MACKINAC ISLAND (CITY OF)
ZONING ORDINANCE
ORDINANCE NO. 278

OCT 1982

Michigan. Coastal Zone Management Program

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CITY OF MACKINAC ISLAND, MICHIGAN

ZONING ORDINANCE

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Adopted October 1982

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ZONING ORDINANCE
CITY OF MACKINAC ISLAND, MICHIGAN

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ZONING ORDINANCE
CITY OF MACKINAC ISLAND, MICHIGAN

AN ORDINANCE to establish zoning districts and regulations governing the use and development of land within the City of Mackinac Island, County of Mackinac, State of Michigan. This ordinance is adopted pursuant to Act 207, Public Acts of 1921, as amended.

The People of the City of Mackinac Island Ordain:

Article 1 TITLE AND PURPOSE

Section 1.01 SHORT TITLE.

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

Section 1.02 PURPOSE.

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

Article 2 DEFINITIONS

Section 2.01 ACCESS (FIRE, DELIVERY).

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

Section 2.02 ACCESSORY (USE, STRUCTURE).

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

Section 2.03 AGRICULTURE.

The use of land for tilling of the soil, the raising of field or tree crops, dairying, pasturage, horticulture, floriculture, and/or animal husbandry as a source of income.

Section 2.04 APARTMENT.

See dwelling.

Section 2.05 BLUFF.

A steep, headland, promontory, or cliff.

Section 2.06 BOARDING HOUSE.

Any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family. Cooking or kitchen accommodations for individuals leasing or renting rooms may be included. Tourist accommodations are excluded from this definition.

Section 2.07 BOARD OF ZONING APPEALS.

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

Section 2.08 BUILDING.

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

Section 2.09 BUILDING LINE.

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

Section 2.10 CARRIAGE.

Any horse-drawn passenger vehicle.

Section 2.11 CHURCH.

A building wherein persons regularly assemble for religious worship and used only for such purpose and such accessory activities as are customarily associated therewith.

Section 2.12 CLINIC.

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

Section 2.13 CLUSTER.

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

Section 2.14 COMMERCIAL.

A use of land involving the exchange of money for goods and/or services, and may include production of tourist and other goods, including fudge shops, craft stores, gift shops, restaurants, and the like.

Section 2.15 COMMERCIAL STABLE

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

Section 2.16 CORRAL.

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

Section 2.17 DRAY.

Any horse-drawn cart or wagon used for hauling.

Section 2.18 DWELLING UNIT.

Any house or portion thereof having cooking facilities which is occupied usually as a home, residence or sleeping place of one family, either permanently or transiently. In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for purposes of this Ordinance and shall comply with the provisions thereof relative to dwellings.

Section 2.19 DWELLING, MULTIPLE FAMILY.

A building portion thereof, used or designed as residence for three (3) or more families living independently of each other and each having their own cooking facilities herein. This definition includes three family houses, townhouses, four family houses and apartment houses.

Section 2.20 DWELLING, SINGLE-FAMILY.

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

Section 2.21 DWELLING, TWO, THREE, OR FOUR FAMILY.

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

Section 2.22 ESSENTIAL SERVICES.

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

Section 2.23 EXTRACTIVE USE.

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

Section 2.24 FAMILY.

A group of two or more persons related by blood, marriage, or adoption together with not more than three additional persons not related by blood, marriage or adoption, and excluding servants, living together as a single housekeeping unit.

Section 2.25 FLOOR AREA.

The total gross area of all floors measured from the inside surface of exterior walls and including area occupied by interior partitions and stair wells and excluding crawl spaces, attics without floors, and open porches, balconies, and patios.

Section 2.26 GROUND COVERAGE.

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

Section 2.27 HEIGHT OF BUILDING.

The vertical distance from the highest point of a roof surface to the average ground level of the grade where the walls or other structural elements intersect the ground. For mansard roofs, height is measured to the deck level. For hip and gambrel roofs, height is measured as the mean level between the eaves and ridge or gambrel.

Section 2.28 HOME OCCUPATION.

A use conducted entirely within an enclosed dwelling, employing only the inhabitants thereof, which is clearly incidental and secondary to residential occupancy and does not change the character thereof. Specifically excluded is the storage and display of merchandise not produced by such home occupation, any activity requiring any building alterations, construction features, equipment, machinery, or outdoor storage any of which is visible from off the lot on which located.

Section 2.29 HOTEL.

A building occupied as a temporary abiding place of individuals, generally for periods less than one month, who are lodged with or without meals, in which the rooms are occupied singly for hire, in which no provision is made for cooking in any individual room, including tourist and rooming homes. The first floor of such a structure may be used for restaurant, gift shop, or similar purpose.

Section 2.30 IMPERMEABLE SURFACE.

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

Section 2.31 INDUSTRIAL.

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

Section 2.32 INSTITUTIONAL.

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

Section 2.33 JUNK YARD.

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

Section 2.34 LANDSCAPE BUFFER.

A strip of land within a parcel which runs along a property boundary, on which plant materials are installed for the purpose of screening the adverse impacts associated with two adjacent land uses.

Section 2.35 LOADING AREA OR SPACE.

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

Section 2.36 LOT.

A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. Provided that the owner of any number of contiguous lots may have as many of said contiguous lots considered as a single lot for the purpose of this Ordinance as he so elects, and in such case the outside perimeter of said group of lots shall constitute the front, rear, and side lot lines thereof.

A. A "corner lot" is one which lies at the intersection of two streets which intersect at an angle not exceeding one hundred thirty five degrees (135 degrees).

B. An "interior lot" is one, other than a corner lot, with only one lot line fronting on a street.

C. A "through lot" is an interior lot that fronts on two streets.

Section 2.37 LOT AREA.

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

Section 2.38 LOT LINE.

The line bounding a lot as defined herein.

Section 2.39 MOBILE HOME.

A structure, transportable in 1 or more sections, which is built on a chasis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Section 2.40 NONCONFORMING USE OR STRUCTURE.

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

Section 2.41 PLANNED UNIT DEVELOPMENT (PUD).

A land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

Section 2.42 PLANNING COMMISSION.

The Planning Commission of the City of Mackinac Island, as created under City Ordinance Number 266, and as authorized under Michigan Municipal Planning Act, Act 285 of 1931, as amended.

Section 2.43 PRINCIPAL USE.

The primary and predominant use of a premises, including accessory uses as defined herein.

Section 2.44 PRIVATE STABLE.

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

Section 2.45 PUBLIC UTILITY.

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

Section 2.46 RECREATIONAL VEHICLE.

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

Section 2.47 SETBACK.

The minimum horizontal distance between a structure, excluding steps and unenclosed porches, and the lot lines.

Section 2.48 SINGLE OWNERSHIP.

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

Section 2.49 STREET OR ROAD.

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

Section 2.50 STORY.

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

Section 2.51 STORY, HALF.

The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (½) the floor area of said full story.

Section 2.52 STRUCTURE.

Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

Section 2.53 STRUCTURAL CHANGE OR ALTERATION.

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

Section 2.54 SWIMMING POOL.

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

Section 2.55 USE.

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

Section 2.56 VARIANCE.

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause unnecessary hardship or practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

Section 2.57 VEGETATIVE DISTURBANCE.

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

Section 2.58 YARD.

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

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

B. Rear Yard: A space unoccupied except by an accessory building as hereinafter permitted, extending for the full width of the lot between any building other than an accessory building and the rear lot line.

C. Side Yard: An open unoccupied space on the same lot with the building, between the building and the side lot line, extending from the front yard to the rear yard.

Section 2.59 ZONING ADMINISTRATOR.

The administrative official appointed by the City Council who is responsible for the enforcement of this Ordinance.

Section 2.60 ZONING DISTRICT.

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

Article 3 MAPPED DISTRICTS

Section 3.01 ZONING DISTRICTS.

For the purposes of this Ordinance, the City of Mackinac Island is hereby divided into nine (9) Zoning Districts known as:

R-1	Low Density Residential
R-3	High Density Residential
HB	Hotel/Boarding House
C-1	Commercial
H	Historic
CD	Cottage
ROS	Recreation/Open Space
PUD	Planned Unit Development
RS	Shoreline Residential

Section 3.02 ZONING MAP.

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

Section 3.03 ZONING DISTRICT BOUNDARIES.

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

Section 3.04 AREAS NOT INCLUDED WITHIN A DISTRICT.

In every case where property has not been included within a district on the Zoning Map, the same is hereby declared to be in the R-1 Low Density Residential District, except for properties which include frontage on Lake Huron, that are hereby declared to be in the RS Shoreline Residential District.

Section 3.05 INTERPRETATION OF BOUNDARIES.

Questions or uncertainty concerning the exact location of zoning district boundary lines shall be determined by the Board of Zoning Appeals. The Board of Zoning Appeals in interpreting the Zoning Map shall apply the standards included in Sections 3.03 and 3.04 of this Article.

Article 4 GENERAL PROVISIONS

Section 4.01 ZONING AFFECTS EVERY STRUCTURE AND USE.

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

Section 4.02 RELATIONSHIP TO OTHER LAWS.

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

Section 4.03 SEVERABILITY.

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

Section 4.04 RESTORING UNSAFE BUILDINGS.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Planning Commission, the Zoning Administrator or other public officials acting within the scope of their authority.

Section 4.05 HEIGHT EXEMPTIONS.

The height requirements established for all zoning districts shall not be exceeded except for the following: roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building; fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys,

smokestacks, radio and television aerials, watertanks and similar structures. None of the aforementioned structures shall have a total area greater than 25 percent of the roof area of the building, nor shall any such structure be used for any residential, commercial, or industrial purpose other than a use incidental to the main use of the building.

Section 4.06 HISTORIC STRUCTURES.

Buildings or structures designated as "historic" by the state and/or national registers of historic places, if maintained as historic structures, are exempt from the structural regulations of this Ordinance. If the use of such historic buildings or structures is for museum purposes, such use shall be exempt from the use provisions of this Ordinance. For historic buildings or structures used for nonmuseum purposes, the use provisions of this Ordinance still apply.

Section 4.07 MOBILE HOMES.

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

A. To maintain the integrity of historic structures and the historic character of the City, no mobile home shall be located within one thousand feet (1000') of a state or federally designated historic building or structure.

B. Mobile homes are allowed in zoning districts where single family dwelling units are permitted, and are subject to the regulations of the district in which they are located.

C. All mobile homes must meet the following standards: the appearance of a mobile home must be compatible with the appearance of surrounding residential structures as determined pursuant to Section 18; all mobile homes must be situated on permanent foundations (such as concrete or cinderblock); any space that exists between the floor of a mobile home and the ground, including the foundation, shall render an appearance similar to a permanently constructed single family home; and the roof of a mobile home must be pitched at an angle similar to that of surrounding residential structures. The City Council, upon recommendation of the Planning Commission, may require the applicant to post a guarantee to insure conformance with these standards.

D. The applicant for zoning approval for a mobile home shall submit additional information along with the application and sketch plan as required in Section 20.02A, showing how the mobile home complies with the standards outlined in Section 4.07C.

Section 4.08 EXTRACTIVE USES.

No excavation activity larger than 5,000 square feet in size and deeper than three feet in depth (except for basement excavations) shall be commenced without the issuance of a zoning permit for such activity. Excavation activities shall be permitted only as a special land use in the RS and PUD districts. Such activity will be permitted only if the criteria outlined in Article 19 are met. Site plan review requirements, as stated in Article 20, apply to extractive uses, except that two

separate site plans will be required, (a) an operational site plan, and (b) a reclamation site plan. Each site plan will contain the information required in Article 20 plus the following: the operational site plan will show the limits of excavation, the methods of excavation, dray or truck routes in and out of the site, and barriers used for safety around the hole; the reclamation site plan will show how the site will be restored and revegetated to a condition suitable for development or other uses. The City Council, upon recommendation of the Planning Commission, may require the applicant to post a guarantee to insure conformance with the standards in this Ordinance.

Section 4.09 LANDSCAPE BUFFERS.

For any required landscape buffers imposed by the Planning Commission, City Council, or Board of Zoning Appeals as a condition of approval for site plans, special land uses, planned unit developments, or as directly stated as a requirement of a particular zoning district, the following standards will apply:

A. Landscape buffers will be planted within six months of the date of occupancy approval as provided in Section 21.06.

B. All plants comprising the buffer will be continuously maintained in a sound, healthy and vigorous growing condition, free of diseases, insect pests, refuse and debris.

C. Minimum sizes of trees and shrubs planted as part of a landscape buffer are as follows:

1. Decidious Shrubs - minimum 2 feet in height
2. Decidious trees - minimum 1" in caliper (dia) or min. 8' in height
3. Evergreen shrubs - minimum 2 feet in height
4. Evergreen trees - minmium 4 feet in height

D. The location, placement, spacing and types of plant materials relative to the length and width of the landscape buffer will be such that an efficient horizontal and vertical obscuring or screening effect between land uses will be achieved.

E. The choice and selection of plant materials will be such that the root system will not interfere with public utilities and that fruit and other plant debris (except leaves) will not constitute a nuisance within public rights-of-way, or to abutting property owners.

F. All plant materials must meet the current recommended minimum standards of the American Association of Nurserymen.

G. Berms (earthern mounds) and certain types of fences may be installed in lieu of or in conjunction with plant materials for the purposes of screening when the Planning Commission determines, based upon a particular situation, that a fence or berm would most effectively achieve the public purposes and private benefits inherent in this provision. Fences installed in lieu of or in conjunction with a landscape buffer will be constructed of wood, stone or brick to provide an effective screen and to maintain the natural and historic character of the Island. Chain link or other wire mesh type fences may be permitted only if covered with wood strips or plant materials.

Section 4.10 COMMERCIAL STABLES AND CORRALS.

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

A. No commercial stable structure shall exceed 40 feet in height.

B. No commercial stable structure shall be located within 100 feet of any adjacent building used for residential purposes (see City Ordinance No. 127).

C. All commercial stables shall have a floor area of at least 40 square feet per horse per stall and a total ground floor area of at least 150 square feet per horse.

D. Commercial corrals shall be allowed only as an accessory use to a commercial stable.

E. Where a commercial stable or corral use borders a residential use, a minimum 10-foot wide landscape buffer shall be installed along the entire length of such a boundary. Such a landscape buffer shall be installed according to the provisions of Section 4.09 of this Ordinance.

F. The means of ingress and egress of horses, drays, carriages and bicycles between a commercial stable or corral, and a public street shall be designed as to minimize congestion on the public streets. The means of ingress and egress shall be shown on the site plan required under Article 20.

G. Commercial stables and corrals shall meet all other regulations of the district in which it is situated.

Section 4.11 PRIVATE STABLES.

Private stables are considered an accessory use to any residential use.

Section 4.12 ACCESSORY BUILDINGS TO RESIDENTIAL USES.

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

A. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main buildings. Accessory buildings shall not be erected in any required front yard.

B. An accessory building not exceeding one (1) story or fourteen (14) feet in height, may occupy not more than twenty-five (25) percent of a required rear yard; provided, that in no instance shall the accessory building exceed the ground floor area of the main building, except that barns may be permitted of any size if located at least twenty-five (25) feet from any property line and located not closer than one hundred (100) feet from any dwelling (see City Ordinance Number 127).

C. An accessory building or structure of less than one hundred (100) square feet of area shall not require a zoning permit provided that said building or structure meets all yard requirements for accessory buildings.

D. When an accessory building is located on a corner lot, the side lot line of which is a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in the rear of such corner lot.

E. No detached accessory building shall be located closer than ten (10) feet to any principal building nor shall it be located closer than three (3) feet to any side or rear lot line.

Section 4.13 SEWAGE DISPOSAL.

As part of the application for a zoning permit, the applicant must supply information as to how sewage waste generated on the property will be disposed of.

Section 4.14 ESSENTIAL PUBLIC SERVICE FACILITIES.

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

Section 4.15 RECREATIONAL VEHICLES PROHIBITED.

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

Section 4.16 BICYCLE SPACES.

Where provisions are required in this Ordinance for bicycle spaces, each bicycle space shall be at least 1 foot by 6 feet in area, or a standard space in a bicycle rack.

Section 4.17 CONDITIONS.

Reasonable conditions may be required in conjunction with the approval of a special land use or planned unit development. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

A. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

C. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

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

Section 4.18 GUARANTEES.

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

Article 5 NONCONFORMING USES AND STRUCTURES

Section 5.01 DEFINITION AND CLASSIFICATION OF NONCONFORMING USES AND STRUCTURES.

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance or any subsequent amendment but which were lawfully established prior to the time of Ordinance adoption or amendment. Class A nonconforming uses or structures are those which have been so designated by the Planning Commission, after application by the person having interest in the property, upon finding that the continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of this Ordinance, that the use or structure does not and is not likely to significantly depress the value of nearby properties, that the use or structure was lawful at the time of its inception and

that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform. All nonconforming uses and structures not designated as Class A or Class C, are Class B nonconforming uses or structures.

Section 5.02 PROCEDURE FOR OBTAINING CLASS A DESIGNATION, CONDITIONS.

A written application shall be filed setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains and including such other information as may be necessary to enable the Planning Commission to make a determination of the matter. The Planning Commission may require the furnishing of such additional information as it considers necessary. The decision shall be in writing and shall set forth the findings and reasons on which it is based. Conditions shall be attached, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance. No vested interest shall arise out of a Class A designation.

Section 5.03 APPEALS OF CLASS A DENIALS.

Upon denial of a request for a Class A nonconforming use designation, the applicant may appeal to the Board of Zoning Appeals.

Section 5.04 REVOCATION OF CLASS A DESIGNATION.

Any Class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

Section 5.05 REGULATIONS PERTAINING TO CLASS A NONCONFORMING USES AND STRUCTURES.

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

A. This Ordinance shall not prohibit the repair, improvement or modernization of a Class A nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed an aggregate cost of fifty (50) percent of the structure's replacement cost. Repairs, improvements or modernization in excess of fifty (50) percent of the structure's replacement cost may be permitted by the Planning Commission provided the structure will still meet the qualifications of a Class A nonconforming use or structure.

B. Any Class A nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, may be restored, rebuilt or repaired, provided that such restoration does not exceed fifty (50) percent of the structure's pre-catastrophy replacement cost as determined by a qualified appraiser. Restoration of a Class A nonconforming use or structure damaged in excess of fifty (50) percent of the structure's pre-catastrophy replacement cost may be permitted by the Planning Commission provided the restored structure

would still meet the qualifications of a Class A nonconforming use or structure. However, no Class A nonconforming structure damaged in a flood plain, shoreland or bluff erosion area, or other areas of recurring natural hazards in excess of fifty (50) percent of the structure's pre-catastrophy replacement shall be rebuilt except in full compliance with this Ordinance.

C. Structural changes including enlargement or extension of a Class A nonconforming structure or use may be permitted by the Planning Commission except when such extension or enlargement would be incompatible with surrounding land uses or when the structural change would be inconsistent with the intent of this Ordinance. No extension or enlargement of a Class A nonconforming use or structure shall be approved if approval would result in violation of the setback, side yard or bulk requirements of this Ordinance.

D. A Class A nonconforming use may be substituted for by a similar nonconforming use or structure when the Planning Commission determines that the substitution would improve the property, would not increase nonconformity of the structure or use, or when the substitution would not be contrary to the intent of this Ordinance.

Section 5.06 REGULATIONS PERTAINING TO CLASS B NONCONFORMING USES AND STRUCTURES.

It is a purpose of this Ordinance to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation. A Class B nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

A. Minor repairs or maintenance of a Class B nonconforming use or structure in order to keep it structurally safe and sound is permitted. A Class B nonconforming use or structure shall not be repaired, improved or remodeled when such repair or improvement exceeds twenty-five (25) percent of the structure's replacement cost. The replacement cost shall be determined prior to any repairs or improvements by a qualified appraiser. If a Class B nonconforming use or structure is changed to conform with this Ordinance, the limitations on repairs or improvements shall not apply.

B. Any Class B nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, shall not be rebuilt, repaired or reconstructed if damaged in excess of fifty (50) percent of the structure's pre-catastrophy replacement cost except when the use or structure would fully comply with the requirements of this Ordinance.

C. No Class B nonconforming use or structure shall be enlarged, extended or structurally altered nor shall the nonconforming use be changed to a substantially different nonconforming use.

D. If a mineral extraction operation is designated a Class B nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations were conducted at the time of the operation being so classified, but no new holes or shafts shall be established.

E. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.

F. A Class B nonconforming structure or use may be substituted for with a conforming use or structure, or by a use or structure which meets the requirements of a Class A nonconforming use when the Planning Commission determines that the substitution would not increase the nonconformity of the use or structure or be contrary to the public health, safety and welfare and the intent of this ordinance.

Section 5.07 DETERMINATION OF REPLACEMENT COST.

The replacement cost of repairing, restoring, or improving a Class A or B nonconforming use or structure excluding contents, damaged by fire, explosion, flood, erosion or other means shall be made on the basis of an appraisal by a qualified individual designated by the Board of Zoning Appeals. The cost of such determination shall be born by the applicant.

Section 5.08 NONCONFORMING LOTS OF RECORD.

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

Section 5.09 NONCONFORMING USE DISCONTINUED.

In the event that any nonconforming use is discontinued for a period of two (2) years, any subsequent use shall conform to the uses permitted in the district in which the premises are located. Where a nonconforming use is discontinued and replaced by a use conforming to district requirements, the nonconforming use shall not be reestablished.

Section 5.10 REGULATIONS PERTAINING TO CLASS C NONCONFORMING USES AND STRUCTURES.

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

A. Repairs or maintenance of a Class C nonconforming use or structure in order to keep it structurally safe and sound is permitted. If a Class C nonconforming use or structure is changed to conform with this Ordinance, any limitations on repairs or improvements shall not apply.

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

C. No Class C nonconforming use or structure shall be enlarged, extended or structurally altered, nor shall the nonconforming use be changed in any way, shape or form to a substantially different nonconforming use.

D. That a Class C nonconforming use shall be for residential purposes only, and shall not be allowed for any commercial purpose whatsoever.

E. A Class C nonconforming use shall apply to "RS" Shoreline Residential only.

Article 6 'R-1' LOW DENSITY RESIDENTIAL

Section 6.01 PURPOSE.

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

Section 6.02 PERMITTED USES.

Single, two, three, and four unit detached residential homes or buildings and accessory uses, and churches, as defined in Article 2 are permitted in this district.

Section 6.03 AREA, BULK, HEIGHT, LOT COVERAGE, AND DENSITY REQUIREMENTS.

A. Lot Size. The lot size for this district shall not be less than 5,000 square feet, nor less than fifty (50) feet wide at the building line.

B. Buildings and structures shall be setback from property lines as follows (except as noted below):

1. front yard - minimum 25 feet or in line with adjacent residences*
2. side yard - minimum 5 feet on one side and 10 feet on the other
3. rear yard - minimum 25 feet

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

4. On the secondary streets of McGulpin, French Lane, Mahoney and Mission, setbacks are:

a) front yard - 10 feet minimum or in line with adjacent residences
b) side yard - 5 feet minimum
c) rear yard - 15 feet minimum

C. No building shall exceed thirty (30) feet in height.

D. The maximum permitted lot coverage by impervious surfaces (such as roofs, cement and asphalt areas, etc.) shall be thirty-five (35) percent.

E. The maximum permitted density shall be 7 dwelling units per acre.

Section 6.04 ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS.

In residential districts, accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

A. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main buildings. Detailed accessory buildings shall not be erected in any required front yard.

B. An accessory building not exceeding one (1) story or fourteen (14) feet in height, may occupy not more than twenty-five (25) percent of a required rear yard; provided, that in no instance shall the accessory building exceed the ground floor area of the main building, except that barns may be permitted of any size if located at least twenty-five (25) feet from any property line and located not closer than one hundred (100) feet from any dwelling.

C. An accessory building or structure of less than one hundred (100) square feet of area shall not require a building permit provided that said building or structure meets all yard requirements for accessory buildings.

D. When an accessory building is located on a corner lot, the side lot line of which is a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in the rear of such corner lot.

E. No detached accessory building shall be located closer than ten (10) feet to any principal building nor shall it be located closer than three (3) feet to any side or rear lot line.

Article 7 'R-3' HIGH DENSITY RESIDENTIAL

Section 7.01 PURPOSE.

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

Section 7.02 PERMITTED USES.

Multiple family and single family residential uses, home occupations, and churches as defined in Article 2 are permitted in this district.

Section 7.03 SPECIAL LAND USES.

The following uses are permitted by special land use approval of the Planning Commission, provided that they are in compliance with the standards that follow and the procedures and standards in Article 19:

A. Institutional, provided:

1. That a landscape buffer with a minimum width of ten feet be provided along all property boundaries, which abut residential uses, except the boundary which runs parallel to the street (front yard), to screen light and noise between the institutional use and permanent residences.

2. That off-street bicycle parking be provided to accommodate the average number of building occupants during the tourist season (Memorial Day through Labor Day).

3. That the institutional use and/or structure complies with all other district regulations.

B. Boarding house, provided:

1. That a landscape buffer with a minimum width of ten feet be provided along all property boundaries, which abut residential uses, except the boundary which runs parallel to, or has frontage on, a street, to screen light and noise between the boarding house use and permanent residences.

2. That off-street bicycle parking be provided for each tenant or guest residing at or visiting the boarding house during the tourist season (Memorial Day through Labor Day).

3. That the boarding house be in compliance with all provisions of City Ordinance Number 224.

4. That a safe means of fire escape from the building be provided for all occupants and guests residing at or visiting the boarding house.

5. That the boarding house use and/or structure complies with all other district regulations.

Section 7.04 AREA, BULK, HEIGHT, LOT COVERAGE, AND DENSITY REQUIREMENTS.

A. Lot Size: The lot size for this district shall not be less than 5,000 square feet, nor less than 50 feet wide at the building line.

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

1. front yard - 25 feet minimum or in line with adjacent residences
2. side yard - minimum 5 feet on one side and 10 feet on the other
3. rear yard - 25 feet minimum

C. No building shall exceed 35 feet in height.

D. The maximum lot coverage by impervious surfaces shall be 40 percent.

E. The maximum permitted density shall be 20 dwelling units per acre.

Article 8 'HB' HOTEL/BOARDING HOUSE

Section 8.01 PURPOSE.

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

Section 8.02 PERMITTED USES.

Hotels, boarding houses, multiple/two/and single family residential, and institutional, hotel-related commercial (see Section 2.29), and home occupation uses are permitted in this district.

Section 8.03 AREA, BULK, HEIGHT, LOT COVERAGE, AND DENSITY REQUIREMENTS.

A. Lot Size: The lot size for this district shall not be less than 7,500 square feet, nor less than 60 feet wide at the building line.

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

1. front yard - 30 feet minimum
2. side yards - 10 feet minimum
3. rear yard - 30 feet minimum

C. No building shall exceed 40 feet in height.

D. The maximum lot coverage by impervious surfaces shall be 40 percent.

E. The maximum permitted densities shall be as follows:

1. hotels/boarding houses - 60 bedrooms per acre maximum (boarding houses must also meet the requirements of City Ordinance Number 224)
2. all residential units - 20 dwelling units per acre maximum.

Section 8.04 OTHER PROVISIONS.

For all hotels and boarding houses permitted in this district, the following additional standards apply:

A. At least one bicycle parking space per bedroom shall be provided.

B. A drive of at least 10 feet in width shall be provided between the primary building and the nearest street to allow access for fire and emergency vehicles.

Article 9 'C' COMMERCIAL

Section 9.01 PURPOSE.

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

Section 9.02 PERMITTED USES.

Commercial, hotel, and institutional uses are permitted in this district.

Section 9.03 SPECIAL LAND USE.

Apartment units located in commercial structures are permitted by special land use approval of the Planning Commission provided that they are in compliance with the standards that follow and the procedures and standards in Article 19:

A. That the minimum useable floor area per residential apartment unit be 250 square feet.

B. That the density of such residential apartment units shall not exceed 10 dwelling units per acre.

C. That a safe means of fire escape from each building be provided for all residents.

D. That off-street bicycle parking be provided for each tenant or resident of such apartment units.

Section 9.04 UNIT SIZE, BULK, HEIGHT, AND DENSITY REQUIREMENTS.

A. Unit Size: No commercial unit shall have a floor area of less than 400 square feet.

B. Where a commercial lot borders a residential lot, the structure shall be setback a minimum of 15 feet from the abutting lot line.

C. No building shall exceed 40 feet in height.

D. The following density requirements apply in this district:

1. Apartment with commercial - 550 useable square feet per apartment unit, with a maximum of 4 persons per unit
2. Hotel - minimum of 230 square feet per room where the total square feet of the hotel is divided by the total number of hotel rooms

Article 10 'H' HISTORIC

Section 10.01 PURPOSE.

To establish and preserve a district containing several historically significant structures and other buildings which together form a neighborhood with a unique historic character.

Section 10.02 PERMITTED USES.

Single, two, and multiple family residential, churches, commercial, and institutional uses are permitted in this district.

Section 10.03 SPECIAL LAND USE.

Boarding houses located in historic districts are permitted by special land use approval of the Planning Commission provided that they are in compliance with the standards that follow and the procedures and standards in Article 19:

A. That a landscape buffer with a minimum width of ten feet be provided along all property boundaries, which abut residential uses, except the boundary which runs parallel to, or has frontage on, a street, to screen light and noise between the boarding house use and permanent residences.

B. That off-street bicycle parking be provided for each tenant or guest residing at or visiting the boarding house during the tourist season (Memorial Day through Labor Day).

C. That the boarding house be in compliance with all provisions of City Ordinance Number 224.

D. That a safe means of fire escape from the building be provided for all occupants and guests residing at or visiting the boarding house.

E. That the boarding house use and/or structure complies with all other district regulations.

Section 10.04 AREA, BULK, HEIGHT, LOT COVERAGE, AND DENSITY REQUIREMENTS.

A. Lot Size: The lot size for this district shall not be less than 5,000 square feet, nor less than 50 feet wide at the building line.

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

1. front yard - 10 feet minimum
2. side yards - 10 feet minimum
3. rear yard - 15 feet minimum

C. No building shall exceed 30 feet in height.

D. The maximum permitted lot coverage by impervious surfaces shall be 35 percent.

E. The maximum permitted density for residential uses shall be 7 dwelling units per acre.

Section 10.05 SPECIAL PROVISIONS.

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

1) One of the great scenic islands of the Great Lakes area lies within the borders of the City, rich in Indian lore and historic interest dating back to the year 1670.

2) Because of this history and the natural beauty of the Island, the City has become a world renowed recreational resort.

3) The City is, in effect, the steward for mankind for the preservation of both its natural beauty and its historical monuments.

4) The welfare of the City requires the protection and enhancement of the attractiveness of the City as a recreational resort, as contributing to the economic soundness of the City and the economic and social welfare of its inhabitants.

B. Architectural Review: Within that part of the City designated as "H" Historic District on the map constituting Article 3 of this Ordinance, no building shall be constructed, reconstructed or altered in exterior appearance unless and until plans therefor have been submitted to and have been approved by the City Architect who shall be designated and engaged by the Mayor and Council of the City of Mackinac Island to serve in such capacity.

C. Standards for Review: In reviewing the plans for construction, reconstruction or alterations of structures in the "H" Historic District, the City Planning Commission, the City Architect or such other committee or commission as the Council shall have designated, shall give consideration to, and shall find and certify that, the architectural exterior features, heights, appearance, color and texture of the materials of exterior construction and the placement of the structure on the lot which is subject to public view from a street or public way are congruous and in harmony with those of the restored historical structures within and contiguous to the "H" Historic District, and would not be unsightly, grotesque, or detrimental to the stability of the value and welfare of surrounding property, structures, residences, and to the general and economic welfare and happiness of the community as a whole.

Article 11 'CD' COTTAGE

Section 11.01 PURPOSE.

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

Section 11.02 PERMITTED USES.

Single family residential uses are permitted in this district.

Section 11.03 AREA, BULK, HEIGHT, LOT COVERAGE, AND DENSITY REQUIREMENTS.

A. Lot Size: The lot size in this district shall not be less than ½ acre or 21,780 square feet.

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

1. front yard - 25 feet minimum
2. side yards - 15 feet minimum
3. rear yard - 25 feet minimum

C. No building shall have a height lower than 24 feet nor higher than 40 feet.

D. The maximum permitted lot coverage by impermeable surfaces shall be 30 percent.

E. The maximum density permitted in this district is two dwelling units per acre.

Article 12 'ROS' RECREATION/OPEN SPACE

Section 12.01 PURPOSE.

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

Section 12.02 PERMITTED USES.

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

Section 12.03 SETBACK, HEIGHT, AND LOT COVERAGE REQUIREMENTS.

A. Setbacks: Any outdoor recreation building, structure, accessory structure, or impervious surfaces shall not be located any closer than 20 feet from a public street.

B. No building or structure shall exceed 20 feet in height.

C. The maximum permitted lot coverage by impermeable surfaces shall be 10 percent.

Article 13 'R-4' (PLANNED UNIT DEVELOPMENT)

Section 13.01 PURPOSE.

To establish a flexible district of primarily residential and hotel uses which provides opportunities for housing and tourist accommodations while preserving and enhancing the architectural, historic, and natural character of the Island. For large developments, this district provides for flexibility in the regulation of land development; innovation in land use; variety in design, layout and type of structures constructed to enhance the historic, architectural and natural character of the Island; the achieving of economy and efficiency in the use of land, natural resources and energy; the provision of public services and utilities; useful and aesthetic open space; and the provision of better housing, employment and shopping opportunities particularly suited to the needs of city residents and visitors.

Section 13.02 DEVELOPMENT CRITERIA

A. For proposed developments smaller than 2 acres in size, the applicant shall elect one of the two following options:

   1) Apply for zoning approval of a land use permitted pursuant to the provisions of Article 7 for 'R-3' High Density Residential. These same uses are permitted on lands less than 2 acres in size in this R-4 district including permitted uses (Section 7.02), special land uses (Section 7.03), and area, bulk, height, lot coverage, and density requirements (Section 7.04).

OR

   2) Apply for zoning approval as a planned unit development in accordance with the requirements that follow in Sections 13.03 through 13.05.

B. For all proposed developments 2 acres or larger in size, the applicant shall apply for zoning approval as a Planned Unit Development according to the provisions appearing in Sections 13.03 through 13.05.

Section 13.03 PERMITTED USES.

Single, two family, and multiple family residential, hotel, limited commercial (those commercial uses designed to service residential and hotel uses, such as restaurants and gift shops), and recreational uses are permitted in this district in Planned Unit Developments.

Section 13.04 PROCEDURE FOR APPLICATION, REVIEW & ACTION ON PUD REQUESTS.

The following procedure shall be followed in the application, review and action on planned unit development requests:

A. Single Applicant: The tract of land for a project must be either in one ownership or the subject of an application filed jointly by the owners of all property included (the holder of a written option to purchase land or the holder of an executory land contract shall, for the purposes of such application, be deemed to be the owner of such land). All land that is in single ownership at the time this Ordinance goes into effect shall be considered as a single tract for purposes of application for a planned unit development and for the required site plan. Planned unit developments may be proposed and approved in phases over a number of years.

B. A planned unit development application shall be filed with the Zoning Administrator along with a site plan conforming to the requirements of Section 20.04. Following receipt of a complete application, a public hearing before the Planning Commission may be scheduled preceded by public notice as detailed in 13.04 C below. Within a reasonable time, the Planning Commission shall submit a report to the City Council stating its conclusions on the request for a planned unit development, its recommendation and the basis for it, and any conditions that should be imposed with an affirmative decision. Additionally, the Planning Commission shall submit a copy of the minutes of every meeting at which the request was considered including a summary of the comments received at the public hearing and all documents related to the planned unit development request. Upon receipt of these documents, the City Council shall schedule a public hearing on the request and after deliberation, may move to deny, approve or approve with conditions the request, its decision, the basis for its decision and any conditions relating to an affirmative decision. The City Council may move to adopt the Planning Commission's report as its own, or prepare a separate report.

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

1. The notice shall be published in a newspaper of general circulation at least five but not more than 15 days in advance of such hearing.

2. Notice shall be sent at least five but not more than 15 days before the hearing by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

(a) Describe the nature of the planned unit development request.
(b) Indicate the property which is the subject of the planned unit development request.
(c) State when and where the planned unit development request will be considered.
(d) Indicate when and where written comments will be received concerning the request.

D. Final approvals may be granted on each phase of a multi-phased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

E. A request for approval of a planned unit development which is in compliance with the standards of this ordinance and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes shall be approved.

Section 13.05 DEVELOPMENT STANDARDS.

Every planned unit development approved under this Article, must comply with the following development standards:

A. Density: A maximum density standard of 7 dwelling units per acre of residential dwellings and 20 units per acre of hotel is hereby established unless compliance with the density bonus provisions (below) permits a higher density. In no event shall the density exceed 20 dwelling units per acre of residential dwellings and 60 units per acre of hotel rooms.

1. Public rights-of-way and private access easements shall not be counted as a part of the lot for determining maximum density.

2. Bonus Densities - The Planning Commission/City Council may approve bonus densities for higher density planned unit developments when the developer can provide for the preservation of substantial areas containing significant natural landscape features or by providing for a more spacious development through the incorporation of appropriate site planning and landscape design techniques. Bonus densities shall be permitted according to the following standards:

a) Bonus densites for the preservation of open space dedicated or granted in the form of public easement for a minimum of 50 years to the city for public use; providing the city accepts the dedication, shall be awarded as follows:

1) Add 13 additional dwelling units, or 35 additional hotel rooms to a development for each acre of open space dedicated which contains Lake Huron shoreline, or unique geological formations.

2) Add 10 dwelling units, or 30 additional hotel rooms to a development for each acre of open space dedicated which does not contain Lake Huron shoreline, or unique geological formations.

b) Bonus densities for the construction by the developer of certain public improvements may be awarded as follows:

1) The developer/applicant may request an increased density allowance in exchange for a public improvement, which shall be granted if the applicant demonstrates to the Planning Commission/City Council that the public benefit of the improvement is at least equal to the private benefits of the requested increased density over a specified period of time.

2) Eligible public improvements are: paving of public streets, construction of sanitary sewer extensions and expanded capacities, installation of water supply lines, construction of facilities to handle stormwater, installation and wiring of lighting fixtures for public streets, public recreational facilties on land dedicated to the city, or other public improvements approved by the Planning Commission/City Council.

3) The public improvements proposed must be deemed both necessary and desirable by the Planning Commission/City Council.

4) The developer constructing or installing the approved public improvements shall certify that such improvements will be constructed or installed at least to the minimum standards that the city would use to provide the same improvements.

c) Bonus densities for the preservation of heavily wooded areas may be awarded as follows:

1) To be eligible for a bonus density, a woodlot must have an area of at least one acre (43,560 square feet).

2) Based upon the maximum allowed density before a bonus density allowance (see A above), 9 additional dwelling units, or 25 additional hotel rooms per acre may be added for every acre of woodlot preserved.

B. Setbacks: The standards for front, side and rear yard setbacks shall be as follows:

1. Front yards - 25 feet minimum
2. Side yards - 15 feet minimum between buildings and 5 feet minimum between any building and the side lot line
3. Rear yards - 25 feet minimum

C. Height: No building or structure shall exceed a maximum height of 35 feet.

D. Minimum Lot Size and Width: The minimum lot size in a planned unit development shall be 7,500 square feet. The minimum lot width at the building line shall be 60 feet.

E. Utilities: Public water sanitary sewer (or other approved waste system), and storm drainage facilities shall be provided as part of the site development. All electric and telephone transmission lines shall be placed underground.

F. Natural Features: Natural features and unique site characteristics located on a tract shall be preserved or enhanced wherever and whenever possible. Natural features and unique site characteristics include, but are not limited to: free-flowing springs, significant stands of trees, individual trees of significant size and rock formations, as well as visual amenities such as public views of Lake Huron, neighboring islands, the city harbor, and the Mackinac Bridge.

G. Parking/Loading/Circulation: Adequate off-street bicycle parking shall be provided for each dwelling unit, hotel, store or restaurant within a planned unit development. Adequate loading and unloading space shall also be provided. Bicycle and pedestrian circulation within the PUD shall be safe and efficiently connect to existing public circulation routes.

H. Emergency Provisions: All inhabited buildings and structures shall provide a safe means of fire escape. Also, a ten foot accessway shall be constructed from the nearest public street to each building and structure to provide an adequate means of access for fire and emergency vehicles.

I. Lot Coverage: The maximum permitted coverage of a lot by impermeable surfaces shall be 30 percent. Where bonus densities are permitted, the maximum lot coverage may be increased by the Planning Commission/City Council up to a maximum of 50 percent.

J. Landscape Buffer: A landscape buffer may be required by the Planning Commission/City Council along the perimeter of the development where necessary to minimize noise and light impacts on adjoining property.

K. Arrangements of Open Space: All required open space within a planned unit development shall be arranged to provide easy access and benefit to the maximum number of lots and/or dwelling units and shall be on the same tract of land. All open space deeded to the City of Mackinac Island must be acceptable to the city with regard to size, shape, location, improvements and purpose of use. Additionally, planned unit development open space not dedicated for public use shall be preserved in perpetuity by the leasing or conveyance of title (including beneficial ownership) to a corporation, association or other legal entity, or by the reservation by means of a deed

restriction. The terms of such lease or other instrument must include provisions guaranteeing the continued use of such land for the intended purposes and continuity of proper maintenance for those portions of the open space land requiring maintenance. The developer shall file with the County Register of Deeds and the City Council legal documents embodying the aforesaid guarantees ensuring the use of the common open space for the designated purposes. If the development is to be subdivided, the forementioned restrictions shall be recorded at the time of final plat approval.

L. Because the planned unit development allows such wide lattitude of development possibilities, the applicant shall sign a statement that the final form of the planned unit development plan shall be binding on the applicant, his heirs, ancestors and assignees.

M. Conditions - Reasonable conditions and guarantees may be attached to the final approval of a planned unit development consistent with the provisions of Sections 4.16 and 4.17.

Section 13.06 APPEAL TO CIRCUIT COURT.

Appeal of a final decision on a planned unit development request is taken to circuit court.

Article 14 'RS' SHORELINE RESIDENTIAL

Section 14.01 PURPOSE.

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

Section 14.02 PERMITTED USES.

Single family residential uses are permitted in this district.

Section 14.03 AREA, BULK, HEIGHT, LOT COVERAGE, AND DENSITY REQUIREMENTS.

A. Lot Size: No lot in this district shall be less than 10,000 square feet in size.

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

shoreline setback - 60 feet minimum from the water's edge.
side yards - 20 feet minimum
street setback - 40 feet minimum

(If there is no shoreline edge on the lot, the setback from the property line opposite the street side property line shall be 40 feet.)

C. No building shall exceed 20 feet in height.

D. The maximum permitted lot coverage by impervious surfaces shall be 30 percent.

Section 14.04 LANDSCAPE BUFFER REQUIREMENTS

No natural vegetation occurring on a lot shall be unnecessarily removed or distrubed during the construction of a building or structure. As much of the natural plant material existing on a lot shall be left as undisturbed as possible on all sides of the building or structure. Additionally, landscape buffers may be required by the Planning Commission to screen such development from a public street or road, and/or the Lake Huron shoreline. The width and composition of such landscape buffers shall be determined by the Planning Commission. All plantings shall be installed in the manner stated in Section 4.09.

Article 15 'SO' SHORELINE OVERLAY

Section 15.01. PURPOSE.

To establish a special overlay district pertaining to certain designated zoning districts, outside of the RS, Shoreline Residential district, to provide for the safe use of parcels located on the Lake Huron shoreline and preserving the scenic natural and cultural character of the water's edge.

Section 15.02 SETBACK REQUIREMENTS.

All buildings and structures falling within this district shall be subject to the following setback requirements:

A. For shoreline lots falling within the harbor breakwaters, or directly across from the foot of such breakwaters, all buildings and structures shall be setback a minimum of 20 feet from the shoreline.

B. For shoreline lots falling outside of the harbor breakwaters, all buildings and structures shall be setback a minimum of 40 feet from the shoreline.

Articles 16 and 17 Reserved for Future Use

Article 18 ARCHITECTURAL REVIEW

Section 18.01 PURPOSE.

The purpose of this provision for mandatory architectural review for all development outside the "H" Historic District, is to promote and protect the public health, safety and welfare, and to preserve the City of Mackinac Island for the reasons more fully stated in Article 10, Section 10.05 A of this Ordinance.

Section 18.02 ARCHITECTURAL REVIEW REQUIRED.

Within all parts of the City other than those designated as "H" Historic District on the map constituting Section 302 of this Ordinance, no building shall be constructed or structurally altered in exterior appearance unless and until the architectural plans therefor have been submitted to and have been reviewed by the City Architect who shall be designated and engaged by the Mayor and Council of the City of Mackinac Island to serve in such capacity. The results of such review shall be forwarded to the city body reviewing the request for zoning action.

Section 18.03 STANDARDS FOR APPROVAL.

In reviewing the plans for construction, reconstruction or alteration of structures in districts other than the "H" Historic District, the City Planning Commission, the City Architect or other such committee or commission as the Council shall have designated, shall give consideration to, and shall find and certify that the architectural exterior features, heights, general appearance and materials of exterior construction and placement of the structure on the lot which is subject to public view from a street or public way are congruous and in harmony with surrounding structures and historic aspects of the Island, and would not be unsightly, grotesque or detrimental to the stability of the value and welfare of surrounding property, structures, residences, and to the general and economic welfare and happiness of the community as a whole.

Section 18.04 TIME OF REVIEW.

Upon receipt of architectural plans from the Zoning Administrator, the City Architect shall review them and submit his/her recommendations to the Planning Commission within 30 days.

Article 19 SPECIAL LAND USES

Section 19.01 PURPOSE.

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

Section 19.02 APPLICATION.

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

Section 19.03 HEARING ON APPLICATION.

Upon receipt in proper form of the application and statement referred to in this Section, the Planning Commission shall hold at least one public hearing on the proposed special land use, not more than 45 days following the date of the receipt of the plans and application by the Planning Commission. At least five but not more than 15 days in advance of such hearing, notice of the time and place of the hearing shall be published in a local newspaper of general circulation and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

A. Describe the nature of the special land use request.

B. Indicate the property which is the subject of the special land use request.

C. State when and where the special land use request will be considered.

D. Indicate when and where written comments will be received concerning the request.

Section 19.04 DETERMINATION.

For each application for a special land use, the Planning Commission shall make the determination to approve, approve with conditions, or deny the application. A final decision on the special land use application shall be made within 100 days of receipt of the application by the Planning Commission.

Section 19.05 BASIS FOR DECISION.

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

Section 19.06 STANDARDS.

No special land use shall be approved by the Planning Commission unless such Commission shall find:

A. That the establishment, maintenance or operation of the special land use will not be detrimental to or endanger the public health, safety or general welfare.

B. That the special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.

C. That the establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

D. That adequate utilities, access roads, drainage and necessary facilities have been or are being provided.

E. That adequate measures have been or will be taken to provide ingress or egress so designed to minimize congestion in the public streets.

F. That the special land use shall, in all other respects conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in Article 20.

Section 19.07 CONDITIONS AND GUARANTEES.

Reasonable conditions and guarantees may be attached to the final approval of a special land use consistent with the provisions of Sections 4.13 and 4.14.

Section 19.08 EFFECT OF DENIAL OF A SPECIAL LAND USE.

No application for a special land use which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one year from the date of said order.

Section 19.09 REVIEW.

In any case where a special land use has not been established within one year after the date of granting such use, the special land use or authorization shall automatically be reviewed, and may be discontinued if inadequate evidence to justify its continuance is presented.

Section 19.10 APPEAL.

Upon denial of an application for a special land use determination by the Planning Commission, the applicant may appeal to the Board of Zoning Appeals.

Article 20 SITE PLAN REVIEW

Section 20.01 PURPOSE.

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

Section 20.02 SCOPE.

Except as set forth below, the Zoning Administrator shall not issue a zoning permit for construction of any buildings, structures or uses until a site plan, submitted in accordance with the City Zoning Ordinance, shall have been reviewed and approved by the Planning Commission and City Council in the case of planned unit developments; and the Planning Commission only for all other land uses for which site plan review is required by this Ordinance.

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

A. Single and two-family homes falling within the R-1, R-3, or HB zoning districts need only a sketch plan, consisting of legal description of property boundaries, and placement of structure on the site; to be submitted by the applicant along with the application for zoning action.

B. Interior, accessory and subordinate buildings requiring no new or additional means of access thereto from adjoining public streets and complying with all zoning ordinance requirements.

C. Projects involving the expansion, remodeling or enlargement of existing buildings which comply with all zoning ordinance requirements and involve no new or additional means of access thereto from adjoining public streets.

D. Additional buildings or structures similar to those previously existing upon an individual site complying with all zoning ordinance requirements and requiring no new or additional means of access thereto from adjoining public streets for such purposes or uses as greenhouses, storage buildings, on-premise advertising signs, and essential service structures or buildings.

Section 20.03 OPTIONAL PRELIMINARY PLAN REVIEW.

Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final approval. The purpose of such procedure is to allow discussion between a landowner and the Planning Commission to better inform the owner of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such preliminary plans shall include as a minimum the following:

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

B. A legal description of the property.

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

The Planning Commission shall not be bound by any tentative approval given at this time.

Section 20.04 APPLICATION PROCEDURE.

Requests for final site plan review shall be made by filing with the Zoning Administrator the following:

A. The application shall be accompanied with a fee to cover the cost of processing the review.

B. Four copies of the completed application form for site plan review which shall contain, as a minimum, the following:

1. The name and address of the applicant.

2. The legal description of the subject parcel of land.

3. The area of the subject parcel of land stated in acres, or if less than one acre, in square feet.

4. The present zoning classification of the subject parcel.

5. A general description of the proposed development.

C. Four copies of the proposed site plan which shall include, as a minimum, the following:

1. The plan shall be drawn to a scale of not greater than one inch equals 20 feet for a development of not more than three acres and a scale of not less than one inch equals 100 feet for a development in excess of three acres with north point and scale shown on the plan drawing.

2. The plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation and the name and address of the individual or firm preparing the same.

3. The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.

4. The topography of the site with at least two to five foot contour intervals and all natural features such as wood lots, streams, wetlands, unstable soils, blufflines, rock outcroppings, and similar features shall be shown.

5. Existing man-made features upon the site and within 100 feet of the same shall be identified.

6. The location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be disclosed. Site plans for multiple-family residential development shall also include a density schedule showing the number of dwelling units per net acres, including a dwelling schedule showing the unit type and number of each such units.

7. All proposed and existing streets, driveways, sidewalks and other bicycle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size and number of on site parking areas, service lanes thereto, and service parking and delivery or loading areas.

8. The location, use and size of open spaces together with landscaping, screening, fences, walls and proposed alterations of topography or other natural features shall be indicated.

9. The proposed operations on the site shall be described in sufficient detail to indicate the effect, if any, upon adjoining lands and occupants, together with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. Any potential demands for future community services will also be described, together with any special features which will assist in satisfying such demands.

10. Any earth-change plans required by state law shall also be submitted with the application.

11. On site lighting, surface water drainage for the site and proposed sanitary sewage disposal and water supply shall be included in the plans.

12. Such other information as may be determined to be necessary by the Planning Commission because of any peculiar features of the proposed development.

Section 20.05 ACTION ON APPLICATION AND PLANS.

A. The Zoning Administrator shall record the date of the receipt of the application and plans, and transmit two copies thereof to the Chairman of the Planning Commission.

B. A hearing shall be scheduled by the Chairman of the Planning Commission for a review of the application and plans as well as reviewing the recommendations of the Planning Commission. The hearing shall be scheduled within not more than 45 days following the date of the receipt of the plans and a complete application by the Planning Commission. If the site plan is part of a special land use or planned unit development application, the hearing for those purposes shall suffice in lieu of the hearing requirement of this subsection and subsection C that follows.

C. The applicant shall be notified of the date, time and place of the hearing on his application between 5 and 15 days prior to such date.

D. Following the hearing, the Planning Commission shall have the authority to approve, disapprove, modify, or alter the proposed plans in accordance with the purpose of the site plan review provisions of the City Zoning Ordinance and the criteria contained therein. Any required modification or alteration shall be stated in writing, together with the reasons for such modification, and delivered to the applicant. The Planning Commission may either approve the plans contingent upon the required alterations or may require a further review after the same have been included in the revised site plan by the applicant. The decision of the Planning Commission shall be made within 100 days of receipt of the application by the Commission.

E. Two copies of the approved final site plan, including any required modifications or alterations shall be maintained as part of the city records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed by the Chairman of the Planning Commission for identification of the final approved plans. If any variances from the zoning ordinance have been obtained from the Board of Zoning Appeals, the minutes concerning the variance duly signed shall also be filed with the city records as a part of the site plan and delivered to the applicant for his information and direction.

Section 20.06 CRITERIA FOR REVIEW.

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

A. That all requirements pertaining to the district in which development is proposed are adequately met.

B. That there is a compatible relationship between the existing streets within the vicinity further defined as: adequate service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian, bicycle and horse traffic.

C. That the buildings and structures proposed to be located upon the premises are so situated to minimize adverse effects upon owners and occupants of adjacent properties, in relationship to lighting, loading activities, noise producing activities, and site access.

D. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the character of the area.

E. That any adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures and entryways.

F. That the lot layout and individual building design is harmonious with the historic and natural character of the Island to insure an optimal relationship between the proposed development and existing contiguous land uses.

G. That the proposed development will be adequately served by essential public facilities and services, such as streets, police and fire protection, water, sewer (if appropriate), and refuse disposal.

H. That all provisions of the City Zoning Ordinance are complied with unless an appropriate variance therefrom has been granted by the Board of Zoning Appeals.

Section 20.07 CONFORMITY TO APPROVED SITE PLAN.

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

Section 20.08 VIOLATION OF SITE PLAN APPROVAL.

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

Section 20.09 COMMENCING CONSTRUCTION.

Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development actually commenced within one year, the site plan approval shall automatically be reviewed, and may be discontinued if inadequate evidence to justify its continuance is presented.

Section 20.10 AMENDMENT TO SITE PLAN.

A proposed amendment, modification or alteration to a previously approved site plan may be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

Section 20.11 PERFORMANCE BOND.

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

Article 21 ADMINISTRATION AND ENFORCEMENT

Section 21.01 ZONING ADMINISTRATOR.

The duty of administering and enforcing the provisions of this Ordinance shall be executed by the City Zoning Administrator. The candidate for this appointed position shall be selected by the City Council as an official annual appointment. The Zoning Administrator shall be reimbursed for services rendered in an amount determined by the City Council. The City Council can remove the Zoning Administrator from office for willful neglect of duty or malfeasance in office.

Section 21.02 DUTIES OF THE ZONING ADMINISTRATOR.

It shall be the duty of the Zoning Administrator to: receive zoning applications and site plans (as required under Article 20) from applicants, coordinate any required architectural reviews with the City Architect, present zoning applications and site plans to the Planning Commission for a determination of compliance with this Ordinance, issue zoning permits and denial notices to applicants, to enforce the requirements of this Ordinance, and any permit or violation notice issued under it, and other related duties as may be assigned by the City Council. The Zoning Administrator shall develop forms for carrying out the procedures required by this Ordinance and procedures for handling suspected violations of this Ordinance. Said forms and procedures shall become official upon adoption by the Planning

Commission. In preparing these forms and procedures, the Zoning Administrator shall seek assistance from the Planning Commission, City Council and City Attorney.

Section 21.03 ZONING PERMITS.

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

The applicant for the zoning permit must be either the owner of the parcel(s) in question, a leasee with at least a twenty year term interest in the land, or an agent authorized to act on the owner's behalf. Proof of the applicant's interest in the parcel(s) shall be produced upon the request of the Planning Commission or other City body involved in the approval process.

Once a zoning permit has been issued or denied, the decision remains valid for a period of one year, at which time the application or permit shall come under review by the Planning Commission upon request by the applicant, and may be either approved, extended or revoked based on any changes in conditions or circumstances. After the zoning permit has been issued, the parcel in question shall be inspected on three occasions: (1) when the proposed structure is staked out on the property, (2) when the footings for the foundation are installed, and (3) when construction is completed. The applicant shall notify the Zoning Administrator of the proposed inspection dates, and shall not begin a later stage of work until the previous stage has been approved. After the final inspection has been completed, if the applicant is found to be in compliance with this Ordinance, the Zoning Administrator shall issue an occupancy permit as authorized in Section 21.06.

Section 21.04 RELATION TO BUILDING PERMIT.

No building permit required under the City Construction Code (Ordinance No. 210) shall be issued until first, the applicant obtains a zoning permit from the Zoning Administrator, indicating that the proposed construction activity is in compliance with this Ordinance.

Section 21.05 CITY ARCHITECT.

A City Architect shall be appointed by the Mayor and subject to confirmation by the City Council. The City Architect shall review all applications and site plans based on the criteria appearing: in Article 10, Section 10.05, applied to the Historic District; and Article 18 as applied to all other areas of the city. The recommendations of the City Architect shall be submitted to the Zoning Administrator, who shall present the recommendations along with the zoning permit application and site and architectural plans to the Planning Commission for action. Reimbursement for services rendered by the City Architect will be determined by the City Council.

Section 21.06 OCCUPANCY.

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

Section 21.07 VIOLATIONS AND PENALTIES.

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

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

Article 22 BOARD OF ZONING APPEALS

Section 22.01 CREATION AND MEMBERSHIP.

A Board of Zoning Appeals is hereby established having the powers authorized in Act 207 of the Public Acts of Michigan of 1921, as amended. The Board of Zoning Appeals shall consist of the Mayor and City Council.

Section 22.02 OFFICERS.

The Board shall elect from its membership a chairman, a vice-chairman and such other officers as it may deem necessary.

The City Clerk shall be the secretary of the Board, without vote.

Section 22.03 RULES OF PROCEDURE.

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

A. Meetings of the Board shall be held once each month, and at such additional times as the Board may determine. The time of regular meetings shall be specified in the rules of procedure. There shall be a fixed place of meeting and all hearings shall be open to the public.

B. A quorum shall be the same as required for the City Council.

C. The Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the office of the Board and shall be a public record. Such records shall include the findings of fact and conclusions reached by the Board on all matters upon which it passes judgement.

D. The Board may call on any other city departments for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance to the Board as may reasonably be required.

Section 22.04 JURISDICTION.

The Board of Zoning Appeals, in conformity with the provisions of this Ordinance and of Act 207 of the Public Acts of 1921, as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination appealed from, and shall make such order, requirement, decisions or judicial determination as in its opinion ought to be made in the premises, and to that end shall have all the powers to hear and decide all matters referred to it or upon which it is required to act under this Ordinance. This includes action on requests for variances, appeal from administrative decisions, and requests for Ordinance interpretation.

Section 22.05 VARIANCES.

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

A. Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause unnecessary hardship; provided that the Board shall not grant a variance on a lot of less area than the requirements of its zone district, even though such lot existed at the time of passage of this Ordinance if the owner or members of his immediate family owned adjacent land which could without unnecessary hardship be included as part of the lot.

B. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such Ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings or structures so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

C. For the vertical extension of a building existing at the time of enactment of this Ordinance to such height as the original drawings of said building indicated, provided such building was actually designed and constructed to carry the additional stories necessary for said height limit.

D. To permit the erection or structural alteration, in a district where such use is permitted, of a grain elevator, gas holder, or other similar structure to a height above the limit specified for such district.

E. To permit the enclosure of an existing open front porch where said enclosure is in character with the adjoining neighborhood.

Section 22.06 CRITERIA FOR VARIANCES.

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

A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.

B. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

C. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purposes of this Ordinance or the public interest.

D. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought is not of a general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Section 22.07 CONDITIONS OF APPROVAL.

In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in this Ordinance, and pursuant to standards in Section 4.13, attach thereto such other conditions regarding the location, character, landscaping or maintenance reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

Section 22.08 VARIANCE AND APPEAL PROCEDURE.

The following procedure shall be required

A. An appeal from any ruling of the Planning Commission or administrative officer administering any portion of this Ordinance may be taken by any person aggrieved or any governmental department affected.

B. The Board of Zoning Appeals shall not consider any application for Ordinance interpretation, variance or appeal without the payment by the applicant or appellant to the City Treasurer of a fee. Such application or appeal shall be filed with the Zoning Administrator, who shall transmit the same, together with all plans, specifications and other papers pertaining to the application or appeal, to the Board of Zoning Appeals.

C. When an application or appeal has been filed in proper form and with the required date, the Secretary of the Board shall immediately place the said application or appeal upon the Board's calendar for its next meeting. Before granting any appeal the Board shall hold a public hearing. Notices of such hearings shall be served personally or by mail at least 14 days prior to the date of such hearing, upon the applicant or the appellant, and the owners of record of property within 300 feet of the premises in question; which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. Any party may appear at such hearings in person or by an agent or by an attorney.

D. Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides.

Section 22.10 DECISIONS OF THE BOARD.

The Board shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Planning Commission by the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. A decision of the Board shall not become final until the expiration of 5 days from the date such decision is made unless the Board shall find the immediate effect of such decision is necessary for the preservation of property of personal rights and shall so certify on the record.

Section 22.11 STAY OF PROCEEDINGS.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals after notice of appeal shall have been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals or by the Circuit Court on application, after notice to the Planning Commission.

Article 23 CHANGES AND AMENDMENTS

Section 23.01 AMENDMENTS.

The City Council may, from time to time, amend, supplement, or change by ordinance, the boundaries of districts or regulations herein established, pursuant to procedures outlined in 1921, P.A. 207, as amended.

Section 23.02 PETITIONS.

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

Section 23.03 PUBLIC HEARING.

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

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