

∞ AGENDA ∞

MARQUETTE CITY PLANNING COMMISSION **Tuesday, April 15, 2025, at 6:00 p.m.** **Commission Chambers at City Hall – 300 W. Baraga Ave.**

MEETING CALLED TO ORDER

- 1) ROLL CALL
- 2) APPROVE AGENDA
- 3) APPROVE MINUTES: **Minutes of 04-01-25**
- 4) CONFLICT of INTEREST



1. PUBLIC HEARINGS
2. CITIZENS WISHING TO ADDRESS THE COMMISSION ON AGENDA ITEMS
3. OLD BUSINESS
4. NEW BUSINESS
5. CITIZENS WISHING TO ADDRESS THE COMMISSION ON NON-AGENDA ITEMS
6. CORRESPONDENCE, REPORTS, MINUTES OF OTHER BOARDS/COMMITTEES
7. TRAINING

A. Article – Zoning Decisions: Fact-Finding and Standards of Review, Michigan Planner, Jan.-Feb. 2025

8. WORK SESSION ON REPORTS/PLANS/ORDINANCES

A. Land Development Code Amendments

9. COMMISSION AND STAFF COMMENTS
10. ADJOURNMENT

PUBLIC COMMENT

A member of the audience speaking during the public comment portion of the agenda shall limit his/her remarks to 3 minutes. Time does not need to be reserved for an item of business listed on the agenda, or otherwise addressed under Item #2, as time is provided for public comment for each item of business.

PUBLIC HEARINGS

The order of presentation for a public hearing shall be as follows:

- a. City Staff/Consultants
- b. Applicant
- c. Correspondence
- d. Public Testimony
- e. Commission Discussion (Commissioners must state any Ex-Parte contact or Conflicts of Interest prior to engaging in any discussions), if it occurred, prior to entering into discussion or voting on a case).

OFFICIAL PROCEEDINGS
MARQUETTE CITY PLANNING COMMISSION
April 1, 2025

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00p.m. on Tuesday, April 1, 2025, in the Commission Chambers at City Hall. A video of this meeting is available on the City's website.

ROLL CALL

Planning Commission (PC) members present: W. Premeau, Vice Chair K. Clegg, M. Rayner, K. Hunter, J. Fitkin, Chair S. Mittlefehldt, D. Fetter, S. Lawry, A. Wilkinson.

PC Members absent: none

Staff present: City Planner and Zoning Administrator Dave Stensaas, Zoning Official Andrea Landers

AGENDA

It was moved by S. Lawry, seconded by K. Hunter, and carried 9-0 to approve the agenda as presented.

MINUTES

The minutes of the March 18, 2025, meeting were approved by consent, as presented.

CITIZENS WISHING TO ADDRESS THE COMMISSION ON AGENDA ITEMS

None

CITIZENS WISHING TO ADDRESS THE COMMISSION ON NON-AGENDA ITEMS

None

CORRESPONDENCE, REPORTS, MINUTES OF OTHER BOARDS/COMMITTEES

A. Michigan Assoc. of Planning Handout – May 14th Training at NMU

D. Stensaas said that all of the Planning Commission (PC) members had let him know their availability for this and all but one person is committing to the full day. He said staff would work on registration for the City group and we will confirm registration with the PC members later.

B. Letter from Easter Bunny re: Dwelling Unit Requirements

D. Stensaas said that A. Landers took a call from the Easter Bunny's assistant, and soon afterward we got this letter for you, asking you to consider allowing accessory structures on parcels without a human residence, and so if the board wishes to add this to the discussion of LDC amendments this is a perfect time to discuss the issue.

S. Lawry said that he agrees, and related a story about a property that he owns where he would like to be able to build an accessory structure but can't if he wants to be able to divide the parcel and keep the proposed building on the new parcel created from the split, because a parcel is disqualified from a land division approval if the only structures on the new parcel would be accessory structures for a building on the parent parcel. The members discussed the situation further and decided to ask staff to place that on the list for consideration of a text amendment next year.

C. Letter from Veridea Group re: Code Standards for Dumpster Enclosures

A. Landers reiterated the main question of the letter provided to the Planning Commission, requesting that an amendment be made to the Land Development Code to allow for the use of Corten steel in dumpster enclosures. The Planning Commission discussed the issue, and it was determined that staff would research other metal options and report back to the board at the next meeting.

OFFICIAL PROCEEDINGS
MARQUETTE CITY PLANNING COMMISSION
April 1, 2025

WORK SESSION ON REPORTS/PLANS/ORDINANCES

A. Land Development Code (LDC) Amendments

The Planning Commission and staff reviewed each of the draft LDC amendments in the agenda packet. Discussion on several items was fairly lengthy, and in particular, there was quite a bit of conversation on the following items:

- LDC section 902(E)(1)(h) – it was determined to keep this language with the exception of uncompacted gravel and rock, as those were considered as problematic.
- The status of *Utility Electrical Power Generation* uses in the chart in Section 306 – it was determined to add this as a Special Land Use in I-M zoning districts.
- Proposed changes to section 624 generated discussion about the status of the number of Short-Term Rental (STR) units in the city, and staff explained changes that were recently initiated by the Fire Dept., in accordance with the City Code, to revise the methodology for accepting STR applications and for creating a “future use category” and new methodology for scheduling inspections for persons whose applications were accepted but who have not scheduled inspections to have their homes certified as a rental.
- Section 632 - it was determined to add *Natural Resource Extraction and Processing* as a Special Land Use in I-M zoning districts and as a Permitted Use in BLP districts.
- Section 1202 – Nonconforming Uses and Structures – the topic is obtuse, and required some explanation, but it was determined that in cases where a fire insurance claim was being processed there should be an exception to the proposed 18-month time limit on a permit to reconstruct a Class-A structure after a catastrophic loss by casualty or neglect.
- The “greenbelt standards” stated in Figure 50 for the separation of various land uses. This will be reviewed at the 4-16 meeting, as no specific determination was made, in relation to changing any of the dimensions/figures.
- It was determined to create a definition for “collective” housing arrangements, which will not be a land use per se, but a financial arrangement, and it may be helpful for the financing of such housing for the LDC to acknowledge this type of arrangement and to distinguish it from Intentional Community Dwellings.
- The requirement for wetlands to be delineated by the “wetland mapper” provided by EGLE was discussed, along with alternatives. A compromise was reached that keeps the wetland mapper as the primary resource for delineation in the absence of a certified ground delineation, which is often required by EGLE before construction can proceed in or adjacent to wetland areas.

COMMISSION AND STAFF COMMENTS

J. Fitkin wished everyone a happy spring and end to the winter parking ban.

S. Lawry reiterated his support for the idea provided by the Easter Bunny in correspondence.

D. Stensaas said that he wanted to follow up on comments made at the last meeting by two NMU students that were complaining about the lack of a complete sidewalk on Center St. near NMU’s parking lot on the street, and the unpaved and rough condition of Norwood Street. He provided an aerial photo that showed the delineation of the public right-of-way in the area, indicating that the unpaved portion of those streets is within NMU’s property and is not part of the public right-of-way, and that the sidewalk adjacent to the parking lot is located within the public right-of-way. He also said that his office is organizing a bicycle rodeo for kids aged 5-12 years that will take

OFFICIAL PROCEEDINGS
MARQUETTE CITY PLANNING COMMISSION
April 1, 2025

place in the Fifth St. parking lot on Saturday, May 31st from 10:00 a.m. to 1:00 p.m., which will have volunteers helping members of staff and the Police Department teach kids bicycling skills and rules of the road. He said they will also have a fire truck there and bike shops checking the kids' bikes over for safety before they begin. He said they will be giving away a bunch of bicycle helmets and bike lights, and that they want to have 25 volunteers signed up, with about 16 volunteers already committed, and asked members to let him know if they would like to participate. Three of the members indicated interest in volunteering.

A. Landers said that D. Fetter was appointed by the City Commission as the PC representative to the BZA at their meeting last night. D. Stensaas added that it is likely that there will be a BZA meeting in May.

ADJOURNMENT

Chair S. Mittlefehldt adjourned the meeting at 8:15 p.m.

Prepared by D. Stensaas, City Planner and Zoning Administrator, Planning Commission Staff Liaison.



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MEMORANDUM

TO: Planning Commission
FROM: Dave Stensaas, City Planner and Zoning Administrator
DATE: April 11, 2025
SUBJECT: **Training Article – *Zoning Decisions: Fact-Finding and Standards of Review*, Michigan Planner, Jan.-Feb. 2025**

This article features a main theme among the duties of Planning Commissioners and the thesis should be well-understood by all members of any governmental body that performs the administrative and/or quasi-judicial functions of determining if applications meet the standards for approval, and the critically important tasks of how the determination should be documented.

Zoning Decisions: Fact-Finding and Standards of Review

Zoning decisions fall into two primary categories: non-discretionary and discretionary. A zoning decision involving a by-right use that requires site plan approval is an example of a non-discretionary decision. If the site plan for the by-right use includes all of the information required by the zoning ordinance and shows compliance with all applicable zoning regulations and other applicable laws, the site plan must be approved and a zoning permit issued for the use. A denial decision must be supported with evidence showing that the applicant failed to fulfill one or more zoning requirements.

A site plan decision may be conditional, meaning the approval is conditioned upon the applicant providing a revised site plan that corrects for an informational deficiency or other technical error. The decision, however, cannot be “with conditions” that limit or regulate the use in manner not provided for in the zoning ordinance. For example, a site plan can be conditionally approved subject to the applicant submitting a revised site plan that corrects for a deficient number of parking lot trees. But it cannot be approved on the condition that the applicant provide parking lot trees that are not required by the ordinance.

The Michigan Zoning Enabling Act does allow “other statutorily authorized and properly adopted planning documents” to be considered when deciding to approve, deny or conditionally approve a site plan. In *KI Properties Holdings and DF Land Development, LLC v. Ann Arbor Charter Township*, Case No. 348010 (Feb. 4, 2020), the Michigan Court of Appeals held in an unpublished decision that the township’s reliance on its adopted master plan as a basis for denying site plan approval and permits for tree removal and steep slope use was proper. A master plan falls comfortably within this category of planning

documents because Michigan law requires zoning to be based on a plan and imposes specific procedures for adopting a master plan. What other planning documents may fall within this category is an open question that should be approached with caution and in consultation with a municipal attorney.

The Ann Arbor Charter Township master plan contained exceptionally detailed analyses of township natural resources and descriptions of threats to those resources the community wished to avoid that provided direct support for the decision to deny site plan approval for a by-right use that met the technical requirements of the zoning ordinance, but did so in a way that was not in accord with the township’s long-range plans to protect its rural character and natural resources.

“Without definite standards an ordinance becomes an open door to favoritism and discrimination A zoning ordinance cannot permit administrative officers or boards to pick and chose the recipients of their favors.”

Osius v. St. Clair Shores,
344 Mich. 693 (1956)

A master plan that is supported with less substantive analysis and more generic studies or is more than 5 years old may not carry the same weight.

Special land uses and planned unit developments are examples of a discretionary zoning decision. The Michigan Zoning Enabling Act requires all discretionary zoning decisions to be governed by approval standards. Per MCL 125.3504, approval standards must:

- Be consistent with and promote the intent and purpose of the zoning ordinance,
- Insure compatibility with adjacent land uses, the natural environment, and the capacities of public services and facilities affected by the land use, and
- Insure that the land use is compatible with public health, safety, and welfare of the community.

The Act also authorizes the imposition of “reasonable conditions” on discretionary zoning decisions. An “approval with conditions” may include conditions necessary to:

- Insure public services and facilities affected by a land use will be capable of accommodating increased service loads caused by the land use
- Protect the natural environment and conserve natural resources and energy
- Insure compatibility with adjacent land uses
- Promote use of land in a socially and economically desirable manner

However, any conditions imposed must satisfy all of the following statutory requirements:

- Be designed to protect natural resources, the health, safety, and welfare, including social and economic well-being, of those who will use the land use and those immediately adjacent to the land use, and the community as a whole.
- Be related to a valid exercise of the police power and purposes affected by the land use.
- Be necessary to meet the intent and purpose of the zoning requirements.
- Be related to the standards established in the zoning ordinance for the land use and be necessary to insure compliance with those standards

Discretionary land use decisions must include a statement of factual findings and conclusions that reference the governing standards. The same is true for any conditions imposed. A failure to do so will provide grounds for a court to reverse a decision or strike a condition as we saw this past year in *Lakeview Vineyards, LLC v. Oronoko Charter Township*, Case No. 364347 (June 13, 2024), an unpublished decision of the Michigan Court of Appeals. In that case, the court struck hours-of-operation and sound level conditions included as part of the unanimous approval of a winery tasting room because the Planning Commission as a body had not incorporated a statement of findings and conclusion specifying the basis for the conditions imposed.

Special land use and planned unit development decisions are generally appealed to circuit court, though the Michigan Zoning Enabling Act allows those decisions to first be appealed to the zoning board of appeals if the zoning ordinance so provides. Whether the decision is reviewed by a court or a zoning board of appeals, the review is not de novo. Review is limited to the record of decision (e.g., application and supporting material, public hearing record, meeting minutes, correspondence, expert reports) and focuses on whether the decision complies with the constitution and state laws; is based on proper procedures and not arbitrary or capricious; and whether the decision is supported by competent, material, and substantial evidence in the record.

The substantial evidence test looks at the written fact-finding and conclusions that supports a discretionary zoning decision. Substantial evidence is information that leads to a conclusion that a reasonable person could accept to support the conclusion. The evidence can be less than a preponderance but must be more than a mere scintilla. A conclusion standing alone is not evidence. In *Northern Michigan Environmental Action Council v. Traverse City*, No. 332590 (Oct. 24, 2017), another unpublished decision of the Michigan Court of Appeals, the court affirmed the circuit court's order vacating the city commission's approval of a special land use permit for a 96-foot tall mixed use building because the approval incorporated by reference a staff report that included conclusory statements relative to the approval standards and the record of decision lacked documents supporting the conclusions. For example, the staff report stated that the Police Department indicated no concerns with the development without explanation or supporting data or naming the police department employee who was consulted.

Because the defense of discretionary zoning decisions and the conditions imposed as part of an approval decision turns on fact-finding relative to technical standards approval that may be challenging for lay planners to manage, we advise against adopting lengthy, complex lists of approval standards and instead favor standards that closely mirror those set out in the statute. We also encourage planners to play a greater role in supporting decision-making by applying their unique skill set to identifying in writing the facts that tend to support approval, approval with conditions or a denial and how those facts support conclusions as to the satisfaction of each standard.

In the upcoming *Michigan Planner E-dition*, we will include Catherine and Emily's powerpoint from their *Planning Michigan 2024* conference session.

Catherine Kaufman, JD, AICP, is a partner at *Bauckham, Sparks, Thall, Seeber, Kaufman, and Koches, P.C.* in Kalamazoo



where she practices municipal law. She received a Masters in Urban Planning from the University of Michigan and a J.D. from Wayne State University. Her practice includes all facets of municipal representation, with a concentration on land use, zoning and planning matters. She has served as advisor to municipal

planning commissions and zoning board of appeal, as well as to developers, private citizens and environmental groups.

Emily C. Palacios, JD, MUP, is a Michigan-licensed attorney whose practice focuses on land use, real estate, construction, and public law. She is a member



of the Zoning Law Committees of the Real Estate and Government Law Sections of the State of Bar of

Michigan and a long-standing member of MAP and its Planning Law Committee. She practices with Miller Johnson, a law firm with offices in Grand Rapids, Kalamazoo, and Detroit.

Congratulations!

to our MAP members who successfully passed the November 2024 AICP exam!

Dominique Boyer
Andy Larsen
Pablo Majano
Andre Monge
Krista Oelschlaeger
Donovan Smith
Yiyun Zou



**American Institute
of Certified Planners**



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MEMORANDUM

TO: Planning Commission
FROM: Dave Stensaas, City Planner and Zoning Administrator
DATE: April 11, 2025
SUBJECT: **Work Session – Land Development Code Amendments for 2025**

The Planning Commission and Staff will continue examining proposed amendments to the Land Development Code (LDC). The attached document contains many of the draft LDC amendments that Staff has annotated or that were recommended for consideration by members of the Planning Commission. This process of considering draft LDC amendments will continue until May 6, 2025.

Land Development Code language for Discussion at the 4-15-25, Planning Commission meeting

The PC asked for Special Land Use to be added to I-M for Utility Electrical Power Generation

Section 54.202 Specific Terms

(242) Utility Electrical Power Generation: The erection, construction, alteration, operation, or maintenance by public utilities or municipal departments for the purpose of electrical power generation facilities and similar accessories in connection therewith.

Section 54.306 Permitted Uses by District

Key: P=Permitted S=Special Land Use [blank]=Use Not Permitted

Land Use	LDR	MDR	MFR	MHP	MU	CBD	GC	RC	M	C	I-M	CR	BLP	Use Standards
Industrial Uses														
Utility Electrical Power Generation											S		P	

Adding requirements or clarifications

Section 54.306 Permitted Uses by District

Key: P=Permitted S=Special Land Use [blank]=Use Not Permitted

Land Use	LDR	MDR	MFR	MHP	MU	CBD	GC	RC	M	C	I-M	CR	BLP	Use Standards
Industrial Uses														
Major Repair and Maintenance Operations											S		P	Section 54.627
Manufacturing, Heavy											S		P	Section 54.627
Manufacturing, Light– Low Impact					P	P	P	P	P	P	P		P	Section 54.627
Manufacturing, Light – Medium Impact					S	S	S	S	P	S	P		P	Section 54.627
Natural Resource Extraction and Processing Operations											S	S	P	Section 54.631

Section 54.632 Natural Resource Extraction and Processing Operations

~~(A) **Setbacks.** No topsoil, earth, gravel, or sand shall be removed, and no excavation, washing and stockpiling of extracted material shall be conducted closer than three hundred (300) feet to the outer boundary of the area approved for extractive operation. This setback may be reduced by the Planning Commission upon making~~

the determination that the operations can still be carried out in a manner that is compatible with surrounding land use. Extractive operations shall not encroach upon required setback areas. Greenbelt plantings and landscaping must be provided in the setback area as required.

- ~~(B) **Control of Off Site Impacts.** In order to reduce the effects of airborne dust, dirt, and noise, all equipment for sorting, crushing, grinding, loading, weighing, and other operational structures shall not be built closer than three hundred (300) feet from any public street right-of-way line or adjacent property lines. This setback may be reduced by the Planning Commission upon making the determination that the operations can still be carried out in a manner that is compatible with surrounding use. All such activities, equipment, roadways, and material storage areas shall be treated, covered, muffled, or otherwise controlled to minimize adverse impact beyond the property line. Trucks hauling extractive materials to or from the site shall be loaded and covered in accordance with all applicable State and County and local regulations. Private access roads serving the operation must be treated to create dust-free surfaces for a distance of three hundred (300) feet from any public access road. Arrangements shall also be made to minimize dust on public access routes traveled in the City.~~
- ~~(C) **Fill Material.** No garbage or refuse of any nature shall be used for fill. Only the following materials may be used for fill: sand, gravel, clay, broken concrete, topsoil, and other clean earth materials which provide a suitable base for future building sites.~~
- ~~(D) **Standing Water.** The premises must at all times be graded so that surface contours shall tend to forestall local depressions or cause water to stand or accumulate.~~
- ~~(E) **Fence.** Where there is an excavation with a depth in excess of five (5) feet not subject to standard to City building codes and trenching regulations, the permit holder shall erect a fence of at least six (6) feet, but not more than ten (10) feet in height, of wire mesh or such other suitable materials to afford protection to persons and property. Any gates required must be kept locked, daily, when operations are stopped.~~
- ~~(F) **Processing.** Processing of materials mined from any property shall be permitted only in an IM (Industrial/Manufacturing) Zoning District.~~
- ~~(G) **Liability.** The owner or operator shall maintain liability insurance with the City named as an insured party, and the City shall be indemnified and held harmless in respect to any liability and claims which may arise in conjunction with the extractive operations.~~
- ~~(H) **Post Closure or End Use Land Use Plan.** As a part of the special land use approval and site plan review process, a post closure land use plan for the facility must be submitted by the applicant for review. Such a plan must include the end use of all facilities after closure as defined by the Michigan Department of Natural Resources for the technical aspects of closing the solid waste facility, mine or quarry. The contents of the Closure Plan must include:
 - ~~(1) Boundary lines of the property and dimensions and bearings of the property lines correlated with legal description;~~
 - ~~(2) Location and extent of all natural features to be retained during operation;~~
 - ~~(3) The slope of all restored areas;~~
 - ~~(4) Proposed completed topography at contour intervals of not more than two (2) feet;~~
 - ~~(5) A schedule integrating the areas of progressive rehabilitation with the final~~~~

restoration plan;

- ~~(6) The estimated date of completion of the requirements of the restoration plan;~~
- ~~(7) Proposed ground cover and other plantings to stabilize the soil surface and to beautify the restored areas;~~
- ~~(8) A description of the methods and materials to be utilized in restoring the site;~~
- ~~(9) Sketch plan of the proposed use or uses of the restored site;~~

- ~~(10) For solid waste facilities, a program of continued groundwater monitoring for at least ten years after closure must be approved by the appropriate local and State officials; and;~~
- ~~(11) Names, addresses and telephone numbers of applicant, property owner, operator and professional engineer who prepared the restoration plan.~~

(A) Excavation. As allowed by state law, the extraction of sand, gravel, or other raw materials at or below grade and the processing of such materials upon any property are subject to the following standards, provided the state law does not preclude this ordinance:

(1) Site Plans for Permitted Uses. A site plan must be approved for any earthwork that is greater than 20,000 square feet in size for a non-residential use; or earthwork that is more than half the size of the parcel upon which commercial, industrial, mixed-use or multi-family land use is occurring or intended, per [Section 54.1402 \(Figure 51\)](#).

(2) Site Plans for Special Land Use. A site plan must be approved by the Planning Commission per the Special Land Use process.

(3) Setbacks. No topsoil, earth, gravel, or sand shall be removed, and no excavation, washing and stockpiling of extracted material shall be conducted closer than at least one hundred (100) feet from the subject property line and 100-300 hundred (X00) feet to the outer boundary of the area approved for extractive operation, whichever is farther from the closest property line. The Planning Commission or Zoning Administrator (depending on the reviewing authority per [Figure 51](#)) may reduce these dimensions upon determining that the operations can still be carried out in a manner compatible with surrounding land use. Greenbelt plantings and landscaping must be provided in the setback area as required

(4) Control of Off-Site Impacts. To reduce the effects of airborne dust, dirt, and noise, all activities, equipment, roadways, and material storage areas shall be treated, covered, muffled, or otherwise controlled to minimize adverse impact beyond the property line. Trucks hauling extractive materials to or from the site shall be loaded and covered by all applicable State and County and local regulations. Private access roads serving the operation must be treated to create dust-free surfaces for three hundred (300) feet from any public access road. Arrangements shall also be made to minimize dust on public access routes in the City.

(5) Fill Material. No garbage or refuse of any nature shall be used to fill the ground where soil, rock, and other natural materials have been removed. Only the following materials may be used for such "fill": sand, gravel, clay, broken

concrete, topsoil, and other clean earth materials that provide a suitable base for future building sites.

(6) Standing Water. The premises must always be graded so that surface contours tend to forestall local depressions or cause water to stand or accumulate with the exception of sumps for dust control.

(7) Fences. Where there is an excavation forming a trench or a pit with a depth in excess of five (5) feet, the permit holder shall erect a fence of six (6) to ten (10) feet in height, in accordance with [Section 54.706](#) of this ordinance. Any gates used or required must be shut and locked when operations are stopped.

(8) Liability. The owner or operator shall maintain liability insurance with the City named as an insured party, and the City shall be indemnified and held harmless in respect to any liability and claims which may arise in conjunction with the extractive operations.

(9) Post Closure or End Use Land Use Plan. As part of the special land use approval and site plan review process, the applicant must submit a post closure land use plan for the facility for review. Such a plan must include the end-use of all facilities after closure as defined by the Michigan Department of Natural Resources for the technical aspects of closing the solid waste facility, mine or quarry. The contents of the Closure Plan must include:

- (a)** Boundary lines of the property and dimensions and bearings of the property lines correlated with legal description;
- (b)** Location and extent of all natural features to be retained during operation;
- (c)** The slope of all restored areas;
- (d)** Proposed completed topography at contour intervals of not more than two (2) feet;
- (e)** A schedule integrating the areas of progressive rehabilitation with the final restoration plan;
- (f)** The estimated date of completion of the requirements of the restoration plan;
- (g)** Proposed ground cover and other plantings to stabilize the soil surface and to beautify the restored areas;
- (h)** A description of the methods and materials to be utilized in restoring the site;
- (i)** Sketch plan of the proposed use or uses of the restored site;
- (j)** For solid waste facilities, a program of continued groundwater monitoring for at least ten years after closure must be approved by the appropriate local and State officials; and;
- (k)** Names, addresses and telephone numbers of applicant, property owner, operator and professional engineer who prepared the restoration plan

(B) Natural Resource Processing Operations

(1) Processing. The processing of materials mined from any property shall be permitted only in an IM (Industrial/Manufacturing) Zoning District.

(2) Setbacks. To reduce the potential for sedimentation to streams and nuisances – the creation of dust, dirt, glare, and noise - all operations for processing raw materials (cutting,

crushing, grinding, mechanical sorting, and associated structures must be separated at least 200 feet from any property adjoining lines and abutting bodies of water. The Planning Commission may reduce these dimensions upon making the determination that the operations can still be carried out in a manner that is compatible with surrounding land use.

- (3) Items 54.632 (1), (3), (5), (6), (7), and (8) shall apply to such processing operations and must be followed for zoning approval of the activity.

Article 8 Environmental Performance Standards

Section 54.807 Standards for Excavation/Mining Activities

The extraction of sand, gravel, or other raw materials at or below grade and the processing of such materials upon any property are subject to the standards adopted in section 54.632, provided the state law does not preclude them.

The PC had a request to add a metal option for enclosures

Section 54.1003 Landscaping Design and Screening Requirements

Except as otherwise specified in the general requirements for each zoning district or for the specific land use, all landscaping must conform to the following standards. The clear vision triangle area requirements of [Section 54.704](#) must also be met. Existing landscaping that meets the requirements of this Article may be used to comply with the following standards:

- (F) **Garbage and Dumpster Screening.** If the garbage and dumpster area is not screened by an intervening building from a perpendicular view from any public street rights-of-way or adjacent residential zoning district, then an enclosure of sufficient height to completely screen the dumpster is required on three (3) sides of the dumpster. An enclosure gate is optional. The height of the enclosure shall be not less than six (6) feet or at least one (1) foot above the height of the dumpster, whichever is greater. Enclosures shall meet the following standards:
- (1) The enclosure must be constructed of brick, decorative concrete, pressure-treated or wolmanized rot-resistant wood, cedar, chain link with slats, or vinyl composite material which that matches or complements the principal building or structure. Materials not listed may be proposed and may be considered by the Planning Commission or Zoning Administrator for approval with a Site Plan or Zoning Compliance Permit.
 - (2) Enclosure gates must be constructed of solid metal or steel-reinforced wood, cedar, chain link with slats, or vinyl composite material. If wood other than cedar is used, it must be pressure treated or wolmanized.

Staff has additional, separate information for the Planning Commission to consider.

Intentional Community Dwelling updates. At the 11-19-24 PC meeting, the Planning Commission approved changing this use to Permitted Use in the MFR zoning district. Please see the amendments to Section 54.614 to allow for this change.

S.M. asked if we could look into the first right of refusal idea. This would be a city policy, and not an LDC standard. The PC could bring this up at our LDC work session or in their annual report to the CC.

Section 54.202 Specific Terms

(111) Intentional Community: A planned residential community designed to have a high degree of social cohesion. The members of an intentional community typically have common interests, which may be an organizing factor, such as a social, religious, or spiritual philosophy, and are likely to share responsibilities and resources. Intentional communities include cooperative housing communities, communes, convents, ecovillages, and housing cooperatives. Property may be owned collectively, and/or new members of an intentional community may be selected by the community’s existing membership.

(1XX) Housing collective: An organization in which the ownership and control of housing are mutually vested in the occupants of dwelling units and possibly other stakeholders of that organization, who may share cooperative responsibilities in the dwelling(s) other than financial interests. For example, an *Intentional Community* dwelling may be a housing collective, but as a housing collective is primarily a financial arrangement for owning and operating housing, it is not necessarily an Intentional Community or any other type of land use defined herein, and thus it is not a land use per se.

Figure 8. Table of Permitted Land Uses and Special Land Uses by Zoning District

Key: P=Permitted S=Special Land Use [blank]=Use Not Permitted

Land Use	LDR	MDR	MFR	MHP	MU	CBD	GC	RC	M	C	I-M	CR	BLP	Use Standards
Residential Uses														
Adult Foster Care, Family Home	P	P	P	P	P	P								
Adult Foster Care, Large Group Home			S											Section 54.602
Adult Foster Care, Small Group Home	P	P	P		P									Section 54.602
Child or Day Care, Family Home	P	P	P	P	P	P								
Child or Day Care, Group Home	P	P	P		P									Section 54.608
Dwelling, Accessory Unit	P	P	P		P	P								Section 54.612
Dwelling, Intentional Community	S	S	P ^s		S	S								Section 54.614
Dwelling, Live/Work					P	P								Section 54.615

Section 54.614 Dwelling, Intentional Community

- (A) Maximum Occupancy.** Occupancy of an Intentional Community Dwelling shall not exceed more than one person per 200 square feet of habitable space
- (B) Parking.** Each applicant for an Intentional Community Dwelling shall prepare a parking management plan. The plan shall limit the number of automobiles to be parked in the public right-of-way to three (3).

- (C) **Conversion from Single-Family Residential Buildings.** When an Intentional Community Dwelling is established within a single-family dwelling, the single-family appearance and function of the building shall not be altered through the addition of separate entrances or kitchens.
- (D) **Conversion from Duplex and Multi-Family Residential Buildings.** When two-family and multi-family buildings are converted into an Intentional Community Dwelling, the entire building must remain an Intentional Community Dwelling while any portion of it is so occupied.
- (E) **Proximity to Other Intentional Community Dwellings.** The lot on which an Intentional Community Dwelling is located shall not be within 1,500 feet from a lot on which another Intentional Community Dwelling is located, but the Planning Commission may permit two (2) Intentional Community Dwelling units to be located closer than 1,500 feet apart if they are separated by a major physical barrier, including, without limitation, an arterial street, a commercial district, or a topographic feature that avoids the need for dispersal.
- (F) **Violations.** No person shall occupy an Intentional Community Dwelling in violation of this section or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit in violation of this section.
- (G) **Revocation.** Violation of this Ordinance or any conditions of approval required by the Planning Commission shall be grounds for revocation of the Special Land Use Permit in accordance with this Ordinance. For Administrative Site Plan Review, please refer to [Section 54.1503](#).
- (H) **MFR Zoning District Review Process.** As this is a permitted use in the MFR zoning district, please refer to [Figure 51](#) in [Section 54.1402](#) and [Section 54.1401](#).
- (I) **LDR, MDR, M-U, CBD Review Process.** As this is a Special Land Use in the LDR, MDR, M-U, and CBD zoning districts, please refer to [Section 54.1403](#).

Wetland definition update

Section 54.202 Specific Terms

(2XX) Wetlands. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support the wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. The boundaries of wetlands are determined in accordance with using maps produced by the Michigan Department of Environmental Quality Environment, Great Lakes, and Energy (EGLE), unless the applicant submits a certified wetlands delineation, which is preferable.

For Clarification

Section 54.503 Condominium Developments

- (G) **Design and Engineering Standards and Required Improvements for Site Condominium Developments.** The design and engineering standards for site condominium developments, as well as required improvements for site condominium developments, shall be the same as those required for subdivisions in [Section 54.501\(E\)](#).
- (a) **Exception:** If there are no other public streets within 1,500 feet of the nearest site condominium parcel line **or if the proposal is for a private road meeting the standards of an approved PUD**, then the site condominium parcel can have private road frontage and any of the street development standards do not have to be met in Section 54.501(E) (1), (2), (6), (7), and (8) items. The standards in Section 54.501(E) (3), (4), and (5) do have to be met, however any reference to “street” will be replaced with “private road”.

The PC already approved of the adding FY parking waiver language. Additional proposal to remove the buffer requirement from front yard area only in (d) and have it required along the length of the side lot line. At the last meeting, the PC asked to change the wording for the buffer area.

Section 54.902 Parking Regulations

- (E) **Parking Standards Applicable to Specific Zoning Districts.**
- (1) **LDR and MDR Districts and single-family and two-family structures in other zoning districts.**
- (a) **Definition of “Front Area.”** For the purposes of [Section 54.902\(E\)\(1\)](#) only, the “Front Area” is that area located between the edge of the physical street and the nearest point of the dwelling foundation (excluding open porch projections), projected parallel from the street.
- (b) **Off-Site Parking in the LDR and MDR Districts.** In the LDR and MDR districts, off- street parking may be located on a site other than the site to which it pertains, and within the City limits or in an adjacent township.
- (c) **Maximum Rear Yard Paving.** In the LDR and MDR districts, no more than 25% of the rear yard may be paved (including but not limited to asphalt or concrete, but with the exception of compacted gravel) for parking

provided the impervious surface coverage limits of the lot (see [Article 4](#)) are not exceeded.

- (d) **“Front Area” Parking Limitations.** Parking in the front area is permitted only on an approved hard surface parking space and/or driveway, or in a garage (see definition of “Hard Parking Surface” in [Section 54.202\(A\)\(92\)](#)). Parking spaces in the front yard area must be at least two (2) feet from the side lot line, at least two (2) feet from the inside edge of a sidewalk, and at least ten (10) feet from the edge of an established street. The encroaching driveways and parking spaces must be drained so as to dispose of all surface water accumulated in such a way as to preclude drainage of water onto adjacent property or toward adjacent buildings. ~~New or expanded driveways must be separated from the side lot line by a minimum of 12 inches of pervious surface (including but not limited to uncompacted pea gravel, cobbles, grass, etc.) to ensure a pervious buffer between driveways and the adjacent lot line, with the exception of the presence of a retaining wall along the subject lot line or other such difficulty.~~ The Zoning Administrator may permit parking in a front area during the winter parking ban period for single-family or duplex dwelling units upon request for a Front Yard Parking Waiver for a limited time when the site cannot be altered without causing a hardship on the property owner, or indefinitely in rare cases that the site cannot be reasonably altered to create one (1) additional parking space or a widened driveway. Self-created difficulties, such as adding renters and vehicles, are not applicable to the consideration for a Front Yard Parking Waiver.

(i) Front Yard Parking Waiver. The Zoning Administrator may permit parking in a front area during the winter parking ban period for single-family or duplex dwelling units upon request for a Front Yard Parking Waiver for a limited time when the site cannot be altered without causing a hardship on the property owner or if the property owner has relevant documented disabilities, or indefinitely in rare cases that the site cannot be reasonably altered to create one (1) additional parking space or a widened driveway. Self-created difficulties, such as adding renters and vehicles, are not applicable to the consideration for a Front Yard Parking Waiver.

(e) **Maximum Driveway Width and Paved Area.**

- (i) Single-family uses:
- a. For lots with one driveway - The maximum width of a driveway on a single frontage is 18 feet wide on a lot up to and including 60 feet in width, and 24 feet wide on a lot of more than 60 feet in width.
 - b. For lots with two driveways - On a lot 100 feet or more in width, the maximum width of both driveways combined is 36 feet wide on the same frontage
- (ii) Duplex/two-family uses - The maximum width of a driveway is 24 feet wide.
- (iii) A driveway may be widened beginning at a point two (2) feet from the inside edge of a sidewalk or ten (10) feet from the edge of an established street without sidewalks, provided the hard parking surface areas of the driveway or driveways and parking spaces utilize no more than 30% of the front area for single-family dwelling units and no more than 40% of the front area for duplex

dwelling units.

- (iv) An application for the paving of more than 30% of the front area can only be accepted if a variance is first approved for the proposed paving pursuant to [Section 54.1404](#).
 - (v) On corner lots, there shall be two (2) front areas. For single-family dwelling units the overlapped area at the corner may be counted with either front area, but not both, (at the discretion of the property owner) and the two (2) front areas may not be combined for the purpose of exceeding the 30% maximum hard parking surface within either front area. For duplex dwelling units, the overlapped area at the corner may overlap and be combined to utilize up to 40% of the front area for hard parking surfaces in either or both front areas.
 - (f) **Maximum Number of Driveway Openings Per Site.** On lots with one (1) frontage, a maximum of two (2) driveway openings per site are permitted, provided the lot is at least 100 feet wide. On lots with more than one (1) frontage, a maximum of one (1) driveway opening per frontage is permitted, except on frontages of 100 ft. or more in length – upon which an additional driveway is allowable. All curb cuts and separation distances must meet the requirements of Chapter 42 of the Code of Ordinances (Streets, Sidewalks, and Other Public Places).
 - (g) **Previously Approved Hard Parking Surface Residential Locations.** Hard parking surface residential parking locations approved under a previous ordinance are not subject to provisions of [Section 54.902\(E\)\(1\)](#) provided that the minimum safeguards are met for all parking uses where vision hazards and locations impact public safety.
 - (h) **12 inches Buffer Requirement Along the Length of the Side Lot Line.** New or expanded driveways must be separated from the side lot line by a minimum of 12 inches of pervious surface (including but not limited to uncompacted pea gravel, cobbles, grass, permeable pavers, etc.) to ensure a pervious buffer between driveways and the adjacent lot line, with the exception of the presence of a retaining wall along the subject lot line or other such difficulty.
 - (h i) **Application of Parking Development Standards.** All one- and two-family residential parking spaces shall be exempt from the standards of [Section 54.905](#), except that site plans drawn to scale shall be submitted to the Zoning Administrator for review and approval for creation of driveways or parking spaces. Parking spaces may be on pavers or other hard parking surfaces that have an unpaved strip between the surfaces supporting the wheels. For purposes of providing required parking spaces onsite, the minimum dimensions for residential parking spaces shall be nine (9) feet wide by eighteen (18) feet long. Driveways in the front yard must be a full-width hard parking surface. Curb cut and driveway permits shall be obtained from the City Engineer when curb cuts are made or modified or if there is any work in the right-of- way for a driveway.
-

Section 54.628 Light Vehicle/Equipment Sales and Display

- (A) **Minimum Lot Size.** The site shall be a minimum of one-half acre when vehicles are displayed outdoors.
 - (B) **Licensing.**
 - (1) For vehicle sales, the proprietor must be a licensed dealer in the State of Michigan.
 - (2) Vehicle licensing requirements of the State of Michigan shall be followed in the review and approval of vehicle sales requests.
 - (C) **Open Drive Aisles.** Outdoor display and storage areas of vehicles shall maintain open drive aisles to allow free movement of vehicles.
 - (D) **Parking.**
 - (1) All vehicles waiting to be picked up by the vehicle driver shall be kept in approved parking spaces on site.
 - (2) Vehicles being displayed cannot be parked in required parking spaces, however, they must only be parked in the excess approved hard surface (see definition of "Hard Parking Surface" in [Section 54.202\(A\)\(92\)](#)) parking spaces on the site and the location must still meet the maneuvering lane requirements.
 - (3) If a new off-street parking lot is constructed, parking spaces designated for vehicle display are exempt from the screening requirements outlined in [Section 54.1003\(C\)\(1\)](#). However, if the parcel's use changes and these spaces are converted to regular parking spaces, screening must then be implemented in compliance with the section's requirements.
 - (4) If a new off-street parking lot receives a waiver of the maximum parking spaces allowed per [Section 54.902\(H\)](#), the waiver will be rescinded upon the change of use.
 - (E) **Flag or Pennant Displays.** One (1) flag or pennant may be displayed on each vehicle for sale or lease. The maximum size of each flag or pennant shall not exceed twelve (12) inches × eighteen (18) inches. All other signage for the site must comply with [Article 11](#).
 - (F) **Power Equipment and Vehicle Accessories.** Display areas may include those approved per Article 6, [Section 54.639](#) or must be in other areas on the private property (out of any right-of-way) that are not within a clear vision triangle or required side and rear yards and are outside of pedestrian paths or required parking spaces. The display of qualifying merchandise may encroach to within five (5) feet of the public sidewalk provided items are on a hard surface.
-

Proposed Bicycle Amendments

Section 54.908 Bicycle Parking Requirements and Parking Space Reduction/Substitution for Bicycle Parking All text below would be new:

- (A) All required bicycle parking shall meet the following standards and regulations:
 - (1) The required amount of bicycle parking shall meet the amount/use schedule according to [Figure xx](#). Bicycle parking types are as shown in [Figure XX](#).
 - (2) Required short-term bicycle parking facilities shall be located in a convenient and visible area, within fifty (50) feet of a principal entrance. If this location standard cannot be met, the Planning Commission or Zoning Administrator may approve alternative locations.

- (3) Bicycle parking spaces should be located on paved or pervious surfaces with a slope no greater than three percent (3%) and shall be a minimum of two (2) feet by six (6) feet. The installation of parking racks shall follow the manufacturer’s specifications or other best practices, ensuring that comfortable access space around bicycle racks is provided, parked bicycles do not obstruct walkways, and the spaces are accessible without requiring the movement of another bicycle.
- (4) All bike racks must permit the locking of the bicycle frame and one (1) wheel to the rack while supporting a bicycle in a stable position. Racks shall accommodate cable locks and “U” locks.
- (5) For multi-building development, bicycle parking shall be provided for each building.
- (6) Bicycle parking not meeting dimensional or access aisle requirements may be installed, but shall not count towards a minimum bicycle parking requirement.

(B) Vehicular Parking Reduction from Bicycle Parking as a Substitution

- (1) For every four (4) bicycle parking spaces added above the minimum number required, one (1) vehicle parking space may be removed from the required amount. Maximum substitution amount of three (3) vehicle spaces. The minimum number of vehicle parking spaces required after substitution is two (2).
- (2) Bicycle parking substituted for *motor vehicle/car and truck* parking may be horizontal or vertical, as long as dimensional requirements are met as described in section 54.908(A)(5)

Figure xx. Bicycle Parking Calculations







LAND USE TYPE – for NEW or REMODELED BUILDINGS	PARKING STANDARDS – MINIMUM SPACE REQUIREMENTS
A) RESIDENTIAL: Single-Family 1-4 units B) RESIDENTIAL: Multi-Family 5+ units w/ Private Garage Space for Units C) RESIDENTIAL: Multi-Family 5+ units w/o Private Garage Space for Each Unit	A) No spaces required, but storage space should be allocated. B) 1 weather-protected/sheltered space for any units without a garage or other large storage space. C) 1 sheltered space per dwelling unit.
OFFICE	2 spaces + 1 sheltered space for each 10 employees (e.g. 34 employees = 3 sheltered spaces + 2 others)
RETAIL	2 spaces + 1 additional space/10,000 sq. ft. of floor area + 1 sheltered space / 20 employees (part-time or full-time)
RESTAURANT or TAVERN	2 spaces + 1 additional space/5,000 sq. ft. of floor area + 1 sheltered space/20 employees
A) CIVIC: Non-assembly B) CIVIC: Assembly	2 spaces + 1 add’l space/10,000 sq. ft. of floor area or minimum of 1 space / 20 employees 2 sheltered spaces + 1 add’l sheltered space/10,000 sq. ft. of floor area + minimum of 1 sheltered space / 20 employees
LODGING	2 sheltered spaces + 1 sheltered space / 20 employees

We also propose changing Figure 29, for the TSC district, on p.3-121 to match the chart above.

Figure xx. Bicycle Parking Types

This table shows five common types of Bicycle Parking facilities appropriate for the Third Street Corridor and includes basic design/performance standards. Please reference the Association for

Pedestrian and Bicycle Professionals Bicycle Parking Guide for more detailed design and placement guidance.

Parking Type		Standards
Bicycle Racks	<p>INVERTED U also called staple, loop</p> 	<p>Bicycle Racks shall be capable of securing bicycles with either two points of contact or by an element that cradles one wheel. Simple, easily identifiable forms, like the <i>Inverted U-rack</i> (shown at left) should be used.</p> <p><< Recommended Types shown.</p> <p>Consult the “Essentials of Bike Parking” Guide published by the Association of Pedestrian and Bicycle Professionals for more details.</p>
	<p>POST & RING</p> 	
	<p>WHEELWELL-SECURE</p> 	
<p>Bicycle Rack – Decorative/Public Art</p> 		<p>Decorative racks shall be recognizable as bicycle parking facilities and shall be held to the same performance standards as other bicycle racks. Such racks may be provided for and designed to enhance civic buildings, <i>civic spaces</i>, and other locations of social or cultural importance. These may not perform as well as other options in small spaces and should be used strategically.</p>
<p>Bicycle Shelters</p> 		<p><i>Bicycle Shelters</i> shall be highly recognizable and integrated with transit, parks, trailheads, and/or land uses requiring medium or long-term bicycle parking needs. Each shelter shall include bicycle parking racks capable of securing bicycles with at least two points of contact, and may include other bicycling amenities, such as wayfinding maps/signs, air pumps, etc.</p>
<p>Bicycle Locker</p> 	<p><i>Bicycle Lockers</i> shall be placed in highly visible and well-lit locations, but should not disrupt the function, safety and order of the public realm. They should be associated with land uses and transportation facilities where long-term parking is required.</p>	

Commercial Flag and Pennant Signs



M-553/O'Dovero Dr. Two pennant signs were placed here in February. The LDC only allows one, no matter the lot frontage. This is an example of two signs on a long frontage that do not create much extra visual clutter. This seems reasonable.



The hotel's lot frontage along M-553 is ~218 feet, nearly half of the ~450-foot block frontage.

G. Flexible Signs.

- 1. Permitted on Pole, Freestanding, or Wall Signs.** Flexible signs of fabric, thin plastic, or other flexible material may be erected as pole, freestanding, or wall signs provided that all requirements for those types of signs are met.
- 2. Attachment.** The outer perimeter of the flexible sign shall be held taut. No ropes or guy wires may be fastened so as to cause a hazard.
- 3. Removal Due to Wear.** Flexible signs shall be removed at the first evidence of wear or deterioration.

Section 54.1107 Exempt Signs Permitted in All Zoning Districts

Certificates of Zoning Compliance shall not be required for the following signs provided that said signs meet all other requirements of this Ordinance, including but not limited to those in [Section 54.1109](#). Approval of the property owner is required prior to the erection of a sign. It is the responsibility of the party erecting the sign to determine if a building permit is required.

- (K)** Any number of noncommercial flags may be located on any site. Only one (1) commercial flag or pennant may be displayed **per lot**, and **it** shall not exceed 45 sq. ft. in area, **unless the lot frontage is greater than 100 feet, in which case one such flag or pennant may be displayed for each 100 feet of frontage.** Support structures shall meet the requirements of either a freestanding flagpole or a wall-mounted flagpole.
-

Amendments to Structural amenities

Section 54.702 Permitted Encroachments into Required Yard Setbacks

The following features may be located within required yard setbacks to the extent indicated. Unless explicitly permitted, under no circumstances shall any structure or attachment to a structure protrude to within five (5) feet of a right-of-way line and/or rear property line, or closer than three (3) feet to the side yard property line.

(PC already approved the change to the H paragraph, the rest is new)

(H) Structural Amenities. A structural amenity, such as outdoor art, paintings, sculpture, fountains and similar water features, benches, arbors, doghouses, playsets, birdfeeders, clotheslines, air conditioners, detached open structures, and similar amenities as determined by the Zoning Administrator may be located a minimum of three (3) feet from a side or rear lot line and a minimum of five (5) feet from a front ~~or rear~~ lot line, subject to the following requirements:

(1) Clear Vision Triangle Area. All structural amenities must meet traffic visibility regulations of [Section 54.704](#).

(2) Durable Materials and Construction. Structural amenities must be composed of durable materials such as steel, bronze, stained glass, concrete, wood, ceramic tile, stone, or other similar material durable against weather and requiring a low level of maintenance.

(3) Maintenance. Structural amenities must be maintained in a safe, neat, and orderly manner acceptable to the City. The City may require the owner of the structural amenity to submit a maintenance plan for review. The City shall determine the acceptable maintenance of a structural amenity to prevent blight.

(4) Secure Location. Structural amenities must be properly secured to provide stability. The structural amenity may be attached or secured to the ground, or it may be attached to the principal structure or accessory structure (excluding roof attachment). Objects that are taller than the distance from the public right-of-way to the object's location on the ground will be ordered to be removed immediately if found to be unstable.

(5) Maximum Height: No attached or detached structural amenity shall exceed sixteen and one-half (16.5) feet in height.

(6) Prohibitions. The following are prohibited:

(a) Structural amenities that have deteriorated or are otherwise determined by the City to be blight.

(b) Structures that are beyond the scope of a structural amenity and should be regulated under a different section of this Ordinance, such as fences ([Section 54.706](#)), accessory structures ([Section 54.705](#)), or signs ([Article 11](#)).

(7) Permit and Exemptions. A permit is required for structural amenities unless it meets the following exemptions, and the structural amenities must meet the requirements of 54.702(G):

- (a) Enclosed structural amenities less than sixteen (16) square feet in floor area/footprint. Examples of such amenities include dog/bat/bird houses, treehouses, library boxes, and garden sheds.
- (b) Open/Unenclosed structural amenities, such as children’s playsets, and seasonal or collapsible temporary structures such as tents and similar shelters less than 160 square feet in floor area.

(c) Tents designed for temporary occupancy (14 days or less), used on private property with the property owners’ permission.

(I) Food Production, Minor. Where Minor Food Production is permitted, the permitted structure encroachments are regulated in [Section 54.619](#).

Amendments to Temporary Structures Section. (PC already approved changing 54.639 to Outdoor Temporary Retail Sales and Service Areas. So that change is to match)

Section 54.705 Accessory Buildings and Structures

(H) Temporary Structures in all Zoning Districts. The City may permit temporary structures in any zoning district during the duration of a permitted temporary land use, subject to the following requirements:

- (1) **Outdoor Temporary Retail Sales and Service Areas.** Temporary structures for outdoor retail sales and service areas must meet the requirements of [Section 54.638](#).
- (2) **Outdoor Entertainment and Community Events.** Temporary structures for outdoor entertainment and community events must meet the requirements of [Section 54.635](#).

(3) Applications and Permits.

(a) The property owner must contact the Zoning Administrator to determine if a **A Zoning Compliance Permit is required prior to the establishment of a temporary structure, with exceptions as stated below.** The property owner must also contact the County Building Code Administrator to determine if a building permit is required. Temporary structures intended to be used for non-customary commercial activity (e.g., those requiring Special Land Use permits, use for recurring sales in a parking lot, or an alcohol permit) require the approval of the Zoning Administrator and the Fire Administrator ~~prior to erection and use~~ **before being erected.**

(b) Exempt Temporary Structures. The following temporary structures are exempt from a Zoning Compliance Permit:

- (i)** Structures that are reviewed and approved with a business license issued by the City Clerk.
- (ii)** Structures that meet the structural amenities exemption per [Section 54.702\(H\)\(7\)](#), such as residential structural amenities, such as tents and patio canopies.
- (iii)** Small fabric structures for accessory uses - ~~except temporary retail sales or services, or for Outdoor Entertainment and Community Events purposes -~~ such as an “easy-up” tent/shelter, are exempt for one-day events.
- (iv)** Prefabricated, enclosed structures used as mobile offices at a construction site during a construction project.

- (4) **Secure Placement of Temporary Structures.** Temporary structures shall not have foundations or footings, but must be properly secured to the ground.
- (5) **Location, Size, and Accessibility.** The location of the temporary structures shall be located in a manner that will not interfere with vehicular or pedestrian mobility, access, or parking, and shall meet Michigan barrier-free requirements. Temporary structures shall not obstruct the entrance to any building or sidewalk, nor shall they obstruct any barrier-free ramp or access aisle. If temporary structures are located on a private sidewalk, a minimum five (5) foot wide unobstructed pathway shall be maintained on the sidewalk for pedestrian traffic. **The location, size, and construction of all temporary structures (including tents) require approval by the Zoning Administrator and the Fire Administrator, and shall conform to applicable yard/setback and greenbelt standards.** ~~The Zoning Administrator or Fire Administrator may deny a permit for a temporary structure if the structure interferes with traffic patterns or access to required parking spaces, or if the Zoning Administrator or Fire Administrator determine that the size of the structure is excessive for the temporary land use.~~
- (6) **Duration and Removal.** The temporary structure must be removed when the associated temporary use has ceased or after the term of allowed use. A temporary structure may be permitted for **no** more than 120 days in a 12-month period, with the following exceptions, **in which the Zoning Administrator may extend the period of permission for up to 180 days in total during a 12-month period:**
- (a) Structures for **an approved** outdoor food and beverage service **use**, whether for indoor or outdoor dining.
 - (b) Structures erected via municipal or DDA authority for programmed outdoor ~~summer or winter~~ **seasonal** activities.
 - (c) Structures that are being used in relation to and during the construction of permanent facilities that have been approved for zoning compliance and building permits.
 - (d) **Portable seasonal storage, including portable carports and sheds, may be used as long as the relevant seasonal weather persists or for up to 180 consecutive days. Such structures can be used for more than 180 days only with Zoning Compliance Permit approval for permanent use.**

The Zoning Administrator may extend the period of permission for up to 180 days in total during a 12-month period, in any of the above cases, upon request of the property/structure owner and based on the relevant circumstances (i.e. reason for request)

Clarifying items, removing 50% S.F., and modifying property owner occupancy requirement to add grace period for next of kin or named person in will of trust

Section 54.612 Dwelling, Accessory Unit (ADU)

Accessory Dwelling Units (ADUs) shall comply with all of the following standards:

- (A) **One ADU Per Lot.** One ADU is permitted per lot containing an existing detached single-family dwelling unit, provided the ADU complies with all of the requirements of this Section and this Ordinance.
- (B) **Minimum Lot Area and Width.** ADUs are only permitted on lots that meet the minimum lot

area and lot width standards of the zoning district.

(C) **Setbacks and Height.** ADUs must meet all requirements of this Ordinance for minimum setbacks and maximum height. However, the height of an ADU shall not exceed two (2) stories or 20 feet.

(1) A detached ADU (physically separate from the principal residence) must meet the setback requirements of accessory structures for their zoning districts, and the height shall not exceed two (2) stories or 20 feet.

(2) An attached/interior ADU (physically attached and/or accessible from within the principal residence) must meet the requirements of this Ordinance for minimum setbacks and maximum height for primary buildings and lot coverage in Article 4.

(a) **Exception.** An existing legal non-conforming Class A or B structure that is non-conforming due to noncompliance with any minimum setbacks for the zoning district, does not have to meet the minimum setbacks for proposed residential interior remodeling to add an ADU to the interior of the existing structure.

(D) **Maximum Occupancy.** The occupancy of the accessory dwelling unit shall not exceed two (2) unrelated adults.

(E) **Maximum Yard Coverage.** A detached ADU, whether standing alone or as an addition to an existing accessory structure, must meet the standards for maximum impervious surface coverage in [Section 54.403\(S\)](#) as applicable to the zoning district, but does not have to meet the maximum lot coverage standards for the zoning district, as stated in [Section 54.705](#).

(F) Owner-Occupancy Required of the Principal Dwelling is as follows:

(1) Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the a person who has a legal or equitable ownership interest with the property, and who bears all or part of the economic risk of decline in value of the property and who receives all or part of the payment, if any, derived from the lease or rental of the dwelling unit. The owner-occupant shall prove residency by means such as a voter registration, car registration, or other method acceptable to the City.

(a) **Grace Period for Transfer of Ownership and Revocation.** Per the recorded covenant, the continuing approval/existence of the ADU is predicated upon the occupancy of either the principal residence or the accessory dwelling unit by a person who owns the property, and that the ADU shall remain in the ownership of the person who owns the property. If the person who has legal or equitable ownership interest with the property has become deceased, then the next of kin or a named person in the will of trust has one year to provide proof to the City that they have legal or equitable ownership interest with the property or the ADU will be revoked.

(2) Ownership of the ADU shall remain with the owner of the property. In no case may the owner of the property divide ownership rights between the principal and accessory dwelling units through condominium or other means.

(3) To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the Marquette County Register of Deeds a covenant in a form acceptable to the City Attorney that the existence of the ADU is predicated upon the occupancy of either the principal or accessory dwelling unit by a person who owns the property, and that the ADU shall remain in the ownership of the person who owns the property. The applicant shall provide the City with evidence of filing of the restrictive covenant with the Register of Deeds prior to and as a condition of the issuance of the Zoning Compliance Permit for development of the ADU. Any owner of the property must notify a prospective buyer of the limitations of this Section. Violations of the terms of this covenant shall result in the loss of the zoning compliance permit.

(G F) Inspection Certification. Conformance with the occupancy conditions of the ADU zoning compliance permit shall be certified subject to inspection by the City. The City may adopt an ordinance or administrative standards for certification and inspection. Inspection shall be allowed by the owner after 48 hours' notice by certified mail from the City.

(H G) Maximum Floor Area of ADU. The floor area of the ADU shall not exceed 768 square feet, ~~or 50% of the gross floor area of the principal residence, whichever is less.~~ For an interior ADU, when calculating the gross floor area of the principal residence, do not count the proposed interior ADU floor area. If the proposed ADU is a detached garage, and the area used as garage/parking is for the single-family home use only, then you do not count that as floor area for the ADU.

(I H) Attachment Options. The ADU may be attached to the single-family dwelling or within the interior of the single family dwelling and constructed on any story of a conforming detached accessory building on the site, including the basement level. If the ADU is attached to the single-family dwelling (as an addition), the ADU may be located within the existing footprint or added to the existing footprint, provided all of the requirements of this Ordinance are met.

(J I) Architecture and Design.

(1) An ADU must be designed to maintain the architectural character and appearance of the principal building when attached to an existing building. If an ADU extends beyond the existing footprint of the main building, the addition must be consistent with the existing façade, roof pitch, siding, and windows.

(2) Shipping containers are prohibited as an ADU.

(3 2) Exterior stairs leading to a second story entrance are restricted to the side or rear façade of the building to which it is attached.

(K J) Parking. One (1) off-street parking space shall be provided for the ADU in a driveway, side or rear yard. No parking space may be provided in the front yard except in paved driveways or hard surfaced parking spaces in accordance with this Ordinance (see definition of "Hard Parking Surface" in [Section 54.202\(A\)\(92\)](#)). Parking spaces are not subject to setback requirements. The Zoning Administrator may grant an exception to the parking space requirement if the property owner submits a signed and notarized affidavit to the City

affirming that the ADU occupant will not have a motor vehicle on site.

(L K) Duration of Lease or Rental. Leasing or rental of the ADU for less than 30 days is prohibited.

(M) Revocation of ADU. If any of the conditions or requirements of the ADU are no longer being met, then the ADU approval shall be revoked and the property owner will be notified of a deadline to remove the ADU construction or to convert the structure to a legal use within the zoning district.

Reducing Greenbelt Standards

Section 54.1003 Landscaping Design, Buffering, and Screening Requirements

Except as otherwise specified in the general requirements for each zoning district or for the specific land use, all landscaping must conform to the following standards. The clear vision triangle area requirements of [Section 54.704](#) must also be met. Existing landscaping that meets the requirements of this Article may be used to comply with the following standards:

PROPOSAL IS TO DELETE THE EXISTING LANGUAGE AND ADD THE PROPOSED LANGUAGE

(D) Buffer and Greenbelt Requirements.

- (1) Intent.** It is the intent of this section to provide suitable transitional yards for the purpose of reducing the impact of and conflicts between incompatible land uses abutting district boundaries.
- (2) Buffer and Greenbelt Schedule.** On any lot abutting a zoning district boundary, no structure, building or part thereof shall hereafter be erected, constructed, altered or maintained closer to the district boundary line than specified (in feet) in the following schedule ([Figure 50](#)). Where indicated, landscape planting is required.

Figure 50. Required Buffer and Greenbelt Specifications

District in which Buffer and Greenbelt is Required (below)	Abutting Zoning District							
	LDR and MDR	MFR	MHP	M-U	CBD	GC and RC	C, M, and CR	I-M and BLP
LDR and MDR	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MFR	30 (a)	N/A	N/A	35	35	35	N/A	40 (a)
MHP	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
M-U	15 (a)	15 (a)	N/A	N/A	N/A	N/A	N/A	20 (a)
CBD	15 (b)	15 (b)	N/A	N/A	N/A	N/A	N/A	10 (a)
GC and RC	40 (b)	40 (b)	N/A	N/A	N/A	N/A	N/A	20 (b)
C, M, and CR	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I-M and BLP	40 (c)	40 (c)	40 (c)	25 (c)	25 (c)	25 (b)	N/A	N/A

- (a)** Within this buffer area, one (1) tree per 30 linear feet is required.
- (b)** Within this buffer area, one (1) tree per 20 linear feet is required, and at least 50% of the trees must be evergreen trees. Where a CBD, GC, or RC district abuts any

residential district, a fence at least four (4) feet in height shall be erected within the business district boundary, except where the boundary is a public right-of-way.

- (c) A staggered double row of evergreen trees spaced 15 feet on center. The planting shall be in a manner where the evergreen trees provide 80% opacity within three (3) years of planting, measured at six (6) feet above the grade. After three (3) years, if this opacity is not achieved then additional evergreen trees and/or evergreen shrubs must be planted to achieve 80% opacity at the time of their planting. Where an I-M or BLP district abuts any residential district the Planning Commission may require a screening fence, not to exceed 12 feet in height to be erected on the industrial property pursuant to [Section 54.706](#) to obscure the industrial use and storage from the adjacent residential property.

(3) Exceptions to Buffer and Greenbelt Schedule.

- (a) Where the district boundary is the centerline of a right-of-way, the greenbelt and buffering standards of this sub-section do not apply in these areas and other landscaping and buffering requirements of this Article apply instead (e.g., frontage landscaping requirements and loading area requirements).
- (b) In all cases where buffer and greenbelt requirements are not applicable, the required yard is the same as the minimum yard setback requirements in [Article 4](#), Schedule of Regulations.

NEW PROPOSED LANGUAGE

(D) Greenbelt/Buffer Yard Requirements.

- (1) **Intent.** It is the intent of this section to provide landscaped buffer yards, or greenbelts, for the purpose of buffering negative impacts of, and conflicts between, different land uses.
- (2) **Greenbelt Location Requirements.** All greenbelts will be created in the existing side and/or rear yards of the property where development has been proposed and approved for zoning compliance. When located adjacent to a residential use, park or public multi-use path, the following land uses (per section 54.306) must provide a landscaped buffer on their property:
 - (a) *Multiple-Family Residential dwellings with >5 units, Mobile Home Park, Nursing Home and Convalescent Home uses, Extended Care and Assisted Living Facilities.*
 - (b) *Industrial Uses (except Light Manufacturing – Low Impact uses).*
 - (c) *Lodging, Commercial, and Retail uses (except the following uses Indoor Retail Business, Child/Day Care Center, and Service Establishments).*
 - (d) *Public and Quasi-Public Uses and Medical Uses.*
 - (e) *Other Uses with the exception of Accessory Buildings or Structures, Accessory Use, Non-Single Family Residential Lots, Minor Food Production uses, Small Wind Energy Systems-Roof Mounted, Solar Energy Systems <20Kw-Accessory Use.*
 - (f) Any twenty-four (24) hour non-residential use of property.

(3) Dimensional Requirements and Screening Options.

- (a) Width.** The greenbelt must be **at least ten (10) feet in width**, measured from the shared property line, with the following exceptions:
- (i) Thirty (30) feet** is required for Industrial Uses (except *Light Manufacturing – Low Impact* uses) adjacent to any of the following uses: residential, mobile home parks, nursing-convalescent-assisted living facilities, lodging, public and quasi-public, medical, child/day care centers, and service establishments. In addition, this requirement will apply as stated above where the Industrial Use is adjacent to the following zoning districts: Central Business District, any Residential zoning districts, Mixed-Use; Downtown Marquette Waterfront (except where Industrial uses are a permitted use), Third Street Corridor, and Civic.
 - (ii) Fifteen (15) feet** is required for Industrial Uses (except *Light Manufacturing – Low Impact* uses) adjacent to all other uses.
- (b) Existing Vegetation.** The preservation of existing, high-quality trees and vegetation is strongly encouraged and may be considered as a screening option or incorporated into proposed landscape screening to meet the requirements.
- (c) Buffer screening Options.** Trees, shrubs, berms, opaque walls and fences can be used to create a visual screening buffer, per [Section 54.1003\(D\)\(4\)](#).

(4) Greenbelt Landscaping Standards.

- (a)** Within the buffer area, at least one (1) tree per 25 linear feet is required. At least forty (40) percent of the trees must be large-maturing conifers and at least forty (40) percent must be large-maturing deciduous trees., except where in consultation with the City Arborist, the Zoning Administrator or Planning Commission approves a variation in tree types and sizes based on site factors that prevent physically large sizes, such as overhead utilities. Alternatively, eight (8) shrubs compatible with [Section 54.1003\(B\)](#) may be substituted for each required tree. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.
- (b)** Turf grass, sod, forbs, or other climatically suitable live plant materials shall be planted over the entire greenbelt area, except where non-vegetative features are permitted.
- (c)** For proposals that require a 15-ft. or 30-ft. greenbelt ([Section 54.1003\(D\)\(3\)\(a\)](#)), a staggered double row of evergreen trees spaced 15-feet on center, with an opacity of approximately eighty (80) percent within three (3) years of planting, measured at six (6) feet above grade. After three (3) years, if opacity is not achieved then additional evergreen trees and/or shrubs must be planted to achieve 80% opacity at the time of planting.
- (d)** Where an I-M or BLP zoning district abuts any Residential district, the Planning Commission may require a screening fence of up to twelve (12) feet in height to be erected on the Industrial or BLP property pursuant to [Section 54.706](#) to obscure the industrial use and storage from the adjacent residential property.
- (e)** Where a CBD, GC, or RC district abuts any residential district, a fence at least

four (4) feet in height shall be erected within the business district boundary, except where the boundary is a public right-of-way.

(5) Reduction in Greenbelt Requirements

- (a) The minimum width of a required buffer may be reduced by up to one-third (1/3) with the installation of a six-foot high solid fence or wall along the property line.
- (b) If a required greenbelt (perimeter landscape buffer) abuts a public alley, then up to one-half (1/2) of the alley width may be credited towards the minimum width requirement.

(6) Development within Greenbelt

- (a) The following items shall be permitted within the landscape buffer:
 - (i) Sidewalks, trails, multi-use paths
 - (ii) Stormwater management facilities provided that they do not interfere with the performance and maintenance of the greenbelt.
- (b) The required greenbelt shall not contain any development, vehicle storage, dumpsters, outdoor storage, impervious surfaces or site features that do not meet the standards or requirements of [Section 54.1003\(D\)](#).