R1-B Single-Family Residential District" to "T-3 Neighborhood Commercial District" pursuant to Sections 1281.01 and 1240.13 of the zoning code.

Staff Presentation: CJ Sivak-Schwennesen gave the staff report for #R1-24 rezoning with staff's recommendation for approval.

Public Comment:

Cynthia Fritz of 451 Main Street spoke and opposed the rezoning.

James Moreno of 451 Main Street spoke and opposed the rezoning, would like to see more discussion within the community.

Sherry Goodwin, resident residing on Cliff St. spoke and opposed the rezoning.

Sarah Hodges of 41 Caine St had questions about property taxes changing if the rezoning was approved.

Commissioner Comments:

Commissioner O'Donnell would like to move the vote to a later date given community concerns.

Mayor Behnke agreed with Commissioner O'Donnell that we need more time and is in favor of slowing down and more participation within the community.

MOTION MADE BY COMMISSIONER O'DONNELL TO POSPONE A VOTE FOR AT LEAST THREE MONTHS AND HAVE SOME TYPE OF REPORT WITH RESIDENTIAL INPUT. COMMISSIONER GODFREY SECONDED THE MOTION.

Commissioner Discussion:

Commissioner Morris agrees to a workshop and supports the motion at hand.

Darcy Schmitt, Planning Supervisor asked for clarification as what information the body is requesting moving forward.

Commissioner Godfrey would like to see the City reach out to the NPC to set up a meeting.

Commissioner Gray would like to see the meeting held someplace within the neighborhood.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

B) ZONING MAP AMENDMENT #R2-24

Petition from the City of Battle Creek to rezone properties along W. Vanburen Street, W. Michigan Avenue, and W. Jackson Street between Cass Street and Wood Street, from "T-3 Neighborhood Commercial District" and "R-3 Multiple-Family Residential District" to "T-4 Downtown Commercial District". In addition, rezone properties west along W. Jackson Street between Wood Street and Angell Street from "R-3 Multiple-Family Residential District" to "T-3 Neighborhood Commercial District" and "T-4 Downtown Commercial District". Finally, continuing west to rezone properties along W. Michigan Avenue and W. Jackson Street between Angell Street and the western boundary of the City from "R-3 Multiple-Family Residential District" to "T-4 Downtown Commercial District" pursuant to Sections 1281.01 and 1240.14 of the zoning code.

Staff Presentation: Darcy Schmitt gave the staff report for #R2-24 rezoning along W. VanBuren St. W. Michigan Ave and W. Jackson St. with staff's recommendation for approval.

Public Comment:

Codie Burt representative for the property owner of 69 W. Michigan Ave spoke in favor of the rezoning.

Commissioner Comments:

Mayor Behnke thanked staff and others involved in the redevelopment of these properties.

MOTION MADE BY COMMISSIONER MORRIS TO APPROVE ITEM #R2-24. SECONDED BY COMMISSIONER HUGHES.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

C) ZONING ORDINANCE AMENDMENT #A-24

Request from the City of Battle Creek to consider amendments to various sections of the City of Battle Creek zoning code pursuant to Section 1281.01.

Staff Report: Darcy Schmitt gave the staff report highlighting the changes to the Zoning Ordinance.

Public Comment:

James Moreno of 451 Main St. had a question and comments about Accessory Buildings.

Commissioner Comments:

Commissioner Godfrey suggested the Body vote on each section separately due to the size of the packet.

COMMISSIONER GODFREY MADE A MOTION TO APPROVE THE AMENDMENT CHANGES AS PRESENTED CHAPTER BY CHAPTER. SECONDED BY COMMISSIONER MORRIS.

Chapter 1240

COMMISSIONER GODFREY MADE A MOTION TO APPROVE THE CHAPTER 1240 AMENDMENT CHANGES AS WRITTEN. SECONDED BY COMMISSIONER MORRIS.

ROLL VOTE: ALL IN FAVOR. MOTION APPROVED.

Chapter 1241

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1241 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Chapter 1251

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1251 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Chapter 1260

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1260 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Chapter 1281

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1281 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Commissioner Comments:

Commissioner Godfrey thanked staff for their work on the packet.

Commissioner Gray echoed Commissioner Godfrey's comment.

OLD BUSINESS: None.

NEW BUSINESS:

Election of Officers

COMMISSIONER MORRIS NOMINATED COMMISSIONER JOHN HUGHES AS COMMISSION CHAIRPERSON. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

COMMISSIONER GODFREY MADE A MOTION TO NOMINATE COMMISSIONER PATRICK O'DONNELL AS COMMISSION VICE CHAIRPERSON.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

COMMISSIONER GODFREY NOMINATED COMMISSIONER LYNN GRAY AS COMMISSION SECRETARY. COMMISSIONER GRAY DID NOT ACCEPT THE NOMINATION.

MAYOR BEHNKE NOMINATED COMMISSIONER JOHN HUGHES AS COMMISSION SECRETARY.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

COMMENTS FROM THE PUBLIC: None.

COMMENTS FROM COMMISSION MEMBERS AND STAFF:

Commissioner Morris thanked staff for their time in putting together the meeting packet.

Commissioner O'Donnell thanked everyone for voting to postpone item # R1-24.

Darcy Schmitt informed the Body of grant information and asked for their input moving forward and upcoming training information.

Commissioner Godfrey had questions about the upcoming training.

Commissioner Gray stated it was an honor and pleasure to serve as Chair and looks forward to continually serving on the Commission.

ADJOURNMENT: Commissioner Gray adjourned the meeting at 5:23 pm.



Resolution

NO. 398

A Resolution seeking to adopt Ordinance, #03-2024, an Ordinance to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the City Commission of the City of Battle Creek:

That Ordinance #03-2024, introduced on March 19, 2024, is adopted to rezone the following properties as described below:

Section 1. An ordinance to rezone parcels below from R-3, Multiple Family District and T-3 Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

No.	Address	Parcel Number	Existing Zoning	Proposed Zoning
1	384 W. Michigan Avenue	0256-00-032-0	T3	T4
2	W. Vanburen Street Vacant	0256-00-024-0	T3	T4
3	400 W. Michigan Avenue	0256-00-030-0	T3	T4
3.1	420 W. Michigan Avenue	0257-00-042-0	T3	T4
3.2	W. Michigan Avenue Vacant	0257-00-022-1	T3	T4
3.3	440 W. Michigan Avenue	0257-00-036-0	T3	T4
3.4	450 W. Michigan Avenue	0257-00-035-0	T3	T4
3.5	485 W. Vanburen Street	0257-00-031-0	T3	T4
3.6	458 W. Michigan Avenue	0257-00-033-0	T3	T4
4	339 W. Michigan Avenue	0256-00-050-0	R3	T4
5	373 W. Michigan Avenue	0256-00-054-0	T3	T4
6	W. Jackson Street Vacant	0256-00-072-0	R3	T4
7	379 W. Michigan Avenue	0256-00-057-0	T3	T4
8	385 W. Michigan Avenue	0256-00-058-0	T3	T4
9	391 W. Michigan Avenue	0256-00-059-0	T3	T4
10	395 W. Michigan Avenue	0256-00-060-0	T3	T4
11	409 W. Michigan Avenue	0256-00-061-0	T3	T4
12	S. Kendall Street Vacant	0256-00-063-0	T3	T4
12.1	413 W. Michigan Avenue	0257-00-044-0	T3	T4
12.2	W. Michigan Avenue Vacant	0257-00-048-0	T3	T4
12.3	451 W. Michigan Avenue	0601-30-167-0	T3	T4
12.4	W. Michigan Avenue Vacant	0257-00-055-0	T3	T4
12.5	W. Michigan Avenue Vacant	0257-00-056-0	T3	T4
12.6	S. Wood Street Vacant	0257-00-057-0	T3	T4
13	S. Kendall Street Vacant	0256-00-064-0	R3	T4

14	W. Jackson Street Vacant	0256-00-065-0	R3	T4
15	W. Jackson Street Vacant	0256-00-066-0	R3	T4
16	W. Jackson Street Vacant	0256-00-067-0	R3	T4
17	W. Jackson Street Vacant	0256-00-069-0	R3	T4
18	386 W. Jackson Street	0256-00-070-0	R3	T4
19	W. Jackson Street Vacant	0601-33-076-0	R3	T4
19.1	W. Jackson Street Vacant	0601-34-000-1	R3	T4
19.2	W. Jackson Street Vacant	0601-31-400-1	R3	T4
20	W. Jackson Street Vacant	0256-00-088-0	R3	T4
21	W. Jackson Street Vacant	0256-00-089-0	R3	T4
22	371 W. Jackson Street	0256-00-090-0	R3	T4
23	W. Jackson Street Vacant	0256-00-091-0	R3	T4
24	47.5 S Kendall Street	0601-31-472-0	R3	T4
25	S. Kendall Street Vacant	0256-00-097-0	R3	T4
26	S. Kendall Street Vacant	0256-00-099-0	R3	T4
27	S. Kendall Street Vacant	0256-00-101-0	R3	T4
28	120 Service Street	0256-00-106-0	R3	T4
28.1	S. Kendall Street Vacant	0256-00-120-0	R3	T4
29	Service Street Vacant	0256-00-110-0	R3	T4
30	Service Street Vacant	0256-00-111-0	R3	T4
31	W. Jackson Street Vacant	0257-00-075-0	R3	T4
32	S. Kendall Street Vacant	0257-00-074-0	R3	T4
33	S. Kendall Street Vacant	0257-00-095-0	R3	T4
34	S. Kendall Street Vacant	0257-00-096-0	R3	T4
35	W. Jackson Street Vacant	0257-00-077-0	R3	T4
36	425 W. Jackson Street	0257-00-078-0	R3	T4
37	S. Kendall Street Vacant	0257-00-094-0	R3	T4
38	431 W. Jackson Street	0257-00-080-1	R3	T4
39	W. Jackson Street Vacant	0257-00-083-0	R3	T4
40	457 W. Jackson Street	0257-00-086-0	R3	T4
41	463 W. Jackson Street	0257-00-088-0	R3	T4
42	S. Wood Street Vacant	0257-00-090-0	R3	T4
43	W. Jackson Street Vacant	5620-00-016-0	R3	T4
44	S. Wood Street Vacant	5620-00-015-0	R3	T4
45	S. Wood Street Vacant	5620-00-014-0	R3	T4
46	W. Jackson Street Vacant	5620-00-017-0	R3	T4
47	W. Jackson Street Vacant	5620-00-018-0	R3	T4
48	W. Jackson Street Vacant	0602-43-526-0	R3	T4
49	W. Jackson Street Vacant	5620-00-021-0	R3	T4
50	W. Jackson Street Vacant	6630-00-016-0	R3	T4
51	W. Jackson Street Vacant	6630-00-015-0	R3	T4
51.1	W. Jackson Street Vacant	6630-00-025-0	R3	T4
52	503 W. Jackson Street	6630-00-017-0	R3	T4
53	W. Jackson Street Vacant	6630-00-018-0	R3	T4
54	W. Jackson Street Vacant	6630-00-019-0	R3	T4
55	519 W. Jackson Street	0602-42-847-0	R3	T4
56	527 W. Jackson Street	6630-00-022-0	R3	T4
57	W. Jackson Street Vacant	6650-00-019-0	R3	T4
58	541 W. Jackson Street	0602-42-725-0	R3	T4
59	563 W. Jackson Street	6650-00-025-0	R3	T4

60	Angell Street Vacant	0602-42-975-0	R3	T4
61	416 W. Jackson Street	0257-00-072-0	R3	T4
62	422 W. Jackson Street	0257-00-071-0	R3	T4
63	426 W. Jackson Street	0257-00-070-0	R3	T4
64	W. Jackson Street Vacant	0257-00-069-0	R3	T4
65	438 W. Jackson Street	0257-00-067-0	R3	T4
66	446 W. Jackson Street	0257-00-066-0	R3	T4
67	452 W. Jackson Street	0257-00-065-0	R3	T3
68	458 W. Jackson Street	0257-00-062-0	R3	T3
69	W. Jackson Street Vacant	0257-00-060-0	R3	T3
70	17 S. Wood Street	0257-00-059-0	R3	T4
71	S. Wood Street Vacant	0257-00-058-0	R3	T4
72	14 S. Wood Street	5620-00-012-0	R3	T3
73	16 S. Wood Street	5620-00-013-0	R3	T3
74	W. Jackson Street Vacant	5620-00-011-0	R3	T3
75	W. Jackson Street Vacant	6630-00-014-0	R3	T3
76	W. Jackson Street Vacant	6630-00-013-0	R3	T3
77	W. Jackson Street Vacant	6630-00-012-1	R3	T3
78	W. Jackson Street Vacant	6630-00-011-0	R3	T3
79	518 W. Jackson Street Vacant	6630-00-010-0	R3	T3
80	15 Thorne Street	6630-00-008-0	R3	T3
81	526 W. Jackson Street	6630-00-009-0	R3	T3
82	Thorne Street Vacant	6650-00-016-1	R3	T3
83	Thorne Street Vacant	6650-00-017-0	R3	T3
84	Thorne Street Vacant	6650-00-018-0	R3	T3
85	542 W. Jackson Street	6650-00-015-0	R3	T3
86	Angell Street Vacant	6650-00-009-0	R3	T3
87	Angell Street Vacant	6650-00-026-0	R3	T3
88	583 W. Michigan Avenue	1170-00-003-0	R3	T4
89	18 Angell Street	1170-00-001-0	R3	T4
90	611 W. Michigan Avenue	4360-00-006-0	R3	T4
91	W. Jackson Street	4360-00-027-5	R3	T4
92	619 W. Michigan Avenue	4360-00-007-0	R3	T4
93	625 W. Michigan Avenue	4360-00-008-0	R3	T4
94	637 W. Michigan Avenue	4360-00-010-0	R3	T4
95	W. Michigan Avenue Vacant	4500-00-001-0	R3	T4
96	649 W. Michigan Avenue	4500-00-002-0	R3	T4
97	659 W. Michigan Avenue	4500-00-003-1	R3	T4
98	W. Michigan Avenue Vacant	4500-00-003-0	R3	T4
99	W. Michigan Avenue Vacant	4500-00-008-0	R3	T4
100	W. Michigan Avenue Vacant	4360-00-011-0	R3	T4
101	W. Jackson Street Vacant	4360-00-027-3	R3	T4
102	695 W. Michigan Avenue	4360-00-012-0	R3	T4
103	705 W. Michigan Avenue	4360-00-015-1	R3	T4
104	W. Michigan Avenue Vacant	4360-00-018-0	R3	T4
105	W. Jackson Street Vacant	4360-00-027-4	R3	T4
106	W. Michigan Avenue Vacant	4360-00-019-0	R3	T4
107	733 W. Michigan Avenue	4360-00-020-0	R3	T4
108	739 W. Michigan Avenue	4360-00-021-0	R3	T4

109	745 W. Michigan Avenue	4360-00-022-0	R3	T4
110	W. Michigan Avenue Vacant	4360-00-024-0	R3	T4
111	757 W. Michigan Avenue	4360-00-025-0	R3	T4
112	W. Michigan Avenue Vacant	4360-00-026-0	R3	T4
112.1	W. Michigan Avenue Vacant	2690-00-001-0	R3	T4
113	W. Jackson Street Vacant	4360-00-027-2	R3	T4
114	Angell Street Vacant	1170-00-004-0	R3	T3

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this Ordinance, which shall remain subject to the Ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

Battle Creek City Commission
4/2/2024

Action Summary

Staff Member: Darcy Schmitt, Planning Supervisor

Department: Planning

SUMMARY

A Resolution seeking to adopt Ordinance, #03-2024, an Ordinance to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

BUDGETARY CONSIDERATIONS

The rezoning of these properties will allow for more flexibility in how this area develops or redevelops in the future by creating additional uses for the properties that would otherwise not be allowed under the current zoning districts.

HISTORY, BACKGROUND and DISCUSSION

The City of Battle Creek has been approached by a property owner with interest in the rehabilitation of the building located at 695 W Michigan Ave. for the purpose of establishing a craft liquor and cocktail tasting room (bar, tavern, or saloon use type). The building is currently vacant and has historically been used for commercial/industrial purposes.

During discussions with representatives of the party with interest in the 695 W Michigan Ave. property, staff discovered that the property (as well as many others in the vicinity between W Michigan Ave. and W Jackson St.) are zoned R-3 Multiple-Family Residential, prohibiting the properties from most commercial use categories.

Simultaneous to this request, staff also recognized the need for greater flexibility with regard to both use type and dimensional requirements as it pertains to properties within the Youth Village plan area (area bounded primarily by W Van Buren St. to the north, Kendall St. to the west, Cass St. to the east and immediately abutting the Kalamazoo River to the south). The aforementioned interest and needs, as well as the existing commercial nature of many of the properties which are the subject of this request provides the City with an opportunity to expand the T-4 Downtown Commercial District further to the west while creating a harmonious connection with the existing T-4 district to the east of Cass St.

As has been stated, expansion of the T-4 district will help accommodate existing commercial uses and buildings within the subject area by reducing the number of nonconforming uses, while also providing additional commercial options for vacant properties in an effort to stimulate economic investment in the area. Staff anticipates that the proposed rezoning would not create any new dimensional or use-related nonconformities, as any single-family uses within the subject area fall under a separate “Existing Uses” category, allowing for their continued use (and reconstruction, if necessary) into perpetuity until such time that a new conforming use is legally established. Additionally, the T-4 district also permits both two-family and multiple-family uses by right.

The subject area includes a total of 131 properties located primarily along Michigan Ave W and Jackson St W approximately between Limit St and Cass St. The majority of the parcels proposed for rezoning are vacant, with an additional number of parcels being active commercial and residential uses.

DISCUSSION OF THE ISSUE

POSITIONS

The Planning Commission held a public hearing on February 28, 2024 on the proposed rezoning. There was one public comment in favor of the proposal at the meeting. With seven (7) members present, the Planning Commission voted unanimously to recommend that the City Commission approve the proposed rezoning.

As this is a rezoning request, consideration should be given to the existing zoning district and the potential effect on the neighborhood, the proposed uses allowed by the new zoning classification as it relates to the surrounding zoning and land uses, existing infrastructure, and consistency with the Master Plan. Staff findings include the following:

- While the Land Use Plan within the adopted Master Plan identifies the subject properties as a combination of Neighborhood Commercial and Multi-Unit Residential, it is important to recognize

that the Master Plan is not a binding document, and is only one factor intended to help guide development decisions pursued by the City. Additionally, the Master Plan is set to be updated during calendar year 2024, which would include an amendment to the Land Use Plan to reflect this rezoning should it be approved.

- The existing infrastructure is unlikely to be impacted by the proposal as the target area of this rezoning has historically enjoyed a combination of various commercial and multiple-family zoning. The area is serviced by water and sewer, with the majority of the area zoned for intensive business purposes prior to the 2020 ordinance rewrite.

Based on the above findings planning staff recommends the approval of Ordinance 03-2024, a request for rezoning of 131 parcels as described in this staff report along W Michigan Avenue, W Jackson Street, Angell Street, Thorne Street, S Wood Street and Service Street currently zoned R-3 Multiple-Family Residential District and T-3 Neighborhood Commercial District to the T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

ATTACHMENTS:

File Name	Description
1._Michigan_Ave_W_and_Jackson_St_W_Rezoning_Report.pdf	Staff Report
2._Zoning_Map.pdf	Zoning Map
3._R-3_Zoning_District.pdf	R-3 Zoning District
4._T-3_Zoning_District.pdf	T-3 Zoning District
5._T-4_Zoning_District.pdf	T-4 Zoning District
Proposed_Rezoning_Map.pdf	Proposed Zoning Map
02.28.2024_Planning_Commission_Meeting_Minutes_Draft.pdf	Draft Minutes_02.28.24



Battle Creek City Planning Commission

Staff report for the February 28, 2024 regular meeting

To: Planning Commissioners

From: Travis Sullivan, Planner

Subject: Petition R02-24 from the City of Battle Creek to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District due to the existing character and uses in the area. The City of Battle Creek is requesting the area be rezoned to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District pursuant to Section 1281.01 of the zoning code.

Summary

Petition from the City of Battle Creek requesting a rezoning of 120 parcels located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St from R-3 Multiple Family Residential District and T-3 Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

Background/Property Information

The City of Battle Creek has been approached by a property owner with interest in the rehabilitation of the building located at 695 W Michigan Ave. for the purpose of establishing a craft liquor and cocktail tasting room (bar, tavern, or saloon use type). The building is currently vacant, and has historically been used for commercial/industrial purposes.

During discussions with representatives of the party with interest in the 695 W Michigan Ave. property, staff discovered that the property (as well as many others in the vicinity between W Michigan Ave. and W Jackson St.) are zoned R-3 Multiple-Family Residential, prohibiting the properties from most commercial use categories.

Simultaneous to this request, staff also recognized the need for greater flexibility with regard to both use type and dimensional requirements as it pertains to properties within the Youth Village plan area (area bounded primarily by W Van Buren St. to the north, Kendall St. to the west, Cass St. to the east and immediately abutting the Kalamazoo River to the south). The aforementioned interest and needs, as well as the existing commercial nature of the many of the properties which are the subject of this request provides the City with an opportunity to expand the T-4 Downtown Commercial District further to the west while creating a harmonious connection with the existing T-4 district to the east of Cass St.

As has been stated, expansion of the T-4 district will help accommodate existing commercial uses and buildings within the subject area by reducing the number of nonconforming uses, while also providing additional commercial options for vacant properties in an effort to stimulate economic investment in the area. Staff anticipates that the proposed rezoning would not create any new dimensional or use-related nonconformities, as any single-family uses within the subject area fall under a separate “Existing Uses” category, allowing for their continued use (and reconstruction, if necessary) into perpetuity until such time that a new conforming use is legally established. Additionally, the T-4 district also permits both two-family and multiple-family uses by right.

The subject area includes a total of 131 properties located primarily along Michigan Ave W and Jackson St W approximately between Limit St and Cass St. The majority of the parcels proposed for rezoning are vacant, with an additional number of parcels being active commercial and residential uses.

Please see Figures 1 and 2 below for aerial depictions of the subject parcels. Figure 3 below indicates the current zoning of the subject parcels and the surrounding area. Table 1 provides the address (if available), parcel number, and current zoning of each parcel included within the proposed area of rezoning.

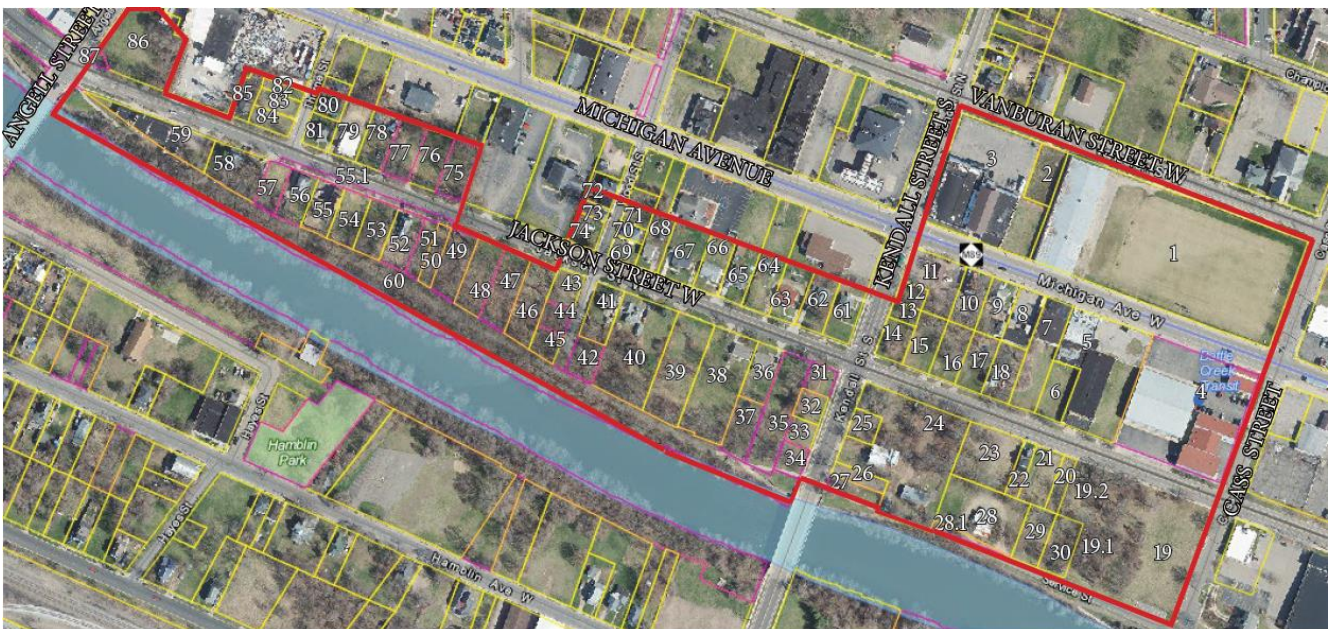


Figure 1: Aerial depiction of subject parcels 1-87.

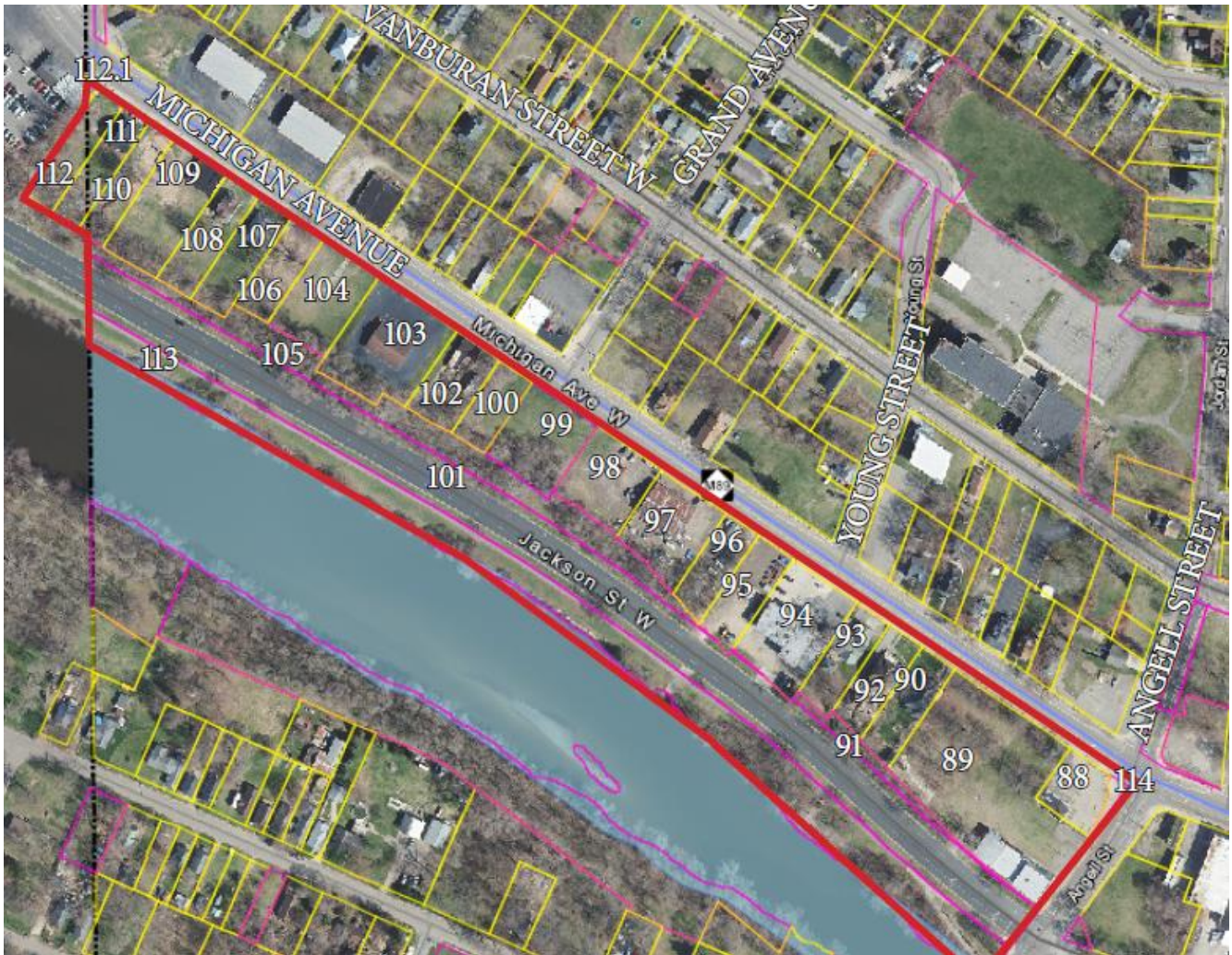


Figure 2: Aerial depiction of subject parcels 88-114.

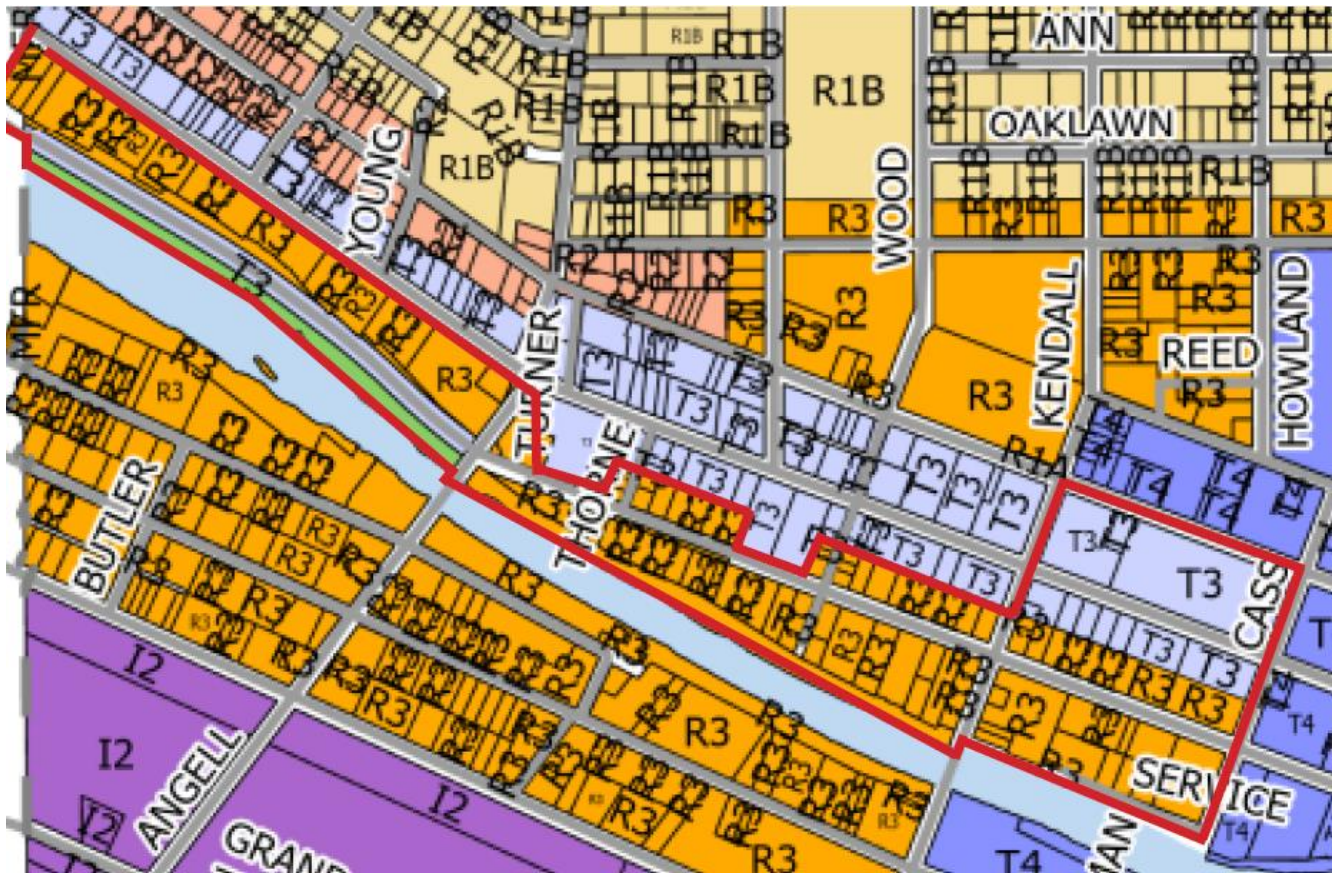


Figure 3: Existing zoning of subject parcels and surrounding parcels.

No.	Address	Parcel #	Current Zoning
1	384 W. Michigan Ave	0256-00-032-0	T-3, Neighborhood Commercial District
2	W. Van Buren St Vacant	0256-00-024-0	T-3, Neighborhood Commercial District
3	400 W. Michigan Ave	0256-00-030-0	T-3, Neighborhood Commercial District
4	339 W. Michigan Ave	0256-00-050-0	T-3, Neighborhood Commercial District; R-3, Multiple Family Residential District
5	373 W. Michigan Ave	0256-00-054-0	T-3, Neighborhood Commercial District; R-3, Multiple Family Residential District
6	W. Jackson St Vacant	0256-00-072-0	R-3, Multiple Family Residential District
7	379 W. Michigan Ave	0256-00-057-0	T-3, Neighborhood Commercial District; R-3, Multiple Family Residential District
8	385 W. Michigan Ave	0256-00-058-0	T-3, Neighborhood Commercial District
9	391 W. Michigan Ave	0256-00-059-0	T-3, Neighborhood Commercial District
10	395 W. Michigan Ave	0256-00-060-0	T-3, Neighborhood Commercial District
11	409 W. Michigan Ave	0256-00-061-0	T-3, Neighborhood Commercial District
12	S. Kendall St Vacant	0256-00-063-0	R-3, Multiple Family Residential District
13	S. Kendall St Vacant	0256-00-064-0	R-3, Multiple Family Residential District
14	W. Jackson St Vacant	0256-00-065-0	R-3, Multiple Family Residential District
15	W. Jackson St Vacant	0256-00-066-0	R-3, Multiple Family Residential District
16	W. Jackson St Vacant	0256-00-067-0	R-3, Multiple Family Residential District
17	W. Jackson St Vacant	0256-00-069-0	R-3, Multiple Family Residential District
18	386 W. Jackson St	0256-00-070-0	R-3, Multiple Family Residential District
19	W. Jackson St Vacant	0601-33-076-0	R-3, Multiple Family Residential District
19.1	W. Jackson St Vacant	0601-34-000-1	R-3, Multiple Family Residential District
19.2	W. Jackson St Vacant	0601-31-400-1	R-3, Multiple Family Residential District
20	W. Jackson St Vacant	0256-00-088-0	R-3, Multiple Family Residential District
21	W. Jackson St Vacant	0256-00-089-0	R-3, Multiple Family Residential District
22	371 W. Jackson St	0256-00-089-0	R-3, Multiple Family Residential District
23	W. Jackson St Vacant	0256-00-091-0	R-3, Multiple Family Residential District
24	47.5 S. Kendall St	0601-31-472-0	R-3, Multiple Family Residential District
25	S. Kendall St Vacant	0256-00-097-0	R-3, Multiple Family Residential District
26	S. Kendall St Vacant	0256-00-099-0	R-3, Multiple Family Residential District
27	S. Kendall St Vacant	0256-00-101-0	R-3, Multiple Family Residential District
28	120 Service St	0256-00-106-0	R-3, Multiple Family Residential District
28.1	S. Kendall St Vacant	0256-00-120-0	R-3, Multiple Family Residential District
29	Service St Vacant	0256-00-110-0	R-3, Multiple Family Residential District
30	Service St Vacant	0256-00-111-0	R-3, Multiple Family Residential District
31	W. Jackson St Vacant	0257-00-075-0	R-3, Multiple Family Residential District
32	S. Kendall St Vacant	0257-00-074-0	R-3, Multiple Family Residential District
33	S. Kendall St Vacant	0257-00-095-0	R-3, Multiple Family Residential District
34	S. Kendall St Vacant	0257-00-096-0	R-3, Multiple Family Residential District
35	W. Jackson St Vacant	0257-00-077-0	R-3, Multiple Family Residential District
36	425 W. Jackson St	0257-00-078-0	R-3, Multiple Family Residential District
37	S. Kendall St Vacant	0257-00-094-0	R-3, Multiple Family Residential District
38	431 W. Jackson St	0257-00-080-1	R-3, Multiple Family Residential District
39	W. Jackson St	0257-00-080-1	R-3, Multiple Family Residential District
40	457 W. Jackson St	0257-00-083-0	R-3, Multiple Family Residential District
41	463 W. Jackson St	0257-00-088-0	R-3, Multiple Family Residential District
42	S. Wood St Vacant	0257-00-090-0	R-3, Multiple Family Residential District
43	W. Jackson St Vacant	5620-00-016-0	R-3, Multiple Family Residential District
44	S. Wood St Vacant	5620-00-015-0	R-3, Multiple Family Residential District

45	S. Wood St Vacant	5620-00-014-0	R-3, Multiple Family Residential District
46	W. Jackson St Vacant	5620-00-017-0	R-3, Multiple Family Residential District
47	W. Jackson St Vacant	5620-00-018-0	R-3, Multiple Family Residential District
48	W. Jackson St Vacant	0602-43-526-0	R-3, Multiple Family Residential District
49	W. Jackson St Vacant	5620-00-021-0	R-3, Multiple Family Residential District
50	W. Jackson St Vacant	6630-00-016-0	R-3, Multiple Family Residential District
51	W. Jackson St Vacant	6630-00-015-0	R-3, Multiple Family Residential District
51.1	W. Jackson St Vacant	6630-00-025-0	R-3, Multiple Family Residential District
52	503 W. Jackson St	6630-00-017-0	R-3, Multiple Family Residential District
53	W. Jackson St Vacant	6630-00-018-0	R-3, Multiple Family Residential District
54	W. Jackson St Vacant	6630-00-019-0	R-3, Multiple Family Residential District
55	519 W. Jackson St	0602-42-847-0	R-3, Multiple Family Residential District
56	527 W. Jackson St	6630-00-019-0	R-3, Multiple Family Residential District
57	W. Jackson St Vacant	6650-00-019-0	R-3, Multiple Family Residential District
58	541 W. Jackson St	0602-42-725-0	R-3, Multiple Family Residential District
59	563 W. Jackson St	6650-00-025-0	R-3, Multiple Family Residential District
60	Angell St Vacant	0602-42-725-0	R-3, Multiple Family Residential District
61	416 W. Jackson St	0257-00-072-0	R-3, Multiple Family Residential District
62	422 W. Jackson St	0257-00-071-0	R-3, Multiple Family Residential District
63	426 W. Jackson St	0257-00-070-0	R-3, Multiple Family Residential District
64	W. Jackson St Vacant	0257-00-069-0	R-3, Multiple Family Residential District
65	438 W. Jackson St	0257-00-067-0	R-3, Multiple Family Residential District
66	446 W. Jackson St	0257-00-066-0	R-3, Multiple Family Residential District
67	452 W. Jackson St	0257-00-065-0	R-3, Multiple Family Residential District
68	458 W. Jackson St	0257-00-062-0	R-3, Multiple Family Residential District
69	W. Jackson St Vacant	0257-00-060-0	R-3, Multiple Family Residential District
70	17 S. Wood St	0257-00-059-0	R-3, Multiple Family Residential District
71	S. Wood St Vacant	0257-00-058-0	R-3, Multiple Family Residential District
72	14 S. Wood St	5620-00-012-0	R-3, Multiple Family Residential District
73	16 S. Wood St	5620-00-013-0	R-3, Multiple Family Residential District
74	W. Jackson St Vacant	5620-00-011-0	R-3, Multiple Family Residential District
75	W. Jackson St Vacant	6630-00-014-0	R-3, Multiple Family Residential District
76	W. Jackson St Vacant	6630-00-013-0	R-3, Multiple Family Residential District
77	W. Jackson St Vacant	6630-00-012-1	R-3, Multiple Family Residential District
78	W. Jackson St Vacant	6630-00-011-0	R-3, Multiple Family Residential District
79	518 W. Jackson St	6630-00-010-0	R-3, Multiple Family Residential District
80	15 Thorne St	6630-00-008-0	R-3, Multiple Family Residential District
81	526 W. Jackson St	6630-00-009-0	R-3, Multiple Family Residential District
82	Thorne St Vacant	6650-00-016-1	R-3, Multiple Family Residential District
83	Thorne St Vacant	6650-00-017-0	R-3, Multiple Family Residential District
84	Thorne St Vacant	6650-00-018-0	R-3, Multiple Family Residential District
85	542 W. Jackson St	6650-00-015-0	R-3, Multiple Family Residential District
86	Angell St Vacant	6650-00-009-0	R-3, Multiple Family Residential District
87	Angell St Vacant	6650-00-026-0	R-3, Multiple Family Residential District
88	583 W. Michigan Ave	1170-00-003-0	R-3, Multiple Family Residential District
89	18 Angell St	1170-00-001-0	R-3, Multiple Family Residential District
90	611 W. Michigan Ave	4360-00-006-0	R-3, Multiple Family Residential District
91	W. Jackson St Vacant	4360-00-027-5	R-3, Multiple Family Residential District
92	619 W. Michigan Ave	4360-00-007-0	R-3, Multiple Family Residential District
93	625 W. Michigan Ave	4360-00-008-0	R-3, Multiple Family Residential District
94	637 W. Michigan Ave	4360-00-010-0	R-3, Multiple Family Residential District

95	W. Michigan Ave Vacant	4500-00-001-0	R-3, Multiple Family Residential District
96	649 W. Michigan Ave	4500-00-002-0	R-3, Multiple Family Residential District
97	659 W. Michigan Ave	4500-00-003-1	R-3, Multiple Family Residential District
98	W. Michigan Ave Vacant	4500-00-003-0	R-3, Multiple Family Residential District
99	W. Michigan Ave Vacant	4500-00-008-0	R-3, Multiple Family Residential District
100	W. Michigan Ave Vacant	4360-00-011-0	R-3, Multiple Family Residential District
101	W. Jackson St Vacant	4360-00-027-3	R-3, Multiple Family Residential District
102	695 W. Michigan Ave	4360-00-012-0	R-3, Multiple Family Residential District
103	705 W. Michigan Ave	4360-00-015-1	R-3, Multiple Family Residential District
104	W. Michigan Ave Vacant	4360-00-018-0	R-3, Multiple Family Residential District
105	W. Jackson St Vacant	4360-00-027-4	R-3, Multiple Family Residential District
106	W. Michigan Ave Vacant	4360-00-019-0	R-3, Multiple Family Residential District
107	733 W. Michigan Ave	4360-00-020-0	R-3, Multiple Family Residential District
108	739 W. Michigan Ave	4360-00-021-0	R-3, Multiple Family Residential District
109	745 W. Michigan Ave	4360-00-022-0	R-3, Multiple Family Residential District
110	W. Michigan Ave Vacant	4360-00-024-0	R-3, Multiple Family Residential District
111	757 W. Michigan Ave	4360-00-025-0	R-3, Multiple Family Residential District
112	W. Michigan Ave Vacant	4360-00-026-0	R-3, Multiple Family Residential District
112.1	W. Michigan Ave Vacant	2690-00-001-0	R-3, Multiple Family Residential District
113	W. Jackson St Vacant	4360-00-027-0	R-3, Multiple Family Residential District
114	Angell St Vacant	1170-00-004-0	R-3, Multiple Family Residential District

Table 1: Detailed information describing each subject parcel, including the address (if available), parcel number, and current zoning of the parcel.

Applicable Zoning Ordinance Provisions

The subject area contains parcels currently zoned R-3 Multiple Family Residential District and T-3 Neighborhood Commercial District. The proposed rezoning would move the subject parcels into the T-4 Downtown Commercial District and T-3 Neighborhood Commercial District classification, availing each parcel to the permitted uses and dimensional requirements as prescribed by Section 1240.14 (T-4 Downtown Commercial District) and Section 1240.13 (T-3 Neighborhood Commercial District).

The purpose of the T-4 Downtown Commercial District is as follows:

“The T-4 Downtown Commercial (District) is established to encourage development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.”

The purpose of the T-3 Neighborhood Commercial District is as follows:

“It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.”

Section 1281.01 details the regulations and process related to zoning ordinance and map amendments, and is attached as a supporting document to this staff report. In brief summary, Section 1281.01 requires that a public hearing as required under the Michigan Zoning Enabling Act be sufficiently noticed and held by the Planning Commission, at which time a recommendation is made to the City Commission regarding the amendment. Following the public hearing, the recommendation of the Planning Commission and all pertinent documents are forwarded to the City Commission for consideration, which

includes a process requiring two meetings (introduction of the proposed amendment, followed by Commission action on the proposed amendment at the following meeting).

Master Plan

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.”

The master plan focuses on desired land use patterns for typically a twenty year time frame, and the enabling legislation and case law require that zoning be based upon this master plan. The City of Battle Creek Master Plan was adopted in 2018, and includes a Land Use Plan map, which is intended to guide in decision making with regard to planning and future land use patterns in accordance with the goals and vision articulated in the Master Plan.

Figure 3 below is a portion of the Land Use Plan map depicting the subject properties and the corresponding legend:



Land Use Classifications



Figure 4: Section of the 2018 Land Use Plan depicting the subject properties and surrounding area.

As can be seen, the subject area includes properties classified as the Multi-Unit Residential Neighborhood Commercial Place Types, and the Development Opportunity Center Overlay.

The Multi-Unit Residential Place Type is defined as follows:

“The Multi-Unit Residential Place Type includes existing and desired areas for high-density residential development. In most instances, the Multi-Unit Residential Place Type is closely related to other residential areas. The Place Type is largely comprised of residential structures. This includes apartment buildings, condos, attached residential areas, as well as planned developments and senior housing facilities such as Heritage Assisted Living. In addition, the Place Type includes areas dominated by multi-unit and high density residential development, but also may include other non-residential uses. It should be noted that a small amount of multi-family buildings may be appropriate in other residential place types, or as a component of mixed-use buildings within the Downtown Place Type.”

The Neighborhood Commercial Place Type is defined as follows:

“The Neighborhood Commercial Place Type is typically located adjacent to, or embedded within, existing residential neighborhoods. The Place Type acts as a neighborhood shopping district, supporting nearby residents with day-to-day goods and services within a short walk or convenient drive of their homes. They also serve as hubs of activity and socialization at the neighborhood level. Compared to other commercial place types, Neighborhood Commercial is the lowest in intensity and scale. Businesses catering to a more city-wide or regional market, drawing visitors from all over and generating non-local traffic, are better located in other appropriate commercial place types.”

The Development Opportunity Center Overlay is defined as follows:

“Development Opportunity Centers (DOC) are unique areas of the City that are well positioned for large-scale, transformative development and reinvestment. These areas contain large vacant or available parcels including many parcels owned by either the City of Battle Creek or the Calhoun County Land Bank. They represent unique opportunities for large-scale development

that can help reinvigorate surrounding areas and the City as a whole. The City should work with potential developers to seek creative development solutions that are responsive to the unique characteristics and needs of each DOC.”

While each individual section of the proposed area of rezoning may not sync in a one-to-one manner with the Land Use Plan map, it is important to remember that the Land Use Plan (as well as the Master Plan as a whole) is not a legally binding document, and that conditions with regard to economics and desired uses have, in some cases, changed dramatically during the period of time between the plan’s adoption (2018) and the present. Proposed zoning changes, if approved by the City Commission, will be reflected in an updated Land Use Plan map which will be included in the coming update to the Master Plan.

Table 2 below includes a chart detailing the current uses of each parcel within the area of proposed rezoning:

No.	Address	Parcel #	Current Use
1	384 W. Michigan Ave	0256-00-032-0	Shed/Storage
2	W. Van Buren St Vacant	0256-00-024-0	Vacant
3	400 W. Michigan Ave	0256-00-030-0	Clubhouse
4	339 W. Michigan Ave	0256-00-050-0	Clubhouse
5	373 W. Michigan Ave	0256-00-054-0	Retail Store
6	W. Jackson St Vacant	0256-00-072-0	Vacant
7	379 W. Michigan Ave	0256-00-057-0	Retail Store
8	385 W. Michigan Ave	0256-00-058-0	Service Garage
9	391 W. Michigan Ave	0256-00-059-0	Single Family Residential
10	395 W. Michigan Ave	0256-00-060-0	Single Family Residential
11	409 W. Michigan Ave	0256-00-061-0	Office
12	S. Kendall St Vacant	0256-00-063-0	Vacant
13	S. Kendall St Vacant	0256-00-064-0	Vacant
14	W. Jackson St Vacant	0256-00-065-0	Vacant
15	W. Jackson St Vacant	0256-00-066-0	Vacant
16	W. Jackson St Vacant	0256-00-067-0	Vacant
17	W. Jackson St Vacant	0256-00-069-0	Vacant
18	386 W. Jackson St	0256-00-070-0	Single Family Residential
19	W. Jackson St Vacant	0601-33-076-0	Vacant
19.1	W. Jackson St Vacant	0601-34-000-1	Vacant
19.2	W. Jackson St Vacant	0601-31-400-1	Vacant
20	W. Jackson St Vacant	0256-00-088-0	Vacant
21	W. Jackson St Vacant	0256-00-089-0	Vacant
22	371 W. Jackson St	0256-00-090-0	Single Family Residential
23	W. Jackson St Vacant	0256-00-091-0	Vacant
24	47.5 S. Kendall St	0601-31-472-0	Multiple Sheds
25	S. Kendall St Vacant	0256-00-097-0	Vacant
26	S. Kendall St Vacant	0256-00-099-0	Vacant
27	S. Kendall St Vacant	0256-00-101-0	Vacant
28	120 Service St	0256-00-106-0	Storage Warehouses
28.1	S. Kendall St Vacant	0256-00-120-0	Vacant
29	Service St Vacant	0256-00-110-0	Vacant
30	Service St Vacant	0256-00-111-0	Vacant
31	W. Jackson St Vacant	0257-00-075-0	Vacant
32	S. Kendall St Vacant	0257-00-074-0	Vacant
33	S. Kendall St Vacant	0257-00-095-0	Vacant
34	S. Kendall St Vacant	0257-00-096-0	Vacant
35	W. Jackson St Vacant	0257-00-077-0	Vacant
36	425 W. Jackson St	0257-00-078-0	Single Family Residential
37	S. Kendall St Vacant	0257-00-094-0	Vacant
38	431 W. Jackson St	0257-00-080-1	Single Family Residential
39	W. Jackson St Vacant	0257-00-083-0	Vacant
40	457 W. Jackson St	0257-00-086-0	Single Family Residential
41	463 W. Jackson St	0257-00-088-0	Single Family Residential
42	S. Wood St Vacant	0257-00-090-0	Vacant
43	W. Jackson St Vacant	5620-00-016-0	Vacant
44	S. Wood St Vacant	5620-00-015-0	Vacant
45	S. Wood St Vacant	5620-00-014-0	Vacant
46	W. Jackson St Vacant	5620-00-017-0	Vacant
47	W. Jackson St Vacant	5620-00-018-0	Vacant

48	W. Jackson St Vacant	0602-43-526-0	Vacant
49	W. Jackson St Vacant	5620-00-021-0	Vacant
50	W. Jackson St Vacant	6630-00-016-0	Vacant
51	W. Jackson St Vacant	6630-00-015-0	Vacant
51.1	W. Jackson St Vacant	6630-00-025-0	Vacant
52	503 W. Jackson St	6630-00-017-0	Single Family Residential
53	W. Jackson St Vacant	6630-00-018-0	Vacant
54	W. Jackson St Vacant	6630-00-019-0	Vacant
55	519 W. Jackson St	0602-42-847-0	Single Family Residential
56	527 W. Jackson St	6630-00-022-0	Single Family Residential
57	W. Jackson St Vacant	6650-00-019-0	Vacant
58	541 W. Jackson St	0602-42-725-0	Single Family Residential
59	563 W. Jackson St	6650-00-025-0	Light Manufacturing
60	Angell St Vacant	0602-42-725-0	Vacant
61	416 W. Jackson St	0257-00-072-0	Single Family Residential
62	422 W. Jackson St	0257-00-071-0	Single Family Residential
63	426 W. Jackson St	0257-00-070-0	Single Family Residential
64	W. Jackson St Vacant	0257-00-069-0	Vacant
65	438 W. Jackson St	0257-00-067-0	Single Family Residential
66	446 W. Jackson St	0257-00-066-0	Single Family Residential
67	452 W. Jackson St	0257-00-065-0	Single Family Residential
68	458 W. Jackson St	0257-00-062-0	Single Family Residential
69	W. Jackson St Vacant	0257-00-060-0	Vacant
70	17 S. Wood St	0257-00-059-0	Single Family Residential
71	S. Wood St Vacant	0257-00-058-0	Vacant
72	14 S. Wood St	5620-00-012-0	Single Family Residential
73	16 S. Wood St	5620-00-013-0	Single Family Residential
74	W. Jackson St Vacant	5620-00-011-0	Vacant
75	W. Jackson St Vacant	6630-00-014-0	Vacant
76	W. Jackson St Vacant	6630-00-013-0	Vacant
77	W. Jackson St Vacant	6630-00-012-1	Vacant
78	W. Jackson St Vacant	6630-00-011-0	Vacant
79	518 W. Jackson St	6630-00-010-0	Residential 4 Units or Less
80	15 Thorne St	6630-00-008-0	Single Family Residential
81	526 W. Jackson St	6630-00-009-0	Single Family Residential
82	Thorne St Vacant	6650-00-016-1	Vacant
83	Thorne St Vacant	6650-00-017-0	Vacant
84	Thorne St Vacant	6650-00-018-0	Vacant
85	542 W. Jackson St	6650-00-015-0	Single Family Residential
86	Angell St Vacant	6650-00-009-0	Vacant
87	Angell St Vacant	6650-00-026-0	Vacant
88	583 W. Michigan Ave	1170-00-003-0	Snack Bar
89	18 Angell St	1170-00-001-0	Clubhouse
90	611 W. Michigan Ave	4360-00-006-0	Single Family Residential
91	W. Jackson St Vacant	4360-00-027-5	Vacant
92	619 W. Michigan Ave	4360-00-007-0	Single Family Residential
93	625 W. Michigan Ave	4360-00-008-0	Single Family Residential
94	637 W. Michigan Ave	4360-00-010-0	Storage Warehouse, Office
95	W. Michigan Ave Vacant	4500-00-001-0	Vacant
96	649 W. Michigan Ave	4500-00-002-0	Vacant
97	659 W. Michigan Ave	4500-00-003-1	Service Garage

98	W. Michigan Ave Vacant	4500-00-003-0	Vacant
99	W. Michigan Ave Vacant	4500-00-008-0	Vacant
100	W. Michigan Ave Vacant	4360-00-011-0	Vacant
101	W. Jackson St Vacant	4360-00-027-3	Vacant
102	695 W. Michigan Ave	4360-00-012-0	Retail Store
103	705 W. Michigan Ave	4360-00-015-1	Retail Store
104	W. Michigan Ave Vacant	4360-00-018-0	Vacant
105	W. Jackson St Vacant	4360-00-027-4	Vacant
106	W. Michigan Ave Vacant	4360-00-019-0	Vacant
107	733 W. Michigan Ave	4360-00-020-0	Single Family Residential
108	739 W. Michigan Ave	4360-00-021-0	Vacant
109	745 W. Michigan Ave	4360-00-022-0	Vacant
110	W. Michigan Ave Vacant	4360-00-024-0	Vacant
111	757 W. Michigan Ave	4360-00-025-0	Single Family Residential
112	W. Michigan Ave Vacant	4360-00-026-0	Vacant
112.1	W. Michigan Ave Vacant	2690-00-001-0	Vacant
113	W. Jackson St Vacant	4360-00-027-0	Vacant
114	Angell St Vacant	1170-00-004-0	Vacant

Table 2: Table detailing current uses of the parcels proposed to be rezoned to T-4 Downtown Commercial and T-3 Neighborhood Commercial.

Request for Rezoning

Having considered the recent inquiry into the property at 695 W Michigan Ave., the future needs of the Youth Village development and the existing conditions within the subject area, as well as the number of existing commercial uses and vacant properties within the targeted area, staff believes that a shift from the current multiple-family residential zoning to a commercial designation (T-4 Downtown Business District) will accommodate current businesses within the district as well as provide more diverse development opportunities for property owners. The proposed extension of the T-4 district has the potential to encourage increased commercial (and potentially residential) activity along the W Michigan Ave. corridor, which has suffered from disinvestment in recent years. Additionally, the proposed rezoning would create a harmonious connection to the existing T-4 district to the east of Cass St.

Public Hearing and Notice Requirements

This request has been scheduled for the February 28, 2024 Planning Commission meeting, with notice of hearing published in the February 8, 2024 edition of the Battle Creek Shopper. Appropriate notices were also mailed to all property owners within a 300-foot radius of the subject parcels no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

Neighborhood Outreach

These parcels are located within the boundaries of the North Central Neighborhood Planning Council (NPC). Staff presented plans for the proposed rezoning at the February 12 meeting of the NPC to solicit feedback from council members and members of the public. Following a presentation and discussion on the topic, the NPC provided support for the proposed rezoning.

Staff intends to provide updates to the NPC regarding future development and land use that may result should the proposed rezoning be approved.

Analysis and Recommendation

As this is a rezoning request, consideration should be given to the existing zoning district and the potential effect on the neighborhood, the proposed uses allowed by the new zoning classification as it relates to the surrounding zoning and land uses, existing infrastructure, and consistency with the Master Plan. Staff findings include the following:

- While the Land Use Plan within the adopted Master Plan identifies the subject properties as a combination of Neighborhood Commercial and Multi-Unit Residential, it is important to recognize that the Master Plan is not a binding document, and is only one factor intended to help guide development decisions pursued by the City. Additionally, the Master Plan is set to be updated during calendar year 2024, which would include an amendment to the Land Use Plan to reflect this rezoning should it be approved.
- The existing infrastructure is unlikely to be impacted by the proposal as the target area of this rezoning has historically enjoyed a combination of various commercial and multiple-family zoning. The area is serviced by water and sewer, with the majority of the area zoned for intensive business purposes prior to the 2020 ordinance rewrite.

Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition R02-24, a request for rezoning of 120 parcels as described in this staff report along W Michigan Avenue, W Jackson Street, Angell Street, Thorne Street, S Wood Street and Service Street currently zoned R-3 Multiple-Family Residential District to the T-4 Downtown Commercial District.

Support Material

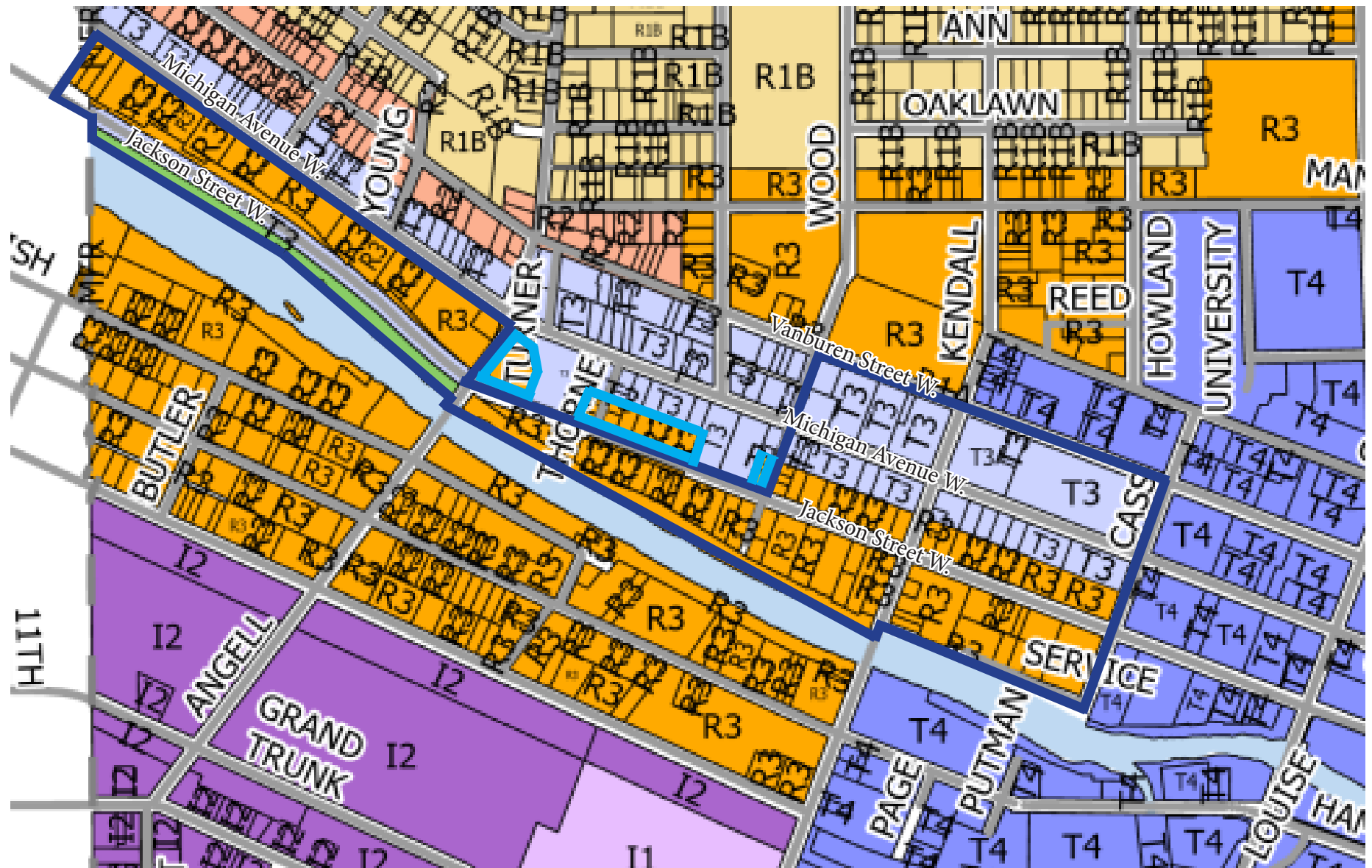
Current Zoning Map (with proposed changes)

Section 1240.09 (R-3 Multiple Family Residential District, Current Zoning)

Section 1240.13 (T-3 Neighborhood Commercial District, Current Zoning, Proposed Zoning)

Section 1240.14 (T-4 Downtown Commercial District, Proposed Zoning)

ZONING MAP



— Proposed Rezoning to T4

— Proposed Rezoning to T3

1240.09 R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT.**(a) Purpose**

It is the purpose of this district to establish high-density multi-family developments located in suburban and urban areas, and commercial development with relatively low intensities that often complement residential neighborhoods. Further, this district supports housing styles of mid- and high-level buildings consisting of garden apartments, and townhome condominiums. The high density of this district is intended to support nearby commercial districts, and provide a transition between commercial and mid-density districts.

(b) Permitted Uses

- Assisted Senior Living (Section 1251.03)
- Bed and Breakfast (Section 1251.09)
- Community Garden (Section 1251.12)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Essential Services
- Independent Senior Living with Services (Section 1251.21)
- Multi-Family Dwelling Units (Section 1251.33)
- Outdoor Recreation/ Public (Section 1251.36)
- Public K-12 Schools
- Rooming and Boarding Houses, up to ten boarders (Section 1251.43)
- Single Family Dwelling Unit Attached
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.47)
- Transitional and Supportive Home (Section 1251.49), 1-6 persons

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Banquet and Meeting Hall < 100 capacity (Section 1251.08)
- Cemetery (Section 1251.11)
- Institutions of Higher Education
- Private K-12 Schools
- Religious Institutions (Section 1251.42)
- State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.48)
- State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.48)
- Transitional and Supportive Home, more than 6 persons (Section 1251.50)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Accessory Uses

- Accessory Buildings (Section 1260.01)
- Accessory Dwelling Unit
- Home Occupation (Section 1251.18)
- Private Gardens (Section 1251.39)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations	
Lot Standards	R-3
Minimum Lot Area (sq. ft.)	2,900
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25 (f)
Rear Yard Setback (ft.)	25 (f)

Side Yard Setback (ft.)	5 (f)
Maximum Building Height	45 feet
Footnotes: Refer to Section 1241.03 Footnotes to Schedule of Regulations wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.	

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21; Ord. 03-2023. Passed 5-2-23; Ord. 12-2023. Passed 10-17-23.)

1240.13 T-3 NEIGHBORHOOD COMMERCIAL DISTRICT.**(a) Purpose**

It is the purpose of this district to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.

(b) Permitted Uses

- Assisted Senior Living (Section 1251.03)
- Banquet and Meeting Hall < 100 capacity (Section 1251.08)
- Bed and Breakfast (Section 1251.09)
- Bookstore
- Carry-Out Restaurant
- Catering Businesses
- Child Care Centers
- Community Garden (Section 1251.12)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Essential Services
- Financial Institutions
- Full-Service Restaurant
- Government/Public Uses (Section 1251.14)
- Indoor Recreation
- Independent Senior Living with Services (Section 1251.21)
- Limited Service Restaurant
- Medical or Dental Clinic < 5,000 s.f.
- Multi-Family Dwelling Units (Section 1251.33)
- Office < 17,000 s.f.
- Outdoor Recreation/ Public (Section 1251.36)
- Personal-Scale Wind Energy Facility (Section 1251.39)
- Personal Service Establishments (Section 1251.40)
- Private Club
- Public K-12 Schools
- Religious Institutions (Section 1251.42)
- Retail Sales < 17,000 s.f.
- Single Family Dwelling Unit Attached
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.47)
- Transitional and Supportive Home, 1-6 persons (Section 1251.49)

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Artisan/Maker Space
- Bar, Tavern, or Saloon
- Brewpub
- Cemetery (Section 1251.11)
- Distillery, Winery - w/ or w/o food
- Farmers' Market (Section 1251.15)
- Funeral Homes, Mortuaries
- Hotel
- Institutions of Higher Education
- Pawn Broker
- Private K-12 Schools
- Marihuana: Medical Marihuana Provisioning Center (Section 1251.24) (Section 1251.30)
- Marihuana: Adult-Use Marihuana Retailers (Section 1251.24) (Section 1251.25)
- Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.24) (Section 1251.26)
- Marinas
- Medical or Dental Clinic 5,000 to < 20,000 s.f.
- Microbrewery
- Motel (Section 1251.20)
- Nightclub
- Office >, = 17,000 s.f.
- Retail Sales > or = 17,000 s.f.

- Transitional and Supportive Home, more than 6 persons (Section 1251.50)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

(d) Accessory Uses

- Accessory Buildings (Section 1260.02)
- Accessory Dwelling Unit
- Farmers Market (Section 1251.15)
- Private Gardens (Section 1251.41)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 8-14 Children (Section 1251.46)

(e) Dimension Regulations

Lot Standards	T-3
Minimum Lot Area (sq. ft.)	2,900 (d)
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	40
Front Yard Setback (ft.)	30
Rear Yard Setback (ft.)	20 (h)
Side Yard Setback (ft.)	10 (g)
Maximum Building Height	36 feet, 3 stories

Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations above under Section 1241.07. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21; Ord. 03-2023. Passed 5-2-23; Ord. 12-2023. Passed 10-17-23.)

1240.14 T-4 DOWNTOWN COMMERCIAL DISTRICT.**(a) Purpose**

It is the purpose of this district to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

(b) Permitted Uses

- Artisan/Maker Space
- Assisted Senior Living (Section 1251.03)
- Banquet and Meeting Hall (Section 1251.08)
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- Carry-Out Restaurant
- Catering Businesses
- Child Care Centers
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.13)
- Distillery, Winery - w/ or w/o food
- Essential Services
- Event Center
- Farmers' Market (Section 1251.15)
- Financial Institutions
- Full-Service Restaurant
- Government/Public Uses (Section 1251.16)
- Hotel (Section 1251.20)
- Independent Senior Living with Services (Section 1251.21)
- Indoor Recreation
- Institutions of Higher Education
- Limited Service Restaurant
- Marihuana: Adult-Use Marihuana Retailers (Section 1251.24) (Section 1251.25)
- Marihuana: Medical Marihuana Provisioning Center (Section 1251.24) (Section 1251.30)
- Medical or Dental Clinic < 20,000 s.f.
- Microbrewery (Section 1251.35)
- Motel (Section 1251.34)
- Multi-Family Dwelling Units (Section 1251.33)
- Nightclub
- Office
- Outdoor Recreation/ Public (Section 1251.36)
- Personal Service Establishments (Section 1251.40)
- Private Club
- Public K-12 Schools
- Religious Institutions (Section 1251.42)

(c) Special Land Uses

- Adaptive Reuse (Section 1251.01)
- Drive-In Restaurant
- Drive-Thru Restaurant (Section 1251.14)
- Funeral Homes, Mortuaries
- Hospital > 20,000 s.f. (Section 1251.19)
- Private K-12 Schools
- Parking as a Principal Use
- Research and Development

- Retail Sales
- Single Family Dwelling Unit Attached
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.48)
- Transitional and Supportive Home (Section 1251.49), 1-6 persons
- Transitional and Supportive Home, more than 6 persons (Section 1251.50)
- Two-Family Dwelling Units

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

(d) Existing Uses

- Single Family Dwelling Unit Detached

(e) Accessory Uses

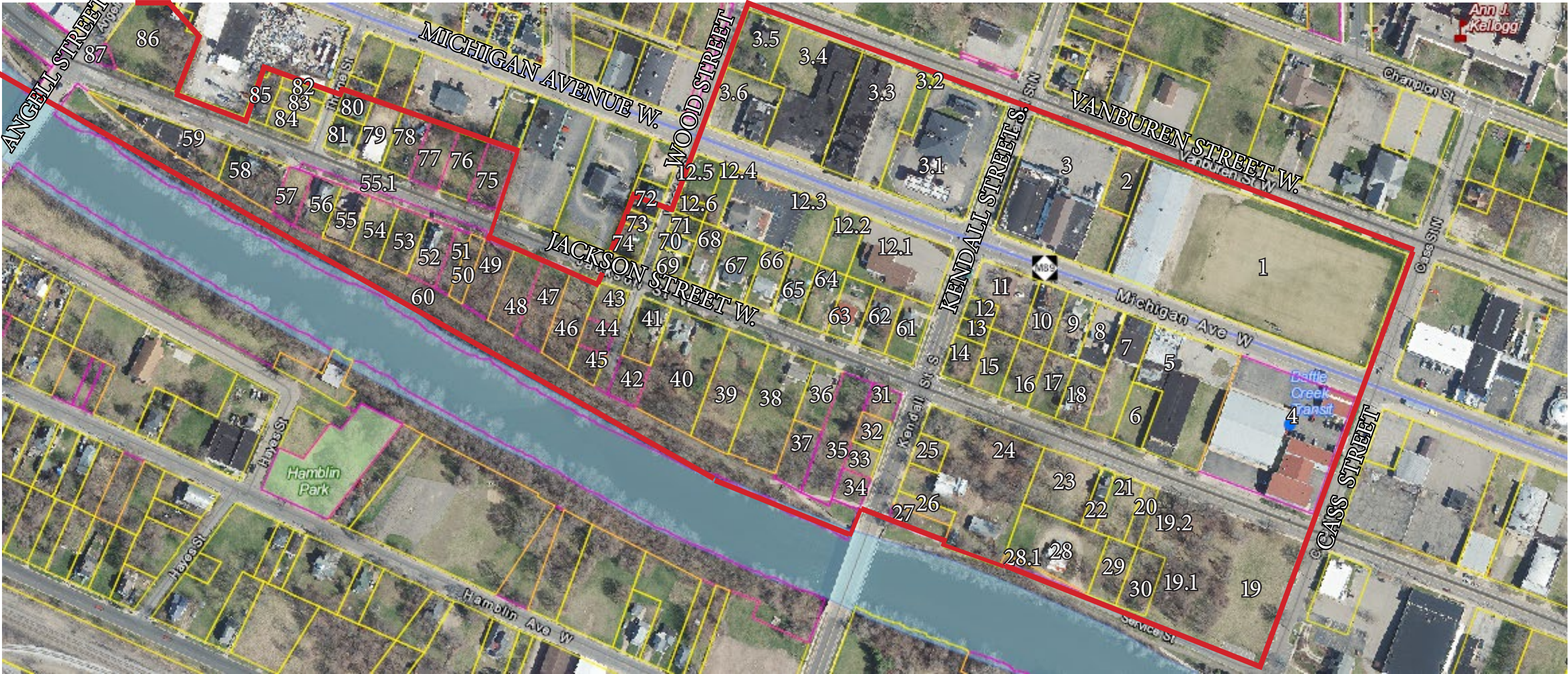
- Accessory Buildings (Section 1260.02)
- Accessory Dwelling Unit
- Farmers Market (Section 1251.15)
- Private Gardens (Section 1251.40)
- State Licensed Child Care Family Home, 1-7 Children (Section 1251.45)
- State Licensed Child Care Group Home, 7-12 Children (Section 1251.46)

(f) Dimension Regulations

Lot Standards	T-4
Minimum Lot Area (sq. ft.)	2,900 (d)
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	Not Required
Front Yard Setback (ft.)	Not Required
Rear Yard Setback (ft.)	Not Required
Side Yard Setback (ft.)	Not Required
Maximum Building Height	Not Required

Footnotes: Refer to Section 1241.03 wherever a footnote is referenced in lowercase letters in parentheses after one of the dimension regulations. Some uses have specific standards that overrule the dimensional regulations. Refer to Chapter 1251 for additional dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Am. Ord. 04- 2021. Passed 4-13-21; Ord. 03-2023. Passed 5- 2-23; Ord. 12-2023. Passed 10-17-23.)

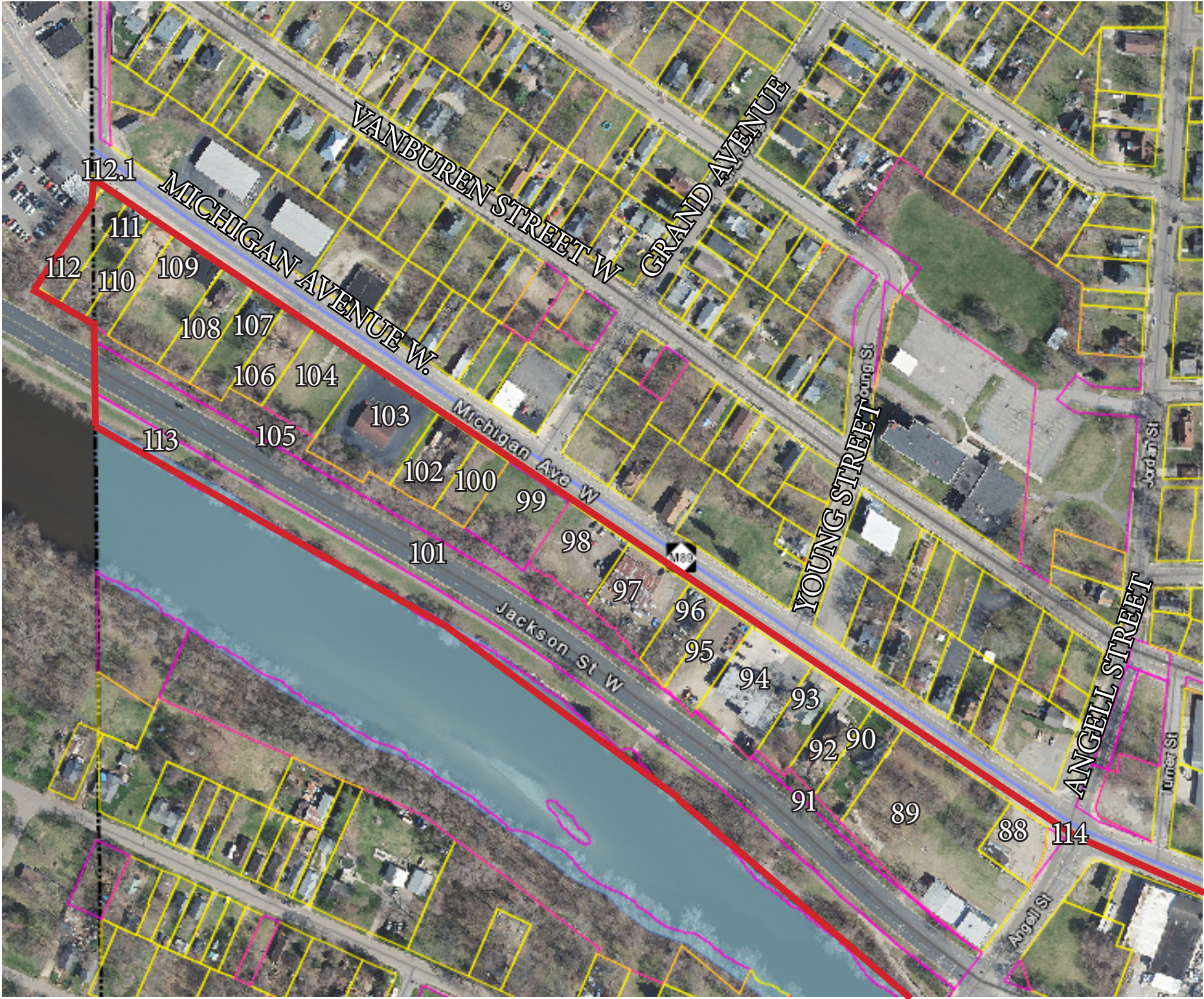


PROPOSED REZONING-PART ONE OF TWO PARTS

Proposed Rezoning Boundary

PROPOSED REZONING-PART TWO OF TWO PARTS

Proposed Rezoning Boundary



**CITY OF BATTLE CREEK
PLANNING COMMISSION
10 North Division, Battle Creek, MI 49014
Minutes for February 28, 2024**

MEETING CALLED TO ORDER: By Commissioner Gray at 4:01 p.m.

ATTENDANCE: Roll call was taken.

Commission Members Present:

Comm. Gray, present

Comm. Godfrey III, present

Comm. O'Donnell, present

Comm. Hughes, present

Comm. Morris, present

Comm. Denison, present

Comm. Moton, absent

Comm. White, absent

Mayor Behnke, present

Staff Present: Melody Carlsen, Administrative Assistant, Marcel Stoetzel, Deputy City Attorney, CJ Sivak-Schwennesen, Planner, Darcy Schmitt, Planning Supervisor.

APPROVAL OF MINUTES: December 20, 2023 Capital Improvement Plan Workshop, December 20, 2023 Meeting.

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE DECEMBER 20, 2023 CAPITAL IMPROVEMENT PLAN WORKSHOP MINUTES AND THE DECEMBER 20, 2023 PLANNING COMMISSION MEETING MINUTES, SECONDED BY COMMISSIONER MORRIS.

ROLL VOTE: Commissioner Gray asked everyone in favor to signify by saying "aye".

ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.

CORRESPONDENCE:

Correspondence from resident, Sheila McDonald in opposition of #R1-24 rezoning along E. Michigan Avenue was submitted to the Chairperson. Read by Melody Carlson.

ADDITIONS/DELETIONS: None.

PUBLIC HEARINGS/DELIBERATIONS:

A) ZONING MAP AMENDMENT #R1-24

Petition from the City of Battle Creek to rezone properties along E. Michigan Avenue, between Caine Street, and Stiles Street currently zoned "R-3 Multiple-Family Residential District" and "R1-B Single-Family Residential District" to "T-3 Neighborhood Commercial District" pursuant to Sections 1281.01 and 1240.13 of the zoning code.

Staff Presentation: CJ Sivak-Schwennesen gave the staff report for #R1-24 rezoning with staff's recommendation for approval.

Public Comment:

Cynthia Fritz of 451 Main Street spoke and opposed the rezoning.

James Moreno of 451 Main Street spoke and opposed the rezoning, would like to see more discussion within the community.

Sherry Goodwin, resident residing on Cliff St. spoke and opposed the rezoning.

Sarah Hodges of 41 Caine St had questions about property taxes changing if the rezoning was approved.

Commissioner Comments:

Commissioner O'Donnell would like to move the vote to a later date given community concerns.

Mayor Behnke agreed with Commissioner O'Donnell that we need more time and is in favor of slowing down and more participation within the community.

MOTION MADE BY COMMISSIONER O'DONNELL TO POSPONE A VOTE FOR AT LEAST THREE MONTHS AND HAVE SOME TYPE OF REPORT WITH RESIDENTIAL INPUT. COMMISSIONER GODFREY SECONDED THE MOTION.

Commissioner Discussion:

Commissioner Morris agrees to a workshop and supports the motion at hand.

Darcy Schmitt, Planning Supervisor asked for clarification as what information the body is requesting moving forward.

Commissioner Godfrey would like to see the City reach out to the NPC to set up a meeting.

Commissioner Gray would like to see the meeting held someplace within the neighborhood.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

B) ZONING MAP AMENDMENT #R2-24

Petition from the City of Battle Creek to rezone properties along W. Vanburen Street, W. Michigan Avenue, and W. Jackson Street between Cass Street and Wood Street, from "T-3 Neighborhood Commercial District" and "R-3 Multiple-Family Residential District" to "T-4 Downtown Commercial District". In addition, rezone properties west along W. Jackson Street between Wood Street and Angell Street from "R-3 Multiple-Family Residential District" to "T-3 Neighborhood Commercial District" and "T-4 Downtown Commercial District". Finally, continuing west to rezone properties along W. Michigan Avenue and W. Jackson Street between Angell Street and the western boundary of the City from "R-3 Multiple-Family Residential District" to "T-4 Downtown Commercial District" pursuant to Sections 1281.01 and 1240.14 of the zoning code.

Staff Presentation: Darcy Schmitt gave the staff report for #R2-24 rezoning along W. VanBuren St. W. Michigan Ave and W. Jackson St. with staff's recommendation for approval.

Public Comment:

Codie Burt representative for the property owner of 69 W. Michigan Ave spoke in favor of the rezoning.

Commissioner Comments:

Mayor Behnke thanked staff and others involved in the redevelopment of these properties.

MOTION MADE BY COMMISSIONER MORRIS TO APPROVE ITEM #R2-24. SECONDED BY COMMISSIONER HUGHES.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

C) ZONING ORDINANCE AMENDMENT #A-24

Request from the City of Battle Creek to consider amendments to various sections of the City of Battle Creek zoning code pursuant to Section 1281.01.

Staff Report: Darcy Schmitt gave the staff report highlighting the changes to the Zoning Ordinance.

Public Comment:

James Moreno of 451 Main St. had a question and comments about Accessory Buildings.

Commissioner Comments:

Commissioner Godfrey suggested the Body vote on each section separately due to the size of the packet.

COMMISSIONER GODFREY MADE A MOTION TO APPROVE THE AMENDMENT CHANGES AS PRESENTED CHAPTER BY CHAPTER. SECONDED BY COMMISSIONER MORRIS.

Chapter 1240

COMMISSIONER GODFREY MADE A MOTION TO APPROVE THE CHAPTER 1240 AMENDMENT CHANGES AS WRITTEN. SECONDED BY COMMISSIONER MORRIS.

ROLL VOTE: ALL IN FAVOR. MOTION APPROVED.

Chapter 1241

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1241 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Chapter 1251

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1251 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Chapter 1260

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1260 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Chapter 1281

MOTION MADE BY COMMISSIONER GODFREY TO APPROVE THE CHAPTER 1281 AMENDMENT CHANGES AS PRESENTED. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

Commissioner Comments:

Commissioner Godfrey thanked staff for their work on the packet.

Commissioner Gray echoed Commissioner Godfrey's comment.

OLD BUSINESS: None.

NEW BUSINESS:

Election of Officers

COMMISSIONER MORRIS NOMINATED COMMISSIONER JOHN HUGHES AS COMMISSION CHAIRPERSON. SECONDED BY COMMISSIONER O'DONNELL.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

COMMISSIONER GODFREY MADE A MOTION TO NOMINATE COMMISSIONER PATRICK O'DONNELL AS COMMISSION VICE CHAIRPERSON.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

COMMISSIONER GODFREY NOMINATED COMMISSIONER LYNN GRAY AS COMMISSION SECRETARY. COMMISSIONER GRAY DID NOT ACCEPT THE NOMINATION.

MAYOR BEHNKE NOMINATED COMMISSIONER JOHN HUGHES AS COMMISSION SECRETARY.

ROLL VOTE: ALL IN FAVOR, MOTION APPROVED.

COMMENTS FROM THE PUBLIC: None.

COMMENTS FROM COMMISSION MEMBERS AND STAFF:

Commissioner Morris thanked staff for their time in putting together the meeting packet.

Commissioner O'Donnell thanked everyone for voting to postpone item # R1-24.

Darcy Schmitt informed the Body of grant information and asked for their input moving forward and upcoming training information.

Commissioner Godfrey had questions about the upcoming training.

Commissioner Gray stated it was an honor and pleasure to serve as Chair and looks forward to continually serving on the Commission.

ADJOURNMENT: Commissioner Gray adjourned the meeting at 5:23 pm.



General Detail

NO.

Minutes for the March 19, 2024 City Commission Regular Meeting

BATTLE CREEK, MICHIGAN - 4/2/2024

Battle Creek City Commission
4/2/2024

Action Summary

Staff Member: Patti Worden, Executive Assistant

Department: City Manager

SUMMARY

Minutes for the March 19, 2024 City Commission Regular Meeting

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
☐ Minutes_for_the_March_19__2024_City_Commission_Regular_Meeting.pdf	Minutes for the March 19, 2024 City Commission Regular Meeting



Agenda: Battle Creek City Commission

Meeting Date: March 19, 2024- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

Title: Battle Creek City Hall - City Commission Chambers - 3rd Floor

VIDEO

ATTENDANCE

COMMISSIONERS

Mayor Mark Behnke

Commissioner Jim Lance

Commissioner Carla Reynolds

Commissioner Jake Smith

ABSENT: Commissioner Jenasia Morris

Commissioner Roger Ballard

Commissioner Patrick O'Donnell

Commissioner Christopher Simmons

Vice Mayor Sherry Sofia

CITY STAFF

Ted Dearing, Assistant City Manager

Victoria Houser, City Clerk

Shannon Bagely, Police Chief

Bill Beaty, Fire Chief

Travis Sullivan, Planner

Todd Gerber, Field Services

Superintendent

Joby Purucker, Service Desk Tech.

Jill Steele, City Attorney

Mallory Avis, Transportation Director

Michelle Hull, Human Resource Director

Steve Skalski, Public Works Director

Duska Brumm, Recreation Director

Helen Guzzo, Community Development
Manager

INVOCATION

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Sofia.

ROLL CALL

PROCLAMATIONS AWARDS

Beautiful Battle Creek Awards

Mayor Behnke presented the Beautiful Battle Creek Awards.

Proclamation for National Donate Life Month 2024

Mayor Behnke proclaimed the month of April 2024 as "National Donate Life Month" in the Greater Battle Creek Area, encouraging all neighbors who are able to register their decision to be an organ, eye and tissue donor in the National Donate Life Registry at RegisterMe.org or the State of Michigan Donor Registry at michigan.gov or your local Secretary of State.

Proclamation for Kidney Awareness Month 2024

Mayor Behnke proclaimed the month of March 2024 as "Kidney Awareness Month" in the Greater Battle Creek Area, urging neighbors to join in the commitment to fight Chronic Kidney Disease (CKD) and take preventative and early detection measures in the battle against this progressive disease.

CHAIR NOTES ADDED OR DELETED RESOLUTIONS

There were no added or deleted resolutions.

PETITIONS COMMUNICATIONS REPORTS

There were no petitions, communications or reports.

INTRODUCTION OF ORDINANCES

A proposed Ordinance, #02-2024, seeking to amend the Zoning Code of the City of Battle Creek.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Absent: MORRIS
MOTION PASSED

A proposed Ordinance, #03-2024, seeking to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Codie Burt, representative for the property owner of 695 W. Michigan Ave, expressed support for the rezoning of the parcels, believing this will encourage growth, entice new business, find use of vacant parcels, and increase revenue for the city and community.

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Absent: MORRIS
MOTION PASSED

PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA

Autumn Smith referenced Attorney General opinion 5332, also commenting on resolution 392 regarding the flying of a flag.

John Kenefick commented on resolution 393, regarding the construction of a restroom at ANYbodies Playground.

David Moore also commented on resolution 392.

(Limited to three minutes per individual)

COMMISSION COMMENT REGARDING MEETING BUSINESS

There were no commission comments.

CONSENT AGENDA

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Comm. Ballard noted the restrooms at Fell Park are always locked, stating he does not support the restroom project at ANYbodies Playground.

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA
Nays: BALLARD

Absent: MORRIS
MOTION PASSED

Minutes for the March 5, 2024 City Commission Regular Meeting

City Manager's Report for March 19, 2024

Review Committee Meeting Minutes for March 13, 2024

CONSENT RESOLUTIONS

384 A Resolution appointing Ezra Bell as a new member to the Battle Creek
Downtown Development Authority.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA
Nays: BALLARD

Absent: MORRIS
MOTION PASSED

385 A Resolution appointing Tha Par as a new member to the BCTIFA/ Brownfield
Redevelopment Authority.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA
Nays: BALLARD

Absent: MORRIS
MOTION PASSED

386 A Resolution reappointing James Eldridge, Sharon Miller, Jana Davis, Karen
Roebuck and Rebecca Squires to the License Review Board.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA
Nays: BALLARD

Absent: MORRIS
MOTION PASSED

387 A Resolution seeking authorization for a change order for mobile video equipment
and software services for the City of Battle Creek Police Department with
Motorola Solutions, Inc., in an estimated amount of \$39,000.88, with unit prices
prevailing.

Motion to Approve
Moved By: JAKE SMITH
Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA
Nays: BALLARD

Absent: MORRIS
MOTION PASSED

388 A Resolution seeking to authorize the City Manager to execute an easement
agreement between Consumers Energy Company and the City of Battle Creek in
order to install two streetlights on the Capital Avenue bridge at Capital Avenue and
Beckley Road.

Motion to Approve
Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

- 389 A Resolution seeking acceptance of the proposal of best value from Union Electric, Inc., for a new fire alarm system at the Valentine Center in a not to exceed amount of \$51,475.00.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

- 390 A Resolution seeking to correct the identity of the Grantee/Buyer in Resolution 126, approved May 2, 2023.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

- 391 A Proposed Resolution authorizing the City Manager to execute all documents necessary to sell the city-owned vacant land located in Assyria Township in Barry County, Parcel #08-01-031-020-00, to Barry County for \$1.00.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Nays: BALLARD

Absent: MORRIS

MOTION PASSED

RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA

392 A Resolution seeking approval to direct staff to fly the Donate Life flag at City Hall from noon on April 1, 2024 through April 30, 2024.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Vice Mayor Sofia noted she is opposed to the flag policy.

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SMITH

Nays: SIMMONS, SOFIA

Absent: MORRIS

MOTION PASSED

393 A Resolution authorizing the City Manager to submit a grant application to The Michigan Department of Natural Resources Trust Fund for the construction of a permanent and accessible restroom facility at the ANYbodies Playground and boat launch area in Bailey Park.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Comm. Simmons noted he did not support the excessive cost for this project, stating the park improvement projects are not equitably placed throughout the city.

Comm. O'Donnell expressed support for the playground restroom project, noting the costs for construction projects has increased the last few years.

Ayes: LANCE, O'DONNELL, BEHNKE, REYNOLDS, SOFIA

Nays: BALLARD, SIMMONS, SMITH

Absent: MORRIS

MOTION PASSED

394 A Resolution seeking approval for the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the codified ordinances; and repealing ordinances and resolutions in conflict therewith.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Comm. O'Donnell thanked the City Clerk for collecting all the data for the resolution.

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Absent: MORRIS

MOTION PASSED

395 A Resolution authorizing the City Manager, under the provisions of 296.09(c), to continue to employ Jill Wood who presently holds the position of Customer Service Rep II at the WWTP and to allow for Ms. Wood's years of service as a

Fire Fighter with the BCFD to count towards vesting and eligibility with MERS.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH,
SOFIA

Absent: MORRIS

MOTION PASSED

396 A Resolution seeking acceptance of the lowest responsive, responsible bid for
Wastewater Treatment Plant HVAC project from Shouldice Industrial
Manufacturers and Contractors, Inc., in a not-to-exceed amount of \$769,757.00.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH,
SOFIA

Absent: MORRIS

MOTION PASSED

383 A Resolution seeking to set a Closed Session on a labor matter for March 19,
2024.

Motion to Approve

Moved By: JAKE SMITH

Supported By: SHERRY SOFIA

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH,
SOFIA

Absent: MORRIS

MOTION PASSED

GENERAL PUBLIC COMMENT

David Moore expressed support for the restrooms at ANYbodies Playground.

Autumn Smith commented on a State Attorney General's opinion regarding public comment at public meetings.

John Kenefick commented on President Biden's State of the Union address.

(Limited to three minutes per individual)

COMMISSION COMMENTS

Jill Steele, City Attorney, announced she would be celebrating 15 years at the City, the last 11 years

as City Attorney. Attorney Steele shared that she and her husband of 44 years set a goal of retiring after their 4 children completed college, noting her youngest daughter graduated last year. Attorney Steele announced she would be retiring from the City as of August 1, 2024.

Comm. Reynolds stated she will miss Attorney Steele, encouraging her to enjoy her retirement, thanking her for her service.

Comm. Ballard thanked Attorney Steele for her service to the City, sharing his husband Jim's best wishes for her as well.

Motion to charge the existing City Attorney Evaluation and Salary Review Committee with recommending a process to select a new city attorney following Attorney Steele's retirement.

Motion to Approve
Moved by: Sherry Sofia
Supported by: Carla Reynolds

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Absent: MORRIS

MOTION PASSED

RECESS

The Commission recessed to Closed Session at 7:52 pm.

CLOSED SESSION

RETURN FROM RECESS

The Commission returned from Closed Session at 8:04 pm.

Motion to approve the tentative agreement with POLC Non-Supervisory Unit dated February 29, 2024.

Motion to Approve
Moved by: Jake Smith
Supported by: Sherry Sofia

Ayes: BALLARD, LANCE, O'DONNELL, BEHNKE, REYNOLDS, SIMMONS, SMITH, SOFIA

Absent: MORRIS

MOTION PASSED

ADJOURNMENT

Mayor Behnke adjourned the meeting at 8:05 pm.

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer

dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(f) Applicants or Appellants, as defined below, or an attorney retained to represent them, are not bound by the specific time limitations set out above but may have the amount of time deemed reasonably necessary by the Mayor or presiding official to present their case to the City Commission without violating the rules set out below in sub-section 4(a) through (g), with which they are obligated to comply.

(i) Applicant is defined an individual or business entity seeking a City Commission final decision on a matter for which the individual has made application to the City based upon a specific provision in a City Ordinance or state statute for permission to take a specific action;

(ii) Appellant is an individual appealing a decision of a City official or an inferior body based upon a specific provision in City ordinances entitling the individual to appeal the decision to the City Commission.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

- (a) Becomes repetitive or speaks longer than the allotted time;
- (b) Attempts to yield any unused portion of time to other speakers;
- (c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;
- (d) Uses obscene or profane language;
- (e) Engages in slanderous or defamatory speech;
- (f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or
- (g) Engages in conduct that interrupts or disrupts the meeting.

(5) Individuals attending City Commission meetings or workshops, excluding City staff, shall not pass the commission chambers bar upon which the podium is affixed (and which divides the audience section from the well of the chambers) without having been invited to do so by the Mayor or official presiding over the meeting, or after requesting and explicitly being granted permission to do so. Any individual violating this sub-section will be ruled out-of-order by the Mayor or presiding official and the individual may be required to leave the meeting for a breach of the peace committed at the meeting as permitted by the OMA.



General Detail

NO.

City Manager's Report for April 2, 2024

BATTLE CREEK, MICHIGAN - 4/2/2024

Battle Creek City Commission
4/2/2024

Action Summary

Staff Member: Patti Worden, Executive Assistant

Department: City Manager

SUMMARY

City Manager's Report for April 2, 2024

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> City_Manager_Report_04022024.pdf	City Manager's Report for April 2, 2024

MEMO

Date: 04/02/2024

To: Mayor and City Commission

From: Rebecca L. Fleury, City Manager

RE: City Manager's April 02, 2024, Agenda Report

04-2024

A Proposed Ordinance #04-2024 seeking to amend the Historic Preservation Code of the City of Battle Creek.

Staff has recognized that periodically, the City encounters difficulties with appointing a full roster of members for its various boards and commissions. With particular regard to the Historic District Commission (HDC), a specific set of knowledge and expertise is required of a majority of the members sitting on the Commission, further increasing the difficulty in filling vacancies.

Chapter 1470 provides for a limit of two consecutive three-year terms for members of the HDC. The proposed amendment to Chapter 1470 would eliminate term limits from the ordinance, allowing for the continued reappointment of commissioners following the completion of two terms of service.

This Proposed Ordinance seeks to amend the Historic Preservation Code of the City of Battle Creek. **Introduction is Recommended.**

397

A Resolution seeking to adopt Ordinance #02-2024, an Ordinance to amend the Zoning Code of the City of Battle Creek.

This proposed Ordinance, seeks to amend the Zoning Code of the City of Battle Creek. Staff finds that the proposed amendments to the Zoning Code are needed to fix errors, improve clarity and provide additional flexibility to land uses for residents and property owners in the community without compromising safety and quality of life for the residents.

The Planning Commission, at their February 28, 2024 meeting, held a Public Hearing on the draft amendments to the Zoning Code. There were no public comments during the Public Hearing. With seven members present, the Planning Commission voted unanimously to recommend the City Commission approve the proposed amendments to the Zoning Code.

This Resolution seeks to adopt an Ordinance to amend the Zoning Code of the City of Battle Creek. **Approval is Recommended.**

398

A Resolution seeking to adopt Ordinance, #03-2024, an Ordinance to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3, Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

This proposed Ordinance seeks to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St currently zoned R-3,

Multiple Family Residential District and T-3, Neighborhood Commercial District to T-4 Downtown Commercial District and T-3 Neighborhood Commercial District.

The rezoning of these properties will allow for more flexibility in how this area develops or redevelops in the future by creating additional uses for the properties that would otherwise not be allowed under the current zoning districts.

The Planning Commission held a Public Hearing on February 28, 2024 on the proposed rezoning. There was one public comment in favor of the proposal at the meeting. With seven members present, the Planning Commission voted unanimously to recommend that the City Commission approve the proposed rezoning.

This proposed Ordinance seeks to rezone various properties located in two clusters along Michigan Avenue W, Jackson St W, Kendall St S, Van Buren St W, and Angell St . **Approval is Recommended.**

402

A Resolution seeking authorization for the City Manager to enter into an agreement with the Municipal Employees Retirement System (MERS) to administer a grant of service credit for employees who meet certain criteria and were previously employed in a position covered by a City non-MERS Police and Fire retirement plan.

This Agreement has been provided to recognize service from an employee who may transfer into MERS from Police and Fire Pension. Or, on rare occasion, we have an employee moving from the Police and Fire pension system into a MERS position.

This Resolution seeks authorization for the City Manager to enter into an agreement with the Municipal Employees Retirement System (MERS) to administer a grant of service credit for employees who meet certain criteria and were previously employed in a position covered by a City non-MERS Police and Fire retirement plan. **Approval is Recommended.**

403

A Resolution seeking authorization for the City Manager to enter into a Concessions Agreement with Cereal City Concessions, LLC. and to amend the CO Brown Stadium lease agreement.

For more than a decade, the City has had an agreement with Cereal City Development Corporation (CCDC) to provide concessions at City and community events at the stadium, but it has indicated it no longer wishes to provide that service.

Cereal City Concessions, LLC. wishes to also provide the concession services at Bailey Park for City programs and tournaments going forward. As part of the consideration for the Concessions Agreement, Northwoods League, Inc. agrees to amend the C.O. Brown Stadium lease to provide the City with 7.5% of gross sales net of sales tax for concessions sold in C.O. Brown Stadium during City or sponsoring organization events.

This Resolution seeks authorization for the City Manager to enter into a Concessions Agreement with Cereal City Concessions, LLC. and to amend the CO Brown Stadium lease agreement. **Approval is Recommended.**

404

A Resolution requesting approval of a new polling location for newly consolidated precinct 22 at Westlake Presbyterian Church, 415 S. 28th Street.

Journey Church, located at 800 S. 24th Street, has served as a polling location for City of Battle Creek Precincts 2, 3, 22 and 23 since 2016.

On Tuesday, February 13, 2024, the City Clerk was notified that Journey Church, although they would host the February 27, 2024 election, no longer had the availability to host elections on their campus in the future due to scheduling and other priorities.

On Wednesday, March 20, 2024, due to the immediate need to relocate the 4 precincts, the Election Commission considered and approved the consolidation and relocation of the 4 precincts.

This Resolution requests approval for a new polling location for newly consolidated precinct 22 at Westlake Presbyterian Church, 415 S. 28th Street. **Approval is Recommended.**

405

A Resolution seeking approval to follow the recommendation of the City Attorney Evaluation-Salary Review Committee regarding the search for a new City Attorney.

The City Attorney Evaluation-Salary Review Committee ("Committee") met on March 25, 2024 to discuss and recommend a process to search for a replacement for the City Attorney appointed position.

The Committee recommended a two-prong approach allowing the City's Human Resources (HR) Department to first follow its normal recruitment process allowing interested applicants to apply, while also having the Purchasing Department begin the Request for Proposals (RFP) process as set out in Chapter 208 of ordinances for third-party search firms to fall back on in the event the City's HR Department hasn't identified sufficient qualified candidates to recommend to the City Commission for interviews. The City Manager may also contract directly with a search firm outside of the RFP process if it's in the City's best interest to do so.

This Resolution seeks approval to follow the recommendation of the City Attorney Evaluation-Salary Review Committee regarding the search for a new City Attorney. **Approval is Recommended.**



Resolution NO.

Ambulance Report for February 2024

BATTLE CREEK, MICHIGAN - 4/2/2024

**AMBULANCE SERVICES
MONTHLY PERFORMANCE REPORT**

Report for the month of February 2024

Life Care Ambulance Service

Life Care Ambulance Service is under Contract with the City of Battle Creek effective June 2, 1998.

Under the Contract, they are requested to meet the following criteria at a minimum of 90% of all calls per month:

Life-threatening emergency runs throughout the City -- 8 Minutes, 30 Seconds

Life-threatening emergency runs per Ward -- 9 Minutes, 30 Seconds

Priority 3 Responses -- 15 Minutes

Life-threatening Emergencies City-wide

Number of runs for the month 526. Percentage of runs accomplished within guidelines 78.71%

Life-threatening Emergencies per Ward

	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5
Number of Runs	98	188	82	63	95
Percentage Achieved	74.2%	88.3%	83.93%	88.9%	78.95%

Priority 3 Responses

Number of runs for the month 368. Percentage of runs accomplished within guidelines 89.95%

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Alicia Greene, Deputy City Clerk

Department: City Clerk

SUMMARY

Ambulance Report for February 2024

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name

Description

No Attachments Available



Resolution

NO. 399

A Resolution seeking authorization for the sale of two vacant, tax-reverted properties. Parcel Number 1530-00-003-0 and 1750-04-011-0.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That the City Manager is authorized to execute quit claim deeds to vacant, City-owned, tax reverted properties in accordance with the following schedule:

Parcel Number: 1530-00-003-0

Legal Description: ASSRS REPLAT OF CALDWELLS ADD LOT 3

Purchaser: Pine Lake Estates, LLC.

Sale Price: \$230.00

Parcel Number: 1750-04-011-0

Legal Description: NW 1/4 OF SW 1/4 OF SEC 12, T2S R8W: BEG AT NW COR OF INT OF GOGUAC ST & MEACHEM AVE DIST 33 FT E & 33 FT S OF W 1/4 POST OF SD SEC - E ALG S LI OF GOGUAC ST 66 FT - S 99 FT - W 66 FT - N ALG E LI OF MEACHEM AVE DIST OF 99 FT TO POB

Purchaser: Eric Russel King

Sale Price: \$230.00

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Melody Carlsen, Administrative Assistant

Department: Planning

SUMMARY

A Resolution seeking authorization for the sale of two vacant, tax-reverted properties. Parcel Number

1530-00-003-0 and 1750-04-011-0.

BUDGETARY CONSIDERATIONS

The sale of City-owned properties will put currently exempt parcels back on the property tax rolls. The sale typically only covers staff time in handling of the sale and deed recording fees.

HISTORY, BACKGROUND and DISCUSSION

The Community Services Department Planning Division is charged with managing the sale of vacant, City-owned, tax-reverted properties. This is accomplished both by periodic solicitation of interest through mailings to adjacent property owners, or unsolicited contacts, generally from the adjacent property owners. It is always preference to sell these parcels to the adjacent property owners.

By the way of Resolution No. 308, approved by the City Commission on August 8, 2000, the procedures for the sale of tax-reverted properties were provided to staff in the "**Administrative Policy on the Acquisition, Disposition and Inventory of City of Battle Creek Owned Real Property.**" These procedures provided the sale price and terms of the sale for these properties. A residentially-zoned vacant lot is offered for \$200.00 plus the cost of recording the deed with the Calhoun County Register of Deeds (Currently \$30.00).

Prior to our presenting any proposed sale, as per Resolution 308; we check to insure that the purchaser has no outstanding property tax issues, and no outstanding code violations on any property that they own within the City of Battle Creek.

Parcel 1530-00-003-0: was offered to Howard Winnie of 61 Fountain St W., no response.

Parcel 1750-04-011-0: was offered to Meranda Biake of 193 Meachem, no response and Heaven Carthron owner of 175 W Gouguac St., no response.

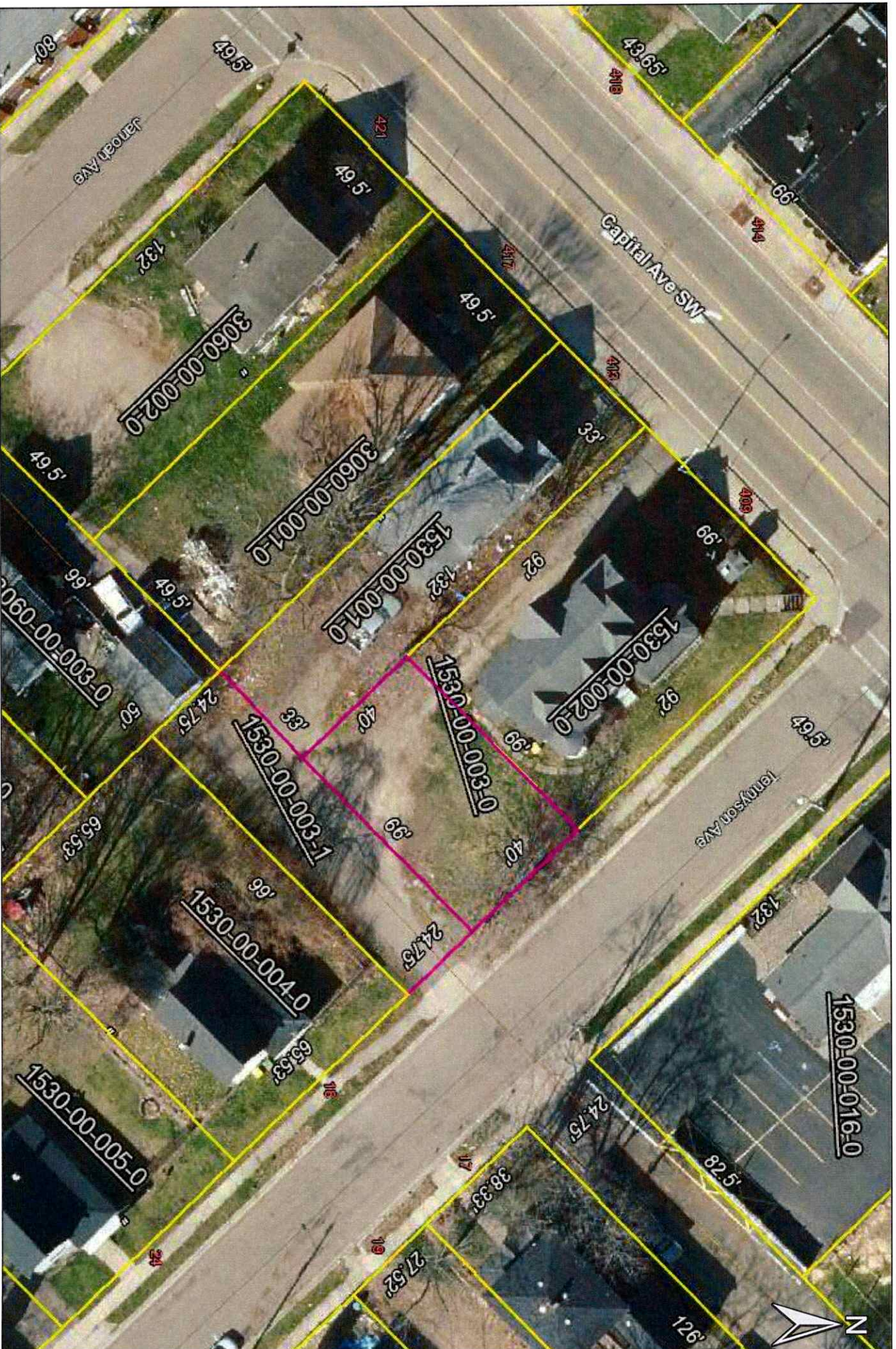
DISCUSSION OF THE ISSUE

POSITIONS

The Community Services Department staff recommends approval of this Resolution.

ATTACHMENTS:

File Name	Description
❏ 1530-00-003-0_Site_Map.pdf	Parcel 1530-00-003-0 Site Map
❏ 1750-04-011-0_Site_Map.pdf	Parcel 1750-04-011-0 Site Map



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ArcGIS Web Map

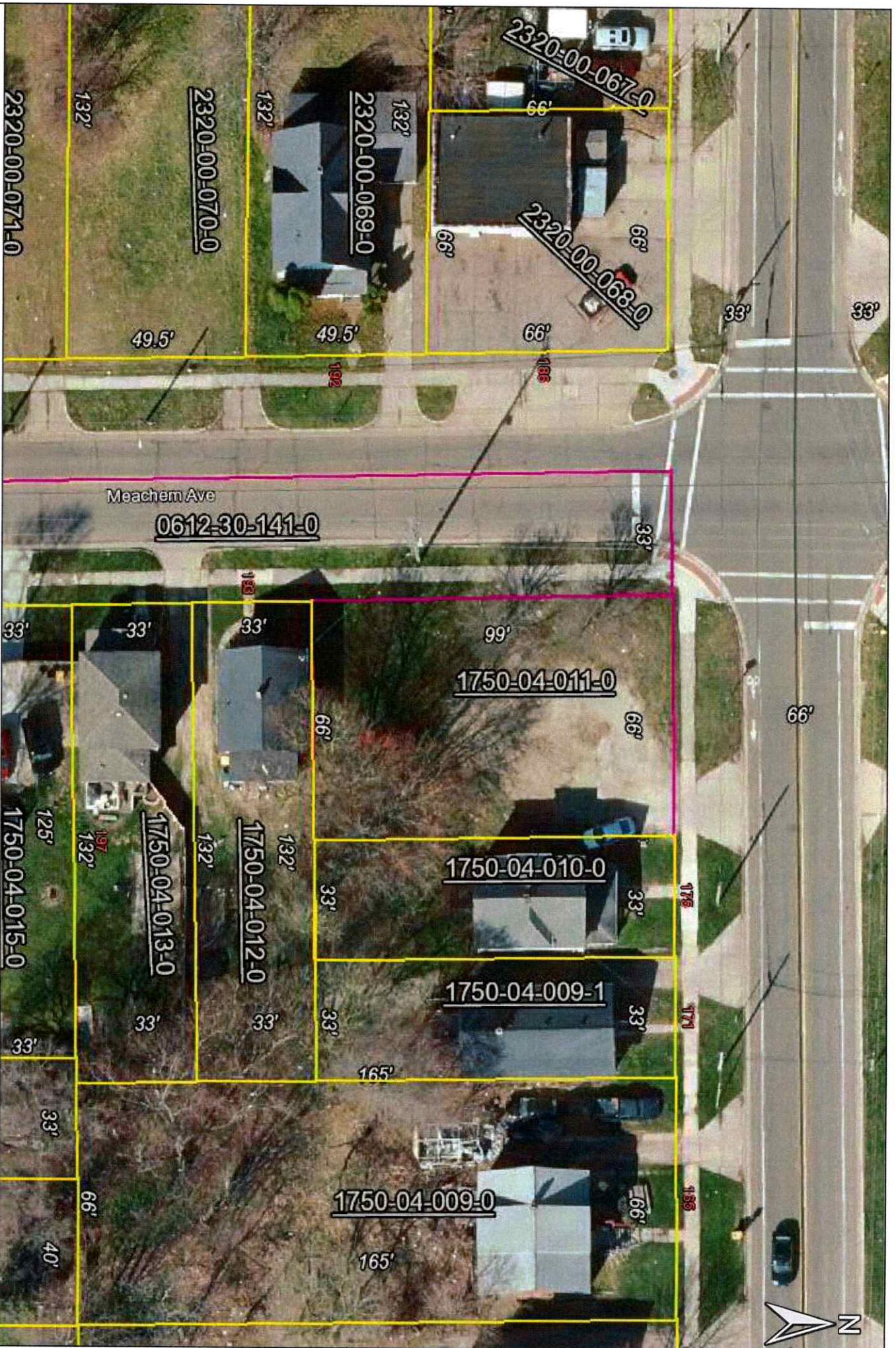
Author: City of Battle Creek

Date: 3/19/2024

1 inch = 47 feet



City of Battle Creek GIS Department
Battle Creek, Michigan 48904
269.960.3855



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ArcGIS Web Map

Author: City of Battle Creek

Date: 3/19/2024

1 inch = 47 feet



City of Battle Creek GIS Department
Battle Creek, Michigan 48914
269.466.3155



Resolution

NO. 400

A Resolution seeking acceptance of the proposal of best value for janitorial services for the Department of Public Works Building from Blu Perspective, LLC in an not-to exceed, first-year amount of \$23,842.80.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That the proposal of best value for janitorial services for the Department of Public Works Building is accepted from Blu Perspective, LLC in a not-to-exceed, first-year amount of \$23,842.80. The City Manager is authorized to execute Contract No. 2024-047R and all renewals, which will be paid from BU: 641.27.9330.801.310 Public Service Building Service Contracts.

The City Manager or her designee is also authorized to approve change orders for up to 10% in aggregate for City-initiated and pre-approved changes in the scope of work.

Battle Creek City Commission
4/2/2024

Action Summary

Staff Member: Nils Vós, Senior Buyer

Department: Purchasing

SUMMARY

A Resolution seeking acceptance of the proposal of best value for janitorial services for the Department of Public Works Building from Blu Perspective, LLC in an not-to exceed, first-year amount of \$23,842.80.

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

The solicitation was issued March 5, 2024, seeking proposals for janitorial services for the Department of Public Works Building located at 150 S Kendall St, Battle Creek, MI 49037.

On March 12, 2024, we held an advertised pre-bid/walk through for the purposes of showing the vendors the Department of Public Works Building and to allow vendors to ask questions. Seven companies attended the walk through. See attached sign in sheet.

Proposals were due on March 19, 2024.

The proposals received were as follows:

Blu Perspective, LLC
HE Cleans Too LLC
LGC Global Energy FM, LLC
Krystal Kleen Facility Service
The DM Burr Group
Williamson Cleaning Service
GR Select Services
New Fresh Cleaning Service
DLC Enterprises, Inc.

The selection committee was comprised of City employees: Steve Siemen, Fleet Supervisor, and Tiffany Suarez, Department of Public Works CSR II.

Prior to meeting with the committee, each committee member individually rated each firm. The committee then met on March 26, 2024, to rate the firms based on the pre-established (and published in the RFP) selection criteria.

During the meeting, the committee discussed their own individual scores to come up with these consensus rankings, out of 100 points:

Blu Perspective, LLC 82
He Cleans Too LLC 81
LGC Global Energy FM, LLC 76
Krystal Kleen Facility Service 75
The DM Burr Group 71
Williamson Cleaning Service 68
GR Select Services 66
New Fresh Cleaning Service 45
DLC Enterprises, Inc 24

**He Cleans Too LLC, Krystal Kleen Facility Service, The DM Burr Group, and DLC Enterprises, Inc. did not attend the pre-bid walk-thru on March 12, 2024, the remaining vendors did attend. Attendance at the pre-bid is not mandatory because things happen where a vendor can't attend. In such cases where the successful vendor did not attend a pre-bid, we would ensure they fully understand the scope of work with a pre-award meeting.*

The prices are detailed in the attached score sheet.

The committee decided to focus on the top two scoring vendors Blu Perspective, LLC and He Cleans Too, LLC and determined interviews were not necessary. The proposal scores of these two vendors are close. However, after committee discussion, the following key factors differentiate the vendors:

- Blu Perspective, LLC is the current janitorial contractor for the City's Airport and are in good standing.

- Blu Perspective, LLC attending the pre-bid walk thru of the building on March 12, 2024. He Cleans Too, LLC did not.
- Awarding to Blu Perspective, LLC is nearly \$9,500 yearly savings over HE Cleans Too, LLC

The committee thought that the Blu Perspective, LLC proposal was most thorough and accurate since they did attend the pre-bid walk through for the purposes of understanding the scope of work. He Cleans Too, LLC did not attend. In addition, there is a price advantage of nearly \$9,500 annually to contract with Blu Perspective, LLC over He Cleans Too, LLC.

The committee unanimously voted to award the contract to Blu Perspective, LLC.

I was present at all meetings and discussions and support the committee's ranking of the janitorial companies as unbiased and in the best interest of the City of Battle Creek, and recommend contract award to Blu Perspective, LLC.

**The term of this contract is for one year, plus four one-year optional renewals. The price is fixed for the first year, but the contract allows price adjustments in the renewal years to adjust for changes in labor cost, materials, inflation, etc. The City has the right to accept the price adjustment or rebid the project at the time of renewal, whichever is in the best interest of the City. The contract would exceed \$50,000 in the case of renewals.*

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
☐ SCORE_SHEET.pdf	Committee Score Sheet & Pricing
☐ 2024-047R_Pre-Proposal_Sign-In_Sheet_3-12-24.pdf	Sign In Sheet
☐ 2024-047R_Janitorial_Services_(DPW).pdf	Request for Proposal
☐ Blu_Perspective_Proposal.pdf	Vendor Proposal

CONSENSUS SCORE SHEET

RFP# 2024-047R

Title: Janitorial Services (DPW)

			Crystal Kleen Facility Service				Blu Perspective				New Fresh Cleaning Service				HE CLEANS TOO LLC				DLC Enterprises, Inc				Williamson Cleaning Service				LGC Global Inc				The DM Burr Group				GR Select Services							
			Steve	Tiffany		Cons	Steve	Tiffany		Cons	Steve	Tiffany		Cons	Steve	Tiffany		Cons	Steve	Tiffany		Cons	Steve	Tiffany		Cons	Steve	Tiffany		Cons	Steve	Tiffany		Cons								
A	OPERATIONS, QUALITY A	60	40	50		45	43	55		49	30	25		28	54	50		52	2	25		14	40	40		40	50	45		48	46	40		43	33	35		34				
B	FIRM QUALIFICATIONS	30	25	20		23	26	25		26	5	10		8	28	20		24	1	10		6	26	20		23	30	15		23	28	20		24	28	25		27				
C	Price	10	7.8	7.8		7.8	7.4	7.4		7.4	10.0	10.0		10.0	5.3	5.3		5.3	4.7	4.7		4.7	5.3	5.3		5.3	5.5	5.5		5.5	3.5	3.5		3.5	5.5	5.5		5.5				
Subtotal to shortlist or award			100				75				82				45				81				24				68				76				71				66			
D	INTERVIEW/DEMONSTRATION	100																																								
GRAND TOTAL FOR AWARD			200				75				82				45				81				24				68				76				71				66			

Points for Price: 10

Rank	Vendor Name	PRICE	Points:	
1st lowest	New Fresh Cleaning Service	\$ 17,700.00	10.0	Score = (Lowest price x number of possible points)/price being evaluated
2nd lowest	Krystal Kleen Facility Service	\$ 22,776.00	7.8	
3rd lowest	Blu Perspective	\$ 23,842.80	7.4	
4th lowest	LGC Global Inc	\$ 32,000.00	5.5	
5th lowest	GR Select Services	\$ 32,152.20	5.5	
6th lowest	HE CLEANS TOO LLC	\$ 33,278.76	5.3	
7th lowest	Williamson Cleaning Service	\$ 33,408.00	5.3	
8th lowest	DLC Enterprises, Inc	\$ 37,740.00	4.7	
9th lowest	The DM Burr Group	\$ 50,488.00	3.5	

**Pre-Proposal Sign-in Sheet
2024-047R Janitorial Services DPW
March 12, 2024**

Name	Company	e-mail	Phone
Cesar Maya	GR Select	cmaya@selectgr.com	616 210-8553
Paula Toliver	BLU Perspective	ptoliver@bluperspective.com	269-3988578
Alan Lucas	GR Select	alucas@selectgs.com	616-438-8199
Cody Hoffman	Reliable Property Maintenance	Reliable - Property - Maintenance & Repairs	269-788-5110
Cherita Scott	LGC Global	latwan.wesley@lgcfacility.com	313-598-3692
Allen W.	Williamson Cleaning Service	williamson@cleanonclean.com	269-267-1094
FRED Robinson	Detail Experts	Fred.robinson@detailxperts.net	313 779 7125
KENNETH L WILLIS	NEW FRESH CLEANING	KPOSTER KL Willis 47 Gmail	269-2234101



CITY OF BATTLE CREEK
NOTICE OF REQUEST FOR PROPOSALS

RFP#: 2024-047R

TITLE: Janitorial Services (DPW Building)

ISSUE DATE: March 5, 2024

PROPOSAL DUE DATE: March 19, 2024, at 2:00 PM Local Time

LOCATION: **Proposals must be submitted online. See page 9 for instructions.**
DO NOT EMAIL PROPOSALS.

Pre-Proposal Meeting: March 12, 2024, at 10:00am in the front lobby at the Department of Public Works
Building located at 150 S Kendall St, Battle Creek, MI 49037.

Purchasing Contact: Nils Vos
E-mail: npvos@battlecreekmi.gov questions only: do not email proposals

DESCRIPTION: The City is soliciting proposals for the purpose of contracting for janitorial services at the Department of Public Works Building for an annual renewable term up to five (5) years.

PROPOSAL SUBMITTAL:

Proposals must be submitted through our secure online bid management system by registered vendors by the date and time listed above.

Please upload **ONE pdf file** that includes all requested submittals, rather than several parts of the bid uploaded.

Please visit <http://battlecreekmi.gov/230/Bid-Proposal-Solicitations> and click on Bid & Proposal Solicitations. This will redirect you to our secure VendorRegistry website where you can register as a vendor (required) and obtain this full document and upload your bid.

Email the purchasing contact listed above if the above link doesn't work.

PROPOSERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE REQUEST FOR PROPOSALS.

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1.0 GENERAL INFORMATION

1.1 ISSUING OFFICE: This RFP is issued for the City of Battle Creek, Michigan (hereinafter referred to as the "City") through the Purchasing Office, which shall be referred to as the "Issuing Office."

1.2 GENERAL SUBMITTAL INFORMATION: (See Section 4.0 for detailed information)

- A. Proposals must be submitted in complete original form as **one pdf** submitted through our secure online bid management system by registered vendors: please visit <http://battlecreekmi.gov/230/Bid-Proposal-Solicitations> and click on Bid & Proposal Solicitations OR email purchasing@battlecreekmi.gov for links.
- B. Proposals will be accepted via the method listed until the time and date specified herein. There will be no public reading because this is an RFP, wherein price is only one factor in selection and subject to negotiation. All proposals will be available after contract award, under the FOIA.
- C. Late proposals will not be accepted, and the online system will automatically shut off at exactly the specified time.
- D. All proposals submitted in response to this solicitation shall become the property of the City and be a matter of public record available for review. **Vendors are advised that their proposals are subject to FOIA, and are not confidential and should not be marked as such.** However, proposals shall not be considered fully received for the purpose of Freedom of Information Act requests until the City has determined that no additional clarifications or revisions of offers shall be accepted.
- E. The proposal shall be legally signed on the OFFER TO CONTRACT page and the complete address of the proposer given thereon.
- F. The City is exempt from Federal Excise and State Sales Taxes, and such taxes shall not be included in proposal prices

1.3 TENTATIVE SCHEDULE: The City may deviate from this schedule. The City will not discuss the status of any proposal or the selection process. All proposers will be notified in writing of the City's decision. **Please do not contact City staff for status updates.** Interviews, if necessary, will be scheduled at mutually agreed upon times.

Proposal Reviews:	week of March 25, 2024
Interviews, if applicable:	week of April 8, 2024
Final Decision:	week of May 13, 2024

1.4 AWARD OF CONTRACT: This project will be awarded to a single contractor who submits the proposal deemed to be in the best interest of the City, unless otherwise noted in this document. Notwithstanding any other provision of the Request for Proposal, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all proposals, or portions thereof; or (3) reissue the Request for Proposal.

A response to any Request for Proposal is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's Request for Proposal. Proposals do not become contracts unless and until the City executes them. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a contract amendment, a Best and Final Offer, or by mutually agreed terms and conditions.

1.5 SPECIAL INFORMATION

- A. Addenda to the RFP: In the event it becomes necessary to revise any part of the RFP, addenda will be provided to all contractors who are recorded as having received the RFP. It shall be the proposer's responsibility to make inquiry as to changes or addenda issued. All such changes or addenda shall become part of the contract and all bidders shall be bound by such addenda.
- B. News Releases: News releases pertaining to this RFP or the services, study or project to which it relates will not be made without prior approval, and then only in coordination with the Issuing Office.

1.6 INDEPENDENT PRICE DETERMINATION

By submission of a proposal, the offeror certifies that in connection with this proposal:

- A. The fees in the proposal have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such fees with any other offeror or with any competitor; and,

- B. Unless otherwise required by law, the fees that have been quoted in the proposal have not been knowingly disclosed by the offeror directly or indirectly to any other offeror or city staff member or to any competitor; and,
- C. No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.7 CURRENCY: Prices calculated by the bidder shall be stated in U.S. dollars.

1.8 DEFINITIONS:

- A. The "City" – The City of Battle Creek
- B. "Contractor," "Vendor," "Firm," or "Proposer" - The firm submitting a proposal, ultimately responsible for any contract that results from this RFP.
- C. "RFP" – This Request for Proposals.

1.9 INTERVIEWS: The City may or may not shortlist the proposers based upon responses to the submittal requirements. If necessary, the City shall conduct interviews/demonstrations. However, the City may determine that shortlisting and/or interviews/demonstrations are not necessary.

1.10 FIRM QUALIFICATIONS: Experiences with the City and entities that evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience. The City reserves the right to make any such additional investigations as it deems necessary to establish the competency and financial stability of any firm submitting a proposal.

1.11 DELIVERY: Where applicable, proposals shall include all charges for delivery, packing, crating, containers, etc. Prices bid will be considered as being based on F.O.B. Delivered, freight included.

1.12 VENUE: Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement or the transactions it contemplates shall bring the legal action or proceeding:

(i) in the United States District Court for the Western District of Michigan; or

(ii) in any court of the State of Michigan sitting in Calhoun County, if there is no federal subject matter jurisdiction.

1.13 GOVERNING LAW: This agreement shall be enforced under the laws of the State of Michigan. Contractor must comply with all applicable federal, state, county, and City laws, ordinances, and regulations. Contractor shall ensure payment of all taxes, licenses, permits, and other expenses of any nature associated with the provision of services herein. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

1.14 BID PROTEST PROCEDURE: Protests about the bid procedure must be in writing. This written protest must be received by the City of Battle Creek, located at 10 N. Division, Suite 214, Battle Creek, MI 49014. This written protest must be received by the City no later than ten (10) working days after notification to all bidders of the contract award decision. The City of Battle Creek must issue its written decision no more than ten (10) business days from the day the written protest was received.

If a protester thinks that the City of Battle Creek has not followed these protest procedures, the protester has ten (10) business days from the alleged infraction to file a subsequent protest with the City of Battle Creek City Manager or federal granting agency if applicable.

1.15 FEDERAL TERMS AND CONDITIONS

If there are federal terms and conditions attached to this solicitation, they are hereby incorporated as a material part of this contract. In cases of conflict between terms in this agreement, the federal terms shall prevail.

2.0 - GENERAL TERMS AND CONDITIONS

- 2.1 MATERIALS AND WORKMANSHIP:** Unless otherwise specified, all materials and workmanship shall be new and of the best grade of their respective kinds for the purpose.
- 2.2 NON-DISCRIMINATION CLAUSE:** The bidder agrees not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to hire, tenure, terms, conditions or privileges, of employment, or any matter directly or indirectly related to employment, because of his or her actual or perceived race, color, religion, national origin, age, sex, height, weight, physical or mental disability, family status, sexual orientation, gender identity or marital status. Breach of this covenant may be regarded as material breach of the contract as provided for in Act 220 and Act 453 of the Public Acts of 1976, as amended, entitled "Michigan Handicapper's Civil Rights Act" and the Michigan Elliott Larson Civil Rights Act." The bidder further agrees to require similar provisions from any subcontractors, or suppliers. The contractor and any subcontractors shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 2.3 ASSIGNMENT OF CONTRACT:** The contractor shall assign no right or interest in this contract in whole or in part and no delegation of any duty of Contractor shall be made without prior written permission of the City.
- 2.4 INDEMNIFICATION:** The contractor shall protect, defend, and save the City, its officials, employees, departments and agents harmless from and against any claims, demands, suits, actions, or proceedings of any kind or nature, in any way resulting from negligent acts or omissions of the contractor or any of its agents, employees, boards, commissions, divisions, departments, or authorities in performing obligations under this agreement. Each party to this agreement agrees that any bond or insurance protection required by this agreement shall limit the terms of this indemnification provision. In case of any action brought against the City by reason of any such claim, suit, action or demand, upon prompt notice from the City, contractor covenants to defend such action or proceeding by counsel that is reasonably satisfactory to the City.
- 2.5 CONTRACT:** The contract shall contain the entire agreement between the City and the Contractor relating to this requirement and shall prevail over any previous contracts, proposals, negotiations, or master agreements in any form. By signing the Offer to Contract, it is agreed that the RFP in its entirety and all enclosed forms are fully incorporated herein as a material part of the contract. In case of conflicts, the most recent document will prevail.
- 2.6 PROVISIONS REQUIRED BY LAW:** Each provision required by law to be in the contract shall be enforced as though it were included herein, and if any such provision is not inserted, the contract shall be amended to make such insertion or correction.
- 2.7 RELATIONSHIP OF PARTIES:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose. Taxes or social security payments shall not be withheld from a City payment issued hereunder; Contractor should make arrangements to directly pay such expenses, if any.
- 2.8 RIGHTS AND REMEDIES:** No provision in this contract shall be construed as a waiver by either party of any existing or future right or remedy available by law in the event of any claim, default, or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.
- 2.9 ADVERTISING:** Contractor shall not advertise, issue a press release or otherwise publish information concerning this RFP or contract without prior written consent of the City. The City shall not unreasonably withhold permission.
- 2.10 APPLICABLE REGULATIONS/POLICIES:** The Revised Code of the State of Michigan, the Charter of the City of Battle Creek, all City Ordinances, Rules and Regulations and Policies shall apply. It shall be the responsibility of the Proposer to be familiar and comply with said regulations/policies.
- 2.11 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT:** Contractor shall give all notices and pay all royalties and fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof. Contractor shall comply with all laws, ordinances and codes applicable to any portion of the work. All services, information, computer program elements, reports, and other deliverables that are

created under this Agreement shall be the property of the City. The Contractor shall place no restrictions on the City with regard to the distribution of any of these materials; the City shall have full, unrestricted rights to make and distribute unlimited copies of any services, information, computer programs/elements, reports, or any other deliverable. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Invention Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- 2.12 SUBCONTRACTORS:** No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the City. All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.
- 2.13 OTHER FEDERAL COMPLIANCE:** Where applicable, contractor shall comply with: Copeland Anti-kickback Act (18 U.S.C. 874); Sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 USC 40 USC 3701-3708); Section 306 of the Clean Air Act (42 USC 7602, Air Pollution Prevention and Control); Section 508 of the Clean Water Act (33 U.S.C. 1368); Executive Order 11738, and EPA regulations (40 CFR, Part 15); and the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).
- 2.14 RECORD ACCESS:** Contract shall grant access, if requested, by the City, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor that are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 2.15 RECORD RETENTION:** Contractor shall retain all required records for three years after final payments and all other pending matters are closed.
- 2.16 CLEAN AIR ACT:** Contractor shall comply with all applicable standards, orders, or requirements issued under Clean Air Act (42 U. S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. For contracts and subcontracts of amounts in excess of \$100,000 the contractor or subcontractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Agency (EPA).
- 2.17 ENERGY EFFICIENCY:** Contractor shall maintain mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
- 2.18 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
- 2.19 Debarment and Suspension (E.O.s 12549 and 12689)** No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

3.0 - SPECIAL TERMS AND CONDITIONS

- 3.1 TERM AND RENEWAL:** The term of the contract shall commence on the first of the month following award, unless otherwise identified herein or a sooner date is required. The contract shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The contractor agrees that the City shall have the right, upon mutual consent, to renew the contract for up to four (4) additional one-year periods. In the event that the City exercises such right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price.
- 3.2 PRICE ADJUSTMENT:** The Purchasing Department may review a fully documented request for a price increase only after the contract has been in effect for one (1) year. A price increase adjustment shall be considered only at the time of a contract renewal and shall be a factor in the renewal review process. The City shall determine whether the requested price increase or an alternate option is in the best interest of the City.
- 3.3 QUANTITIES:** Because this is an annual requirements contract, the City reserves the right to increase or decrease the estimated quantity as best fits its needs, and the City does not guarantee maximums or minimums. The City also reserves the right to spot-bid unusually large one-time quantities or to buy outside of this contract if extenuating circumstances exist.
- 3.4 KEY PERSONNEL:** It is essential that the contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.
- A. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
 - B. If key personnel are not available for work under this contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.
- 3.5 CANCELLATION:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any material obligation, term, or condition of the contract. The City shall issue written notice to the contractor for any of the following circumstances:
- A. The contractor fails to adequately perform the services set forth in the specifications of the contract:
 - B. The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.
- Upon receipt of the written notice of concern, the contractor shall have ten (10) calendar days to provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies.
- 1. Cancel any contract:
 - 2. Reserve all rights or claims to damage for breach of any covenant of the Contract:
 - 3. In case of default, the City reserves the right to complete the required work. The City may recover reasonable excess cost from the contractor by any remedies as provided by law.
- The City intends to maintain a budget to cover all expenses related to this contract; however, the City may cancel this contract if funds are no longer available. In such case, the City shall provide the Contractor with a 60-day written notice of cancellation. The City will pay for all *authorized* completed work or received goods.
- 3.6 TERMINATION FOR CONVENIENCE:** The City may terminate this contract at any time for any reason by giving at least 30 days' notice in writing to Contractor. If the contract is canceled by the City as provided herein, the Contractor will be paid a fair payment as negotiated with the City for the work completed as of the date of termination.
- 3.7 PAYMENT:** Payment shall be made monthly, or at the end of each project, within 30 days of the submittal of a correct invoice for goods received or work performed. If applicable, expenses shall be billed at cost without markup, and must be supported by actual receipts. Mileage and per diem rates, if applicable, shall not exceed the federal rates.

3.8 INSURANCE:

a. The Contractor shall at the time of execution of this contract, file with the City the Certificate of Insurance, which shall cover all insurance as required herein, including evidence of payment of premiums thereon, and the policy or policies or insurance covering said City and their officers, agents and employees. Each such policy and certificate shall be satisfactory to the City. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from their operations under this Contract.

b. The contractor shall maintain insurances in force at all times during the term of this agreement at the minimum amounts and types as indicated.

<u>Coverage Afforded</u>		<u>Limits of Liability</u>
Workers' Compensation:		\$ 100,000 or statutory limit
Commercial General Liability: (including XCU if appropriate)	Bodily Injury	\$1,000,000 each occurrence
	Property Damage or Combined Single Limit	\$1,000,000 each occurrence \$1,000,000
Automobile Liability:	Bodily Injury	\$ 300,000 each person
	Liability	\$ 500,000 each occurrence
	Property Damage or Combined Single Limit	\$ 500,000 \$ 500,000

The City of Battle Creek shall be listed as an additional insured on general liability coverage, and shall be provided with a Certificate of Insurance that reflects this additional insured status. A 30-day notice of cancellation or material change shall be provided to the City and so noted on the Certificate of Insurance. All certificates and notices shall be sent to City of Battle Creek, P.O. Box 1717, Battle Creek, Michigan 49016.

3.9 DELIVERY: All prices shall include all charges for delivery, packing, crating, containers, etc. Prices proposed will be considered as being based on F.O.B. Delivered, freight included.

3.10 SAFETY RULES: Contractor shall perform all work under this contract in conformance with the State of Michigan general safety rules and regulations for the construction industry, as set out or authorized by the Michigan Occupational Safety and Health Act, Public Act 154 of 1974, as amended.

4.0 - SUBMITTAL INFORMATION

4.1 SUBMITTAL TERMS AND CONDITIONS

- A. **Basic Submittal Instructions:** Each proposal received by the City in response to this RFP becomes the property of the City and:
1. Shall be signed by an individual authorized to bind the contractor to its provisions.
 2. Proposals shall not be considered fully received for the purpose of Freedom of Information Act requests until the City has determined that no additional clarifications or revisions of offers shall be accepted.
 3. Is an irrevocable offer and may not be withdrawn within 90 days after the deadline for submission. Requests for clarifications or revisions automatically establish a new 90-day period.
- B. **Proposal Costs:** The City is not liable for any costs incurred by contractors in the development of their proposals.
- C. **Exceptions To Contract Terms And Specifications:** Offeror shall clearly identify and reference by paragraphs any proposed deviations from the Contract Terms or Scope in the RFP. Exceptions shall include, the Offeror's proposed substitute language. If no exceptions are noted in the Offeror's proposal, the City will assume complete conformance with this specification and the successful Offeror will be required to perform accordingly. Proposals submitted not meeting all requirements may be rejected.

4.2 SUBMITTAL REQUIREMENTS

Submit online your proposal **IN THIS ORDER** in **ONE PDF (please do not upload multiple files):**

A table of contents and page numbers would be appreciated and very helpful

1. Your proposal, organized as requested in section 4.3 on the next page. A table of contents and page numbers would be extremely helpful.
2. **SIGNED** and completed offer section on the Offer and Acceptance Form
3. Completed DBE forms contained in Attachment A

Instructions for online submittal: **DO NOT EMAIL PROPOSALS**

- <http://battlecreekmi.gov/228/Purchasing>
- Follow the link to the VendorRegistry page or email purchasing@battlecreekmi.gov for links.
- Register as a vendor if you have not already
- Navigate to this RFP (name and number on the front page)
- Click on "Submit bid" and follow the instructions
- You may rescind your proposal in the system at any time before the due date/time
- Secure: City staff can see who has submitted, but the system will not allow City staff to see submittal content until after the deadline has passed.
- If you have questions about the process in VendorRegistry, please use their "help" function. They are extremely helpful. City staff can't see what the vendor sees, so we are unable to help.

4.3 EVALUATION CRITERIA:

All proposals received will be evaluated by the City of Battle Creek for selection purposes. The following main categories, listed in relative order of importance, will be considered in selection. The response to this RFP shall focus on these criteria, and shall be submitted in the same order as requested and must contain, at a minimum, all of the items listed below:

4.3.1 OPERATIONS, QUALITY ASSURANCE, AND COMMUNICATIONS

1. Provide a list of equipment and chemicals you propose to use on this project if awarded.
2. Describe your company's process for responding to and addressing an issue that we bring to your attention. Be sure to include who and how would your company respond and follow up to ensure the issue is resolved? The City's preference is to email or text to a supervisor in order to document the issue. We do not want to rely on verbal communication in this case or a hand written notes.
3. For each building provide an estimated number of employees and monthly labor hours to clean each facility.
4. Describe plan to cover employee vacations, illness, etc. so that there is no loss in service to the City.
5. Describe how the employees are supervised and quality control is maintained. Is there a supervisor regular visit? Clock in and out of employee's procedure? Etc. Be specific.
6. Do not submit a separate work plan. A scope of work has been provided herein. You may submit a suggested change to the scope of work along with explanation if you feel it is needed following best practices, or your experience.

4.3.2 FIRM QUALIFICATIONS

1. Provide a company overview. Include for example company details on: Employee training, management philosophy and practices, safety, methodology (for example do you use cleaning check lists or other?), sustainability, equipment, technology etc.
2. Describe the qualifications of your firm. Describe your experience and strengths providing janitorial services.
3. List three references that we may contact. Include name and email.

4.3.3 PRICE

1. Submit (on your company form) detailed **monthly pricing** for janitorial services **for the first year term ONLY, which is not on the calendar year.** Provide as much price breakdown as possible. For example breakdown price by room or task.

5.0 - SCOPE OF WORK

5.1 SCOPE

Before submitting a proposal, firms shall carefully examine the scope of work and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal all items requested.

5.2 DESCRIPTION OF WORK TO BE PERFORMED

Department of Public Works Administration Office (DPW): The building is 20,079 square feet. There is one floor. The floor consists mainly of general office space and hallways. The front entrance and lobby are terrazzo covered with a protective finish. There is 11,448 square feet of carpeting in addition to carpet runners to be vacuumed. There are six (7) bathrooms and two (2) locker rooms.

1,375 square feet of vinyl laminate
11,488 square feet of carpeting
4,525 square feet of vinyl tile
1,831 square feet of ceramic tile
860 square feet of terrazzo tile

CLEANING SCHEDULE:

<u>Location</u>	<u>Cleaning Days per Week</u>	<u>Hours</u>
DPW:	5 days per week, Monday through Friday	after 4:30pm

- A. Contractor hours will be set upon mutual agreement between both parties.
- B. Holidays: The City is closed approximately twelve (12) holidays; no service is required for those days. For exact holiday schedule please refer to the City of Battle Creek web site.
www.battlecreekmi.gov.

Definitions:

Dusting: A properly dusted surface is free of all dirt and dust, streaks, lint, and cobwebs. Dusting will be accomplished with properly treated cloths.

Plumbing Fixtures Cleaning: Plumbing fixtures are clean when free of all deposits so that the item is left without dust, debris, streaks, film, odor, stains or mineral deposits.

Mopping Hard Surface Floors and Stairs: A satisfactorily damp mopped floor is without dirt, dust, marks, film, streaks, debris, or standing water. Contractor shall use clean water for mopping.

Metal Cleaning: All cleaned metal surfaces are without deposits, or tarnish and with a uniformly bright appearance. The cleaner used is to be completely removed from the metal surfaces being cleaned, as well as adjacent surfaces.

Glass Cleaning: Glass is clean when all glass surfaces are without streaks, finger prints, film, deposits, and stains, and have a uniformly bright appearance and adjacent surfaces have been wiped clean.

Light-duty Cleaning: Basic maintenance to keep an area clean and a sanitary environment.

Heavy-duty Cleaning: Comprehensive maintenance that occurs to keep an area clean and a sanitary environment.

The City Provides:

1. Water and electrical use. The Department of Public Works Building does not have a water softener system; therefore, the plumbing fixtures, toilets, sinks, and basins in the building may have hard water stains water stains and mineral deposits form on them. The selected Contractor is responsible to remove water stains and mineral deposits with the appropriate method, materials and chemicals.
2. Toilet paper, paper towels, liquid hand soap, feminine products, liquid enzyme and waste basket liners.
3. Janitorial closet for equipment and chemicals storage.

The Contractor Provides:

1. Contractor to provide all labor, cleaning materials, cleaning chemicals, and cleaning equipment to perform janitorial services.
2. Contractor shall use the appropriate chemicals on each surface. Any damage that occurs due to the wrong chemical being used may result in a cancelation of contract and reimbursement charges sought by the City.
3. Contractor to notify City Facility Manager of any observed irregularities, such as defective plumbing, unlocked doors, lights left on, windows open, alarms, etc.
 - **Do not touch, wipe down, dust or clean any electronic equipment like monitors, computer screens, televisions, white boards or microphones.**
 - **Do not clean or move any items on employees' desks.**

GENERAL SPECIFICATIONS FOR WORK INCLUDED: The successful Contractor shall be required to provide all labor, materials and supplies (as described above) to perform janitorial services for The Department of Public Works Administration Office.

Department of Public Works Administration Office (DPW):

Offices, Meeting Room and Front Lobby:

EACH VISIT (5 x per Week):

- a. Vacuum all carpet runners.
 - a. Light-duty Cleaning: Clean carpet and flooring, as needed. More thorough cleaning required in the winter months.
 - b. Empty all trash containers daily, replacing with fresh bags supplied by the City.
 - c. Empty recycle containers.
- **Do not touch, wipe down, dust or clean any electronic equipment like monitors, computer screens, televisions, white boards or microphones.**
 - **Do not clean or move any items on employees' desks or work surface areas.**
 - **Do not clean sinks in South side office suites (formerly a medical office suite)**

1 x WEEKLY:

- a. Heavy-duty cleaning: Vacuuming of all carpeted areas in offices, including under each desk and tables. Spot cleaning, as needed.
- b. Heavy-duty Cleaning: Sweep and mop floors, using the appropriate chemical cleaner supplied by the Contractor, ensuring all areas, including corners, are clean. Spot cleaning, as needed.
- c. Dust window ledges, picture frames, air vents, and remove cobwebs.

Hallways:

EACH VISIT (5 x per Week):

- a. Vacuum carpet runners.
- b. Light-duty Cleaning: Clean carpet and flooring, as needed. More thorough cleaning required in the winter months.

1 x WEEKLY:

- a. Heavy Duty Cleaning: Sweep and mop floors, using the appropriate chemical cleaner supplied by the Contractor, ensuring all areas, including corners, are clean. Spot cleaning, as needed.
- b. Clean stainless steel water fountains and stainless surfaces with appropriate chemical cleaner supplied by the Contractor.
- c. Wipe down and sanitize touched surfaces like door push plates, handles and light switches etc. with appropriate chemical cleaner supplied by the Contractor.
- d. Dust window ledges, picture frames, air vents, and remove cobwebs.

Entrances:

EACH VISIT (5 x per Week):

- a. Vacuum carpet runners.
- b. Light-duty Cleaning: Clean carpet and flooring, as needed. More thorough cleaning required in the winter months.
- c. Wipe down and sanitize touched surfaces like door push plates, handles and light switches etc. with appropriate chemical cleaner supplied by the Contractor.

1 x WEEKLY:

- a. Heavy-duty Cleaning: Sweep and mop floors, using the appropriate chemical cleaner supplied by the Contractor, ensuring all areas, including corners, are clean. Spot cleaning, as needed.

AS NEEDED:

- a. Clean entrance windows and glass doors inside and out (without the use of ladders) with appropriate chemical cleaner supplied by the Contractor.
- b. Dust window ledges, picture frames, baseboards, air vents, and remove cobwebs.

Men's and Women's Locker Rooms:

EACH VISIT (5 x per Week):

- a. Empty all bathroom trash containers, including small sanitary receptacles found in ladies' bathroom stalls, replacing with fresh bags.
- b. Replenish toilet tissue, paper towels, room deodorizers, and soap.
- c. Sweep and mop floors with anti-bacterial disinfectant, make sure entire floor is clean, including corners with appropriate chemical cleaner supplied by the Contractor.
- d. Vacuum all carpeted areas.
- e. Clean toilet(s) and urinal(s) inside and out with appropriate chemical cleaner. Remove water stains and mineral deposits with appropriate chemical cleaner supplied by the Contractor.
- f. Clean sink and handles. Remove water stains and mineral deposits with the appropriate with appropriate chemical cleaner chemical supplied by the Contractor.
- g. Clean stainless steel surfaces and fixtures with appropriate chemical cleaner supplied by the Contractor.
- h. Wipe down and sanitize touched surfaces like door push plates, handles and light switches with appropriate chemical cleaner supplied by the Contractor.

- i. Light Duty Cleaning: Sweep and clean showers drain screens, debris, and remove empty containers.

1 x WEEKLY:

- a. Heavy-duty Cleaning: Clean shower using appropriate chemical cleaner supplied by Contractor; scrubbing to remove soap residue, mineral deposits, and stain build up.
- b. Dust and wipe down surfaces that are not cleaned in EACH VISIT. For example: heat registers, and top of lockers.
- c. Clean mirrors with appropriate chemical cleaner supplied by the Contractor.
- d. Spot clean floors, walls, doors, and baseboards with appropriate chemical cleaner supplied by the Contractor.

Restrooms:

EACH VISIT (5 x per Week):

- a. Empty all bathroom trash containers, including small sanitary receptacles found in ladies' bathroom stalls, replacing with fresh bags supplied by the City.
- b. Replenish toilet tissue, paper towels, room deodorizers, and soap supplied by the City.
- c. Sweep and mop floors with anti-bacterial disinfectant, make sure entire floor is clean, including corners with appropriate chemical cleaner supplied by the Contractor.
- d. Clean toilet(s) and urinal(s) inside and out with appropriate cleaner. Remove water stains and mineral deposits with appropriate chemical cleaner supplied by the Contractor.
- e. Clean stainless steel surfaces and fixtures with appropriate cleaner supplied by Contractor.
- f. Clean sink and handles with the appropriate chemical cleaner chemical supplied by the Contractor.
- g. Wipe down and sanitize touched surfaces like door push plates, handles and light switches with appropriate chemical cleaner supplied by the Contractor.

1 x WEEKLY:

- a. Dust and wipe down surfaces that are not cleaned in EACH VISIT. For example: heat registers, top of paper dispenser etc.
- b. Clean mirrors with appropriate chemical cleaner supplied by the Contractor.
- c. Spot clean floors, walls, doors and baseboards with appropriate chemical cleaner supplied by the Contractor.

Break Rooms: (North and South Side of Building)

EACH VISIT (5 x per Week):

- a. Empty all trash containers, replacing with fresh bags supplied by the City.
- b. Empty recycle containers.
- c. Light-duty Cleaning: Clean carpet and flooring, as needed. More thorough cleaning required in the winter months.
- d. Vacuum carpet runners.
- e. Clean counter, table tops, and stainless steel sink with the appropriate chemical cleaner provided by the Contractor.
- f. Wipe down and sanitize touched surfaces like door push plates, handles and light switches with appropriate chemical cleaner supplied by the Contractor.

1 x WEEKLY:

- a. Dust and wipe down surfaces that are not cleaned in EACH VISIT. For example: Window sills, top of microwave etc.
- b. Heavy-duty Cleaning: Sweep and mop floors, using the appropriate chemical cleaner supplied by the Contractor, ensuring all areas, including corners, are clean. Spot cleaning, as needed.

Janitorial Closet:

1 x MONTHLY:

- a. Clean sink basin using appropriate chemical cleaner supplied by Contractor.
- b. Sweep and mop floors, using the appropriate chemical cleaner supplied by the Contractor, ensuring all areas, including corners, are clean.
- c. Wipe down shelves using appropriate chemical cleaner supplied by Contractor.

AS NEEDED CLEANING:

Large Meeting Room (Multi Purpose Room on North Side)

- a. Dust and wipe down surfaces, table tops, picture frames, ledges, and window sills.
 - b. Vacuum all carpeted areas. More thorough cleaning required in the winter months. Spot clean floors.
 - c. Empty all trash containers daily replacing with fresh bags supplied by the City.
 - d. Empty recycle containers.
- **Do not touch, wipe down, dust or clean any electronic equipment like monitors, computer screens, televisions, white boards or microphones.**

6.0 SUBMITTAL CHECKLIST:

Scan all these documents and submit as ONE pdf upload. Do not upload multiple documents/forms.
If you don't have access to a document scanner, Staples can create a pdf for you if you take your documents there.

BID BOND NOT REQUIRED

- ✓ **OPERATIONS, QUALITY ASSURANCE, AND COMMUNICATIONS** (see 4.3 EVALUATION CRITERIA: pg. #10)
- ✓ **FIRM QUALIFICATIONS** (see 4.3 EVALUATION CRITERIA: pg. #10)
- ✓ **PRICE** (see 4.3 EVALUATION CRITERIA: pg. #10)
- ✓ **7.0 - OFFER AND ACCEPTANCE FORM** (next page)
- ✓ **ATTACHMENT A - DISADVANTAGED BUSINESS (DBE) FORMS**

UPLOAD AS ONE (1) PDF!

7.0 - OFFER AND ACCEPTANCE FORM

TO THE CITY OF BATTLE CREEK: We propose to furnish all labor, materials, equipment, tools, transportation and services required to complete the work in accordance with the specifications and conditions contained herein in consideration of the sum or sums stated below and agree that this document will constitute the contract if accepted by the City.

We hereby offer and agree to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposal and any written exceptions in the offer. We understand that the items in this Request for Proposal, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract. Warranty: Contractor shall remove and replace at no additional cost to the City any defects in workmanship or materials that may be apparent or may develop within a period of one (1) year from the date of final acceptance.

We agree to complete the contract within the times specified in this Request for Proposal.

We acknowledge receipt of the following addendum(s): _____, _____, _____, _____.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder, and that our firm is not debarred from doing business under the Federal Excluded Parties List System (epls.gov).

I, the Contractor or Contractor's legally authorized signer, further certify compliance with the City of Battle Creek Ordinance Chapter 214, Discrimination Prohibited. I further acknowledge and agree that the Contractor's violation of Chapter 214 shall be a material breach of this contract. In addition, Contractor acknowledges and agrees that it shall be liable for any costs or expenses incurred by the City in obtaining from other sources, the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract as a result of a material breach in the Contract for violations of Chapter 214.

Company Name

For clarification of this offer, contact:

Address

Name: _____

City State Zip

Phone: _____

Signature of Person Authorized to Sign

Fax: _____

Printed Name

Email: _____

Title.62 12.05

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

Contract Term: _____

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Request for Proposal, including all terms, conditions, specification, amendments, etc. and the Contractor's Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No. 2024-047R. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order and/or a notice to proceed from the City of Battle Creek Purchasing Agent.

COUNTERSIGNED:

APPROVED AS TO FORM BY:

City Manager

Date

City Attorney

Witness Signature

Date

ATTACHMENT A - DISADVANTAGED BUSINESS (DBE) FORMS

I. YOUR FIRM’S BACKGROUND:

Is your firm an MBE (at least 51% minority ownership)? ___YES___ ___NO___

Is your firm a WBE (at least 51% woman ownership)? ___YES___ ___NO___

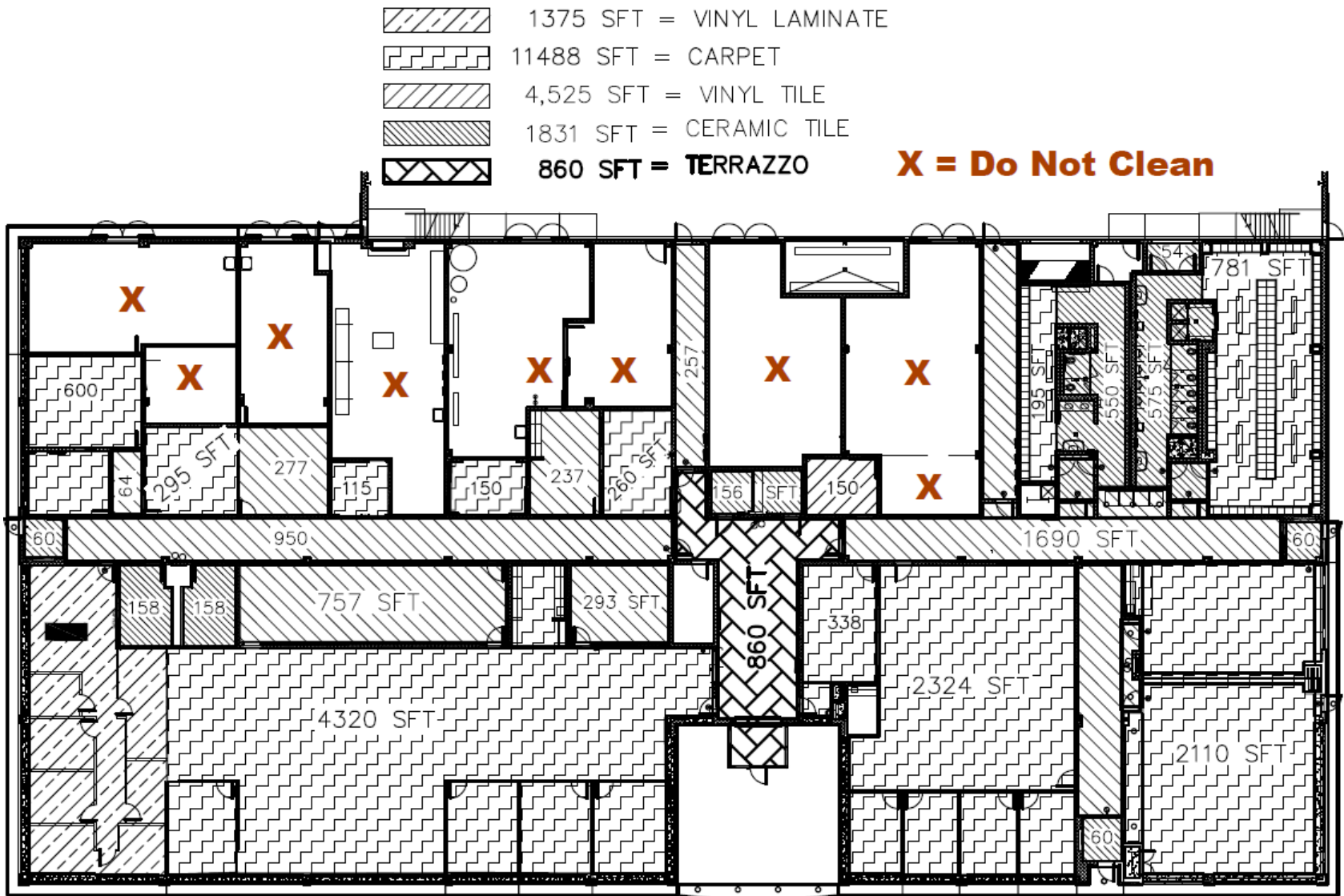
Are you subcontracting any part of this project? ___YES___ ___NO___

II. SUBCONTRACTING INFORMATION: If subcontracting any part of the project, the bidder/contractor expressly agrees that:

- (1) If awarded a contract as a result of this bid, the major subcontractors used in the prosecution of the work will be those listed below, and
- (2) The following list includes all subcontractors who will perform work representing approximately five percent (5%) or more of the Total Base Bid.
- (3) The Bidder represents that the subcontractors listed below are financially responsible and are qualified to do the work required.

SUBCONTRACTOR NAME	City/State	Trade or Commodity	MBE	WBE	Approximate dollar value
_____	_____	_____	Y / N	Y / N	\$ _____
_____	_____	_____	Y / N	Y / N	\$ _____
_____	_____	_____	Y / N	Y / N	\$ _____
_____	_____	_____	Y / N	Y / N	\$ _____
_____	_____	_____	Y / N	Y / N	\$ _____
_____	_____	_____	Y / N	Y / N	\$ _____
_____	_____	_____	Y / N	Y / N	\$ _____

ATTACHMENT B – BUILDING DRAWING
Department of Public Works





PRICE

Customer: City of Battle Creek

Department of Public Works

Customer Address: 150 S Kendall St, Battle Creek, MI 49037

General

Blu Facility agrees to provide all labor, supervision, material, and equipment necessary to assure performance of specified cleaning services for the customer. This shall include all services described in the written specifications attached.

1.) 5 Days general cleaning

1 Employee

17 hours per week

Monthly
Annually

\$ 1,986.90

\$ 23,842.80

Invoicing

All invoices will be itemized according to monthly work completed and any special services performed. Invoices will be prepared on the first of the month. Payment policy is net 60 days.

Supervision

Supervisor or lead personnel will be available for all shifts. In addition, regional operations supervisors will be available 24 hours per day via cell phone. Furthermore, a minimum of one quality audit every 4-5 weeks will be conducted on site to confirm full performance.

Supplies

Customer elects to furnish all consumable products inclusive of (but not limited to): toilet tissue, paper towels, hand soap, Trash liners, and sanitary napkins. Blu Facility can provide these items and invoice separately on request.

Blu Facility will furnish all other required: cleaning agents, disinfectants, glass cleaner, floor cleaner, etc.

Equipment

Blu Facility will furnish and maintain all necessary equipment inclusive of (but not limited to): mops, buckets, carts, buffers, dusters, vacuums, window cleaning equipment, wringers, etc. The customer agrees to provide a secure space for this equipment, as may be necessary.

Blu Facility and its personnel will comply with all current OSHA regulations and proven procedures (as well as any specified customer requirements or guidelines) pertaining to all work performed at the customer's location.

Insurance

Blu Facility will furnish all forms of insurance required by law and as directed by the customer in its service request and shall maintain the same in force. (Evidence provided upon acceptance)

Employee Status

All personnel supplied by Blu Facility are deemed employees of Blu Facility and will not, for any purposes, be construed as employees of the customer. Customers who wish to direct hire associates can do so with a \$1,000 fee that would need to be paid prior to the onboarding of employee.

Equal Opportunity Employer

Blu Facility is an equal opportunity employer. All necessary employment forms will be maintained by our office as required by law.

Our Philosophy

Blu Facility is committed to providing unrivaled quality in commercial cleaning which always exceeds our client's expectations while still maintaining the responsiveness necessary to meet the client's rapidly changing needs.

Term

Either party may terminate the contract with 45 days advanced notice at any time. Notice may be provided via registered mail or electronic communication. Any breach of security, theft, mistreatment of customer personnel, or blatant misuse of customer property shall constitute adequate grounds to terminate the contract without 45 days advanced notice. Any keys or access cards must be immediately returned upon termination of service.

Warranty / Guarantee

Should any service performed by Blu Facility not meet customer specifications, Blu Facility will correct and complete those services at no additional charge to the customer.

Scope of Work

Services will be performed in complete compliance with the scope of work listed within this proposal. Furthermore, prior to the date of first service, a complete scope will be created with the assistance of customer. This scope will always be used by Blu Facility personnel. An additional copy of scope will always be kept on-site for reference. Scope may be amended at the request of the customer whenever change is necessary and agreed upon by both parties to the contract. At no time shall this checklist mitigate the requirements set forth by the accepted proposal and subsequent contract for work.

Approval

AGREEMENT IS HEREBY MADE between Blu perspective (Blu) (a service provider independently contracted for) and the Customer according to the terms, conditions and provisions set forth on this FGM-001 (and any attachments) and the blu Terms and Conditions, FGM-003, to the exclusion of any other or conflicting terms and conditions in any other document. Terms in FGM -001 and attachments shall have priority over any conflicting terms in FGM-003. Customer's acceptance of any service or product under this agreement accepts these terms and waives any additional, conflicting, or different terms proposed by Customer.

Perla Toliver

(Date)

(Date)

Blu Facility - Regional Manager

Operations, Quality Assurance, and Communication

1.-Regional manager (Perla Toliver) will be responsible to communicate concerns to the area supervisors (Jasmine and Carlos) and ensure they are resolved within 24-48 hrs. regional manager and supervisors are available 24/7 via text or email. Also, by phone, which will then be followed up with an email to keep all communication documented.

2.- There will be 1 employee for the Department of Public Works 65 hrs per month, 15 hours a week.

3.- The plan to cover employee vacations, illness etc so there is no loss in service to the city is that all employees are cross trained and are familiar with all facilities to assist in case we need cover, supervisors and floater are also available to cover.

4.- Out clock in system allow us to see the employee's location when they are clocking in and out, employee is to check in with their supervisor at the beginning of their shift and the end of the shift, supervisors are to make a biweekly visit and third-party auditor will audit account once a month. The audit will then be emailed to the point of contact, audits will include pictures and plan of action in case there are any issues that need correction.

References

Kent county – Andrew Ahearn

Phone: 616-265-2305 **Email:** Andrew.ahearne@kentcountymi.gov

Ascension Borgess/Medxcel Facilities – Bill Whimple

Phone: 269-366-6463 **Email:** Bill.whimple@medxcel.com

BDO – Melissa Carlson

Phone: 269-352-8235 **Email:** mcarlson@bdo.com

PROJECT STAFFING:

General Manager:	The General Manager will handle all contractual amendments, negotiations, and concerns. The General Manager will also oversee the delivery of third-party audits and inspections. Supervisors will serve as the direct contact for any issues requiring immediate correction or general cleaning questions and can be contacted via email and/or cellular phone.
Regional Manager:	On-site for first week and regularly audit building throughout contract, attend regular meetings with facility personnel and staff to ensure continuous satisfaction and execution.
Night Supervisor:	Trains and monitors staff on site, attends regular meetings with county facility personnel and staff to ensure continuous satisfaction and execution, assists with completion of assigned tasks and addresses any problem areas discovered or directly conveyed. The project supervisor will also fill in when needed to ensure daily completion of all tasks.
Floor Care Tech:	On site during allowed hours to clean any carpet spot removal and window cleaning or scrubbing of floors.
General Staff (#TBD):	On site nightly during allowed hours, complete all wiping, vacuuming, detailed cleaning, and restroom care. This will include "float" personnel responsible for filling in for absences, PTO and special work.
Third Party Auditor:	Auditor will audit the cleaner's performance and will submit audit with pictures and brief description of any issues found during audit. Audits will occur once a month subject to change base on the needs of the account.

General Manger

Perla Toliver

(269)3488-578

Ptoliver@bluperspective.com

Regional Manager

Martha Serrano

(616)710-9268

Mserrano@bluperspective.com

Team Leaders & Floor Care Team

Supervisor

Jasmine Reynolds

269- 366-6342

jreynolds@bluperspective.com

Floor Care Specialist

Supervisor

General Staff (cleaner)

TBD

Work Plan

First, the project will be assigned a direct supervisor with well over 10 years of commercial cleaning and supervisory experience. Prior to the first clean-up, the supervisor and Regional Manager will create (with the assistance of facility management) a cleaning checklist to be used nightly and left on-site for reference by facility and cleaning staff. This supervisor will conduct weekly walk-throughs of the building to review quality of work completed and identify any areas which may need additional attention. Many times, an initial bid or proposal fails to identify an area which may be served better with an alternative method. If identified, the supervisor will contact the appropriate personnel to discuss Kent County opinions and choice of direction.

Second, the regional manager will personally inspect the building on a regular basis as well as seeking input and feedback from the appropriate county and facility personnel. The goal is to not only identify any concerns or questions, but also to ensure lines of communication remain open and direct. The facility's cleanliness should invoke the same pride in its residents, visitors, and managers as they felt when it first opened. The goal of these visits is to gauge our effectiveness in delivering that sense of pride and how else we can improve in that capacity.

Thirdly, a nightly electronic checklist will be submitted via email to all designated county, facility, and Blu Cleaning personnel. This checklist will reflect the scope of work and agreed upon items at the onset of the project. This electronic checklist will verify completion and identify issues to be addressed. The checklist allows for photo capture of items or issues so that clear explanation and illustration is possible while creating a clear channel for resolution and discussion between the customer and Blu Cleaning

Finally, a communication log will be left on-site. This log allows for direct communication between the cleaning staff and the facility director/manager for items requiring immediate action, attention and/or resolution. These logs will also be reviewed with every audit or inspection to ensure they are used appropriately.

Each of these tools serves to augment the normal lines of communication. In addition to the constant and open lines of communication with the staff assigned to the building, Blu Cleaning provides 24-hour access to supervisors and management to provide emergency coverage for any unexpected issues or circumstances via phone call or text message. (Any complains will need to be resolved within 24- 48 hrs hrs.)

All personnel is required to clock in and out utilizing the Blu perspective app that allows management to monitor the employees location.

All cleaning staff, including backup personnel, are required to receive at least 8 hours of training per year. The responsible party will record the training attended by each staff member. Blu cleaning will set up a training with all staff for proper training on proper toxic chemical usage and spill management, hazards of toxic chemicals, cleaning to protect vulnerable occupants, cleaning equipment maintenance, and conservation of energy and water usage during cleaning. Staff will be provided with ready-to-use Diversey Products that alleviates employees to mix or dilute chemicals.

Firm Qualifications

Blu Cleaning Offers Commercial Janitorial Support Services and started in 2000. Although Busy Bea's was originally a residential cleaning company, the residential services were sold mid-2004 and Busy Bea's transitioned solely to serving commercial customers. The types of customers we service include municipal, medical, manufacturing, distribution, banks, non-profits, and retail. We continue to thrive with a list of hundreds of past and present customers through the dedication and excellence of our equally impressive workforce. Aside from basic janitorial services, Blu offers specialty cleaning services such as window cleaning, floor cleaning, upholstery cleaning, and carpet cleaning. All employees will undergo and complete a training program where they will learn and master the highest cleaning standards for every situation. Blu also runs a staffing team that will be in charge of doing background checks for every employee.

As a division of Blu Perspective, Inc, we are uniquely positioned to respond to our customers' needs due to our affiliation with Blu Perspective's other entities which include staffing, sorting, storage, quality control and containment.

Blu Cleaning already possesses the personnel and equipment (including machinery to be left on premises) necessary to launch the project successfully. At the onset, the regional manager will personally oversee the launch, training, and execution alongside the on-site supervisor to ensure immediate success and orientation.

Blu Cleaning will implement a third-party quality assurance and control plan unparalleled in the industry. The Plan consists of a multi-faceted audit and inspection regimen combined with unrivaled communication and access to all levels of the organization to always ensure 100% customer satisfaction.



Resolution

NO. 401

A Resolution seeking acceptance of the proposal of best value from Shouldice Industrial Manufacturers and Contractors, Inc., for two contracted journeyman electricians to fill staffing gaps at the Wastewater Treatment Plant and Verona Pumping Station for six months, at a base rate of \$99.41 per hour.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That the proposal of best value for two journeyman electricians to fill staffing gaps is accepted from Shouldice Industrial Manufacturers and Contractors, Inc., for a period of six months at a base rate of \$99.41 per hour. The City Manager is authorized to execute Contract No. 2024-062R, and any necessary renewals which will be paid from 590.24.5640.801.010 - Prof & Oth Svcs Professional Services.

Battle Creek City Commission
4/2/2024

Action Summary

Staff Member: Christine Huff, Purchasing Agent

Department: Purchasing

SUMMARY

A Resolution seeking acceptance of the proposal of best value from Shouldice Industrial Manufacturers and Contractors, Inc., for two contracted journeyman electricians to fill staffing gaps at the Wastewater Treatment Plant and Verona Pumping Station for six months, at a base rate of \$99.41 per hour.

BUDGETARY CONSIDERATIONS

HISTORY, BACKGROUND and DISCUSSION

The City issued an RFP for the purpose of temporarily contracting for 2 full time, 40 hours per week journeyman industrial electricians to be temporarily staffed mostly at our Wastewater Treatment Plant but also at Verona for six months. The contract has available renewals to give flexibility to the WWTP; however, it's very unlikely that the contract will exceed six months, as they must hire permanent staff.

The attached memo from Rodney Clifton, Wastewater Treatment Plant Superintendent, explains in more detail the need for this temporary contract.

The contract has a termination for convenience clause that will allow WWTP to cancel the contract earlier than 6 months if they are able to hire staff.

The RFP was issued on March 4, 2024. Copies of the RFP were provided to over thirty companies, as a combination of those registered in our vendor database as providing this service or product, and Internet search. Planhouses were also notified who broadcast such bids around the state. In addition, an advertisement was placed in the Battle Creek Shopper and on the City's bid management site, VendorRegistry.

Proposals were due on March 18, 2024, and we received one from Shouldice Manufacturers and Contractors Inc., for the hourly rate of \$99.41 per hour, with provisions for overtime and on call incentives. The contract requires that Shouldice pay the electrician at or exceeding the current prevailing wage rate and fringes for that job classification. Those rates are \$35.97 per hour plus \$24.49 fringes. There is no bonding on this because this isn't a single project, but rather very small jobs throughout the day, as determined by need and directed by WWTP staff. The contractor will have general liability insurance, and the contracted electricians are covered under Shouldice's workers' compensation insurance.

Shouldice has done much work for the City, especially in recent years, and is well qualified to provide these services for this staffing gap.

DISCUSSION OF THE ISSUE

POSITIONS

ATTACHMENTS:

File Name	Description
❏ Rodney_Clifton_Memo.pdf	Clifton memo
❏ 2024-062R_Journeyman_Electrician_WWTP_and_Verona.docx	Original RFP
❏ Shouldice.pdf	Shouldice proposal
❏ Draft_Contract.pdf	Draft contract

Contract Electricians at Wastewater

Rodney W. Clifton <RWClifton@battlecreekmi.gov>

Tue 3/26/2024 4:00 PM

To: Chris L. Huff <CLHuff@battlecreekmi.gov>

Chris,

Travis Rose has bid out of his position as the last City of Battle Creek employee titled Wastewater Industrial Electrician. Wastewater is funded for 3 Journeyman Electricians, 2 Apprentice Electricians and a Process and Controls Supervisor. These employees in the electrical group for the Wastewater Treatment Plant are responsible for performing the work necessary to keep the Wastewater Treatment Plant, 126 lift stations throughout the collection system, and the Verona Pumping Station working. With the departure of Travis there is no longer a qualified electrician to perform the work necessary to maintain the electrical integrity of the equipment vital to the operation of these facilities.

We hope in the very near future we will be able to attract Industrial Electricians to work full time at the Wastewater Treatment Plant as employees of the City of Battle Creek. The Wastewater Division cannot operate without a qualified industrial electrician. We also have 2 Apprentice Electricians that are employees of the City of Battle Creek we will lose if we do not have a 1 to 1 ratio of Journeyman Electricians to Apprentice Electricians.

The Wastewater Division is asking to temporarily contract employ 2 Industrial Electricians to maintain the electrical integrity of the equipment used to provide clean drinking water, convey sanitary sewage through the collection system, and treat the wastewater that flows into the wastewater treatment plant for the City of Battle Creek and the surrounding jurisdictions. I do not feel the level of service of the aforementioned facilities will be maintained without qualified personnel to perform the necessary work on the electrical equipment. At such a time when we are able to fill the vacant City of Battle Creek positions at the Wastewater Division with qualified Industrial Electricians we will no longer need to contract employ the Journeyman Electricians.

Respectfully,

Rodney Clifton

Wastewater Superintendent
City of Battle Creek
Waste Water

2000 River Road W
Battle Creek, Michigan 49037
Ph- 269.966.3513 x1923
Fx- 269.965.3290
rwclifton@battlecreekmi.gov
<http://www.battlecreekmi.gov>



Mission for Battle Creek City Government

To ensure a safe, prosperous and culturally enriched community.

Vision for Battle Creek City Government

We envision Battle Creek as an extraordinary community where people choose to live, work and play.



CITY OF BATTLE CREEK
NOTICE OF REQUEST FOR PROPOSALS

RFP#: 2024-062R

TITLE: 2 Journeyman Industrial Electricians at Verona and WWTP

ISSUE DATE: March 4, 2024

PROPOSAL DUE DATE: March 18, 2024, at 4:00 PM Local Time

LOCATION: **Proposals must be submitted online. See page 9 for instructions.**
DO NOT EMAIL PROPOSALS.

Purchasing Contact: **Christine Huff**
E-mail: clhuff@battlecreekmi.gov questions only: do not email proposals

DESCRIPTION: Because of staffing gaps, the City is soliciting proposals for the purpose of contracting for 2 full time, 40 hours per week and rotating on call, journeyman industrial electricians to be staffed at our Wastewater Treatment Plant for an indefinite period of time, with a minimum of two months with possibility of going longer. The City and the contractor may, upon mutual agreement, add electricians for other City plants for the contracted hourly rates for any mutually agreed upon terms. Individual Positions/Placements may be terminated with 30 days' written notice. The City intends to award to one company, but reserves the right to make awards to 2 or more companies based on this RFP.

PROPOSAL SUBMITTAL:

Proposals must be submitted through our secure online bid management system by registered vendors by the date and time listed above.

Please upload **ONE pdf file** that includes all requested submittals, rather than several parts of the bid uploaded.

Please visit <http://battlecreekmi.gov/230/Bid-Proposal-Solicitations> and click on Bid & Proposal Solicitations. This will redirect you to our secure VendorRegistry website where you can register as a vendor (required) and obtain this full document and upload your bid.

Email the purchasing contact listed above if the above link doesn't work.

PROPOSERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE REQUEST FOR PROPOSALS.

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1.0 GENERAL INFORMATION

1.1 **ISSUING OFFICE:** This RFP is issued for the City of Battle Creek, Michigan (hereinafter referred to as the "City") through the Purchasing Office, which shall be referred to as the "Issuing Office."

1.2 **GENERAL SUBMITTAL INFORMATION:** (See Section 4.0 for detailed information)

- A. Proposals must be submitted in complete original form as **one pdf** submitted through our secure online bid management system by registered vendors: please visit <http://battlecreekmi.gov/230/Bid-Proposal-Solicitations> and click on Bid & Proposal Solicitations OR email purchasing@battlecreekmi.gov for links.
- B. Proposals will be accepted via the method listed until the time and date specified herein. There will be no public reading because this is an RFP, wherein price is only one factor in selection and subject to negotiation. All proposals will be available after contract award, under the FOIA.
- C. Late proposals will not be accepted, and the online system will automatically shut off at exactly the specified time.
- D. All proposals submitted in response to this solicitation shall become the property of the City and be a matter of public record available for review. **Vendors are advised that their proposals are subject to FOIA, and are not confidential and should not be marked as such.** However, proposals shall not be considered fully received for the purpose of Freedom of Information Act requests until the City has determined that no additional clarifications or revisions of offers shall be accepted.
- E. The proposal shall be legally signed on the OFFER TO CONTRACT page and the complete address of the proposer given thereon.
- F. The City is exempt from Federal Excise and State Sales Taxes, and such taxes shall not be included in proposal prices

1.3 **TENTATIVE SCHEDULE:** The City may deviate from this schedule. The City will not discuss the status of any proposal or the selection process. All proposers will be notified in writing of the City's decision. **Please do not contact City staff for status updates.** Interviews, if necessary, will be scheduled at mutually agreed upon times.

Proposal Reviews:	week of March 25, 2024
Interviews, if applicable:	weeks of April 8 th and April 15 th
Final Decision:	Mid May

1.4 **AWARD OF CONTRACT:** This project will be awarded to a single contractor who submits the proposal deemed to be in the best interest of the City, unless otherwise noted in this document. Notwithstanding any other provision of the Request for Proposal, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all proposals, or portions thereof; or (3) reissue the Request for Proposal.

A response to any Request for Proposal is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's Request for Proposal. Proposals do not become contracts unless and until the City executes them. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a contract amendment, a Best and Final Offer, or by mutually agreed terms and conditions.

1.5 **SPECIAL INFORMATION**

- A. Addenda to the RFP: In the event it becomes necessary to revise any part of the RFP, addenda will be provided to all contractors who are recorded as having received the RFP. It shall be the proposer's responsibility to make inquiry as to changes or addenda issued. All such changes or addenda shall become part of the contract and all bidders shall be bound by such addenda.
- B. News Releases: News releases pertaining to this RFP or the services, study or project to which it relates will not be made without prior approval, and then only in coordination with the Issuing Office.

1.6 **INDEPENDENT PRICE DETERMINATION**

By submission of a proposal, the offeror certifies that in connection with this proposal:

- A. The fees in the proposal have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such fees with any other offeror or with any competitor; and,

- B. Unless otherwise required by law, the fees that have been quoted in the proposal have not been knowingly disclosed by the offeror directly or indirectly to any other offeror or city staff member or to any competitor; and,
- C. No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.7 **CURRENCY:** Prices calculated by the bidder shall be stated in U.S. dollars.

1.8 **DEFINITIONS:**

- A. The "City" – The City of Battle Creek
- B. "Contractor," "Vendor," "Firm," or "Proposer" - The firm submitting a proposal, ultimately responsible for any contract that results from this RFP.
- C. "RFP" – This Request for Proposals.

1.9 **INTERVIEWS:** The City may or may not shortlist the proposers based upon responses to the submittal requirements. If necessary, the City shall conduct interviews/demonstrations. However, the City may determine that shortlisting and/or interviews/demonstrations are not necessary.

1.10 **FIRM QUALIFICATIONS:** Experiences with the City and entities that evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience. The City reserves the right to make any such additional investigations as it deems necessary to establish the competency and financial stability of any firm submitting a proposal.

1.11 **DELIVERY:** Where applicable, proposals shall include all charges for delivery, packing, crating, containers, etc. Prices bid will be considered as being based on F.O.B. Delivered, freight included.

1.12 **VENUE:** Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement or the transactions it contemplates shall bring the legal action or proceeding:

(i) in the United States District Court for the Western District of Michigan; or

(ii) in any court of the State of Michigan sitting in Calhoun County, if there is no federal subject matter jurisdiction.

1.13 **GOVERNING LAW:** This agreement shall be enforced under the laws of the State of Michigan. Contractor must comply with all applicable federal, state, county, and City laws, ordinances, and regulations. Contractor shall ensure payment of all taxes, licenses, permits, and other expenses of any nature associated with the provision of services herein. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

1.14 **BID PROTEST PROCEDURE:** Protests about the bid procedure must be in writing. This written protest must be received by the City of Battle Creek, located at 10 N. Division, Suite 214, Battle Creek, MI 49014. This written protest must be received by the City no later than ten (10) working days after notification to all bidders of the contract award decision. The City of Battle Creek must issue its written decision no more than ten (10) business days from the day the written protest was received.

If a protester thinks that the City of Battle Creek has not followed these protest procedures, the protester has ten (10) business days from the alleged infraction to file a subsequent protest with the City of Battle Creek City Manager or federal granting agency if applicable.

1.15 **FEDERAL TERMS AND CONDITIONS**

If there are federal terms and conditions attached to this solicitation, they are hereby incorporated as a material part of this contract. In cases of conflict between terms in this agreement, the federal terms shall prevail.

2.0 - GENERAL TERMS AND CONDITIONS

- 2.1 MATERIALS AND WORKMANSHIP:** Unless otherwise specified, all materials and workmanship shall be new and of the best grade of their respective kinds for the purpose.
- 2.2 NON-DISCRIMINATION CLAUSE:** The bidder agrees not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to hire, tenure, terms, conditions or privileges, of employment, or any matter directly or indirectly related to employment, because of his or her actual or perceived race, color, religion, national origin, age, sex, height, weight, physical or mental disability, family status, sexual orientation, gender identity or marital status. Breach of this covenant may be regarded as material breach of the contract as provided for in Act 220 and Act 453 of the Public Acts of 1976, as amended, entitled "Michigan Handicapper's Civil Rights Act" and the Michigan Elliott Larson Civil Rights Act." The bidder further agrees to require similar provisions from any subcontractors, or suppliers. The contractor and any subcontractors shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 2.3 ASSIGNMENT OF CONTRACT:** The contractor shall assign no right or interest in this contract in whole or in part and no delegation of any duty of Contractor shall be made without prior written permission of the City.
- 2.4 INDEMNIFICATION:** The contractor shall protect, defend, and save the City, its officials, employees, departments and agents harmless from and against any claims, demands, suits, actions, or proceedings of any kind or nature, in any way resulting from negligent acts or omissions of the contractor or any of its agents, employees, boards, commissions, divisions, departments, or authorities in performing obligations under this agreement. Each party to this agreement agrees that any bond or insurance protection required by this agreement shall limit the terms of this indemnification provision. In case of any action brought against the City by reason of any such claim, suit, action or demand, upon prompt notice from the City, contractor covenants to defend such action or proceeding by counsel that is reasonably satisfactory to the City.
- 2.5 CONTRACT:** The contract shall contain the entire agreement between the City and the Contractor relating to this requirement and shall prevail over any previous contracts, proposals, negotiations, or master agreements in any form. By signing the Offer to Contract, it is agreed that the RFP in its entirety and all enclosed forms are fully incorporated herein as a material part of the contract. In case of conflicts, the most recent document will prevail.
- 2.6 PROVISIONS REQUIRED BY LAW:** Each provision required by law to be in the contract shall be enforced as though it were included herein, and if any such provision is not inserted, the contract shall be amended to make such insertion or correction.
- 2.7 RELATIONSHIP OF PARTIES:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose. Taxes or social security payments shall not be withheld from a City payment issued hereunder; Contractor should make arrangements to directly pay such expenses, if any.
- 2.8 RIGHTS AND REMEDIES:** No provision in this contract shall be construed as a waiver by either party of any existing or future right or remedy available by law in the event of any claim, default, or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.
- 2.9 ADVERTISING:** Contractor shall not advertise, issue a press release or otherwise publish information concerning this RFP or contract without prior written consent of the City. The City shall not unreasonably withhold permission.
- 2.10 APPLICABLE REGULATIONS/POLICIES:** The Revised Code of the State of Michigan, the Charter of the City of Battle Creek, all City Ordinances, Rules and Regulations and Policies shall apply. It shall be the responsibility of the Proposer to be familiar and comply with said regulations/policies.
- 2.11 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT:** Contractor shall give all notices and pay all royalties and fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof. Contractor shall comply with all laws, ordinances and codes applicable to any portion of the work. All services, information, computer program elements, reports, and other deliverables that are

created under this Agreement shall be the property of the City. The Contractor shall place no restrictions on the City with regard to the distribution of any of these materials; the City shall have full, unrestricted rights to make and distribute unlimited copies of any services, information, computer programs/elements, reports, or any other deliverable. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Invention Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

2.12 SUBCONTRACTORS: No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the City. All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.

3.0 - SPECIAL TERMS AND CONDITIONS

- 3.1 TERM AND RENEWAL:** The initial term of the contract shall remain in effect for a period of six (6) months, unless another term is required. The contractor agrees that the City shall have the right, upon mutual consent, to renew the contract for any mutually agreed upon term, not to exceed September 30, 2027. In the event that the City exercises such right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period.
- 3.2 PRICE ADJUSTMENT:** A price increase adjustment shall be considered only at the time of a contract renewal and shall be a factor in the renewal review process. The City shall determine whether the requested price increase or an alternate option is in the best interest of the City.
- 3.3 QUANTITIES:** Because this is an annual requirements contract, the City reserves the right to increase or decrease the estimated hours per electrician or individual placement as best fits its needs, and the City does not guarantee maximums or minimums. The City also reserves the right to spot-bid unusually large one-time quantities or to buy outside of this contract if extenuating circumstances exist.
- 3.4 KEY PERSONNEL:** It is essential that the contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.
- A. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
 - B. If key personnel are not available for work under this contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.
- 3.5 CANCELLATION:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any material obligation, term, or condition of the contract. The City shall issue written notice to the contractor for any of the following circumstances:
- A. The contractor fails to adequately perform the services set forth in the specifications of the contract:
 - B. The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.
- Upon receipt of the written notice of concern, the contractor shall have ten (10) calendar days to provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies.
1. Cancel any contract:
 2. Reserve all rights or claims to damage for breach of any covenant of the Contract:
 3. In case of default, the City reserves the right to complete the required work. The City may recover reasonable excess cost from the contractor by any remedies as provided by law.
- The City intends to maintain a budget to cover all expenses related to this contract; however, the City may cancel this contract if funds are no longer available. In such case, the City shall provide the Contractor with a 60-day written notice of cancellation. The City will pay for all *authorized* completed work or received goods.
- 3.6 TERMINATION FOR CONVENIENCE:** The City may terminate this contract at any time for any reason by giving at least 30 days' notice in writing to Contractor. If the contract is terminated by the City as provided herein, the Contractor will be paid a fair payment as negotiated with the City for the work completed as of the date of termination.
- 3.7 PAYMENT:** Payment shall be made monthly for work completed, within 30 days of the submittal of a correct invoice for work performed.

3.8 INSURANCE:

a. The Contractor shall at the time of execution of this contract, file with the City the Certificate of Insurance, which shall cover all insurance as required herein, including evidence of payment of premiums thereon, and the policy or policies or insurance covering said City and their officers, agents and employees. Each such policy and certificate shall be satisfactory to the City. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from their operations under this Contract.

b. The contractor shall maintain insurances in force at all times during the term of this agreement at the minimum amounts and types as indicated.

<u>Coverage Afforded</u>		<u>Limits of Liability</u>
Workers' Compensation:		\$ 100,000 or statutory limit
Commercial General Liability: (including XCU if appropriate)	Bodily Injury	\$1,000,000 each occurrence
	Property Damage or Combined Single Limit	\$1,000,000 each occurrence \$1,000,000
Automobile Liability:	Bodily Injury	\$ 300,000 each person
	Liability	\$ 500,000 each occurrence
	Property Damage or Combined Single Limit	\$ 500,000 \$ 500,000

The City of Battle Creek shall be listed as an additional insured on general liability coverage, and shall be provided with a Certificate of Insurance that reflects this additional insured status. A 30-day notice of cancellation or material change shall be provided to the City and so noted on the Certificate of Insurance. All certificates and notices shall be sent to City of Battle Creek, P.O. Box 1717, Battle Creek, Michigan 49016.

3.9 SAFETY RULES: Contractor shall perform all work under this contract in conformance with the State of Michigan general safety rules and regulations for the construction industry, as set out or authorized by the Michigan Occupational Safety and Health Act, Public Act 154 of 1974, as amended.

4.0 - SUBMITTAL INFORMATION

4.1 SUBMITTAL TERMS AND CONDITIONS

- A. **Basic Submittal Instructions:** Each proposal received by the City in response to this RFP becomes the property of the City and:
1. Shall be signed by an individual authorized to bind the contractor to its provisions.
 2. Proposals shall not be considered fully received for the purpose of Freedom of Information Act requests until the City has determined that no additional clarifications or revisions of offers shall be accepted.
 3. Is an irrevocable offer and may not be withdrawn within 90 days after the deadline for submission. Requests for clarifications or revisions automatically establish a new 90-day period.
- B. **Proposal Costs:** The City is not liable for any costs incurred by contractors in the development of their proposals.
- C. **Exceptions To Contract Terms And Specifications:** Offeror shall clearly identify and reference by paragraphs any proposed deviations from the Contract Terms or Scope in the RFP. Exceptions shall include, the Offeror's proposed substitute language. If no exceptions are noted in the Offeror's proposal, the City will assume complete conformance with this specification and the successful Offeror will be required to perform accordingly. Proposals submitted not meeting all requirements may be rejected.

4.2 SUBMITTAL REQUIREMENTS

Submit online your proposal **IN THIS ORDER** in **ONE PDF (please do not upload multiple files):**

A table of contents and page numbers would be appreciated and very helpful

1. Your proposal, organized as requested in section 4.3 on the next page. A table of contents and page numbers would be extremely helpful.
2. **SIGNED** and completed offer section on the Offer and Acceptance Form
3. Completed DBE forms contained in Attachment A

Instructions for online submittal: **DO NOT EMAIL PROPOSALS**

- <http://battlecreekmi.gov/228/Purchasing>
- Follow the link to the VendorRegistry page or email purchasing@battlecreekmi.gov for links.
- Register as a vendor if you have not already
- Navigate to this RFP (name and number on the front page)
- Click on "Submit bid" and follow the instructions
- You may rescind your proposal in the system at any time before the due date/time
- Secure: City staff can see who has submitted, but the system will not allow City staff to see submittal content until after the deadline has passed.
- If you have questions about the process in VendorRegistry, please use their "help" function. They are extremely helpful. City staff can't see what the vendor sees, so we are unable to help.

4.3 EVALUATION CRITERIA:

All proposals received will be evaluated by the City of Battle Creek for selection purposes. The following main categories, listed in relative order of importance, will be considered in selection. The response to this RFP shall focus on these criteria, and shall be submitted in the same order as requested and must contain, at a minimum, all of the items listed below:

A. FIRM QUALIFICATIONS

1. Describe the qualifications of your firm.
2. List three references that we may contact. Include name and email.
3. Describe your staffing availability and how soon you can provide staff, 2 journeyman at WWTP/Verona.
4. Describe your ability to add staff at other divisions, such as how much notice you would need.

B. PERSONNEL QUALIFICATIONS

1. Indicate the 2 journeyman who will be assigned to this contract, describing their qualifications and years of experience, along with copy of license.
2. Include when they can start
3. List 2 other journeyman who can be added to the contract at some point and the advanced notice you'd require for their engagement.

C. PRICE

1. Submit Section 6.0 Price Page.
2. Rates and fringes must meet or exceed average Davis Bacon wages for Calhoun County, MI.

5.0 - SCOPE OF WORK

5.1 SCOPE

Before submitting a proposal, firms shall carefully examine the scope of work and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal all items requested.

5.2 DESCRIPTION OF WORK TO BE PERFORMED

Because of staffing gaps, the City is soliciting proposals for the purpose of contracting for two full-time, 40 hours per week and rotating on-call every three weeks journeyman electricians to be staffed at our Wastewater and Verona Treatment Plants for an indefinite period of time, with a minimum of six months with possibility of going longer. The City and the contractor, may upon mutual agreement, add electricians for other City plants for the contracted hourly rates for any mutually agreed upon term. Positions may be terminated with 30 days' written notice.

Journeyman shall work M-F, with hours of 6:00am – 2:30pm, with rotating on-call every third week. Hired journeyman will work normal business hours with city electrical apprentice. The Wastewater and Verona Treatment Plants are 24/7 operations and may require on-call reporting to resolve emergency operations issues.

Journeyman shall perform difficult skilled work handling routine and complex electrical troubleshooting, installation, maintenance, and repair; related work as apparent or assigned. Work performed under the limited supervision of the Maintenance Group Supervisor.

- Install, maintain, and repair a wide variety of electrical equipment and devices. Install, maintain, and repair motors; controls; electrical wiring; and components up to 5,000 volts, single and three phases. Troubleshoot electrical problems. Perform simple and complex electrical and electronic tests. Select electrical components and design simple electrical circuits.
- Maintain records and prepare written reports and recommendations on electrical equipment and controls. Coordinate and train other employees in electrical systems and component operation, repair, and maintenance work.
- Perform troubleshooting tasks on electronic controls and components. Install and maintain electronic devices. Perform complex troubleshooting tasks on mechanical, electrical, pneumatic, and combined motor control and alarm systems. Troubleshoot, maintain, install, and repair variable speed motor controllers and Programmable Logic Controllers.
- Coordinate and train other employees in electrical systems and component operation, repair, and maintenance work.

6.0 - PRICE SHEET

The rates listed below shall be all-inclusive per journeyman. No charges will be allowed outside the hourly rates as contracted. All-inclusive means transportation, insurance, overhead, mileage, per diems, fringes, benefits....EVERYTHING.

Contract award will be based on qualifications with consideration to pricing and staff availability.

Rates are for hours worked only and do not include holidays, sick time, or paid time off (PTO), so please factor that into your rates.

Straight time hourly rate:	\$
Overtime hourly rate (over 40 hours per week):	\$
Call in hourly rate:	\$
State minimum hours to be paid if journeyman gets called in:	

7.0 - OFFER AND ACCEPTANCE FORM

TO THE CITY OF BATTLE CREEK: We propose to furnish all labor, materials, equipment, tools, transportation and services required to complete the work in accordance with the specifications and conditions contained herein in consideration of the sum or sums stated below and agree that this document will constitute the contract if accepted by the City.

We hereby offer and agree to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposal and any written exceptions in the offer. We understand that the items in this Request for Proposal, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract. Warranty: Contractor shall remove and replace at no additional cost to the City any defects in workmanship or materials that may be apparent or may develop within a period of one (1) year from the date of final acceptance.

We agree to complete the contract within the times specified in this Request for Proposal.

We acknowledge receipt of the following addendum(s): _____.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder, and that our firm is not debarred from doing business under the Federal Excluded Parties List System (epls.gov).

I, the Contractor or Contractor's legally authorized signer, further certify compliance with the City of Battle Creek Ordinance Chapter 214, Discrimination Prohibited. I further acknowledge and agree that the Contractor's violation of Chapter 214 shall be a material breach of this contract. In addition, Contractor acknowledges and agrees that it shall be liable for any costs or expenses incurred by the City in obtaining from other sources, the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract as a result of a material breach in the Contract for violations of Chapter 214.

Company Name

For clarification of this offer, contact:

Address

Name: _____

City State Zip

Phone: _____

Signature of Person Authorized to Sign

Fax: _____

Printed Name

Email: _____

Title.62 12.05

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

Contract Term: _____

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Request for Proposal, including all terms, conditions, specification, amendments, etc. and the Contractor's Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No. 2024-062R. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order and/or a notice to proceed from the City of Battle Creek Purchasing Agent.

COUNTERSIGNED:

APPROVED AS TO FORM BY:

City Manager

Date

City Attorney

Witness Signature

Date

ATTACHMENT A - DISADVANTAGED BUSINESS (DBE) FORMS

I. YOUR FIRM'S BACKGROUND:

Is your firm an MBE (at least 51% minority ownership)? ____YES ____NO

Is your firm a WBE (at least 51% woman ownership)? ____YES ____NO

Are you subcontracting any part of this project? ____YES ____NO

182 Elm Street
Battle Creek, Michigan 49014
Phone: (269) 962-5579
Fax: (269) 962-8114
www.shouldicebrothers.com



Sheet Metal Services
Millwright Services
Ironwork Services
Electrical Services
Piping Services
General Trades

City of Battle Creek
10 N. Division St.
Battle Creek, MI 49014

March 15, 2024

RFQ#CH031524A

Attn.: Christine Huff

Re: RFP #2024-062R – Two (2) Journeyman Industrial Electricians at Verona and WWTP

Dear Christine:

We are pleased to provide for your consideration the following proposal for RFP #2024-062R:

4.3 EVALUATION CRITERIA:

A. FIRM QUALIFICATIONS

1. Describe the qualifications of your firm:

Shouldice is a full-service Industrial Manufacturer and Contractor that offers Electrical, General Trades, Sheet Metal, Millwright, Ironworker, and Pipe Fitter Services. Shouldice has been in business since 1907.

2. List three references that we may contact. Include name and email:

City of Coldwater

Contact: Jon Foley

Ph. 517.278.4118

Projects: WWTP & Water Pumping Stations. Various Process Controls and Power Distribution Projects.

Calhoun County, Michigan

Contact: Kevin Hamilton

Ph. 269.420.8435

Projects: All County Facilities - Various Power Distribution, Lighting, and Repair Projects.

Post Foods - Battle Creek, MI

Contact: Brendan Klok

Ph. 269.760.8196

Projects: Various Process Controls and Power Distribution Projects

3. Describe your staffing availability and how soon you can provide staff, 2 journeyman at WWTP/Verona:

We have immediate staffing availability and can provide two (2) Journeyman at WWTP/Verona as soon as necessary.

4. **Describe your ability to add staff at other divisions, such as how much notice you would need:**

Staff at other Divisions would require two (2) weeks' notice.

B. PERSONNEL QUALIFICATIONS

1. **Indicate the 2 journeyman who will be assigned to this contract, describing their qualifications and years of experience, along with copy of license. (Licenses – Attachment A)**

Ted Keaton – Ted has worked for Shouldice for 10 years, and has been working in the Electrical trades for 27 years.

Andrew Winter – Andrew has worked for Shouldice for 4 years, and has 7 years experience in the Electrical trades.

2. **Include when they can start:**

Both Journeyman listed above can start as soon as needed.

3. **List 2 other Journeyman who can be added to the contract at some point and the advanced notice you'd require for their engagement.**

Will discuss at Post Bid

C. PRICE

1. **Submit Section 6.0 Price Page**

See attachment B

2. **Rates and fringes must meet or exceed average Davis Bacon wages:**

See attachment C

Thank you for the opportunity to quote this project. Please do not hesitate to contact our office should you have any questions or require additional information.

Sincerely,

SHOULDICE INDUSTRIAL MANUFACTURERS AND CONTRACTORS, INC.

Chad S. Heuer

Electrical Division Project Manager/Estimator

Email: c_heuer@shouldicebrothers.com

Cell: (269) 209-8451

7.0 - OFFER AND ACCEPTANCE FORM

TO THE CITY OF BATTLE CREEK: We propose to furnish all labor, materials, equipment, tools, transportation and services required to complete the work in accordance with the specifications and conditions contained herein in consideration of the sum or sums stated below and agree that this document will constitute the contract if accepted by the City.

We hereby offer and agree to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposal and any written exceptions in the offer. We understand that the items in this Request for Proposal, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract. Warranty: Contractor shall remove and replace at no additional cost to the City any defects in workmanship or materials that may be apparent or may develop within a period of one (1) year from the date of final acceptance.

We agree to complete the contract within the times specified in this Request for Proposal.

We acknowledge receipt of the following addendum(s): 1, _____, _____, _____.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder, and that our firm is not debarred from doing business under the Federal Excluded Parties List System (epls.gov).

I, the Contractor or Contractor's legally authorized signer, further certify compliance with the City of Battle Creek Ordinance Chapter 214, Discrimination Prohibited. I further acknowledge and agree that the Contractor's violation of Chapter 214 shall be a material breach of this contract. In addition, Contractor acknowledges and agrees that it shall be liable for any costs or expenses incurred by the City in obtaining from other sources, the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract as a result of a material breach in the Contract for violations of Chapter 214.

Shouldice Industrial Manufacturers & Contractors, Inc.

Company Name

182 Elm Street

Address

Battle Creek, MI 49014

City

State

Zip


Signature of Person Authorized to Sign

Daniel R. VanMiddlesworth

Printed Name

President

Title.62 12.05

For clarification of this offer, contact:

Name: **Chad Heuer**

Project Manager

Phone: **269-209-8451**

Fax: **269-962-8114**

Email: **c_heuer@shouldicebrothers.com**

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

Contract Term: _____

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Request for Proposal, including all terms, conditions, specification, amendments, etc. and the Contractor's Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No. **2024-062R**. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order and/or a notice to proceed from the City of Battle Creek Purchasing Agent.

COUNTERSIGNED:

APPROVED AS TO FORM BY:

City Manager

Date

City Attorney

Witness Signature

Date

ATTACHMENT A - DISADVANTAGED BUSINESS (DBE) FORMS

I. YOUR FIRM'S BACKGROUND:

Is your firm an MBE (at least 51% minority ownership)? ____ YES X NO

Is your firm a WBE (at least 51% woman ownership)? ____ YES X NO

Are you subcontracting any part of this project? ____ YES X NO

Attachment A

Michigan Department of Licensing and Regulatory Affairs

Bureau of Construction Codes

Journeyman Electrician License

TED KEATON

164 Pheasant Run

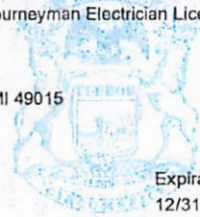
BATTLE CREEK, MI 49015

License No:

6333741

Expiration Date:

12/31/2024



Michigan Department of Licensing and Regulatory Affairs

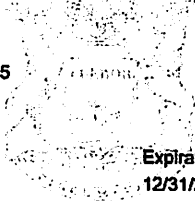
Bureau of Construction Codes

Journeyman Electrician License

ANDREW P WINTER

164 Lois Dr

Battle Creek, MI 49015



License No:

6343439

Expiration Date:

12/31/2024

6.0 - PRICE SHEET

The rates listed below shall be all-inclusive per journeyman. No charges will be allowed outside the hourly rates as contracted. All-inclusive means transportation, insurance, overheard, mileage, per diems, fringes, benefits....EVERYTHING.

Contract award will be based on qualifications with consideration to pricing and staff availability.

Rates are for hours worked only and do not include holidays, sick time, or paid time off (PTO), so please factor that into your rates.

Straight time hourly rate:	\$ 99.41
Overtime hourly rate (over 40 hours per week):	See attached rate sheet
Call in hourly rate:	See attached rate sheet
State minimum hours to be paid if journeyman gets called in: *	4-Hour Minimum

**Please Note: If Journeyman are required to carry a pager and be on standby every third week, they would require 10 hours of Straight Time pay for that week on call.*

182 Elm Street
Battle Creek, Michigan 49014
Phone: (269) 962-5579
Fax: (269) 962-8114
www.shouldicebrothers.com



Sheet Metal Services
Millwright Services
Ironwork Services
Electrical Services
Piping Services
General Trades

City of Battle Creek

March 14, 2024

To Whom it may Concern:

We are pleased to provide the following time and material rates for the City of Battle Creek. These rates are for work performed at your facilities in Calhoun County, Michigan, on first shift, within the parameters of each of our local unions. The rates are effective June 1, 2023 through May 31, 2024.

Electrical

	1T	1-1/2T	2T
Licensed Electrical Journeyman	\$ 99.41	\$ 134.30	\$ 167.48

All hours and staffing for Electrical must abide by the rules in our Union Agreement. Rules and regulations are as follows:

Electrical work performed between 7:00 a.m. and 3:30 p.m., Monday through Friday will be billed at Straight Time. Work performed after 3:30 p.m., Monday through Friday and all-day Saturday, will be billed at 1-1/2 time. All work performed on Sunday and holidays will be billed at Double Time.

For all trades the following days are considered to be the double time paid holidays:

New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, the Friday after Thanksgiving, Presidential Election Day, and Christmas Day.

No work shall be performed on the Fourth of July or Labor Day except for the protection of life or property, without the permission of the Union.

Should any of the above-mentioned legal holidays fall on Sunday, then the following Monday will be considered a legal holiday. Should any of the above-mentioned holidays fall on Saturday, the preceding Friday shall be observed as the legal holiday.

Additional rules and regulations are as follows:

All time worked before or after the established work day of eight (8) hours, Monday through Friday, shall be paid at a rate of 1-1/2 time. Work before or after the established work day on Saturday will be billed at Double Time.

To be considered an established shift, second and third shifts must be five (5) consecutive days. Anything less than five (5) consecutive days will be billed at 1-1/2 time or Double Time; depending on when they occur. Any emergency call-ins will also be billed at 1-1/2 time or Double Time; depending on when they occur.

To utilize four (4) ten (10) hour days instead of five (5) eight (8) hour days, then Monday through Thursday for ten (10) hours each day will be billed at the Straight-Time prevailing rate. Work in excess of ten (10) hours per day (Monday through Thursday) shall be paid at time and one-half, as will Friday and Saturday. All work performed on Sunday and holidays will be billed at Double Time.

Per union contracts the ratio/amount of General Foreman/ Foreman to employees on the job will be followed and billed in accordance with union regulations.

Additionally, all hand tools are supplied by mechanics. The usage of Shouldice Large Tools will be charged per the current published rate schedule. Any other special equipment needed will be billed at a rate of cost plus 10%. All work performed by our subcontractors will be at cost plus 10%. Any materials purchased will be at our cost plus 10%.

Please don't hesitate to contact our office should you have any questions or require additional information.

Sincerely,

SHOULDICE INDUSTRIAL MANUFACTURERS AND CONTRACTORS, INC.

John Reed

John T. Reed
Vice-President of Construction Trades
Electrical Division Manager

DOCUMENTS INCORPORATED INTO CONTRACT #2024-062R

Electrician at WWTP and Verona
Shouldice Industrial Manufacturers and Contractors, Inc.

City Manager's signing of the Offer and Acceptance page constitutes the City's acceptance to all of the following documents, which form the contract as explained in the RFP listed below. The most recent document takes precedence in cases where conflicts arise.

Please leave all documents in the order listed below

Item	Page(s)
Proposal submitted on March 18, 2024	2-10
Request for Proposal #2024-062R	11-30

182 Elm Street
Battle Creek, Michigan 49014
Phone: (269) 962-5579
Fax: (269) 962-8114
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Sheet Metal Services
Millwright Services
Ironwork Services
Electrical Services
Piping Services
General Trades

City of Battle Creek
10 N. Division St.
Battle Creek, MI 49014

March 15, 2024

RFQ#CH031524A

Attn.: Christine Huff

Re: RFP #2024-062R – Two (2) Journeyman Industrial Electricians at Verona and WWTP

Dear Christine:

We are pleased to provide for your consideration the following proposal for RFP #2024-062R:

4.3 EVALUATION CRITERIA:

A. FIRM QUALIFICATIONS

1. Describe the qualifications of your firm:

Shouldice is a full-service Industrial Manufacturer and Contractor that offers Electrical, General Trades, Sheet Metal, Millwright, Ironworker, and Pipe Fitter Services. Shouldice has been in business since 1907.

2. List three references that we may contact. Include name and email:

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Projects: WWTP & Water Pumping Stations. Various Process Controls and Power Distribution Projects.

Calhoun County, Michigan

Contact: Kevin Hamilton

Ph. 269.420.8435

Projects: All County Facilities - Various Power Distribution, Lighting, and Repair Projects.

Post Foods - Battle Creek, MI

Contact: Brendan Klok

Ph. 269.760.8196

Projects: Various Process Controls and Power Distribution Projects

3. Describe your staffing availability and how soon you can provide staff, 2 journeyman at WWTP/Verona:

We have immediate staffing availability and can provide two (2) Journeyman at WWTP/Verona as soon as necessary.

4. **Describe your ability to add staff at other divisions, such as how much notice you would need:**

Staff at other Divisions would require two (2) weeks' notice.

B. PERSONNEL QUALIFICATIONS

1. **Indicate the 2 journeyman who will be assigned to this contract, describing their qualifications and years of experience, along with copy of license. (Licenses – Attachment A)**

Ted Keaton – Ted has worked for Shouldice for 10 years, and has been working in the Electrical trades for 27 years.

Andrew Winter – Andrew has worked for Shouldice for 4 years, and has 7 years experience in the Electrical trades.

2. **Include when they can start:**

Both Journeyman listed above can start as soon as needed.

3. **List 2 other Journeyman who can be added to the contract at some point and the advanced notice you'd require for their engagement.**

Will discuss at Post Bid

C. PRICE

1. **Submit Section 6.0 Price Page**

See attachment B

2. **Rates and fringes must meet or exceed average Davis Bacon wages:**

See attachment C

Thank you for the opportunity to quote this project. Please do not hesitate to contact our office should you have any questions or require additional information.

Sincerely,

SHOULDICE INDUSTRIAL MANUFACTURERS AND CONTRACTORS, INC.

Chad S. Heuer

Electrical Division Project Manager/Estimator

Email: c_heuer@shouldicebrothers.com

Cell: (269) 209-8451

7.0 - OFFER AND ACCEPTANCE FORM

TO THE CITY OF BATTLE CREEK: We propose to furnish all labor, materials, equipment, tools, transportation and services required to complete the work in accordance with the specifications and conditions contained herein in consideration of the sum or sums stated below and agree that this document will constitute the contract if accepted by the City.

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Shouldice Industrial Manufacturers & Contractors, Inc.

Company Name

182 Elm Street


Address

Battle Creek, MI 49014

City

State

Zip


Signature of Person Authorized to Sign

Daniel R. VanMiddlesworth

Printed Name

President

Title.62 12.05

For clarification of this offer, contact:

Name: **Chad Heuer**

Project Manager

Phone: **269-209-8451**

Fax: **269-962-8114**

Email: **c_heuer@shouldicebrothers.com**

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

Contract Term: _____

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Request for Proposal, including all terms, conditions, specification, amendments, etc. and the Contractor's Offer as accepted by the City.

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APPROVED AS TO FORM BY:

City Manager

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City Attorney

Witness Signature

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ATTACHMENT A - DISADVANTAGED BUSINESS (DBE) FORMS

I. YOUR FIRM'S BACKGROUND:

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Is your firm a WBE (at least 51% woman ownership)? ____ YES X NO

Are you subcontracting any part of this project? ____ YES X NO

Attachment A

Michigan Department of Licensing and Regulatory Affairs

Bureau of Construction Codes

Journeyman Electrician License

TED KEATON

164 Pheasant Run

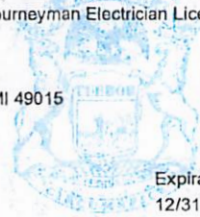
BATTLE CREEK, MI 49015

License No:

6333741

Expiration Date:

12/31/2024



Michigan Department of Licensing and Regulatory Affairs

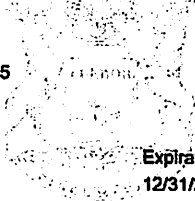
Bureau of Construction Codes

Journeyman Electrician License

ANDREW P WINTER

164 Lois Dr

Battle Creek, MI 49015



License No:

6343439

Expiration Date:

12/31/2024

6.0 - PRICE SHEET

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Straight time hourly rate:	\$ 99.41
Overtime hourly rate (over 40 hours per week):	See attached rate sheet
Call in hourly rate:	See attached rate sheet
State minimum hours to be paid if journeyman gets called in: *	4-Hour Minimum

**Please Note: If Journeyman are required to carry a pager and be on standby every third week, they would require 10 hours of Straight Time pay for that week on call.*

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Sheet Metal Services
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 Ironwork Services
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 Piping Services
 General Trades

City of Battle Creek

March 14, 2024

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Licensed Electrical Journeyman	\$ 99.41	\$ 134.30	\$ 167.48

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No work shall be performed on the Fourth of July or Labor Day except for the protection of life or property, without the permission of the Union.

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Additionally, all hand tools are supplied by mechanics. The usage of Shouldice Large Tools will be charged per the current published rate schedule. Any other special equipment needed will be billed at a rate of cost plus 10%. All work performed by our subcontractors will be at cost plus 10%. Any materials purchased will be at our cost plus 10%.

Please don't hesitate to contact our office should you have any questions or require additional information.

Sincerely,

SHOULDICE INDUSTRIAL MANUFACTURERS AND CONTRACTORS, INC.

John Reed

John T. Reed
Vice-President of Construction Trades
Electrical Division Manager



CITY OF BATTLE CREEK
NOTICE OF REQUEST FOR PROPOSALS

RFP#: 2024-062R

TITLE: 2 Journeyman Industrial Electricians at Verona and WWTP

ISSUE DATE: March 4, 2024

PROPOSAL DUE DATE: March 18, 2024, at 4:00 PM Local Time

LOCATION: **Proposals must be submitted online. See page 9 for instructions.**
DO NOT EMAIL PROPOSALS.

Purchasing Contact: **Christine Huff**
E-mail: clhuff@battlecreekmi.gov questions only: do not email proposals

DESCRIPTION: Because of staffing gaps, the City is soliciting proposals for the purpose of contracting for 2 full time, 40 hours per week and rotating on call, journeyman industrial electricians to be staffed mostly at our Wastewater Treatment Plant, but also at Verona for an indefinite period of time, with a minimum of six months with possibility of going longer. The City and the contractor may, upon mutual agreement, add electricians for other City plants for the contracted hourly rates for any mutually agreed upon terms. Individual Positions/Placements may be terminated with 30 days' written notice. The City intends to award to one company, but reserves the right to make awards to 2 or more companies based on this RFP.

PROPOSAL SUBMITTAL:

Proposals must be submitted through our secure online bid management system by registered vendors by the date and time listed above.

Please upload **ONE pdf file** that includes all requested submittals, rather than several parts of the bid uploaded.

Please visit <http://battlecreekmi.gov/230/Bid-Proposal-Solicitations> and click on Bid & Proposal Solicitations. This will redirect you to our secure VendorRegistry website where you can register as a vendor (required) and obtain this full document and upload your bid.

Email the purchasing contact listed above if the above link doesn't work.

PROPOSERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE REQUEST FOR PROPOSALS.

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1.0 GENERAL INFORMATION

1.1 **ISSUING OFFICE:** This RFP is issued for the City of Battle Creek, Michigan (hereinafter referred to as the "City") through the Purchasing Office, which shall be referred to as the "Issuing Office."

1.2 **GENERAL SUBMITTAL INFORMATION:** (See Section 4.0 for detailed information)

- A. Proposals must be submitted in complete original form as **one pdf** submitted through our secure online bid management system by registered vendors: please visit <http://battlecreekmi.gov/230/Bid-Proposal-Solicitations> and click on Bid & Proposal Solicitations OR email purchasing@battlecreekmi.gov for links.
- B. Proposals will be accepted via the method listed until the time and date specified herein. There will be no public reading because this is an RFP, wherein price is only one factor in selection and subject to negotiation. All proposals will be available after contract award, under the FOIA.
- C. Late proposals will not be accepted, and the online system will automatically shut off at exactly the specified time.
- D. All proposals submitted in response to this solicitation shall become the property of the City and be a matter of public record available for review. **Vendors are advised that their proposals are subject to FOIA, and are not confidential and should not be marked as such.** However, proposals shall not be considered fully received for the purpose of Freedom of Information Act requests until the City has determined that no additional clarifications or revisions of offers shall be accepted.
- E. The proposal shall be legally signed on the OFFER TO CONTRACT page and the complete address of the proposer given thereon.
- F. The City is exempt from Federal Excise and State Sales Taxes, and such taxes shall not be included in proposal prices

1.3 **TENTATIVE SCHEDULE:** The City may deviate from this schedule. The City will not discuss the status of any proposal or the selection process. All proposers will be notified in writing of the City's decision. **Please do not contact City staff for status updates.** Interviews, if necessary, will be scheduled at mutually agreed upon times.

Proposal Reviews:	week of March 25, 2024
Interviews, if applicable:	weeks of April 8 th and April 15 th
Final Decision:	Mid May

1.4 **AWARD OF CONTRACT:** This project will be awarded to a single contractor who submits the proposal deemed to be in the best interest of the City, unless otherwise noted in this document. Notwithstanding any other provision of the Request for Proposal, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all proposals, or portions thereof; or (3) reissue the Request for Proposal.

A response to any Request for Proposal is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's Request for Proposal. Proposals do not become contracts unless and until the City executes them. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a contract amendment, a Best and Final Offer, or by mutually agreed terms and conditions.

1.5 **SPECIAL INFORMATION**

- A. Addenda to the RFP: In the event it becomes necessary to revise any part of the RFP, addenda will be provided to all contractors who are recorded as having received the RFP. It shall be the proposer's responsibility to make inquiry as to changes or addenda issued. All such changes or addenda shall become part of the contract and all bidders shall be bound by such addenda.
- B. News Releases: News releases pertaining to this RFP or the services, study or project to which it relates will not be made without prior approval, and then only in coordination with the Issuing Office.

1.6 **INDEPENDENT PRICE DETERMINATION**

By submission of a proposal, the offeror certifies that in connection with this proposal:

- A. The fees in the proposal have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such fees with any other offeror or with any competitor; and,

- B. Unless otherwise required by law, the fees that have been quoted in the proposal have not been knowingly disclosed by the offeror directly or indirectly to any other offeror or city staff member or to any competitor; and,
- C. No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.7 **CURRENCY:** Prices calculated by the bidder shall be stated in U.S. dollars.

1.8 **DEFINITIONS:**

- A. The "City" – The City of Battle Creek
- B. "Contractor," "Vendor," "Firm," or "Proposer" - The firm submitting a proposal, ultimately responsible for any contract that results from this RFP.
- C. "RFP" – This Request for Proposals.

1.9 **INTERVIEWS:** The City may or may not shortlist the proposers based upon responses to the submittal requirements. If necessary, the City shall conduct interviews/demonstrations. However, the City may determine that shortlisting and/or interviews/demonstrations are not necessary.

1.10 **FIRM QUALIFICATIONS:** Experiences with the City and entities that evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience. The City reserves the right to make any such additional investigations as it deems necessary to establish the competency and financial stability of any firm submitting a proposal.

1.11 **DELIVERY:** Where applicable, proposals shall include all charges for delivery, packing, crating, containers, etc. Prices bid will be considered as being based on F.O.B. Delivered, freight included.

1.12 **VENUE:** Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement or the transactions it contemplates shall bring the legal action or proceeding:

(i) in the United States District Court for the Western District of Michigan; or

(ii) in any court of the State of Michigan sitting in Calhoun County, if there is no federal subject matter jurisdiction.

1.13 **GOVERNING LAW:** This agreement shall be enforced under the laws of the State of Michigan. Contractor must comply with all applicable federal, state, county, and City laws, ordinances, and regulations. Contractor shall ensure payment of all taxes, licenses, permits, and other expenses of any nature associated with the provision of services herein. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

1.14 **BID PROTEST PROCEDURE:** Protests about the bid procedure must be in writing. This written protest must be received by the City of Battle Creek, located at 10 N. Division, Suite 214, Battle Creek, MI 49014. This written protest must be received by the City no later than ten (10) working days after notification to all bidders of the contract award decision. The City of Battle Creek must issue its written decision no more than ten (10) business days from the day the written protest was received.

If a protester thinks that the City of Battle Creek has not followed these protest procedures, the protester has ten (10) business days from the alleged infraction to file a subsequent protest with the City of Battle Creek City Manager or federal granting agency if applicable.

1.15 **FEDERAL TERMS AND CONDITIONS**

If there are federal terms and conditions attached to this solicitation, they are hereby incorporated as a material part of this contract. In cases of conflict between terms in this agreement, the federal terms shall prevail.

2.0 - GENERAL TERMS AND CONDITIONS

- 2.1 MATERIALS AND WORKMANSHIP:** Unless otherwise specified, all materials and workmanship shall be new and of the best grade of their respective kinds for the purpose.
- 2.2 NON-DISCRIMINATION CLAUSE:** The bidder agrees not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to hire, tenure, terms, conditions or privileges, of employment, or any matter directly or indirectly related to employment, because of his or her actual or perceived race, color, religion, national origin, age, sex, height, weight, physical or mental disability, family status, sexual orientation, gender identity or marital status. Breach of this covenant may be regarded as material breach of the contract as provided for in Act 220 and Act 453 of the Public Acts of 1976, as amended, entitled "Michigan Handicapper's Civil Rights Act" and the Michigan Elliott Larson Civil Rights Act." The bidder further agrees to require similar provisions from any subcontractors, or suppliers. The contractor and any subcontractors shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 2.3 ASSIGNMENT OF CONTRACT:** The contractor shall assign no right or interest in this contract in whole or in part and no delegation of any duty of Contractor shall be made without prior written permission of the City.
- 2.4 INDEMNIFICATION:** The contractor shall protect, defend, and save the City, its officials, employees, departments and agents harmless from and against any claims, demands, suits, actions, or proceedings of any kind or nature, in any way resulting from negligent acts or omissions of the contractor or any of its agents, employees, boards, commissions, divisions, departments, or authorities in performing obligations under this agreement. Each party to this agreement agrees that any bond or insurance protection required by this agreement shall limit the terms of this indemnification provision. In case of any action brought against the City by reason of any such claim, suit, action or demand, upon prompt notice from the City, contractor covenants to defend such action or proceeding by counsel that is reasonably satisfactory to the City.
- 2.5 CONTRACT:** The contract shall contain the entire agreement between the City and the Contractor relating to this requirement and shall prevail over any previous contracts, proposals, negotiations, or master agreements in any form. By signing the Offer to Contract, it is agreed that the RFP in its entirety and all enclosed forms are fully incorporated herein as a material part of the contract. In case of conflicts, the most recent document will prevail.
- 2.6 PROVISIONS REQUIRED BY LAW:** Each provision required by law to be in the contract shall be enforced as though it were included herein, and if any such provision is not inserted, the contract shall be amended to make such insertion or correction.
- 2.7 RELATIONSHIP OF PARTIES:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose. Taxes or social security payments shall not be withheld from a City payment issued hereunder; Contractor should make arrangements to directly pay such expenses, if any.
- 2.8 RIGHTS AND REMEDIES:** No provision in this contract shall be construed as a waiver by either party of any existing or future right or remedy available by law in the event of any claim, default, or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.
- 2.9 ADVERTISING:** Contractor shall not advertise, issue a press release or otherwise publish information concerning this RFP or contract without prior written consent of the City. The City shall not unreasonably withhold permission.
- 2.10 APPLICABLE REGULATIONS/POLICIES:** The Revised Code of the State of Michigan, the Charter of the City of Battle Creek, all City Ordinances, Rules and Regulations and Policies shall apply. It shall be the responsibility of the Proposer to be familiar and comply with said regulations/policies.
- 2.11 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT:** Contractor shall give all notices and pay all royalties and fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof. Contractor shall comply with all laws, ordinances and codes applicable to any portion of the work. All services, information, computer program elements, reports, and other deliverables that are

created under this Agreement shall be the property of the City. The Contractor shall place no restrictions on the City with regard to the distribution of any of these materials; the City shall have full, unrestricted rights to make and distribute unlimited copies of any services, information, computer programs/elements, reports, or any other deliverable. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Invention Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

2.12 SUBCONTRACTORS: No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the City. All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.

3.0 - SPECIAL TERMS AND CONDITIONS

- 3.1 TERM AND RENEWAL:** The initial term of the contract shall remain in effect for a period of six (6) months, unless another term is required. The contractor agrees that the City shall have the right, upon mutual consent, to renew the contract for any mutually agreed upon term, not to exceed September 30, 2027. In the event that the City exercises such right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period.
- 3.2 PRICE ADJUSTMENT:** A price increase adjustment shall be considered only at the time of a contract renewal and shall be a factor in the renewal review process. The City shall determine whether the requested price increase or an alternate option is in the best interest of the City.
- 3.3 QUANTITIES:** Because this is an annual requirements contract, the City reserves the right to increase or decrease the estimated hours per electrician or individual placement as best fits its needs, and the City does not guarantee maximums or minimums. The City also reserves the right to spot-bid unusually large one-time quantities or to buy outside of this contract if extenuating circumstances exist.
- 3.4 KEY PERSONNEL:** It is essential that the contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.
- A. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
 - B. If key personnel are not available for work under this contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.
- 3.5 CANCELLATION:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any material obligation, term, or condition of the contract. The City shall issue written notice to the contractor for any of the following circumstances:
- A. The contractor fails to adequately perform the services set forth in the specifications of the contract:
 - B. The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.
- Upon receipt of the written notice of concern, the contractor shall have ten (10) calendar days to provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies.
- 1. Cancel any contract:
 - 2. Reserve all rights or claims to damage for breach of any covenant of the Contract:
 - 3. In case of default, the City reserves the right to complete the required work. The City may recover reasonable excess cost from the contractor by any remedies as provided by law.
- The City intends to maintain a budget to cover all expenses related to this contract; however, the City may cancel this contract if funds are no longer available. In such case, the City shall provide the Contractor with a 60-day written notice of cancellation. The City will pay for all *authorized* completed work or received goods.
- 3.6 TERMINATION FOR CONVENIENCE:** The City may terminate this contract at any time for any reason by giving at least 30 days' notice in writing to Contractor. If the contract is terminated by the City as provided herein, the Contractor will be paid a fair payment as negotiated with the City for the work completed as of the date of termination.
- 3.7 PAYMENT:** Payment shall be made monthly for work completed, within 30 days of the submittal of a correct invoice for work performed.

3.8 INSURANCE:

a. The Contractor shall at the time of execution of this contract, file with the City the Certificate of Insurance, which shall cover all insurance as required herein, including evidence of payment of premiums thereon, and the policy or policies or insurance covering said City and their officers, agents and employees. Each such policy and certificate shall be satisfactory to the City. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from their operations under this Contract.

b. The contractor shall maintain insurances in force at all times during the term of this agreement at the minimum amounts and types as indicated.

<u>Coverage Afforded</u>		<u>Limits of Liability</u>
Workers' Compensation:		\$ 100,000 or statutory limit
Commercial General Liability: (including XCU if appropriate)	Bodily Injury	\$1,000,000 each occurrence
	Property Damage or Combined Single Limit	\$1,000,000 each occurrence \$1,000,000
Automobile Liability:	Bodily Injury	\$ 300,000 each person
	Liability	\$ 500,000 each occurrence
	Property Damage or Combined Single Limit	\$ 500,000 \$ 500,000

The City of Battle Creek shall be listed as an additional insured on general liability coverage, and shall be provided with a Certificate of Insurance that reflects this additional insured status. A 30-day notice of cancellation or material change shall be provided to the City and so noted on the Certificate of Insurance. All certificates and notices shall be sent to City of Battle Creek, P.O. Box 1717, Battle Creek, Michigan 49016.

3.9 SAFETY RULES: Contractor shall perform all work under this contract in conformance with the State of Michigan general safety rules and regulations for the construction industry, as set out or authorized by the Michigan Occupational Safety and Health Act, Public Act 154 of 1974, as amended.

4.0 - SUBMITTAL INFORMATION

4.1 SUBMITTAL TERMS AND CONDITIONS

- A. **Basic Submittal Instructions:** Each proposal received by the City in response to this RFP becomes the property of the City and:
1. Shall be signed by an individual authorized to bind the contractor to its provisions.
 2. Proposals shall not be considered fully received for the purpose of Freedom of Information Act requests until the City has determined that no additional clarifications or revisions of offers shall be accepted.
 3. Is an irrevocable offer and may not be withdrawn within 90 days after the deadline for submission. Requests for clarifications or revisions automatically establish a new 90-day period.
- B. **Proposal Costs:** The City is not liable for any costs incurred by contractors in the development of their proposals.
- C. **Exceptions To Contract Terms And Specifications:** Offeror shall clearly identify and reference by paragraphs any proposed deviations from the Contract Terms or Scope in the RFP. Exceptions shall include, the Offeror's proposed substitute language. If no exceptions are noted in the Offeror's proposal, the City will assume complete conformance with this specification and the successful Offeror will be required to perform accordingly. Proposals submitted not meeting all requirements may be rejected.

4.2 SUBMITTAL REQUIREMENTS

Submit online your proposal **IN THIS ORDER** in **ONE PDF (please do not upload multiple files):**

A table of contents and page numbers would be appreciated and very helpful

1. Your proposal, organized as requested in section 4.3 on the next page. A table of contents and page numbers would be extremely helpful.
2. **SIGNED** and completed offer section on the Offer and Acceptance Form
3. Completed DBE forms contained in Attachment A

Instructions for online submittal: **DO NOT EMAIL PROPOSALS**

- <http://battlecreekmi.gov/228/Purchasing>
- Follow the link to the VendorRegistry page or email purchasing@battlecreekmi.gov for links.
- Register as a vendor if you have not already
- Navigate to this RFP (name and number on the front page)
- Click on "Submit bid" and follow the instructions
- You may rescind your proposal in the system at any time before the due date/time
- Secure: City staff can see who has submitted, but the system will not allow City staff to see submittal content until after the deadline has passed.
- If you have questions about the process in VendorRegistry, please use their "help" function. They are extremely helpful. City staff can't see what the vendor sees, so we are unable to help.

4.3 EVALUATION CRITERIA:

All proposals received will be evaluated by the City of Battle Creek for selection purposes. The following main categories, listed in relative order of importance, will be considered in selection. The response to this RFP shall focus on these criteria, and shall be submitted in the same order as requested and must contain, at a minimum, all of the items listed below:

A. FIRM QUALIFICATIONS

1. Describe the qualifications of your firm.
2. List three references that we may contact. Include name and email.
3. Describe your staffing availability and how soon you can provide staff, 2 journeyman at WWTP/Verona.
4. Describe your ability to add staff at other divisions, such as how much notice you would need.

B. PERSONNEL QUALIFICATIONS

1. Indicate the 2 journeyman who will be assigned to this contract, describing their qualifications and years of experience, along with copy of license.
2. Include when they can start
3. List 2 other journeyman who can be added to the contract at some point and the advanced notice you'd require for their engagement.

C. PRICE

1. Submit Section 6.0 Price Page.
2. Rates and fringes must meet or exceed average Davis Bacon wages for Calhoun County, MI.

5.0 - SCOPE OF WORK

5.1 SCOPE

Before submitting a proposal, firms shall carefully examine the scope of work and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal all items requested.

5.2 DESCRIPTION OF WORK TO BE PERFORMED

Because of staffing gaps, the City is soliciting proposals for the purpose of contracting for two full-time, 40 hours per week and rotating on-call every three weeks journeyman electricians to be staffed at our Wastewater and Verona Treatment Plants for an indefinite period of time, with a minimum of six months with possibility of going longer. The City and the contractor, may upon mutual agreement, add electricians for other City plants for the contracted hourly rates for any mutually agreed upon term. Positions may be terminated with 30 days' written notice.

Journeyman shall work M-F, with hours of 6:00am – 2:30pm, with rotating on-call every third week. Hired journeyman will work normal business hours with city electrical apprentice. The Wastewater and Verona Treatment Plants are 24/7 operations and may require on-call reporting to resolve emergency operations issues.

Journeyman shall perform difficult skilled work handling routine and complex electrical troubleshooting, installation, maintenance, and repair; related work as apparent or assigned. Work performed under the limited supervision of the Maintenance Group Supervisor.

- Install, maintain, and repair a wide variety of electrical equipment and devices. Install, maintain, and repair motors; controls; electrical wiring; and components up to 5,000 volts, single and three phases. Troubleshoot electrical problems. Perform simple and complex electrical and electronic tests. Select electrical components and design simple electrical circuits.
- Maintain records and prepare written reports and recommendations on electrical equipment and controls. Coordinate and train other employees in electrical systems and component operation, repair, and maintenance work.
- Perform troubleshooting tasks on electronic controls and components. Install and maintain electronic devices. Perform complex troubleshooting tasks on mechanical, electrical, pneumatic, and combined motor control and alarm systems. Troubleshoot, maintain, install, and repair variable speed motor controllers and Programmable Logic Controllers.
- Coordinate and train other employees in electrical systems and component operation, repair, and maintenance work.

6.0 - PRICE SHEET

The rates listed below shall be all-inclusive per journeyman. No charges will be allowed outside the hourly rates as contracted. All-inclusive means transportation, insurance, overheard, mileage, per diems, fringes, benefits....EVERYTHING.

Contract award will be based on qualifications with consideration to pricing and staff availability.

Rates are for hours worked only and do not include holidays, sick time, or paid time off (PTO), so please factor that into your rates.

Straight time hourly rate:	\$
Overtime hourly rate (over 40 hours per week):	\$
Call in hourly rate:	\$
State minimum hours to be paid if journeyman gets called in:	

7.0 - OFFER AND ACCEPTANCE FORM

TO THE CITY OF BATTLE CREEK: We propose to furnish all labor, materials, equipment, tools, transportation and services required to complete the work in accordance with the specifications and conditions contained herein in consideration of the sum or sums stated below and agree that this document will constitute the contract if accepted by the City.

We hereby offer and agree to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposal and any written exceptions in the offer. We understand that the items in this Request for Proposal, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract. Warranty: Contractor shall remove and replace at no additional cost to the City any defects in workmanship or materials that may be apparent or may develop within a period of one (1) year from the date of final acceptance.

We agree to complete the contract within the times specified in this Request for Proposal.

We acknowledge receipt of the following addendum(s): _____.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder, and that our firm is not debarred from doing business under the Federal Excluded Parties List System (epls.gov).

I, the Contractor or Contractor's legally authorized signer, further certify compliance with the City of Battle Creek Ordinance Chapter 214, Discrimination Prohibited. I further acknowledge and agree that the Contractor's violation of Chapter 214 shall be a material breach of this contract. In addition, Contractor acknowledges and agrees that it shall be liable for any costs or expenses incurred by the City in obtaining from other sources, the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract as a result of a material breach in the Contract for violations of Chapter 214.

Company Name

For clarification of this offer, contact:

Address

Name: _____

City State Zip

Phone: _____

Signature of Person Authorized to Sign

Fax: _____

Printed Name

Email: _____

Title.62 12.05

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

Contract Term: _____

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Request for Proposal, including all terms, conditions, specification, amendments, etc. and the Contractor's Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No. 2024-062R. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order and/or a notice to proceed from the City of Battle Creek Purchasing Agent.

COUNTERSIGNED:

APPROVED AS TO FORM BY:

City Manager

Date

City Attorney

Witness Signature

Date

ATTACHMENT A - DISADVANTAGED BUSINESS (DBE) FORMS

I. YOUR FIRM'S BACKGROUND:

Is your firm an MBE (at least 51% minority ownership)? ____ YES ____ NO

Is your firm a WBE (at least 51% woman ownership)? ____ YES ____ NO

Are you subcontracting any part of this project? ____ YES ____ NO

ATTACHMENT B - PREVAILING WAGES

General Decision Number: MI20240079 01/19/2024
Superseded General Decision Number: MI20230079
State: Michigan
Construction Type: Building
County: Calhoun County in Michigan.
BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request. Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024
1	01/19/2024

ASBE0047-002 07/01/2023		
	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST		
INSULATOR.....	\$ 36.62	19.78

BOIL0169-001 06/01/2023		
	Rates	Fringes
BOILERMAKER.....		
	\$ 39.95	35.38

BRMI0009-031 08/01/2023		
	Rates	Fringes

CITY OF BATTLE CREEK PURCHASING
REQUEST FOR PROPOSAL NO. 2024-062R

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BRICKLAYER.....	\$ 33.95	23.52
TILE FINISHER.....	\$ 26.35	17.90
TILE SETTER.....	\$ 24.30	23.77

CARP0525-003 06/01/2023

	Rates	Fringes
CARPENTER, Includes Acoustical Ceiling Installation, Drywall Hanging, and Form Work.....	\$ 28.29	21.42

* CARP1102-001 06/01/2023

	Rates	Fringes
MILLWRIGHT.....	\$ 32.00	26.52

ELEC0445-011 05/31/2023

	Rates	Fringes
ELECTRICIAN.....	\$ 35.97	24.49

ENGI0324-002 06/01/2023

	Rates	Fringes
OPERATOR: Power Equipment		
GROUP 1.....	\$ 45.48	25.25
GROUP 2.....	\$ 42.18	25.25
GROUP 3.....	\$ 40.50	25.25
GROUP 4.....	\$ 37.82	25.25
GROUP 5.....	\$ 37.82	25.25
GROUP 6.....	\$ 31.96	25.25
GROUP 7.....	\$ 29.48	25.25

FOOTNOTES:

Crane operator with main boom and jib 300' or longer: \$1.50
per hour above the group 1 rate.
Crane operator with main boom and jib 400' or longer: \$3.00
per hour above the group 1 rate.

PAID HOLIDAYS: New Year's Day, Memorial Day, Fourth of
July, Labor Day, Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Crane operator with main boom and jib 400', 300', or
220' or longer.

GROUP 2: Crane operator with main boom and jib 140' or
longer, tower crane, gantry crane, whirley derrick

GROUP 3: Backhoe/Excavator/Trackhoe; Crane; Concrete Pump;
Grader/Blade; Highlift; Hoist; Loader; Roller; Scraper;
Stiff Leg Derrick; Trencher

GROUP 4: Bobcat/Skid Loader; Broom/Sweeper; Fork Truck (over 20' lift)

GROUP 5: Boom Truck (non-swinging)

GROUP 6: Fork Truck (20' lift and under for masonry work)

GROUP 7: Oiler

IRON0025-005 06/01/2022

	Rates	Fringes
IRONWORKER (REINFORCING).....	\$ 31.43	34.77
IRONWORKER (STRUCTURAL).....	\$ 34.50	38.44

LABO0355-022 06/01/2022

	Rates	Fringes
LABORER		

Rev Nov 2023

Common or General; Grade
Checker; Mason Tender -
Brick; Mason Tender -
Cement/Concrete;
Sandblaster.....\$ 26.70 12.95
Pipelayer.....\$ 20.34 12.85

PAIN0312-002 06/01/2023

	Rates	Fringes
PAINTER: Brush and Roller.....	\$ 23.74	13.35
PAINTER: Drywall		
Finishing/Taping.....	\$ 23.74	13.35
PAINTER: Spray.....	\$ 26.18	15.86

PLAS0016-007 04/01/2014

	Rates	Fringes
PLASTERER.....	\$ 21.18	12.43

PLUM0333-006 06/01/2023

	Rates	Fringes
PIPEFITTER, Includes HVAC		
Pipe and Unit Installation.....	\$ 43.29	24.94
PLUMBER, Excludes HVAC Pipe		
and Unit Installation.....	\$ 43.29	24.94

FOOTNOTE:

Paid Holidays: Memorial Day, Independence Day and Labor Day, if the employee works the work day preceding and following the holiday unless proven illness or injury prevents the employee from working.

ROOF0070-002 06/01/2022

	Rates	Fringes
ROOFER.....	\$ 30.03	16.84

* SFMI0669-001 01/01/2024

	Rates	Fringes
SPRINKLER FITTER (Fire		
Sprinklers).....	\$ 40.48	25.80

SHEE0007-004 05/01/2023

	Rates	Fringes
SHEET METAL WORKER (Including		
HVAC Duct Installation;		
Excluding HVAC System		
Installation).....	\$ 38.09	19.66

* SUMI2011-004 02/01/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 25.23	1.80
IRONWORKER, ORNAMENTAL.....	\$ 18.48	7.93
LABORER: Landscape &		
Irrigation.....	\$ 10.38 **	0.50
OPERATOR: Bulldozer.....	\$ 19.68	6.64
OPERATOR: Compactor.....	\$ 17.68	6.70
OPERATOR: Tractor.....	\$ 19.10	8.48

TRUCK DRIVER, Includes Dump
and Tandem Truck.....\$ 17.26 11.42

TRUCK DRIVER: Lowboy Truck.....\$ 14.50 ** 0.44

TRUCK DRIVER: Tractor Haul
Truck.....\$ 13.57 ** 1.18

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====
END OF GENERAL DECISION"



Resolution

NO. 402

A Resolution seeking authorization for the City Manager to enter into an agreement with the Municipal Employees Retirement System (MERS) to administer a grant of service credit for employees who meet certain criteria and were previously employed in a position covered by a City non-MERS Police and Fire retirement plan.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That the City Manager is authorized to enter into the attached agreement with the Municipal Employees Retirement System (MERS) allowing MERS to administer a grant of service credit exclusively for purposes of vesting and eligibility purposes, and not for any benefit credit purposes whatsoever, under the City's MERS Defined Benefit Plan to any City employees who are both:

- 1) active on or after the effective date of this Agreement; and
- 2) is transferred, on or after the effective date of this Agreement from a position covered by the City's non-MERS Police and Fire retirement plan into a position that is covered by a MERS Defined Benefit retirement plan into a position covered by a MERS Defined Benefit Plan employee division into which the employee is eligible for enrollment under the otherwise applicable transfer rules.

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking authorization for the City Manager to enter into an agreement with the Municipal Employees Retirement System (MERS) to administer a grant of service credit for employees who meet certain criteria and were previously employed in a position covered by a City non-MERS Police and Fire retirement plan.

BUDGETARY CONSIDERATIONS

There are none by virtue of entering into this agreement.

HISTORY, BACKGROUND and DISCUSSION

The Agreement has been provided to recognize service from an employee who may transfer into MERS from Police and Fire Pension. On rare occasion, we have an employee moving from the Police and Fire pension system into a MERS position. This agreement would allow the employee's years of service from a non-MERS position to apply as service credit in the MERS pension system exclusively for purposes of vesting and eligibility and not for any benefit credit purposes whatsoever under the City's MERS defined benefit plan who meet both circumstances outlined in the resolution.

Entering into this agreement would also allow an employee who left BCFD or BCPD without retiring (maybe they moved) but comes back into a MERS role with the City years later to have those earlier years of service with BCFD or BCPD to apply to the MERS pension exclusively for purposes of vesting and eligibility purposes and not for any benefit credit purposes.

DISCUSSION OF THE ISSUE

POSITIONS

The Human Resources Director supports approval of this Resolution.

ATTACHMENTS:

File Name	Description
 Battle_Creek_Prior_Service_ASA_(2).docx	MERS Prior Service Agreement

**Administrative Services Agreement
between
City of Battle Creek
and
Municipal Employees' Retirement System of Michigan
regarding Vesting and Eligibility Service Upon Certain Transfers**

This Agreement, made as of the 3rd day of September, 2023, between the Municipal Employees' Retirement System of Michigan (MERS) and the City of Battle Creek (Municipality), and effective as of the date above, together with the Adoption Agreements, provides the mutually agreed-upon terms for MERS' administration of the grant of service credit for vesting and eligibility purposes only, and not for any benefit credit whatsoever, under Municipality's Defined Benefit Plan to certain of Municipality's employees for non-contemporaneous service accrued during their current term of employment with the Municipality under the Municipality's non-MERS Police and Fire retirement plan, pursuant to Section 43 of the MERS Plan Document. Nothing in this Agreement supersedes or waives any rights or obligations of the parties under law and the MERS Plan Document.

Modification from Standard Policy Adopted:

Under the terms of the MERS Plan Document, accrual of vesting and eligibility service begins upon a member's commencing accrual of service based on performance of work that is covered by the participating employer's MERS Adoption Agreement, subject to all requirements and limitations set out therein.

The Municipality has requested and MERS has agreed to administer a grant of service credit exclusively for purposes of vesting and eligibility purposes, and not for any benefit credit purposes whatsoever, under the Municipality's MERS Defined Benefit Plan to any of Municipality's employees who is:

- active on or after the effective date of this Agreement; and
- is transferred, on or after the effective date of this Agreement, from a position covered by the Municipality's non-MERS Police and Fire retirement plan into a position that is covered by a MERS Defined Benefit Plan employee division into which the employee is eligible for enrollment under the otherwise applicable transfer rules.

The vesting and eligibility service granted (which shall not include any benefit credit whatsoever) shall be in an amount equal to the number of years of service accrued by an employee who is described and meets the requirement set out above under the Municipality's non-MERS Police and Fire retirement plan during their current term of employment with the Municipality when they were not accruing service under the Municipality's MERS Defined Benefit employee division (non-contemporaneous service). Vesting and eligibility service earned under the Municipality's non-MERS Police and Fire retirement plan when a current employee was also earning service under the MERS Defined Benefit Plan (contemporaneous service) shall not be credited under this Agreement. If the Municipality and MERS enter into another transaction that has the effect of granting any employee covered by this Agreement vesting and eligibility credit under the Municipality's MERS Defined Benefit Plan based on service accrued under Municipality's non-MERS Police and Fire retirement plan, then such service will be granted in lieu of, and not in addition to, the grant of vesting and eligibility service under this Agreement. Notwithstanding anything herein to the contrary, under no circumstances shall any individual accrue more than one year of vesting and eligibility service for one year of employment for purposes of the MERS Defined Benefit Plan.

It shall be the Municipality's sole and exclusive responsibility to calculate and certify each impacted individual's non-contemporaneous vesting and eligibility service credit, and to provide that information to MERS. The Municipality acknowledges that it is obligated to maintain, in reasonably accessible format,

data evidencing the basis for MERS' grant of this vesting and eligibility credit, as certified to MERS by the Municipality. Should MERS receive an inquiry, retirement application, refund application, or a distribution request from an impacted member, the Municipality will be required to provide MERS and/or the impacted individual with the dates and amounts of vesting and eligibility service credit granted pursuant to this Agreement, and any other pertinent information necessary for MERS to respond and provide services accurately regarding the retirement plan within a reasonable time of the request.

Limitations

No former employee of Municipality will be affected by this change or by operation of this Agreement. No employee who was transferred from Municipality's non-MERS Police and Fire retirement plan into a position that is covered by a MERS Defined Benefit Plan employee division into which the employee is eligible for enrollment under the otherwise applicable transfer rules prior to the effective date of this Agreement will be affected by this change or by operation of this Agreement.

Increase in Unfunded Liability

The Municipality acknowledges that granting additional service for vesting and eligibility purposes may increase unfunded liability with respect to its MERS Defined Benefit Plan.

Notice Requirement:

The Municipality must provide written notice to the impacted employees of the above adjustments. The Municipality agrees to indemnify and hold harmless MERS, its Board members, employees and agents for any claim, damages or liability to any person or entity arising from MERS' administration of this Administrative Services Agreement.

By signing below, the parties agree that the Defined Benefit Plan will be administered in accordance with the explanations provided herein. Items not discussed in the Adoption Agreement or this Administrative Services Agreement shall be administered in accordance with the MERS Plan Document and/or applicable law.

For the City of Battle Creek (Municipality)

Signature: _____

Printed Name: _____

Title: _____

Date: _____

For Municipal Employees' Retirement System of Michigan (MERS)

Signature: _____

Printed Name: _____

Title: _____

Date: _____



Resolution

NO. 403

A Resolution seeking authorization for the City Manager to enter into a Concessions Agreement with Cereal City Concessions, LLC. and to amend the CO Brown Stadium lease agreement.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That the City has historically entered into agreements with third parties for the purpose of providing concession services at Bailey Park during City programs and baseball tournaments. Most recently, the City has had an agreement for Cereal City Development Corporation (CCDC) to provide these services; however, CCDC has indicated it no longer wishes to undertake this service.

Both the City and the Cereal City Concessions, LLC. (a company affiliated with Northwoods League, Inc. which has a lease agreement with the City for baseball at C.O. Brown Stadium), wish to enter into the attached Concessions Agreement to authorize Cereal City Concessions, LLC. to provide concession services at Bailey Park for said events. In addition, the lease agreement between the City and Northwoods League, Inc. must be contemporaneously amended to provide for this additional obligation.

Therefore, the City Manager is authorized to execute the attached Concessions Agreement with Cereal City Concessions, LLC., and the attached First Amendment to the Lease Agreement with Northwoods League, Inc. and Cereal City Baseball, LLC, or documents substantially similar with terms approved by the City Attorney.

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Jonathan R. Baber, Deputy City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking authorization for the City Manager to enter into a Concessions Agreement with Cereal City Concessions, LLC. and to amend the CO Brown Stadium lease agreement.

BUDGETARY CONSIDERATIONS

The City of Battle Creek will receive 7.5% of gross sales net of sales tax from Cereal City Concessions, LLC. as consideration for entering this Concessions Agreement.

HISTORY, BACKGROUND and DISCUSSION

The City has most recently, for more than a decade, had an agreement with Cereal City Development Corporation (CCDC) to provide concessions at City and community events at the stadium, but it has indicated it no longer wishes to provide that service.

Cereal City Concessions, LLC. wishes to also provide the concession services at Bailey Park for City programs and tournaments going forward. As part of the consideration for the attached Concessions Agreement, Northwoods League, Inc. agrees to amend the C.O. Brown Stadium lease to provide the City with 7.5% of gross sales net of sales tax for concessions sold in C.O. Brown Stadium during City or sponsoring organization events.

DISCUSSION OF THE ISSUE

POSITIONS

This Resolution is supported by Duska A. Brumm, Recreation Director.

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> First_Amendment_to_Lease_Final.pdf	Lease Amendment
<input type="checkbox"/> Concession_Service_Agreement_Final.pdf	Concessionaire Agreement

**FIRST AMENDMENT TO THE
C.O. BROWN STADIUM AND BRIDGE
STREET PROPERTY LEASE**

RECITALS:

On or about November 19, 2021, pursuant to Resolution 259 approved November 16, 2021, the **CITY OF BATTLE CREEK** ("City" and "Lessor"), **NORTHWOODS LEAUGE, INC.** ("Northwoods"), and **CEREAL CITY BASEBALL, LLC** (Lessee) entered into an agreement ("Lease") to lease C.O. Brown Stadium and Bridge Street property and for Concessions.

On _____, the City and Cereal City Concessions, LLC entered into a Concessionaire Agreement giving Cereal City Concessions, LLC exclusive rights to selling concessions at Baily Park during City programs and baseball tournaments. In consideration of the Concessionaire Agreement, all parties hereby agree to amend the lease as follows:

1. **Concessions:** Effective immediately, Section 7.3(c) of the Lease shall be deleted and replaced with the following language:

(c) Lessee recognizes that certain other events will be scheduled on the Premises pursuant to this Lease Agreement. City or sponsoring organizations of other events so scheduled retain the right to sell souvenirs on the leased Premises during the event as part of their fund raising to pay for their event without payment to Lessee of any portion of the revenues so derived. Lessee shall have the right to sell its own souvenirs and operate concessions at the Premises during such other events provided it is during a period of time Lessee is entitled to possession, but shall be governed and limited by rules of the parent bodies involved in or sanctioning the other events regarding licensing of souvenirs and any limitations on concession items including the sale of alcohol during the event. In consideration for the right to provide concession services during City or sponsoring organization events, Lessee agrees to pay the City seven and one-half percent (7.5%) of gross sales net of sales tax for concessions sold during City or sponsoring organization events. Payment of all such sums shall be due and paid to the City at the Parks and Recreation officer by the 10th day of the following month. Lessee shall be responsible for paying all applicable taxes, including but not limited to sales tax, and complying with federal and state tax reporting requirements and shall hold the City harmless for any liability regarding the same.

2. Any and all current and future Sublease(s) of the Lease agree to abide by the terms of the Lease and this Amendment.
3. In all other respects, the Lease shall remain unchanged. In the event of any conflict between the terms of this Amendment and the initial lease, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the undersigned have executed this First Amendment.

Date: _____

CITY OF BATTLE CREEK

By: _____

Rebecca L. Fleury

Its: City Manager

Date: _____

NORTHWOODS LEAGUE, INC.

By: _____

Its: _____

CEREAL CITY BASEBALL, LLC

By: _____

Its: _____

DRAFT

CITY OF BATTLE CREEK CONCESSIONAIRE AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2024 by and between the **CITY OF BATTLE CREEK**, a Michigan municipal corporation, hereinafter referred to as the City, whose address is 10 N Division St., Battle Creek, MI 49014 and **Cereal City Concessions, LLC.**, hereinafter referred to as Concessionaire, whose address is 189 Bridge Street, Battle Creek, MI 49017

RECITALS:

WHEREAS, the City owns and operates several City parks, including Bailey Park, located at 1350 Capital Ave. NE, Battle Creek, Michigan, hereinafter referred to as “the Park”;

WHEREAS, Concessionaire desires to operate concession stands at the Park, not to include CO Brown Stadium, for the purpose of selling food, Pepsi Cola non-alcoholic beverages, candy and snacks to the Park patrons; and

WHEREAS, the City is willing to permit the Concessionaire to operate concession stands at the Park in accordance with and subject to the limitations set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Concession Stand.** The City hereby agrees to permit Concessionaire exclusive rights to operate concession stands during City programs and baseball tournaments at the Park, not including C.O. Brown Stadium, in accordance with and subject to the terms and conditions set forth in this Agreement. Concessionaire shall assume the risk of loss regarding any personal property, trade fixtures or equipment installed or utilized by Concessionaire at the concession stands, and shall hold the City harmless for any damage or maintenance regarding the same, except as otherwise provided herein.
2. **Concessionaire Service.** Concessionaire shall offer for sale at the concession stands food, Pepsi Cola non-alcoholic beverages (exclusive beverage to be served under City contract), candy, and snacks. Concessionaire shall operate the concession stands as open for business during reasonable hours sufficient to provide services to Park participants during any or all sport league and tournament play taking place during Park hours. Concessionaire has the right to determine pricing for all food, Pepsi Cola nonalcoholic beverages, candy and snacks offered for purchase by patrons. Concessionaire shall endeavor to provide concession services for the

benefit of and patrons of the Park. Concessionaire may not cover, unplug, or hinder any vending machines located at the Park.

3. **Duties and Responsibilities.** Concession services shall be conducted professionally. All employees and vendors of Concessionaire shall be polite and courteous to patrons of the Park and concession stands. Concessionaire shall keep the premises in a clean and orderly condition at all times and in compliance with applicable laws, ordinances, rules and regulations, including maintaining and required licenses and permits. Garbage and trash shall be placed in appropriate receptacles. Concessionaire agrees to provide such employees as Concessionaire deems necessary to provide concession services in accordance with the terms and conditions of this Agreement. Concessionaire shall be entirely responsible for the acts and activities of all persons providing concession services. Concessionaire shall be required to take appropriate measures required to comply with all health and safety code standards for sanitation and food services. All goods intended for human consumption shall comply with all standards established by the Food and Drug Administration, Calhoun County and its Health Department, and City laws and ordinances. Concessionaire shall promptly send to the City a copy of any health inspection reports issued by the Calhoun County Health Department to Concessionaire.

City will ensure that the structure(s) are physically sound. The City agrees to maintain the physical structure(s) so that Concessionaire can provide the concession services during this Agreement. If the City is not able to maintain the physical structure(s) because of funding, budget or any other unforeseen issue, Concessionaire is released from this Agreement.

City will ensure that all utilities are operational and agrees to pay for utility charges during the life of this Agreement.

Concessionaire agrees not to make any alterations without obtaining prior written consent from the City.

4. **Refuse Disposal.** Concessionaire shall provide appropriate refuse disposal containers for disposal of Concessionaire's refuse at the Park at its own expense and shall dispose of such waste daily.
5. **Term.** The Term of this Agreement shall be from April 3, 2024 to December 31, 2026 unless sooner terminated by default or notice of termination as provided herein. The City shall have the option to renew this Agreement for two additional years, unless the City or Concessionaire provides written notice to the other of its intent to cancel the Agreement. In the event the City renews this Agreement, all terms, conditions and provisions of the original Agreement shall remain the same and apply during the renewal period unless changes are mutually agreed upon by the parties of this Agreement.
6. **Consideration.** In consideration for the right to provide concession services at the Park, Concessionaire hereby agrees to pay the City 7.5% percent of gross sales net of sales tax. Payment of all such sums due to the City at the Parks and Recreation office by the 10th day of

the following month. Concessionaire shall be responsible for paying all sales tax and complying with federal and state tax reporting requirements and shall hold the City harmless for any liability regarding the same.

7. **Compliance.** Concessionaire agrees to conduct its business and to operate the same in compliance with all health codes, safety standards and other applicable laws, ordinances and regulations, and to obtain all necessary City, State, and Federal licenses, permits and tax numbers, as required to conduct such operations. Concessionaire further agrees to pay any and all income taxes, sales taxes, or other taxes which may be due or become due in connection with Concessionaire's business. Concessionaire shall train and closely supervise all concession employees, vendors and salespersons so they are aware of and adhere to all terms and conditions of this Agreement and all applicable laws, rules and regulations of the State of Michigan, City of Battle Creek, and Calhoun County.
8. **Independent Contractor.** Concessionaire is an independent contractor and shall not be considered an employee, officer or agent of the City. Concessionaire shall hire and employ such persons as Concessionaire deems necessary to provide adequate concession services and shall retain the right to exercise full control and supervision of all such persons assisting Concessionaire in the performance of services hereunder. Concessionaire shall conduct background checks on all employees assisting Concessionaire in the performance of services hereunder and shall provide a copy of background checks to the City upon request. Concessionaire shall be solely responsible for all matters relating to the payment of its employees including workers compensation, social security and income tax withholding, and all other regulations governing such matters.
9. **Assignment.** Concessionaire shall not sub-contract or otherwise assign, delegate or transfer the rights, duties and services to be performed under this Agreement, or any part hereof, without the prior written consent of the City.
10. **Insurance.** Concessionaire agrees to obtain and maintain during the life of this Agreement, at Concessionaire's sole cost and expense, comprehensive general liability insurance coverage in the amount of \$1,000,000 to insure against all claims which arise from the operation or performance of Concessionaire's activities pursuant to this Agreement, naming the City as an additional insured and providing a copy of proof of insurance to the City. Concessionaire shall obtain and maintain during the life of this Agreement, Workers Compensation in the amount of \$100,000 or any amount greater if required by statute. Concessionaire shall obtain and maintain errors and omissions insurance in the amount of \$300,000 during the life of this Agreement. Concessionaire shall obtain and maintain automobile liability insurance containing combined limits of personal injury and property damage of not less than the amounts required by the State of Michigan and covering any vehicle which is used in connection with the performance of this Agreement during the life of this Agreement.

- 11. Indemnify.** Concessionaire agrees to indemnify, hold harmless and defend the City, its officers, agents, and employees from and against any and all loss, liability, expense, claims, costs, suits, actions, and damages, including reasonable attorneys' fees, however caused, arising out of or resulting from the operations, acts or omissions of the Concessionaire, its employees, officers and agents, in performance of Concessionaire's services and obligations under this Agreement.
- 12. No Partnership.** It is understood and acknowledged that each of the parties hereto are engaged in independent businesses and nothing contained herein shall be construed as creating any relationship, partnership or other connection between the parties except as expressly set forth herein.
- 13. Default.** In the event any party to this Agreement shall default under any of the terms or conditions hereof, the non-defaulting party shall send written notice to the party in default, who shall then have ten (10) days to cure the default. In the event the defaulting party fails to cure its default within the time provided, the non-defaulting party may declare the contract terminated. In addition to any remedies set forth herein, the City may take any appropriate legal action necessary to remedy any default by Concessionaire.
- 14. Termination.** This agreement may be terminated at any time by mutual written consent, or by the City with or without cause upon giving sixty (60) days written notice. The City reserves the right to immediately terminate the whole or part of this Agreement due to a failure of Concessionaire to carry out any term, promise, or condition of this Agreement.
- 15. Notice.** Any notice or demand required or permitted to be given under the terms of this Agreement shall be deemed to have been given when the same is in writing and has been delivered personally or deposited in the United States mail, postage pre-paid, return receipt requested, and addressed as follows:
- City: 10 N Division St., Battle Creek, MI 49014
- Concessionaire: 189 Bridge Street, Battle Creek, MI 49017
- Such addresses may be changed from time to time by either party by giving notice in writing to the other party as provided herein.
- 16. Severability.** Every provision of this Agreement is intended to be several. If any term or provision is deemed invalid or illegal for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- 17. Enforcement, laws and Ordinances.** This Agreement shall be enforced under the laws of the State of Michigan. Concessionaire must comply with all applicable federal, state, county and

City laws, ordinances, and regulations. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement or the transactions it contemplates shall bring the legal action or proceeding In the United States District Court for the Western District of Michigan, or in any court of the State of Michigan sitting in Calhoun County, if there is no federal subject matter jurisdiction.

18. Waiver. The failure of either party of this Agreement to take affirmative action with respect to any conduct of the other which is in violation of the terms of this contract shall not be construed as a waiver thereof, or of any future breach or subsequent wrongful conduct.

19. Non-Discrimination. Concessionaire will fully comply with the spirit and substance of all federal, state, or local laws relating to discrimination on the grounds of race, color, religion, age, sex, national origin, height, weight, physical handicap or disability, and marital status or familial status in the conduct of its business on the Premises. Concessionaire will insure that all employees, and contractors comply with the requirements of such laws. Concessionaire shall provide equal opportunity for employment without discrimination as to the factors listed in this paragraph.

Further, Concessionaire agrees that in carrying out the terms of this Agreement that it shall not deny any person the equal protection of the laws; nor shall the Concessionaire deny any person the enjoyment of their civil rights or discriminate against any person because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity.

Concessionaire's signature on this Agreement is a certification that it is in compliance with the provisions of Chapter 214 of Battle Creek City ordinances. Concessionaire further acknowledges and agrees that its breach of the agreement not to discriminate shall be a material breach of this Agreement.

20. Miscellaneous Provisions. Concessionaire shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Agreement shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Agreement. Persons requesting such information must be referred to the City.

All services, information, computer program elements, reports, and other deliverables which may have a potential patent or copyright value and which are created under this Agreement shall be the property of the City and shall not be used by the Concessionaire or any other person except with the prior written permission of the City.

Where applicable, Concessionaire shall remove and replace at no additional cost to the City any defects in workmanship or materials that may be apparent or may develop within a period of one (1) year from the date of final acceptance.

21. Entire Agreement. This Agreement contains the entire and integrated agreement of the parties as of its date, and any prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of no force or effect.

22. Amendments. Any amendment or alteration of this Agreement shall be made in writing and signed by the parties.

23. Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties respective representatives, agents and successors.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the date first written above.

CITY OF BATTLE CREEK

Date: _____

By: _____
Rebecca L. Fleury
Its: City Manager

Cereal City Concessions, LLC.

Date: _____

By: _____
Its: President



Resolution

NO. 404

A Resolution requesting approval of a new polling location for newly consolidated precinct 22 at Westlake Presbyterian Church, 415 S. 28th Street.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That Michigan Election Law requires the legislative body in each municipality to provide a suitable polling place for each precinct located in the municipality for use on Election Day; and

Michigan Election Law requires a publicly owned or controlled building, including but not limited to, a municipal building or school building, be used as a polling place unless it is not possible or convenient to use a publicly owned or controlled building as a polling place; and

Michigan Election Law states the legislative body of a city shall not designate as a polling place a building that is owned or leased by an elected official, an individual who is a candidate, or a person that is regulated under Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 to 169.282; and in addition

Michigan Election Law states a building must not be designated as a polling place if a portion of that building is leased by an elected official, an individual who is a candidate or a person that is regulated under Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 to 169.282, and that portion of that building leased by an elected official, an individual who is a candidate or a person that is regulated under Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 to 169.282 is located within 100 feet from the entrance of the polling place inside that building; and

Election Law provides that the legislative body of a city shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place; and

Election Law requires the legislative body to ensure that a polling place is accessible and complies with the Voting Accessibility for the Elderly and Handicapped Act and the Help America Vote Act of 2002; therefore

As notified by Journey Church, the City can no longer use their facility as a polling place and Westlake Presbyterian Church, located at 415 S. 24th Street will be a convenient polling place for voters of newly consolidated precinct 22;

Therefore, be it resolved that, effective immediately, pursuant to the recommendation of the City Clerk, the Battle Creek City Commission approves Westlake Presbyterian Church, at 415 S. 24th Street, as a polling location for newly consolidated precinct 22.

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Victoria L. Houser, City Clerk

Department: City Clerk

SUMMARY

A Resolution requesting approval of a new polling location for newly consolidated precinct 22 at Westlake Presbyterian Church, 415 S. 28th Street.

BUDGETARY CONSIDERATIONS

The relocation of precincts and polling places requires the clerk to provide notice to each registered elector entitled to vote at that polling place no later than 45 days before an election. Costs will include new voter ID cards and postage to 4,230 active registered voters.

101.17.2120.727.010 Materials & Supplies

101.17.2120.727.040 Postage

HISTORY, BACKGROUND and DISCUSSION

Journey Church, 800 S. 24th Street, has served as a polling location for City of Battle Creek Precincts 2, 3, 22 and 23 since 2016.

On Tuesday, February 13, 2024, the City Clerk was notified that Journey Church, although they would host the February 27, 2024 election, no longer had the availability to host elections on their campus in the future due to scheduling and other priorities.

A request for reconsideration to host the August and November 2024 elections was sent on February 21, 2024, and was subsequently denied on March 11, 2024.

On Wednesday, March 20, 2024, due to the immediate need to relocate the 4 precincts, the Election Commission considered and approved the consolidation and relocation of the 4 precincts. The consolidation of precincts must be made no later than 120 days before a primary or election, which for the August 6, 2024 Primary is April 8, 2024. The relocation of precincts and polling locations must be done no less than 60 days before an election.

MCL 168.658 previously limited the size for each election precinct to not more than 2,999 active registered electors. Public Act 88 of 2023 increased the allowable precinct size from 2,999 active registered voters to 5,000 active registered voters, without immediate effect.

Public Act 226 of 2023, passed December 29, 2023, amended Michigan Election Law to change the maximum number of electors allowed in a precinct from 5,000 to 4,999 active registered voters, with immediate effect.

Due to challenges in finding potentially 4 new polling locations, the Election Commission approved the

following consolidations and relocations:

Precincts 2 and 13, both in Ward 4, to be consolidated and located at Trinity Neighborhood Center, where Precinct 13 is currently located.

Precincts 5 and 20, both in Ward 5, to be consolidated and located at Woodland Church, where both precincts are currently located.

Precincts 22 and 23, both in Ward 1, consolidated, and if approved, to be located at the new polling location of Westlake Presbyterian Church, 415 S. 28th Street.

The Election Commission also approved the relocation of Precinct 3, Ward 5, although not consolidated, to Woodland Church at 14425 Helmer Road South, which currently hosts precincts 5, 11 and 20.

DISCUSSION OF THE ISSUE

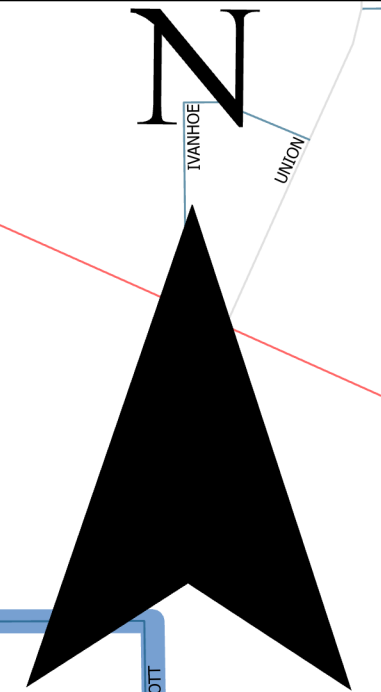
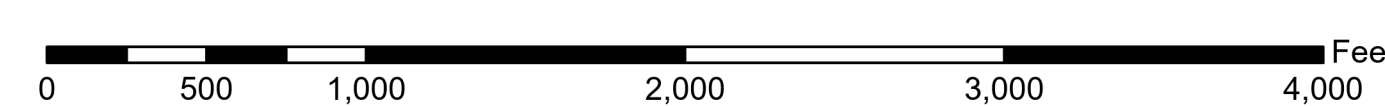
POSITIONS

ATTACHMENTS:

File Name	Description
❏ 2024_Map_of_Consolidations_and_Relocations.pdf	Map of Precinct Consolidations & Relocations
❏ 2024_Precinct_Legal_Descriptions_clean.pdf	2024 Precinct Legal Descriptions - Clean Copy
❏ 2024_Precinct_Legal_Descriptions_-_Mark_Up.pdf	2024 Precinct Legal Descriptions - Mark Up
❏ 3.20.24_Election_Commission_Minutes.pdf	3.20.24 Election Commission minutes



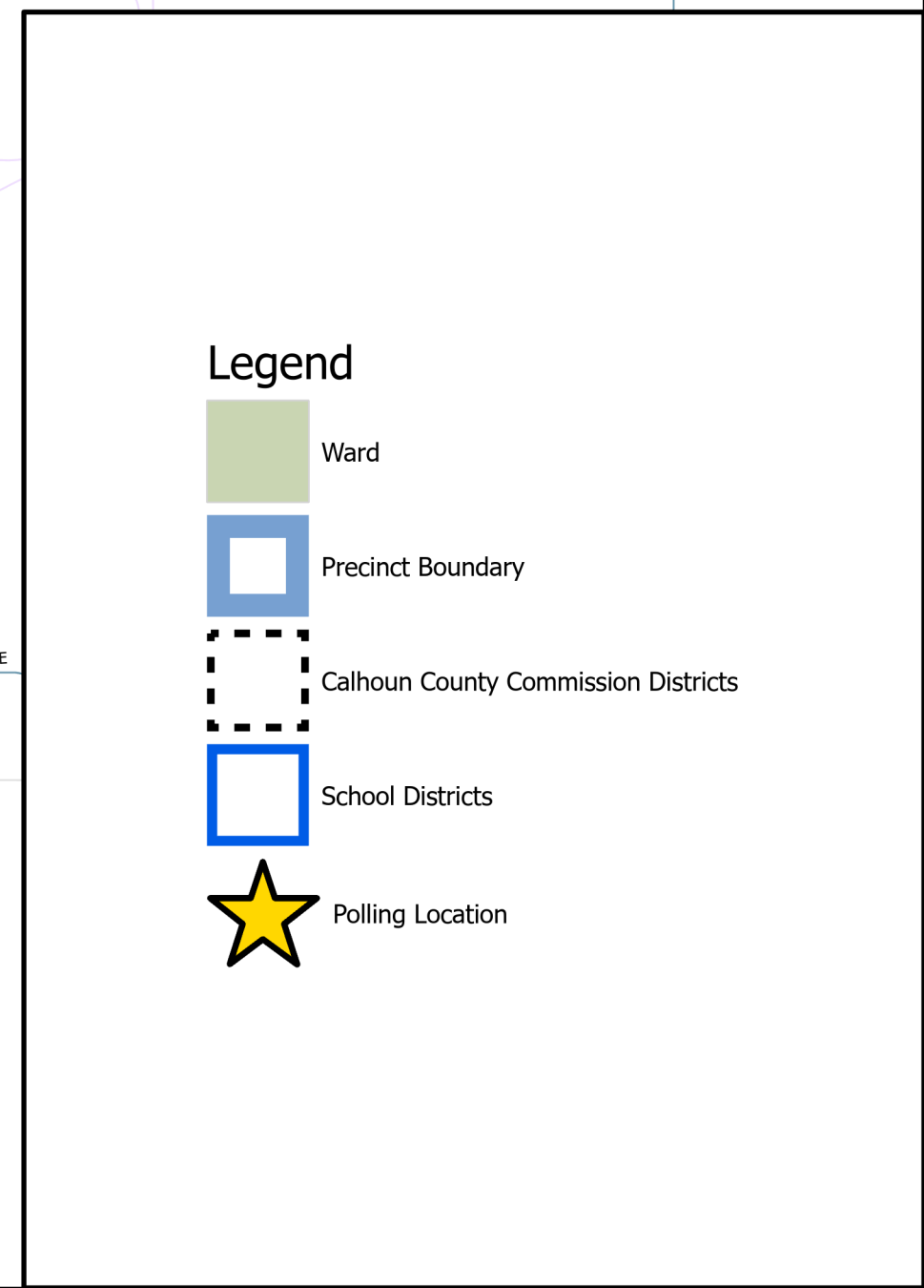
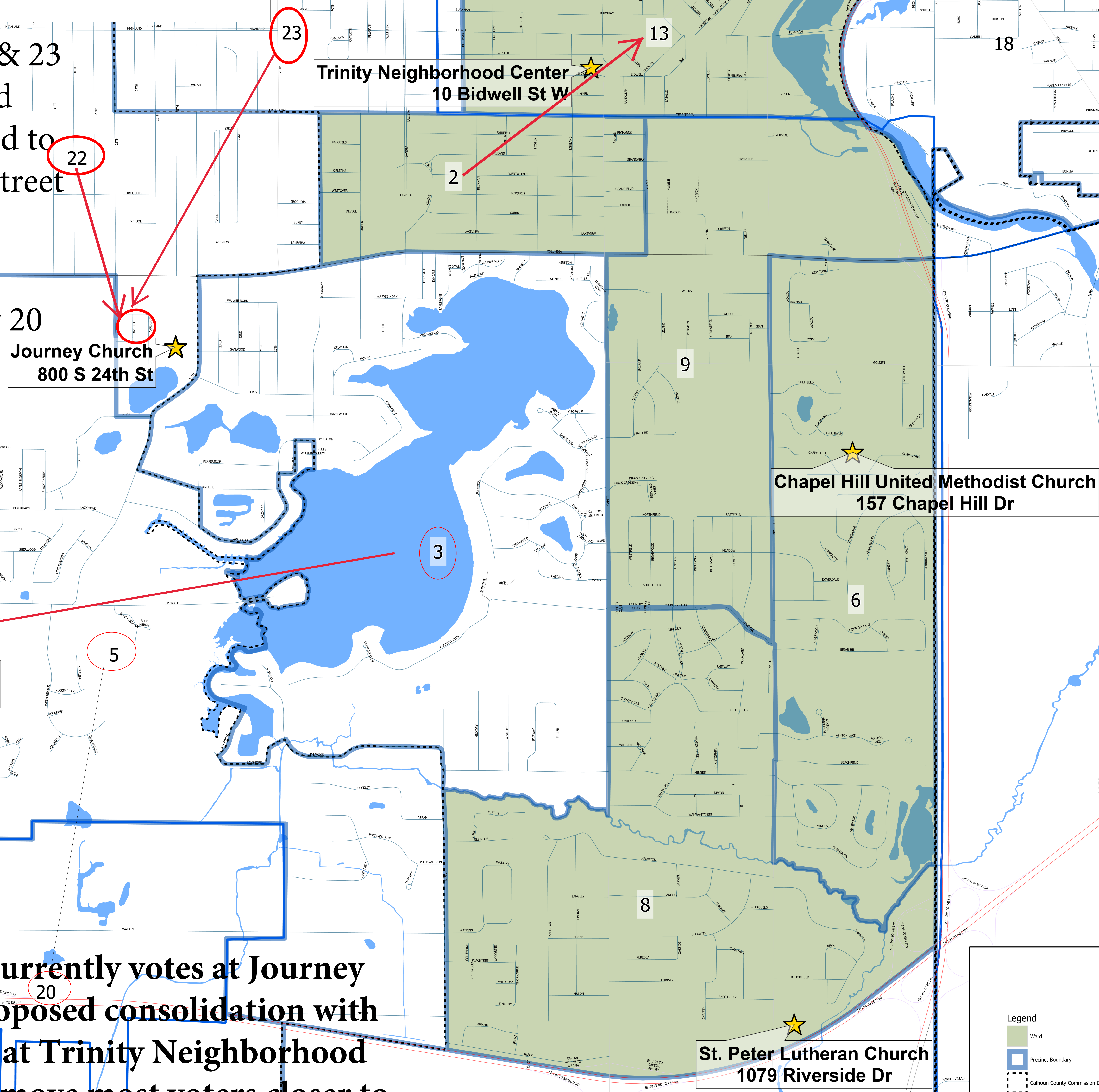
Ward 4



Precinct 22 & 23
to be merged
and relocated to
415 S 28th Street

Precinct 5 & 20
to merge,
allowing
Precinct 3 to
relocate to
Woodland
Church

Precinct 2 currently votes at Journey
Church: Proposed consolidation with
Precinct 13 at Trinity Neighborhood
Center will move most voters closer to
polling location.



CITY OF BATTLE CREEK
PRECINCT DESCRIPTIONS

2024

All descriptions will start at the boundary line most northern and westerly and follow a clockwise pattern.

PRECINCT 1 – County Commission District 2

Starting at the Battle Creek River and E. Emmett Street:

Centerline of E. Emmett Street to easterly City Limit. Follow City limit boundary to Jericho Road. Centerline of Jericho Road northerly to Cliff Street. Centerline of Cliff Street westerly to Mott Street. Centerline of Mott Street northerly to Mary Street. Centerline of Mary Street westerly to Elm Street. Centerline of Elm Street northerly to Battle Creek River. Follow the Battle Creek River northerly to point of beginning.

PRECINCT 3 – County Commission District 3

Starting at the intersection of 24th Street and Columbia Avenue W:

Centerline of West Columbia Avenue easterly to Capital Avenue S.W. Centerline of Capital Avenue S. W. southerly to Minges Creek. Center of Minges Creek westerly to Minges Road S. Centerline of Minges Road S. north to Lynwood Drive, westerly to Bayshore Drive. Follow centerline of Bayshore Drive to Bay Pointe then northerly to closest point at lake. Follow shoreline of Goguac Lake north to Woodrow Avenue S. Centerline of Woodrow Avenue S. north to Wheaton Avenue. Centerline of Wheaton Avenue west to centerline of Sherman Drive. Centerline of Sherman Drive south and west to centerline of Lakeshore Dr. Centerline of Lakeshore Dr. south and west to Pepperidge Lane. Centerline of Pepperidge Lane north to Charles E. Place. Centerline of Charles E. Place northwesterly to 24th Street. Centerline of 24th Street northerly to point of beginning.

PRECINCT 4 – County Commission District 1

Starting at Northwesterly City Limit:

Follow City limit line to Bedford Road N (M-37). Centerline of Bedford Road N (M-37) southerly to Michigan Avenue W. Centerline of Michigan Avenue W northwesterly to Geiger Road, southerly to end of road then follow power line to southern City limit line. Continue westerly to follow City limit line around Springfield and Bedford to Helmer Road. Centerline of Helmer Road south to West Columbia Avenue. Centerline of West Columbia Avenue westerly to City limit. Follow City limit north and east to point of beginning.

PRECINCT 6 – County Commission District 3

Starting at the intersection of Columbia Avenue E and Riverside Drive:

Centerline of Columbia Avenue E. easterly to City limit. Follow City limit southerly to thread of Minges Brook. Thread of Minges Brook westerly to Riverside Drive. Centerline of Riverside Drive north to point of beginning.

PRECINCT 7 – County Commission District 1

Starting at City limit and RR Tracks:

Follow RR tracks (RR tracks that run just south of Lafayette Street) southeasterly to McCamly Street. Centerline of McCamly Street short distance northeasterly to Houston Street. Centerline of Houston Street northwesterly to Carlyle Street. Centerline of Carlyle Street northeasterly to end of road. Follow the Battle Creek River southeasterly to S. W. Capital Avenue. Centerline of S. W. Capital Avenue southwesterly to intersection of BL94 (Dickman Road). Centerline of BL94 (Dickman Road) southerly to E. Goguac Street. Centerline of E. Goguac Street westerly to City Limit. City limit northerly to point of beginning.

PRECINCT 8—COUNTY COMMISSION DISTRICT 3

Beginning at centerline of South Minges Road & Minges Creek:

Easterly along center of Minges Creek to Capital Avenue; along centerline of Capital Avenue to Country Club Drive; along centerline Country Club Drive to its intersection with the centerline of Frances Drive & Edgehill Drive (sometimes known as Edgehill Road); Easterly along the centerline of Edgehill Drive to Riverside Drive; along centerline of Riverside Drive southerly to thread of Minges Brook; Easterly along thread of Minges Brook to City limits; South along said City limits to survey centerline of ; Interstate 94; along survey centerline of Interstate 94 to South Minges Road extended; along centerline of South Minges Road northerly to point of beginning.

PRECINCT 9—COUNTY COMMISSION DISTRICT 3

Starting at Grand Boulevard and Territorial Road:

Centerline of E. Territorial Road easterly to Kalamazoo River. Follow Kalamazoo River southeasterly to City limit. Follow City limit southerly to centerline of Columbia Avenue. Centerline of Columbia Avenue westerly to Riverside Drive. Centerline of Riverside Drive southerly to centerline of Edgehill Drive (sometimes known as Edgehill Road). Centerline of Edgehill Drive northwesterly to centerline of Country Club Boulevard. Centerline of County Club Boulevard westerly to centerline of Capital Avenue SW. Centerline of Capital Avenue SW northerly to Columbia Avenue W. Centerline of Columbia Avenue W east to centerline of Grand Boulevard. Centerline of Grand Boulevard north to point of beginning.

PRECINCT 10—COUNTY COMMISSION DISTRICT 2

Starting at Bedford Road N (M-37) and City limit, along Morgan Road E:

Follow City limit line easterly to Limit Street. Centerline of Limit Street southerly to Parkway. Follow City limit westerly to power lines. Follow the power lines northerly to Geiger Ave. At intersection of Geiger and Michigan Avenue W., easterly to Bedford Road N (M-37). Centerline of Bedford Road N (M-37) northerly to point of beginning.

PRECINCT 11—COUNTY COMMISSION DISTRICT 3

Beginning at centerline of Sonoma Road extended north and Interstate 94; easterly along survey center line of Interstate 94 to City limits: south along City limits to southeast corner of Section 36, Town 2 South, Range 8 West; westerly along the City limits to centerline of Sonoma Road; westerly approximately 1,320 feet to the southwest corner of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 34, Town 2 South, Range 8 West; northerly approximately 1,320 feet to the northwest corner of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 34, Town 2

South, Range 8 West, said point being on the centerline of Minges Road S; east along the centerline of Minges Road S to centerline of Sonoma Road; north along centerline of Sonoma Road and its extension north to point of beginning.

PRECINCT 12—COUNTY COMMISSION DISTRICT 1

Starting at City Limit and Parkway Drive:

Centerline of Parkway Drive easterly to North Avenue. Centerline of North Avenue southerly to Capital Avenue. Centerline of Capital Avenue southwesterly to Battle Creek River. Follow Battle Creek River northwesterly to Carlyle Street. Centerline of Carlyle Street southwesterly to Houston Street. Centerline of Houston Street southeasterly to McCamly Street. Small section of McCamly Street southerly to RR tracks. (That run just south of Lafayette Street). Follow RR tracks northwesterly to City limit. City limit northerly to point of beginning.

PRECINCT 13—COUNTY COMMISSION DISTRICT 3

Starting at W. Goguac Street and Bechman Avenue:

Centerline of Goguac Street easterly to Dickman Road. Centerline of Dickman Rd. to M66. M66 southerly to Kalamazoo River. Follow Kalamazoo River westerly to Territorial Road as extended. Centerline of Territorial Road, as extended, westerly to Grand Boulevard. Centerline of Grand Boulevard southerly to Columbia Avenue W. Centerline of Columbia Avenue W to Woodrow Avenue. Centerline of Woodrow Avenue northerly Territorial Road. Centerline of Territorial Road easterly to Bechman Avenue. Centerline of Bechman Avenue northerly to point of beginning.

PRECINCT 15—COUNTY COMMISSION DISTRICT 2

Beginning at intersection of the centerlines of North and Goodale Avenues:

North along centerline of North Avenue to City limit, follow City limit line to East Avenue N. Centerline of East Avenue N. southerly to Laurel Drive, westerly to N. McKinley Avenue. Centerline of N. McKinley Avenue south to E. Emmett Street. Centerline of E. Emmett Street east to N. Union Street. Centerline of N. Union Street south to Sherman Road. Centerline of Sherman Road westerly to Fremont Street. Centerline of Fremont Street north to Garfield Avenue. Centerline of Garfield Avenue east to North Avenue. Centerline of North Avenue north to point of beginning.

PRECINCT 17—COUNTY COMMISSION DISTRICT 2

Starting at intersection of Roosevelt Avenue E and East Avenue N.:

Follow City limit to Emmett Street. Centerline of Emmett Street westerly to the Battle Creek River. Follow the Battle Creek River southwesterly to East Avenue S. Centerline of East Avenue S. northerly to Capital Avenue NE. Centerline of Capital Avenue NE southwesterly to Union Street. Centerline of Union Street northerly to Emmett Street W. Centerline of Emmett Street W. Easterly to McKinley Avenue N. Centerline of McKinley Avenue N northerly to Laurel Drive. Centerline of Laurel Drive easterly to East Avenue N. Centerline of East Avenue N. northerly to City limit and point of beginning.

PRECINCT 18—COUNTY COMMISSION DISTRICT 2

Beginning at the intersection of the centerlines of North and Garfield Avenues:

Thence Easterly along the centerline of Garfield Avenue; thence Northerly along said centerline of Harvard Street; thence Easterly along the centerline of Garfield Avenue; thence Southerly along the centerline of Fremont Street; thence Northeasterly along the centerline of Capital Avenue; thence Southerly along the centerline of

Penn Street; thence easterly along the centerline of Mike Hume's Way; thence Southerly along the centerline of Elm Street; thence Easterly along the centerline of Mary Street; thence Southerly along the centerline of Mott Street; thence Easterly along the centerline of Cliff Street; thence Southerly along centerline of Jericho Road to the south line of the plat of Post's Addition to Battle Creek; thence Westerly along the south line of Post's Addition and continuing Westerly along the south line of the plat of Kingman's Addition to the City of Battle Creek to the Southwest corner to Kingman's Addition; thence Southerly along the west line of the plats of Wooden's Addition to Battle Creek, Sunrise Heights, and Binder's Addition to a point 82 Feet southerly of the northwest corner of Lot 30 of Binder's Addition; thence Easterly parallel with the north line of said Lot 30 to the east line of Lot 30; thence Southerly along the east line of Lot 30 to southeast corner thereof; thence Easterly along the south line of said Outlot B to the southeast corner thereof; thence Northerly along the east line of Outlot B and its northerly extension; thence Easterly along the centerline of Bonita Drive to its intersection with the northerly extension of the east line of westerly 35 Feet of Lot 28 of Binder's Addition; thence Southerly along the said east line of the west 35 Feet of Lot 28 to the south line of said Lot 28; thence Easterly along the south line of Binder's Addition to a point distance 782 Feet easterly of the southeast corner of Lot 30 of Binder's Addition; thence South 00° 36' East 385 Feet; thence South 35° 23' 45" West 66.71 Feet; thence Southeasterly a distance of 216.30 Feet along an arc of a curve to the right, whose radius is 300 Feet, and whose chord bears South 35° 56' 58" East 211.64 Feet; thence South 74° 42' 20" West along the northerly line of Columbia Avenue 219.78 Feet to the northerly bank of the Kalamazoo River; thence Westerly and downriver along the northerly bank of the river and its meander line described as follows: North 32° West 100 Feet; thence North 69° West 480 Feet; North 87° 21' 32" West 156.51 Feet; thence South 87° 13' 30" West 181.79 Feet; thence South 63° 58' West 155.33 Feet; thence South 76° 33' West 232.02 Feet; thence South 89° 38' West 173.27 Feet; thence North 73° 47' West 322.52 Feet; thence North 71° 32' West 304.79 Feet; thence North 56° 07' West 139.80 Feet; thence North 36° 32' West 139.27 Feet to end of courses along the northerly bank of the Kalamazoo River; thence North 58° 53' East 460.95 Feet; thence North 31° 07' West 531.16 Feet; thence Westerly 191.92 Feet to the east line of Section 13, Town 2 South, Range 8 West; thence Southerly along the said east line of said Section 13 to the westerly bank of the Kalamazoo River; thence Northerly and downriver along the said westerly bank to the northbound survey centerline of Interstate 194; thence northerly along the said centerline to the eastbound survey centerline of Dickman Road; thence Westerly and Northerly along the said eastbound survey centerline to its intersection with the centerline of Capital Avenue; thence Northeasterly along the centerline of Capital Avenue; thence Northerly along the centerline of North Avenue to the point of beginning.

PRECINCT 19—COUNTY COMMISSION DISTRICT 2

Starting at Fremont and Sherman Road:

Centerline of Sherman Road easterly to Union Street. Centerline of Union Street southerly to Capital Avenue NE. Centerline of Capital Avenue NE northeasterly to East Avenue S. Centerline of East Avenue S. southerly to end of Battle Creek River. Follow the Battle Creek River southwesterly to Elm Street. Small section of Elm Street northerly to Flint Street. Centerline of Flint Street (Mike Humes Way???) westerly to Penn Street. Centerline of Penn Street northerly to Capital Avenue NE. Short span on Capital Avenue NE northwesterly to Fremont Street. Centerline of Fremont Street northerly to point of beginning.

PRECINCT 20 - COUNTY COMMISSION DISTRICT 1

Beginning at the intersection of centerline of Helmer Road & Columbia Avenue;

Centerline of Columbia Avenue east to 28th Street. Centerline of 28th Street south to Hupp Road. Centerline of Hupp east to 24th Street. Centerline of 24th Street southerly to Charles E Place. Centerline of Charles E. Place

southeasterly to Pepperidge Lane. Centerline of Pepperidge Lane south to Lakeshore Drive. Centerline of Lakeshore Drive easterly and northerly along to Sherman Drive. Centerline of Sherman Drive east and north to Wheaton Avenue. Centerline of Wheaton Avenue east to Woodward Avenue S. Centerline of Woodrow Avenue S. south to shoreline of Goguac Lake. Follow shoreline of Goguac Lake and the thread of Minges Channel south to a street known as Bay Pointe. Centerline of Bay Pointe southwesterly to Bayshore Drive. Centerline of Bayshore Drive easterly to Lynwood Drive. Centerline of Lynwood Drive easterly to intersection of West Minges Road and South Minges Road; Southerly along centerline of South Minges Road extended to Interstate 94; Westerly along the surveyed centerline of Interstate 94 to the extension north of Sonoma Road; south along the centerline of the extension north of Sonoma Road and the centerline of Sonoma Road to the centerline of Minges Road S; westerly approximately 1,320 feet to the northwest corner of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 34, Town 2 South, Range 8 West; southerly approximately 1,320 feet to the southwest corner of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 34, Town 2 South, Range 8 West, said point being on the south line of Town 2 South, Range 8 West and the City limits, Westerly along said south line of the City limits to southwest corner of Town 2 South, Range 8 West; northerly along the westerly line of Town 2 South, Range 8 West to Columbia Avenue; northeasterly along the centerline of Columbia Avenue to the point of beginning.

PRECINCT 21 - COUNTY COMMISSION DISTRICT 2

Starting at Limit Street and City limit:

Follow City limit easterly to North Avenue then southerly to Parkway Drive. Centerline of Parkway Drive westerly to Limit Street. Centerline of Limit Street northerly to point of beginning.

PRECINCT 22 - COUNTY COMMISSION DISTRICT 1

Starting at Helmer Road and Goguac Street:

Follow City limit line easterly to Bechman Avenue. Centerline of Bechman Avenue southerly to W. Territorial Road. Centerline of W. Territorial Road westerly to Woodrow Avenue. Centerline of Woodrow Avenue southerly to W. Columbia Avenue. Centerline of W. Columbia Avenue westerly to 24th Street. Centerline of 24th Street southerly to Hupp Road. Centerline of Hupp Road westerly to 28th Street. Centerline of 28th Street northerly to W. Columbia Avenue. Centerline of W. Columbia Avenue westerly to Helmer Road. Centerline of Helmer Road northerly to point of beginning.

CITY OF BATTLE CREEK
PRECINCT DESCRIPTIONS

2024²

All descriptions will start at the boundary line most northern and westerly and follow a clockwise pattern.

PRECINCT 1 – County Commission District 2

Starting at the Battle Creek River and E. Emmett Street:

Centerline of E. Emmett Street to easterly City Limit. Follow City limit boundary to Jericho Road. Centerline of Jericho Road northerly to Cliff Street. Centerline of Cliff Street westerly to Mott Street. Centerline of Mott Street northerly to Mary Street. Centerline of Mary Street westerly to Elm Street. Centerline of Elm Street northerly to Battle Creek River. Follow the Battle Creek River northerly to point of beginning P.O.B.

~~**PRECINCT 2 – County Commission District 3**~~

~~**Starting at Woodrow and Territorial:**~~

~~Centerline of West Territorial Road easterly to Grand Boulevard. Centerline of Grand Boulevard southerly to Columbia Avenue W. Centerline of Columbia Avenue W to Woodrow Avenue. Centerline of Woodrow Avenue northerly to P.O. B.~~

PRECINCT 3 – County Commission District 3

Starting at the intersection of 24th Street and Columbia Avenue W:

Centerline of West Columbia Avenue easterly to Capital Avenue S.W. Centerline of Capital Avenue S. W. southerly to Minges Creek. Center of Minges Creek westerly to Minges Road S. Centerline of Minges Road S. north to Lynwood Drive, westerly to Bayshore Drive. Follow centerline of Bayshore Drive to Bay Pointe then northerly to closest point at lake. Follow shoreline of Goguac Lake north to Woodrow Avenue S. Centerline of Woodrow Avenue S. north to Wheaton Avenue. Centerline of Wheaton Avenue west to centerline of Sherman Drive. Centerline of Sherman Drive south and west to centerline of Lakeshore Dr. Centerline of Lakeshore Dr. south and west to Pepperidge Lane. Centerline of Pepperidge Lane north to Charles E. Place. Centerline of Charles E. Place northwesterly to 24th Street. Centerline of 24th Street northerly to point of beginning.

~~**Starting at the intersection of 24th Street and Columbia Avenue W:**~~

~~Centerline of West Columbia Avenue easterly to Capital Avenue. Centerline of Capital Avenue S. W. southerly to Minges Creek. Center of Minges Creek westerly to Minges Road S. Centerline of Minges Road S. north to Lynwood Drive, westerly to Bayshore Dr. Follow centerline of Bayshore Dr. to Bay Pointe then northerly to closest point at lake. Follow shoreline of Goguac Lake north to (Woodrow Avenue S) intersection of Lakeshore Dr. and Orchard. Centerline of Woodrow Avenue S. north to Wheaton Avenue, then centerline of Wheaton Avenue east to centerline of Sherman Drive, then south to Lakeshore Dr. west to Pepperidge. Centerline of Pepperidge north to Charles E. Pl. Centerline of Charles E. Pl. northwesterly to 24th Street. Centerline of 24th Street northerly to P.O. B.~~

PRECINCT 4 – County Commission District 1

Starting at Northwesterly City Limit:

Follow City limit line to Bedford Road N (M-37). Centerline of Bedford Road N (M-37) southerly to Michigan Avenue W. Centerline of Michigan Avenue W northwesterly to Geiger Road, southerly to end of road then follow power line to southern City limit line. Continue westerly to follow City limit line around Springfield and Bedford to Helmer Road. Centerline of Helmer Road south to West Columbia Avenue. Centerline of West Columbia Avenue westerly to City limit. Follow City limit north and east to point of beginning.

Starting at Northwesterly City Limit:

Follow City limit line to Bedford Road N (M-37). Centerline of Bedford Road N (M-37) southerly to Michigan Avenue W. Centerline of Michigan Avenue W to Geiger Road, southerly to end of road then follow power line to southern City limit line. Continue westerly to follow City limit line around Springfield and Bedford to Helmer Road. Centerline of Helmer Road south to West Columbia Avenue. Centerline of West Columbia Avenue westerly to City limit. Follow City limit north to P.O. B.

PRECINCT 5 – County Commission District 1

Beginning at intersection of centerline of Helmer Road & Columbia Avenue:

along centerline of Columbia Avenue to 28th Street; along centerline of 28th Street to Hupp Road; along centerline of Hupp to 24th Street; along centerline of 24th Street to Charles E. Place; along centerline of Charles E. Place to Pepperidge Lane; along centerline of Pepperidge Lane to Lakeshore Drive; along centerline Lakeshore Drive to the northwesterly extension of northeasterly line of Lot 22 of the recorded Plat of Stewart Park, along said northeasterly line to shoreline of Goguae Lake; along said shoreline, as situated westerly of Vince's Island, to the thread of Minges Channel; along said thread to the northerly extension of the easterly line of Lot 22 of the recorded plat of Cobblands Plat No. 1 at a point mid-distant between the northeast corner of said Lot 22 & the southerly shore of the island located in the said channel; along said easterly line of Lot 22 to street known as Bay Pointe; along centerline of Bay Pointe to Bayshore Drive; along centerline of Bayshore Drive to Lynwood Drive; along centerline of said Lynwood Drive to intersection of West Minges Road and South Minges Road; Southerly along centerline of said South Minges Road to Interstate 94; Westerly along survey centerline of Interstate 94 to _____ north to Watkins Road, easterly to Helmer Road; North along centerline of Helmer Road to P.O.B.

PRECINCT 6 – County Commission District 3

Starting at the intersection of Columbia Avenue E and Riverside Drive:

Centerline of Columbia Avenue E. easterly to City limit. Follow City limit southerly to thread of Minges Brook. Thread of Minges Brook westerly to Riverside Drive. Centerline of Riverside Drive. ~~N~~ north to point of beginning. P.O.B.

PRECINCT 7 – County Commission District 1

Starting at City limit and RR Tracks:

Follow RR tracks (RR tracks that run just south of Lafayette Street) southeasterly to McCamly Street. Centerline of McCamly Street short distance northeasterly to Houston Street. Centerline of Houston Street northwesterly to Carlyle Street. Centerline of Carlyle Street northeasterly to end of road. Follow the Battle Creek River southeasterly to S. W. Capital Avenue. Centerline of S. W. Capital Avenue southwesterly to intersection of BL94 (Dickman Road). Centerline of BL94 (Dickman Road) southerly to E. Goguac Street. Centerline of E. Goguac Street westerly to City Limit. City limit northerly to point of beginning. ~~P.O.B.~~

PRECINCT 8—COUNTY COMMISSION DISTRICT 3

Beginning at centerline of South Minges Road & Minges Creek:

Easterly along center of Minges Creek to Capital Avenue; along centerline of Capital Avenue to Country Club Drive; along centerline Country Club Drive to its intersection with the centerline of Frances Drive & Edgehill Drive (sometimes known as Edgehill Road); Easterly along the centerline of Edgehill Drive to Riverside Drive; along centerline of Riverside Drive southerly to thread of Minges Brook; Easterly along thread of Minges Brook to City limits; South along said City limits to survey centerline of ; Interstate 94; along survey centerline of Interstate 94 to South Minges Road extended; along centerline of South Minges Road northerly to point of beginning. ~~P.O.B.~~

PRECINCT 9—COUNTY COMMISSION DISTRICT 3

Starting at Grand Boulevard and Territorial Road:

Centerline of E. Territorial Road easterly to Kalamazoo River. Follow Kalamazoo River southeasterly to City limit. Follow City limit southerly to centerline of Columbia Avenue. Centerline of Columbia Avenue westerly to Riverside Drive. Centerline of Riverside Drive southerly to centerline of Edgehill Drive (sometimes known as Edgehill Road). Centerline of Edgehill Drive northwesterly to centerline of Country Club Boulevard. Centerline of Country Club Boulevard westerly to centerline of Capital Avenue SW. Centerline of Capital Avenue SW northerly to Columbia Avenue W. Centerline of Columbia Avenue W east to centerline of Grand Boulevard. Centerline of Grand Boulevard north to point of beginning.

Starting at Grand Boulevard and Territorial Road:

~~Centerline of E. Territorial Road. Easterly to Kalamazoo River. Follow Kalamazoo River southeasterly to City limit. Follow City limit southerly to centerline of Columbia Avenue. Centerline of Columbia Avenue westerly to Riverside Drive. Centerline of Riverside Drive southerly to centerline of Edgehill Drive (sometimes known as Edgehill Road). Centerline of Edgehill Drive northwesterly to centerline of Country Club Boulevard. Centerline of Country Club Boulevard westerly to centerline of Capital Avenue SW. Center line of Capital Avenue SW northerly to P. O. B.~~

PRECINCT 10—COUNTY COMMISSION DISTRICT 2

Starting at Bedford Road N (M-37) and City limit, along Morgan Road E:

Follow City limit line easterly to Limit Street. Centerline of Limit Street southerly to Parkway. Follow City limit westerly to power lines. Follow the power lines northerly to Geiger Ave. At intersection of Geiger and Michigan Avenue W., easterly to Bedford Road N (M-37). Centerline of Bedford Road N (M-37) northerly to point of beginning. ~~P.O.B.~~

PRECINCT 11—COUNTY COMMISSION DISTRICT 3

Beginning at centerline of Sonoma Road extended north and Interstate 94; easterly along survey center line of Interstate 94 to City limits; south along City limits to southeast corner of Section 36, Town 2 South, Range 8 West; westerly along the City limits to centerline of Sonoma Road; westerly approximately 1,320 feet to the southwest corner of the southeast ¼ of the southeast ¼ of Section 34, Town 2 South, Range 8 West; northerly approximately 1,320 feet to the northwest corner of the southeast ¼ of the southeast ¼ of Section 34, Town 2 South, Range 8 West, said point being on the centerline of Minges Road S; east along the centerline of Minges Road S to centerline of Sonoma Road; north along centerline of Sonoma Road and its extension north to point of beginning.

~~Beginning at the southeast corner of Section 36, Town 2 South, Range 8 West; thence Westerly along the south line of said sections 36 & 35, Town 2 South, Range 8 West, to Southwest corner of said Section 35; thence Northerly along the west line of said section 35 to the northwest corner of said Section 35, said northwest corner being coincidental with the Southwest corner of corner of Section 26, Town 2 South, Range 8 West; thence continuing Northerly, along the west line of said Section 26, to the westbound survey centerline of Interstate 94; thence Easterly along the said westbound survey centerline to the east line of Section 25, Town 2 South, Range 8 West; thence Southerly along of the east line Section 25 to the Southeast corner of said Section 25, said Southeast corner being coincidental with the Northeast corner of said Section 36; thence continuing Southerly along the east line of said Section 36 to the true point of beginning.~~

~~Beginning at centerline of Sonoma Road and Interstate 94, easterly along survey center line of Interstate 94 to City limits; south to City limit, then westerly to _____; northerly to Minges Road S, then east to Sonoma Road. Centerline of Sonoma Road to P.O.B.~~

PRECINCT 12—COUNTY COMMISSION DISTRICT 1

Starting at City Limit and Parkway Drive:

Centerline of Parkway Drive easterly to North Avenue. Centerline of North Avenue southerly to Capital Avenue. Centerline of Capital Avenue southwesterly to Battle Creek River. Follow Battle Creek River northwesterly to Carlyle Street. Centerline of Carlyle Street southwesterly to Houston Street. Centerline of Houston Street southeasterly to McCamly Street. Small section of McCamly Street southerly to RR tracks. (That run just south of Lafayette Street). Follow RR tracks northwesterly to City limit. City limit northerly to point of beginning. ~~P.O.B.~~

PRECINCT 13—COUNTY COMMISSION DISTRICT 3

Starting at W. Goguac Street and Bechman Avenue:

Centerline of Goguac Street easterly to Dickman Road. Centerline of Dickman Rd. to M66, ~~M66 and~~ southerly to Kalamazoo River. Follow Kalamazoo River westerly to Territorial Road as extended. Centerline of Territorial Road, as extended, Follow Kalamazoo River westerly to Territorial Road. Centerline of Territorial Rd. westerly to Grand Boulevard. Centerline of Grand Boulevard southerly to Columbia Avenue W. Centerline of Columbia Avenue W to Woodrow Avenue. Centerline of Woodrow Avenue northerly Territorial Road. Centerline of Territorial Road easterly ~~northerly to~~ Bechman Avenue. Centerline of Bechman Avenue northerly to ~~point of beginning.~~P.O. B.

PRECINCT 15—COUNTY COMMISSION DISTRICT 2

Beginning at intersection of the centerlines of North and Goodale Avenues:

North along centerline of North Avenue to City limit, follow City limit line to East Avenue N. Centerline of East Avenue N. southerly to Laurel Drive, westerly to N. McKinley Avenue. Centerline of N. McKinley Avenue south to E. Emmett Street. Centerline of E. Emmett Street east to N. Union Street. Centerline of N. Union Street south to Sherman Road. Centerline of Sherman Road westerly to Fremont Street. Centerline of Fremont Street north to Garfield Avenue. Centerline of Garfield Avenue east to North Avenue. Centerline of North Avenue north to point of beginning.

~~Beginning at intersection of the centerlines of North and Goodale Avenues:~~

~~North along centerline of North Avenue to City limit, follow City limit line to East Avenue N. Centerline of East Avenue N. southerly to Laurel Drive, westerly to N. McKinley Avenue. Centerline of N. McKinley Avenue south to E. Emmett Street. Centerline of E. Emmett Street east to N. Union Street. Centerline of N. Union Street south to Sherman Road. Centerline of Sherman Road westerly to Fremont Street. Centerline of Fremont Street north to Garfield Avenue. Centerline of Garfield Avenue east to North Avenue. Centerline of North Avenue north to P.O. B. extension of south line of Lot 68 of the Supervisor's Plat of Irving Park; east to southeast corner of Lot 68; north to northeast corner of Lot 67 of said plat; east to the southeast corner of said Lot 66 of said plat; south to northwest corner of Lot 64 of said plat; east to northeast corner of Lot 64; south to point 232.4 feet north of south line of Northeast ¼ of Section 31, T1S R7W; east 346.42 feet; south to centerline of Roosevelt Avenue; east along said centerline to centerline of Garrison Road; south to westerly extension of south line of the north 256.4 feet of Lot 20 of Supervisor's Plat of Spring Lake Terrace; easterly along said south line and its extension to centerline of McKinley Avenue as extended north; south to centerline of Emmett Street; west to centerline of Union Street; south to centerline of Sherman Road; west to centerline of Fremont Street; north to centerline of Garfield Avenue; west to centerline of Harvard Street; south to centerline of Garfield Avenue; west to centerline of North Avenue; north along said centerline to centerline of Roosevelt Avenue; east along said centerline to the south extension of west line of Lot 78 of Supervisor's Plat of Irving Park; north to northwest corner of Lot 78; west along south line of Lot 69 and its extension to point of beginning.~~

PRECINCT 17—COUNTY COMMISSION DISTRICT 2

Starting at intersection of Roosevelt Avenue E and East Avenue N.:

Follow City limit to Emmett Street. Centerline of Emmett Street westerly to the Battle Creek River. Follow the Battle Creek River southwesterly to East Avenue S. Centerline of East Avenue S. northerly to Capital Avenue NE. Centerline of Capital Avenue NE southwesterly to Union Street. Centerline of Union Street northerly to Emmett Street W. Centerline of Emmett Street W. Easterly to McKinley Avenue N. Centerline of McKinley Avenue N northerly to Laurel Drive. Centerline of Laurel Drive easterly to East Avenue N. Centerline of East Avenue N. northerly to City limit and point of beginning.~~P.O.B.~~

PRECINCT 18—COUNTY COMMISSION DISTRICT 2

Beginning at the intersection of the centerlines of North and Garfield Avenues:

Thence Easterly along the centerline of Garfield Avenue; thence Northerly along said centerline of Harvard Street; thence Easterly along the centerline of Garfield Avenue; thence Southerly along the centerline of Fremont Street; thence Northeasterly along the centerline of Capital Avenue; thence Southerly along the centerline of Penn Street; thence easterly along the centerline of Mike Hume's Way; thence Southerly along the centerline of Elm Street; thence Easterly along the centerline of Mary Street; thence Southerly along the centerline of Mott Street; thence Easterly along the centerline of Cliff Street; thence Southerly along centerline of Jericho Road to the south line of the plat of Post's Addition to Battle Creek; thence Westerly along the south line of Post's Addition and continuing Westerly along the south line of the plat of Kingman's Addition to the City of Battle Creek to the Southwest corner to Kingman's Addition; thence Southerly along the west line of the plats of Wooden's Addition to Battle Creek, Sunrise Heights, and Binder's Addition to a point 82 Feet southerly of the northwest corner of Lot 30 of Binder's Addition; thence Easterly parallel with the north line of said Lot 30 to the east line of Lot 30; thence Southerly along the east line of Lot 30 to southeast corner thereof; thence Easterly along the south line of said Outlot B to the southeast corner thereof; thence Northerly along the east line of Outlot B and its northerly extension; thence Easterly along the centerline of Bonita Drive to its intersection with the northerly extension of the east line of westerly 35 Feet of Lot 28 of Binder's Addition; thence Southerly along the said east line of the west 35 Feet of Lot 28 to the south line of said Lot 28; thence Easterly along the south line of Binder's Addition to a point distance 782 Feet easterly of the southeast corner of Lot 30 of Binder's Addition; thence South 00° 36' East 385 Feet; thence South 35° 23' 45" West 66.71 Feet; thence Southeasterly a distance of 216.30 Feet along an arc of a curve to the right, whose radius is 300 Feet, and whose chord bears South 35° 56' 58" East 211.64 Feet; thence South 74° 42' 20" West along the northerly line of Columbia Avenue 219.78 Feet to the northerly bank of the Kalamazoo River; thence Westerly and downriver along the northerly bank of the river and its meander line described as follows: North 32° West 100 Feet; thence North 69° West 480 Feet; North 87° 21' 32" West 156.51 Feet; thence South 87° 13' 30" West 181.79 Feet; thence South 63° 58' West 155.33 Feet; thence South 76° 33' West 232.02 Feet; thence South 89° 38' West 173.27 Feet; thence North 73° 47' West 322.52 Feet; thence North 71° 32' West 304.79 Feet; thence North 56° 07' West 139.80 Feet; thence North 36° 32' West 139.27 Feet to end of courses along the northerly bank of the Kalamazoo River; thence North 58° 53' East 460.95 Feet; thence North 31° 07' West 531.16 Feet; thence Westerly 191.92 Feet to the east line of Section 13, Town 2 South, Range 8 West; thence Southerly

along the said east line of said Section 13 to the westerly bank of the Kalamazoo River; thence Northerly and downriver along the said westerly bank to the northbound survey centerline of Interstate 194; thence northerly along the said centerline to the eastbound survey centerline of Dickman Road; thence Westerly and Northerly along the said eastbound survey centerline to its intersection with the centerline of Capital Avenue; thence Northeasterly along the centerline of Capital Avenue; thence Northerly along the centerline of North Avenue to the point of beginning.

PRECINCT 19—COUNTY COMMISSION DISTRICT 2

Starting at Fremont and Sherman Road:

Centerline of Sherman Road easterly to Union Street. Centerline of Union Street southerly to Capital Avenue NE. Centerline of Capital Avenue NE northeasterly to East Avenue S. Centerline of East Avenue S. southerly to end of Battle Creek River. Follow the Battle Creek River southwesterly to Elm Street. Small section of Elm Street northerly to Flint Street. Centerline of Flint Street (Mike Humes Way???) westerly to Penn Street. Centerline of Penn Street northerly to Capital Avenue NE. Short span on Capital Avenue NE northwesterly to Fremont Street. Centerline of Fremont Street northerly to point of beginning, P.O.B.

PRECINCT 20 - COUNTY COMMISSION DISTRICT 1

Beginning at the intersection of centerline of Helmer Road & Columbia Avenue:

Centerline of Columbia Avenue east to 28th Street. Centerline of 28th Street south to Hupp Road. Centerline of Hupp east to 24th Street. Centerline of 24th Street southerly to Charles E Place. Centerline of Charles E. Place southeasterly to Pepperidge Lane. Centerline of Pepperidge Lane south to Lakeshore Drive. Centerline of Lakeshore Drive easterly and northerly along to Sherman Drive. Centerline of Sherman Drive east and north to Wheaton Avenue. Centerline of Wheaton Avenue east to Woodward Avenue S. Centerline of Woodrow Avenue S. south to shoreline of Goguac Lake. Follow shoreline of Goguac Lake and the thread of Minges Channel south to a street known as Bay Pointe. Centerline of Bay Pointe southwesterly to Bayshore Drive. Centerline of Bayshore Drive easterly to Lynwood Drive. Centerline of Lynwood Drive easterly to intersection of West Minges Road and South Minges Road; Southerly along centerline of South Minges Road extended to Interstate 94; Westerly along the surveyed centerline of Interstate 94 to the extension north of Sonoma Road; south along the centerline of the extension north of Sonoma Road and the centerline of Sonoma Road to the centerline of Minges Road S; westerly approximately 1,320 feet to the northwest corner of the southeast ¼ of the southeast ¼ of Section 34, Town 2 South, Range 8 West; southerly approximately 1,320 feet to the southwest corner of the southeast ¼ of the southeast ¼ of Section 34, Town 2 South, Range 8 West, said point being on the south line of Town 2 South, Range 8 West and the City limits, Westerly along said south line of the City limits to southwest corner of Town 2 South, Range 8 West; northerly along the westerly line of Town 2 South, Range 8 West to Columbia Avenue; northeasterly along the centerline of Columbia Avenue to the point of beginning.

PRECINCT 20—COUNTY COMMISSION DISTRICT 1

Beginning at intersection of centerline of Helmer Road & Columbia Avenue:

~~along centerline of Columbia Avenue to 28th Street; along centerline of 28th Street to Hupp Road; along centerline of Hupp to 24th Street; along centerline of 24th Street to Charles E. Place; along centerline of Charles E. Place to Pepperidge Lane; along centerline of Pepperidge Lane to Lakeshore Drive; along centerline Lakeshore Drive to the northwesterly extension of northeasterly line of Lot 22 of the recorded Plat of Stewart Park, along said northeasterly line to shoreline of Goguac Lake; along said shoreline, as situated westerly of Vince's Island, to the thread of Minges Channel; along said thread to the northerly extension of the easterly line of Lot 22 of the recorded plat of Cobblands Plat No. 1 at a point mid-distant between the northeast corner of said Lot 22 & the southerly shore of the island located in the said channel; along said easterly line of Lot 22 to street known as Bay Pointe; along centerline of Bay Pointe to Bayshore Drive; along centerline of Bayshore Drive to Lynwood Drive; along centerline of said Lynwood Drive to intersection of West Minges Road and South Minges Road; Southerly along centerline of said South Minges Road to Interstate 94; Westerly along survey centerline of Interstate 94~~

Beginning at the intersection of centerline of Helmer Road & Columbia Avenue;

~~Southerly along centerline of Helmer Road to Interstate 94; along the said survey centerline of Interstate 94 to Sonoma Road; along centerline of Sonoma Road to the south line of Town 2 South, Range 8 West, Westerly along said south line, to southwest corner of Town 2 South, Range 8 West; along the westerly line of Town 2 South, Range 8 West to Columbia Avenue; along the centerline of Columbia Avenue to the point of beginning.~~

PRECINCT 21 - COUNTY COMMISSION DISTRICT 2

Starting at Limit Street and City limit:

Follow City limit easterly to North Avenue then southerly to Parkway Drive. Centerline of Parkway Drive westerly to Limit Street. Centerline of Limit Street northerly to ~~point of beginning.~~P.O.B.

PRECINCT 22 - COUNTY COMMISSION DISTRICT 1

Starting at Helmer Road and Goguac Street:

Follow City limit line easterly to ~~28th Street~~Bechman Avenue. ~~Centerline of Bechman Avenue southerly to W. Territorial Road. Centerline of W. Territorial Road westerly.~~Centerline of 28th Street southerly to Territorial Road. ~~Centerline of Territorial Road easterly~~ to Woodrow Avenue. Centerline of Woodrow Avenue southerly to W. Columbia Avenue. Centerline of W. Columbia Avenue westerly to 24th Street. Centerline of 24th Street southerly to Hupp Road. Centerline of Hupp Road westerly to 28th Street. Centerline of 28th Street northerly to W. Columbia Avenue. Centerline of W. Columbia Avenue westerly to Helmer Road. Centerline of Helmer Road northerly to ~~point of beginning.~~P.O. B.

~~PRECINCT 23 - COUNTY COMMISSION DISTRICT 3~~

Starting at 28th Street and Goguac Street:

~~Follow easterly along City limit to Bechman Avenue. Centerline of Bechman Avenue southerly to W. Territorial Road. Centerline of W. Territorial Road westerly to 28th Street N. Centerline of 28th Street N. northerly to P.O. B.~~

**City of Battle Creek
Election Commission Meeting
10 N. Division Street
Commission Chambers, 3rd Floor
Battle Creek, MI
March 20, 2024
10:30 AM**

Members Present: Jill Steele, City Attorney: Aaron Powers, City Assessor: Victoria Houser, City Clerk

Members Absent: None

Others Present:

Guests:

Call to Order: Clerk Houser called the meeting to order at 10:30 A.M., noting all members were in attendance, and a quorum was present.

Approval of Minutes

A motion was made by Attorney Steele, supported by Assessor Powers, to approve the January 30, 2024 Election Commission meeting minutes. All in favor, none opposed. Motion approved.

Proposed Consolidation of Precincts

- a. Precinct 22 & Precinct 23: 4,230 Active Voters
A motion was made by Attorney Steele, supported by Assessor Powers, to approve the consolidation of precincts 22 and 23. All in favor, none opposed. Motion approved.
- b. Precinct 2 and Precinct 13: 3,372 Active Voters
A motion was made by Assessor Powers, supported by Attorney Steele, to approve the consolidation of precincts 2 and 13. All in favor, none opposed. Motion approved.
- c. Precinct 5 and Precinct 20: 3,741 Active Voters
A motion was made by Attorney Steele, supported by Assessor Powers, to approve the consolidation of precincts 5 and 20. All in favor, none opposed. Motion approved.

Proposed Relocation of Precincts

- a. Precinct 22/23: Westlake Presbyterian Church, 415 S. 28th Street
A motion was made by Assessor Powers, supported by Attorney Steele, to recommend the relocation of precincts 22 and 23, once consolidated, to Westlake Presbyterian Church, 415 S. 28th Street, if approved as a polling location by the City Commission. All in favor, none opposed. Motion approved.
- b. Precinct 2: Trinity Neighborhood Center, 10 W. Bidwell
A motion was made by Assessor Powers, supported by Attorney Steele, to relocate precinct 2, once consolidated with precinct 13, to Trinity Neighborhood Center, 10 W. Bidwell Street. All in favor, none opposed. Motion approved.
- c. Precinct 3: Woodland Church, 14425 Helmer Road South
A motion was made by Attorney Steele, supported by Assessor Powers, to relocate precinct 3 to Woodland Church, 14425 Helmer Road South. All in favor, none opposed. Motion approved.

Approval of Revised Legal Descriptions for each Precinct

Clerk Houser presented the revised legal descriptions for the consolidated precincts, as prepared by Andrew Falkenberg, Regional Assessing Manager.

A motion was made by Assessor Powers, supported by Attorney Steele, to approve the revised legal descriptions, as presented. All in favor, none opposed. Motion approved.

Public Comments: There were no public comments.

Commission Comments: There were no Commission comments.

Adjournment: The meeting was adjourned at 10:42 A.M.

I, Victoria L. Houser, City Clerk
of the City of Battle Creek,
hereby certify
the above and foregoing is a true and accurate copy
of the minutes recorded for the March 20, 2024 meeting
of the Battle Creek Election Commission.

Victoria L. Houser
Victoria L. Houser, City Clerk



Resolution

NO. 405

A Resolution seeking approval to follow the recommendation of the City Attorney Evaluation-Salary Review Committee regarding the search for a new City Attorney.

BATTLE CREEK, MICHIGAN - 4/2/2024

Resolved by the Commission of the City of Battle Creek:

That following the announcement by the City Attorney at the March 19, 2024 City Commission meeting of her intended retirement effective August 1, 2024, the City Commission voted to add a charge to the existing City Attorney Evaluation-Salary Review Committee ("Committee") to discuss and recommend a process to search for a replacement. The Committee met on March 25, 2024 and recommended the following:

- 1) The attached job description for a Battle Creek City Attorney should be adopted for use in the search process;
- 2) A two-prong approach should be followed allowing the City's Human Resources (HR) Department, headed up by its Director, to first follow its normal recruitment process allowing interested applicants to apply, while also having the Purchasing Department begin the Request for Proposals (RFP) process as set out in Chapter 208 of ordinances from third-party search firms to fall back on in the event the City's HR Department hasn't identified sufficient qualified candidates to recommend to the City Commission for interviews. The City Manager may also contract directly with a search firm outside of the RFP process if it's in the City's best interest to do so.
- 3) The HR Director shall follow its normal process of gathering market rate data on city attorney salaries for city's similar to Battle Creek, analyzing the role against the city's current salary classification system, and based on the attached job description, establish a salary range to be posted for the position. The HR Director shall require applicants complete the online application, submit a cover letter, at least two professional writing samples, as well as three professional references and widely publicize the available position;
- 4) The HR Director shall, with the assistance of the City Attorney, screen applicants to ensure they meet the qualifications and requirements as set out in the job description and follow its normal employment background verification process;
- 5) The City posting shall indicate that the first review of applicants will take place on April 22, 2024;
- 6) If by April 26, 2024, the HR Director determines after the screening process, that a sufficient number of candidates meeting the job description's qualifications, requirements and essential functions exist, then the City Commission shall set the process at its May 7, 2024 meeting for candidate interviews at an open meeting; and
- 7) If the HR Director does not believe an adequate pool of qualified candidates have applied for the position during the first review, then a search firm from the RFP process shall be selected, and if the dollar value exceeds Fifty Thousand Dollars (\$50,000), then a Resolution shall be placed on the agenda at the May 7, 2024 City Commission meeting for approval. If a resolution of approval is not required, then the City

Manager shall enter into a Contract with the search firm.

Battle Creek City Commission

4/2/2024

Action Summary

Staff Member: Jill Humphreys Steele, City Attorney

Department: City Attorney

SUMMARY

A Resolution seeking approval to follow the recommendation of the City Attorney Evaluation-Salary Review Committee regarding the search for a new City Attorney.

BUDGETARY CONSIDERATIONS

The cost of posting the position on various relevant platforms is undetermined but could cost several thousand dollars. If hiring a search firm is necessary, then the cost will be considerably higher but would be dependent upon the results of the RFP.

Funds are available in the City Attorney's budget as well as the Human Resources budget to support the search expenditures.

HISTORY, BACKGROUND and DISCUSSION

Pursuant to the City Charter, only two of the City's employees are hired directly by the City Commission: the City Manager and the City Attorney. Because the City Attorney is selected by the City Commission, the interviews must take place in an Open Meeting in compliance with the Open Meetings Act. Case law does allow initial screenings to take place by search firms or staff.

The HR Director shall follow its normal process of gathering market rate data on city attorney salaries for city's similar to Battle Creek, analyzing the role against the city's current salary classification system, and based on the attached job description, establish a salary range to be posted for the position. The HR Director shall require applicants complete the online application, submit a cover letter, at least two professional writing samples, as well as three professional references and widely publicize the available position.

This is an important position in the City and requires a well-rounded attorney. The City of Battle Creek encompasses the third largest geographic area in the state resulting in the attorney's office handling many real estate matters. Examples of the workload handled by the city attorney's office includes:

Supervising 3 full-time attorneys, each of whom have their niche in areas for which they are generally responsible, although all four attorneys work together as back-up and collaborate on many items.

One attorney, the "Prosecutor/Assistant City Attorney," currently Ian Wright, handles almost all

prosecution of code violations and ordinance violations. He is in court the bulk of the day generally two days per week, sometimes more, along with Zoom meetings for code violations on a separate day. He advises our police officers on legal questions, drafts legal memos to submit to the training officer to disseminate regarding changes in laws and procedures based upon case law to help the City avoid liability for constitutional violations. He also reviews all warrant requests submitted by police officers seeking for individuals to be charged with a crime. He also handles forfeitures for our police department for assets used in the commission of drug crimes, which helps provide funding to our police department. This was previously handled by the County prosecutor's office, and the City was required to allow the County to retain a certain percentage. This position also assists in some ordinance amendments, nuisance litigation and other civil litigation when requested. He supervises our Prosecution Office Assistant, who works 32 hours per week, and that is currently Lori Hill.

The Deputy City Attorney for Civil litigation, currently Jonathan Baber, heads up all Civil Litigation where the City has been sued and/or City employees with respect to the duties in their scope of employment. At any given time, on average, we have at least ten cases he is defending, including discovery, depositions, responding to complaints, filing motions and briefs, orally arguing those motions, drafting orders, participating in required mediation and settlement, and preparing for trial, often with the assistance of the City Attorney. He also provides legal counsel to the Civil Service Commission, the Clerk's office (including research and advice on FOIA requests), the Fire Department, the Recreation Department and spends a good deal of time working with the Cannabis Coordinator.

The City Attorney's office has also defended numerous appeals by businesses denied a marihuana permit or a special use permit to extend their business, led by Jonathan Baber, and we have been successful in all of those cases. He also provides legal advice to the police department on various matters, particularly when questions are raised regarding constitutional rights, and is backup to the City Attorney for advice to the City Manager. The Legal Assistant, currently Jenna Bagent, devotes a good amount of time supporting the litigation work.

The Deputy City Attorney for Administrative Services, currently Marcel Stoetzel, works on the priority-based budgeting role for our office, and is beginning to assist with the Budget process. He handles all tax questions and handles almost all tax appeals, saving the City a tremendous amount of money from having to retain outside counsel. The Assessor has indicated our City is one of the only municipalities with whom he works who has in-house counsel capable of doing this work, and he finds it to be a huge benefit in his work. This role also works with the Code department, the water department, public works, and drafts easement agreements. He reviews and advises on subpoenas unrelated to pending litigation in our office, and garnishments of City employees. He drafts cell tower leases, and negotiates increases in those leases, which has directly benefited the City in securing revenue. He helps with advice and research on FOIA requests and handles FOIA appeals. He is legal counsel to the Planning Commission, Historic District Commission, Zoning Board of Appeals, Local Coordinating Committee and Local Advisory Council, and the Transportation Committee, among others, and provides the legal advice to those departments, committees, and boards. He also handles bankruptcy cases where the City is a creditor, ensuring we do not violate bankruptcy stays. He assists with litigation cases where necessary. He also works on Ordinance amendments.

In addition to all those items in the job description, and the supervision of all department staff, the City Attorney generally handles ordinance amendments, matters related to the Airport, contract review for Purchasing, Finance, Risk, Human Resources, Communications, City Manager, Transit, larger issues at Public Works, FOIA legal advice, and City policies.

DISCUSSION OF THE ISSUE

POSITIONS

The City Attorney Evaluation-Salary Review Committee recommended approval of this process.

ATTACHMENTS:

File Name	Description
 Job_Description.pdf	City Attorney Job Description



Job Title: **City Attorney**
Grade: **N/A**
Reports To: **City Commission**
Represented: **Commission Appointed**

Dept./Division: **Attorney**
Location: **City Hall**
FLSA Status: **Salaried - Exempt**
Date Reviewed: **March 2024**

Job Summary:

The City Attorney provides professional direction and guides all legal matters of the City. The City Attorney shall act as legal advisor to and attorney and counsel for the City's municipal corporation and all of its officers and department heads, including the City Commission and City Manager, as well as City employees, in matters relating to their official duties. Serves as Director of the Legal Department. This position is appointed by the City Commission and serves at the will of the Commission.

Qualification Requirements:

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skill and/or ability required. Reasonable accommodations may be made to enable an individual with disabilities to perform the essential functions.

Essential Functions:

- Oversees and guides the City's legal affairs as directed by City Charter including but not limited to preparation of ordinances, resolutions, bonds, contracts and other legal documents and/or reviews such documents prepared by others.
- Directly handles or indirectly oversees all civil litigation actions brought by or against the City in state and federal court on a wide range of law, including but not limited to civil rights, torts, land use, tax and contracts. This includes preparation of complaints, answers, motions, briefs, discovery documents, interviewing clients, taking depositions, making court appearances, supervising outside counsel and, preparing and trying cases and appeals, and negotiating and making recommendation to City Commission and city administration for settlement.
- Conducts legal research and formulates responses to City-related legal inquiries, on any subject, from the City Commission, City Officials, City Departments and other City Boards Commissions and Authorities; maintains awareness of changes in the law related to municipalities in order to recommend and implement changes in policy, procedure, and City ordinances to stay in compliance with the law.
- Drafts and/or reviews contracts defining rights/responsibilities between the City and any person, agency, company, or organization with which the City has the authority to enter into a contract.
- Supervises, directs, assigns and delegates work among staff and ensures that legal assignments are performed appropriately. Manages the departmental budget of the City Attorney's office.
- Attends City Commission meetings and may serve on job-related boards and committees to act as legal and/or parliamentary advisor. Participates in meetings involving senior leadership of the City organization.
- Demonstrated ability to effectively communicate orally and in writing.
- Performs related work as apparent or prescribed by City Charter or City Commission.

Physical Requirements/Working Conditions:

This work is sedentary and requires occasional lifting (0-14lbs); work regularly requires sitting, bending, reaching, hand dexterity (grasping, holding, keyboarding, repetitive movements), reading, writing, eye-hand coordination, seeing (near and/or far, color, depth, field of vision), hearing, using the telephone, contact with government officials and the general public, working overtime, and working inside and alone.

Minimum Qualifications:

- Juris Doctorate from an American Bar Association accredited law school and active membership in good standing with the Michigan State Bar Association.
- Thorough knowledge of common law, state and federal laws and constitutional provisions affecting municipal government as gained through a minimum of 10 years' experience as a practicing attorney, of which five years should be in municipal law work; or an equivalent combination of training and related experience.



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- Demonstrated ability to establish and maintain effective working relationships with City officials, professional staff, and court personnel. Demonstrated ability to establish an appropriate demeanor with the general public.
- Considerable knowledge of local government structures and operations, and its relationships to other public jurisdictions.

Special Requirements:

- Supervisory experience required.
- Valid driver's license in the State of Michigan.