



CARLISLE

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**MEMORANDUM**

**TO:** City of Dexter Planning Commission  
Michelle Aniol, Community Development Manager

**FROM:** Douglas J. Lewan, City Planner  
Laura K. Kreps, City Planner

**DATE:** December 1, 2015

**RE:** District Use Table

Attached to this memorandum, you will find a DRAFT District Use Table denoting the various uses to be allowed as permitted or special land uses in the various zoning districts. This Table is based on the existing district regulations, as well as comments received by staff and Planning Commission members.

Specific use standards will be modified/drafted in accordance with the uses listed on the proposed table, once staff and the Planning Commission is comfortable that the listing is complete. If specific standards are not warranted for a particular use, all terms will be reviewed and defined (as part of the definitions section) as necessary.

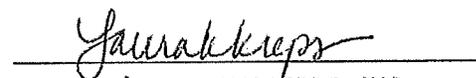
Highlighted rows are typical uses found in zoning ordinances that are not currently listed in any district, or uses that warrant additional consideration/discussion. Accessory uses can also be added to this table. In your review of the table, please consider the following:

- Are all uses relevant to the City represented?
- Are there uses listed that would not be necessary to list specifically?
- Are the uses listed as permitted or special appropriate based on the district and use type?

We look forward to discussing the District Use Table at an upcoming Planning Commission meeting/worksession.

Sincerely,

  
 CARLISLE/WORTMAN ASSOC., INC.  
 Douglas J. Lewan, PCP, AICP  
 Principal

  
 CARLISLE/WORTMAN ASSOC., INC.  
 Laura K. Kreps, AICP  
 Associate



District Use Table													
Use Category	Districts												Specific Use Standard (Chapter, Section)
	Residential					Commercial				Industrial			
	R-1A	R-1B	VR	R-3	MHP	C-1	PB	VC	CBD	I-1	RD	PP	
<b>Institutional / Cultural</b>													
Adult day care center				P			P	S	S				
Adult day care family home	P	P	P	P	P			P	P				
Adult foster care, Congregate Facility				P			P	S	S				
Adult foster care Family Home	P	P	P	P	P			P	P				
Adult foster care Large Group Home	P	P	P	P	P								
Adult foster care, Small Group Home	P	P	P	P	P			P	P				
Cemetery	S	S	S										
Convalescent centers / congregate care			S	P				P					
Day Care Centers and Preschools			S	P			P	S	S				
Child day care family home	P	P	P	P	P								
Child day care group homes	P	P	P	P	P								
Child foster care family home	P	P	P	P	P								
Child foster care group home	P	P	P	P	P								
Fine and performing arts facilities						P	P	P	P				
Government Buildings	S	S	S	S	S	S	P	P	P				
Hospitals													
Places of worship	S	S	S	S	S	S	S	S	S				
Post-secondary schools (technical, colleges, business schools)				S		P		S					
Primary / secondary schools													
Minor Essential Services (no outdoor storage facilities)	S	S	S			S	S			P			

District Use Table													
Use Category	Districts												Specific Use Standard (Chapter, Section)
	Residential					Commercial				Industrial			
	R-1A	R-1B	VR	R-3	MHP	C-1	PB	VC	CBD	I-1	RD	PP	
Major Essential Services (with outdoor storage)						S	S			S			
Commercial WECS													
On-Site WECS (attached to roof or free-standing under 30')													
On-Site WECS (31' and Over)													
Solar Energy System (Building Mounted)													
Solar Energy System (Ground Mounted)													
<b>Retail, Entertainment, and Service</b>													
Adult Regulated Uses						S							
Bar / Lounge / Tavern / Brew Pub						S		S	S				
Building material sales / Garden Centers													
Conference, meeting and banquet facilities						S		S	S				
Dance, martial arts, music, and art studios						P		S					
Drive-through facilities						S		S	S				
Financial institutions						P	P	P	P				
Health fitness centers / athletic clubs								S	S		S		
Kennels													
Lodging						S							
Funeral Home / Mortuary			S	S		S	S						
Outdoor Display, subordinate to principal use						S				S			
Open Air Business						S							

District Use Table													
Use Category	Districts												Specific Use Standard (Chapter, Section)
	Residential					Commercial				Industrial			
	R-1A	R-1B	VR	R-3	MHP	C-1	PB	VC	CBD	I-1	RD	PP	
Outdoor Storage						S							
Outdoor Seating						P		P	P				
Personal services						P	P	P	P				
Private Clubs, Fraternal Organizations and Lodge Halls						P		S					
Restaurants						P		P	P				
Retail, general						P		P	P				
Retail, large-scale						S		S	S				
Theaters								S	S				
<b>Office</b>													
Business services						P	S	S	S				
Data processing and computing centers						P	P	P					
Medical Clinics													
Laboratories										P	P		
Offices, general			S			P	P	P	P				
Professional and medical offices						P	P	P	P				
Small animal clinic						S		S	S				
<b>Industrial</b>													
Research, design and pilot or experimental product development										P	P		
Central dry cleaning / laundry plants						S				P			
Contractor's Yard													
Food processing / Beer, wine, alcoholic beverage manufacturing											P		
Light Manufacturing and assembly										P	P		
Material distribution facilities										P	P		
Recycling Centers											S		





*Michigan*

## OFFICE OF COMMUNITY DEVELOPMENT

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### STAFF MEMO

**To:** Chairman Kowalski and Planning Commissioners  
Courtney Nicholls, City Manager

**From:** Michelle Aniol, Community Development Manager

**Re:** Staff and Planning Commissioner comments regarding Use District

**Date:** December 7, 2015

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Attached to this memo you will find staff and Planning Commissioner comments regarding uses districts and other areas of concern in the zoning ordinance.

I look forward to your work session and subsequent discussion.

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**Michelle Aniol**

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**From:** Michelle Aniol <maniol@dextermi.gov>  
**Sent:** Wednesday, October 21, 2015 5:22 PM  
**To:** 'jack donaldson'  
**Cc:** 'Doug Lewan'; Laura Kreps (lkreps@cwaplan.com)  
**Subject:** RE: Zoning Ordinance

Hi Jack,  
I forwarded your questions to Doug and Laura, but I also wanted to follow up with you.  
Please see comments below:

Michelle Aniol  
Community Development Manager

City of Dexter  
8140 Main Street  
Dexter, MI 48130-1092

734-426-8303 ext. 15 (o)  
248-721-5076 (m)

[maniol@dextermi.gov](mailto:maniol@dextermi.gov)  
[www.dextermi.gov](http://www.dextermi.gov)

—Original Message—

From: jack donaldson [<mailto:djda2mi@comcast.net>]  
Sent: Friday, October 16, 2015 11:48 AM  
To: michelle Aniol  
Subject: Zoning Ordinance

Michelle here are my comments on the issues raised by Doug and Laura regarding the zoning ordinance. They are in no specific order so they may be hard for you to follow so I apologize in advance.

Should we have an AG (agriculture) zoning district to be used when/if we annex a large parcel if only as a temporary zoning ? **Before we establish any zoning district to land outside our boundaries, we would need to Master Plan it first.**

The intent section of the C-1 District (14.01) needs to be rewritten. It is unclear and unnecessarily wordy. **I agree.** In my opinion PUD should reconsidered as a rezoning matter as opposed to an over lay. If a development meets all the conditions of the PUD it is permitted in all districts (see 19.02A) "Mixed Use Developments" should be removed from special uses in all districts. PUD's would seem to serve this provision to have unique combinations of uses. **I agree. You should know that I floated this idea to the PC last year before you were appointed. They didn't seem to want to change, but I think we should try again.**

The portion of the VR district bounded by the railroad, Fifth St., Central, and Alpine could be changed to VC.

**Why?**

Why do we allow Parking as a permitted use in the PB zoning district but specify "Off Street Parking" in the C-1? **Good question. I will do some research to see if this standard was establish in 1995 when the zoning ordinance was adopted.**

Food establishments should not be limited to 2000 sq.ft. gross area in the VC & CBD. **Why?**

Eliminate " Restaurant-carryout" as a special use in the CBD & VC. **I agree.**

Move "Outdoor Seating @ Restaurants only" from the special use to a permitted use in the C-1 district. **I agree.** The Historic District Overlay should include all of the VC and CBD district. **I agree with the CBD, not entirely sure about the VC. It should be discussed though.**

What is the purpose of the Special Use R in section 14.03 of the C-1 district? What of the permitted uses would involve a resident manager? **I can't answer that, but I've wondered that too.**

In section 3.05 "Home Occupation" should the maximum area be reduced to 10% so it matches the building code provisions for an accessory (incidental) use? We should also consider using the 10% criteria when we attach conditions to special uses **It my understanding that the 10% requirement in the building code has to do with fire separation. Not sure land use code needs to be the same.**

What is the purpose of the last paragraph in section 3.07A. What is it intended to do and what is the interpretation? **The provisions of Section 3.07 are to deal with uses that are not listed in any district. This paragraph closes a potential loophole. For example, let say someone wants to do a bed and breakfast in the C-1 district. It's not permitted by right or as a special land use in the C-1 District, however, it is listed as a special land use in the CBD. The last paragraph makes it clear that you Section 3.07A couldn't be used to get a bed and breakfast considered in the C-1 District. We can discuss in more detail at the meeting.**

Why are public sidewalks not required in the RD district? I believe sidewalks should be required particularly now as we consider approving the special use for the NULL. **It should be discussed.**

Section 4.05 Nonconforming Buildings and Structures D. Restrictions on Replacement should contain a statement that " If the damage is in excess of 50% of the assessed value of the building/structure it may not be replaced."

The R1A & R1B districts should include parks/playgrounds as a special use. **Generally, you want this type of provision to ensure that a single family home, even if its non-conforming, could be rebuilt. We should discuss this in greater detail.**

On site signs should be considered a special use not a permitted use in all zoning districts. Why would we want a sign only on a lot regardless of the zoning district. **Let's discuss.**

In section 5.02 A1 the dimension for bench seating per person should be 18" to coincide with the provisions of the building code. **We should discuss.**

The spelling of "marihuana" in section 3.05 B should be "marijuana ". **From what I read, this was discussed in detail when the provision was established. I'd have to do more research as to why.**

In section 5.01 "or" in the first sentence should be "of" **Agreed**

If you, Doug, or Laura has questions about these comments please contact me. =

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P4

**Michelle Aniol**

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**From:** Heatley, Alison <AHeatley@a2gov.org>  
**Sent:** Monday, November 16, 2015 4:48 PM  
**To:** Kowalski, Matthew; Michelle Aniol  
**Subject:** RE: Zoning Ordinance

Michelle:

These are the comments that Matt and I came up with thus far.

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**From:** Michelle Aniol [<mailto:maniol@dextermi.gov>]

**Sent:** Thursday, September 24, 2015 10:34 AM

**To:** Heatley, Alison; Carol Jones; [djda2mi@comcast.net](mailto:djda2mi@comcast.net); Jim Carty; Jim Smith; Marni Schmid; Kowalski, Matthew; Scott Stewart; Thom Phillips; Tom SToner

**Cc:** [cnicholls@dextermi.gov](mailto:cnicholls@dextermi.gov); 'Doug Lewan'; Laura Kreps

**Subject:** RE: Zoning Ordinance

**Importance:** High

Hello,

Just a quick follow-up. I don't think it's realistic to expect you all to have gone through the ZO and get comments to me, and then for Doug/Laura to compile them your Oct. meeting. Therefore, take your time and get me your comments by Friday, October 9<sup>th</sup>. That will give Doug and Laura a little over 2 weeks to compile them and prepare for a discussion in November.

Doug/Laura also sent over some additional questions for our consideration:

- The CBD and VC have essentially all of the same permitted and special land uses. Is this intended? **[Heatley, Alison]** Yes, the differences are important, though we have some questions.
  - Village Commercial District
  - Section 15.02
  - C. Fish are allowed in the VC, but not in the CBD. Why? What's wrong with Fish? Aren't they also a meat?
  - F. Computer and Internet Services
  - H. Don't need Post Office listed.
  - I. Schools, commercial. Karate?
  - K. Unclear statement.
  - L. Wouldn't this be part of the site plan? Don't want parking as a principle use.
  - M. Wouldn't this be part of signs section?
- Should day-care centers continue to be a permitted use in the R-3 district? **[Heatley, Alison]** Yes.
- R-1A and R-1B language regarding farms should reference to Michigan Right to Farm Act. **[Heatley, Alison]** OK.
- A new model ordinance developed by the State of Michigan Mobile Home Commission has been adopted since the City's Mobile Home Park standards were approved. The Planning Commission may want to consider updating based upon the new state standards. **[Heatley, Alison]** OK.
- The intent of the C-1 district should be revamped. It is currently difficult to understand, and the intent is unclear. **[Heatley, Alison]** We agree, the intent makes NO sense. What the heck.

- Private clubs may be considered a special land use in the C-1 district. **[Heatley, Alison]** OK. Is there a definition of private club. **P5**
- We question why outdoor seating is a special land use in the C-1 district. If the intent is to encourage this type of use, it should be permitted. **[Heatley, Alison]** OK.
- Mixed-use developments are listed as a special land use in the C-1 district; however, they are not defined. **[Heatley, Alison]** OK, needs definition.
- A theatre/cinema is listed as a permitted use in the VC district. This intensity of use may be a better fit as a special land use. **[Heatley, Alison]** Agreed. (perhaps a distinction between a movie theatre and a live action theatre is needed. Also, size should be considered as a way to distinguish). **[Heatley, Alison]** Size does matter.
- The CBD allows for a 2,000 square foot food establishment as a permitted use; this floor area is too small for a grocery store. The average full-scale grocery store is 50,000 square feet or larger. A Trader Joe's or smaller grocery outfit averages 12,000 square feet of floor area. If a grocery store is intended, the floor area allowed will have to be modified. **[Heatley, Alison]** OK, up to 20,000 SF as permitted use.
- The Historic Overlay District (HOD) only incorporates a small portion of the VC and CBD areas (southeast portion); it does not include the entire CBD district. **[Heatley, Alison]** Should be expanded.
- Baker Road Corridor Overlay indicates it is a "mixed-use" corridor, but again there is no definition or elaboration on the intent of "mixed-use". **[Heatley, Alison]** We need a definition of mixed-use. Baker Road Corridor Plan needs to be revisited.
- In both the I-1 and RD districts beer brewing, tasting, etc. should be added to the list of uses. **[Heatley, Alison]** OK. Definition expanded to include distillery?
- Section 17.04 will also need to be revised, as "taverns" are listed as a forbidden use within the RD district. **[Heatley, Alison]** Why do we list forbidden uses as opposed to allowed uses?

Let me know if you have any questions or comments.  
Thanks!

Michelle Aniol

Community Development Manager

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**From:** Michelle Aniol [<mailto:maniol@dextermi.gov>]

**Sent:** Thursday, September 17, 2015 1:44 PM

**To:** Alison Heatley; Carol Jones ([DEXTERCOFC@aol.com](mailto:DEXTERCOFC@aol.com)); [djda2mi@comcast.net](mailto:djda2mi@comcast.net); Jim Carty; Jim Smith ([jdsmith886@yahoo.com](mailto:jdsmith886@yahoo.com)); Marni Schmid ([marni@dexterpharmacy.com](mailto:marni@dexterpharmacy.com)); Matt Kowalski ([mkowalski@a2gov.org](mailto:mkowalski@a2gov.org)); Scott Stewart ([sfs8556@yahoo.com](mailto:sfs8556@yahoo.com)); Thom Phillips ([tphillips@hobbs-black.com](mailto:tphillips@hobbs-black.com)); Tom Stoner

**Cc:** Courtney Nicholls ([cnicholls@dextermi.gov](mailto:cnicholls@dextermi.gov)) ([cnicholls@dextermi.gov](mailto:cnicholls@dextermi.gov))

**Subject:** Zoning Ordinance

**Importance:** High

Greefings Planning Commissioners!

Hope you are enjoying this beautiful day. I will be delivering a hard copies of the zoning ordinance this afternoon. For those of you who weren't able to attend the meeting, Doug Lewan explained that a review of each district should be completed by the Planning Commission.

In reviewing each district, you should be asking the following:

- Are all uses represented?
- Are there uses that are no longer applicable to the district?

Based on his initial review, Doug suggested the following items for discussion purposes:

- Should public parks/playgrounds be listed as a permitted or special land use in the R-1A and R-1B districts? **[Heatley, Alison]** Should be listed as a permitted use.
- Should family day care homes and outdoor eating areas be allowed as permitted or special uses in the VR district? **[Heatley, Alison]** Both permitted in the VR.
- Signs are listed as a permitted use in the RM, C-1, PB, VC, CBD, I-1, and RD districts – this should be omitted unless the intent is to allow signage on a property without a principal structure being present. **[Heatley, Alison]** Agreed. No signs as a principal use.
- Parking is also listed as a permitted use in the C-1, PB, VC, CBD, I-1, and RD districts – this should be omitted unless the intent is to allow parking lots without a principal structure being present. **[Heatley, Alison]** Agreed.
- We question why "Restaurants, Carry-out" are a special land use in the CBD. "Restaurants, Sit down" are a permitted use. **[Heatley, Alison]** Carry out ok.

Staff asked about granny-flats, accessory detached dwelling units, etc. You may have your own ideas. **[Heatley, Alison]** Granny-flats/Accessory dwelling units require more definition. E.g., detached dwellings units with certain standards (parcel size). In addition, you will also need to consider whether continuing to allow PUD development as an overlay district is warranted, or if PUDs should be treated as a rezoning. **[Heatley, Alison]** No overlay districts; just PUD zoning district) Either way is acceptable; however, utilizing PUD as a zoning district will simplify the zoning map further. **[Heatley, Alison]** Agreed.

Be sure to send me your suggestions, comments so I can forward them to Doug and Laura. They will compile the notes and bring them back for a discussion, most likely in November.

As always, if you have any questions or comments, please don't hesitate to contact me.

*Michelle Aniol*

Community Development Manager

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**OFFICE OF COMMUNITY DEVELOPMENT**

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**Memorandum**

**To:** Doug Lewan and Laura Kreps  
**From:** Michelle Aniol, Community Development Manager  
**Re:** Permitted and Special Land Uses for ZO Update  
**Date:** October 15, 2015

Review of permitted and special land uses questions:

- *The CBD and VC have essentially all of the same permitted and special land uses. Is this intended? The difference between the two districts isn't uses; it's form, scale and massing. Here are my thoughts for uses in the CBD and VC districts:*

Use	Description	
Attached Residential	Duplexes (side-by-side or stacked), triplexes, fourplexes, bungalow court, townhouses, row houses, live/work flexhouses and courtyard apartments.	PP in CBD, VC, VR, in context with scale and massing, and R-3
Mixed use	Retail/commercial at the pedestrian level and residential/offices above.	PP in CBD, VC,
Home Occupations		PP in CBD, VC,
Nursing and convalescent homes		PP in VC
Senior housing		SLU in CBD, VC,
State licensed adult and child residential care facilities	Family foster care/family home, group foster care or family group home, adult foster care home, adult foster care small group home, adult foster care large group home, adult day.	PP in CBD, VC,
Adult and child care facilities	Child care center/day care center, family day care home, and housing for the elderly and adult day care facility.	SLU in the CBD and VC
Banquet, conference, dance, lodge and union halls and private clubs		SLU in CBD, VC,
Health and fitness		SLU in CBD, VC
Theatres, movie and live performance		SLU in CBD, VC, in context with scale and

		massing
Finance, medical and professional office and research and development	Banks, S&L, Credit Unions and similar, without drive through, as a permitted use; as a special use with drive through. ATM's Business service establishment Drs offices Professional services Newspaper and publisher's office Photography studio, galleries, dance, music and other similar uses	PP in CBD, VC without drive through, SLU for any drive through
Retail	Convenience stores without gas station service, dry cleaners (retail outlet only), Funeral homes, mortuaries, garden centers, hardware stores, outdoor display, sales and storage, personal service establishments, video rental (if there is even a market for this anymore),	PP in CBD and VC with the exception of funeral homes, mortuaries, outdoor display, sales and storage, which would be SLU
Lodging	Bed and Breakfast Inns Hotels/Motels, with convention/meeting facilities and restaurants, as accessory uses	PP CBD, VC,
Food and beverage	Restaurants, including dine-in and/or carry-out, deli's, fast-casual, outdoor seating, and microbreweries, as an accessory use.  Bars, taverns, lounges, and brewpubs	PP in CBD, VC. We can establish development standards as well.  SLU om CBD and VC
Religious Institutions	Churches, temples, and other places of worship or public assembly	SLU in all districts, with the exception of I-1 and RD
Essential public services		SLU in all districts
Public and quasi-public institutional buildings/structures/uses	Government, schools, non-profit orgs and post office, not including warehouse or storage buildings customarily associated with public services/works.	SLU in all districts
Service establishments	Office/workshop/retail outlet or showroom, such as, but not limited to plumbing, electrician, interior decorating, dressmaking, tailoring, upholstering, home applicant and other similar establishments	PP in CBD, VC,
Small Animal clinics		SLU in CBD, VC

Accessory buildings/structures/uses	Customarily incidental to any principal use and special land use in the district	
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Section 15.03, sub-section K calls for all buildings over 10,000 sq. ft. of gross floor area to require a special use permit. This standard should be removed.

- Should day-care centers continue to be a permitted use in the R-3 district? **Yes**
- R-1A and R-1B language regarding farms should reference to Michigan Right to Farm Act. **Yes**
- A new model ordinance developed by the State of Michigan Mobile Home Commission has been adopted since the City's Mobile Home Park standards were approved. The Planning Commission may want to consider updating based upon the new state standards. **Yes**
- The intent of the C-1 district should be revamped. It is currently difficult to understand, and the intent is unclear. **Yes**

C-1 should allow the following uses:

Mixed use	Retail/office/commercial at the pedestrian level and attached residential/offices above.	
Finance, medical and professional office and research and development	Banks, S&L, Credit Unions and similar, without drive through, as a permitted use; as a special use with drive through. ATM's Business service establishment Drs offices Professional services Newspaper and publisher's office Photography studio, galleries, dance, music and other similar uses	
Retail	Convenience stores with and without gas station service, dry cleaners, Funeral homes, mortuaries, crematoriums, garden centers, hardware stores, outdoor display, sales and storage, personal service establishments, video rental (if there is even a market for this anymore).	C-stores with gas stations, funeral homes, mortuaries and crematories, indoor and outdoor recreation, automobile service stations, new and used automobile dealerships, adult regulated uses, car washes, as SLU in C-1
Lodging	Bed and Breakfast Inns	

	Hotels/Motels, with convention/meeting facilities and restaurants, as accessory uses	
Food and beverage	Restaurants, including dine-in, drive-through, and/or carry-out, deli's, fast-casual, outdoor seating, and microbreweries, as an accessory use.  Bars, taverns, lounges, and brewpubs	Drive-in or drive through restaurants, bars, taverns, lounges, accessory microbreweries and brewpubs, as special land uses.  Outdoor seating as a permitted use with development standards.
Religious Institutions	Churches, temples, and other places of worship or public assembly	Special land use
Essential public services		Special land use
Public and quasi-public institutional buildings/structures/uses	Government, schools, non-profit orgs and post office, not including warehouse or storage buildings customarily associated with public services/works.	Special land use
Service establishments	Office/workshop/retail outlet or showroom, such as, but not limited to plumbing, electrician, interior decorating, dressmaking, tailoring, upholstery, home appliance and other similar establishments	
Small Animal clinics		
Accessory buildings/structures/uses	Customarily incidental to any principal use and special land use in the district	

- Private clubs may be considered a special land use in the C-1 district. **What reasons do you have for changing it from a principal use?**
- We question why outdoor seating is a special land use in the C-1 district. If the intent is to encourage this type of use, it should be permitted. **Yes.**
- Mixed-use developments are listed as a special land use in the C-1 district; however, they are not defined. **I've included a description, which we can build upon.**
- A theatre/cinema is listed as a permitted use in the VC district. This intensity of use may be a better fit as a special land use. (perhaps a distinction between a movie theatre and a live action theatre)

is needed. Also, size should be considered as a way to distinguish). This is a form, scale and massing issue. Additionally, we can establish development standards to address the maximum square footage for a theatre/cinema in both the CBD and VC districts.

- The CBD allows for a 2,000 square foot food establishment as a permitted use; this floor area is too small for a grocery store. The average full-scale grocery store is 50,000 square feet or larger. A Trader Joe's or smaller grocery outfit averages 12,000 square feet of floor area. If a grocery store is intended, the floor area allowed will have to be modified. What was the square footage of the old Busch's? That should be the maximum allowed for retail in the CBD and VC.
- The Historic Overlay District (HOD) only incorporates a small portion of the VC and CBD areas (southeast portion); it does not include the entire CBD district. I noticed this. We should ask the Planning Commission why. I don't have any history, but will see what I can find.
- Baker Road Corridor Overlay indicates it is a "mixed-use" corridor, but again there is no definition or elaboration on the intent of "mixed-use". See comments above.
- In both the I-1 and RD districts beer brewing, tasting, etc. should be added to the list of uses. We should hold off on this until NUBC plays out.

Section 17.04 will also need to be revised, as "taverns" are listed as a forbidden use within the RD district.

Other comments:

Detached Residential	SF detached dwelling units Granny flats, accessory apartments	PP in R-1A and R-1B, R-3, VR SLU in the R-1A, R-1B, and VR
Mixed use	Retail/commercial at the pedestrian level and residential/offices above.	PP VR, in context with scale and massing; C-1, with form regulations

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**MEMORANDUM**

**TO:** City of Dexter Planning Commission  
Michelle Aniol, Community Development Manager

**FROM:** Douglas J. Lewan, City Planner  
Laura K. Kreps, City Planner

**DATE:** January 25, 2016

**RE:** Zoning Board of Appeals, Administration and Enforcement, and Non-Conformities Provisions Updates

The following updated drafts are based on comments received by the Planning Commission as well as the City Attorney. Additionally, we have reviewed and noted potential additional provisions to consider with regard to each Article below.

**Zoning Board of Appeals**

- Minor Planning Commission and City Attorney comments addressed.
- Section 24.04 – Attorney suggests clarifying a timeframe for bringing an appeal to the ZBA (after a denial has been made). We reviewed a number of similar communities Ordinances related to this topic. Only two (2) had such application timeframe requirements: City of Saline – 21 days; City of Plymouth 30 days.
- Section 24.05 E. last paragraph added noting the ZBA's inability to grant use variances.

**Administration and Enforcement**

- Minor Planning Commission and City Attorney comments addressed.

**Non-Conformities**

- Minor Planning Commission and City Attorney comments addressed.
- Additional discussion is needed related to providing a percentage of damage (Section 24.04) to rebuild a non-conforming structure, and (Section 24.05) to rebuild a structure with a non-conforming use. We added additional language (shown as added text for discussion) in each of these Sections.
- Additionally, in our research we found language specific to non-conforming sites the Planning Commission may be interested in considering. We added this language as a new Section 4.06 for Planning Commission review and discussion.

Richard K. Carlisle, *President* Douglas J. Lewan, *Executive Vice President*

R. Donald Wortman, *Principal* John L. Enos, *Principal* David Scurto, *Principal* Benjamin R. Carlisle, *Principal* Sally M. Elmiger, *Principal*  
Brian Oppmann, *Associate* Laura K. Kreps, *Associate*

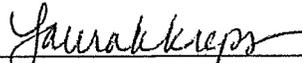
We look forward to reviewing these provisions with you at the February 1st Planning Commission work session / meeting. Please feel free to contact us with any questions or comments.

Sincerely,

**CARLISLE/WORTMAN ASSOCIATES, INC.**



**CARLISLE/WORTMAN ASSOC., INC.**  
Douglas J. Lewan, PCP, AICP  
Principal



**CARLISLE/WORTMAN ASSOC., INC.**  
Laura K. Kreps, AICP  
Associate

Cc: File

## Article XXIV

### ZONING BOARD OF APPEALS

#### **Section 24.01 CREATION**

A Zoning Board of Appeals is hereby established in accordance with Act 110, P.A. 2006, as amended.

#### **Section 24.02 MEMBERSHIP AND TERMS**

- A. **Number of Members.** The Zoning Board of Appeals shall consist of not less than five members and no more than two alternate members to be appointed by the legislative body, and shall be composed of the following five members whose terms shall be as stated:
1. One member shall be a member of the Planning Commission and one member shall be a member of the City Council. The member of the City Council that serves on the Zoning Board of Appeals shall not serve as chairperson of the Zoning Board of Appeals.
  2. The remaining regular and any alternate members of the Zoning Board of Appeals shall be selected from the electors residing within the City. The members selected shall be representative of the population distribution and of the various interests present in the City.
- B. **Terms of Office.** The term of office for each member shall be for three years except for members serving because of their membership on the Planning Commission or City Council, whose terms shall be limited to the time they are members of the Planning Commission or City Council respectively, and the period stated in the resolution appointing them, whichever is shorter. A successor shall be selected and appointed by resolution of the City Council for any unexpired vacated position.
- C. **Employees/Contractors as Members.** An employee or contractor of the City Council shall not serve as a member of the Zoning Board of Appeals.
- D. **Removal of Members / Conflict of Interest.**
1. The City Council shall provide for the removal of a member of the Zoning Board of Appeals for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.
  2. A member of the Zoning Board of Appeals shall disqualify herself or himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify herself or himself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

- E. **Alternate Members.** ~~The City Council may appoint not more than two alternate members for the same term as regular members of the Zoning Board of Appeals. An alternate member may be called to serve as a member of the Zoning Board of Appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.~~

### SECTION 24.03 MEETINGS

All meetings of ~~the Zoning~~the Zoning Board of Appeals shall be held at the call of the Chairperson and at such times as the Zoning Board of Appeals may determine. All hearings conducted by the Zoning Board of Appeals shall be open to the public. The Secretary, or his representative, shall keep minutes of the proceedings, recording the vote of each member upon each question, and indicating absences and abstentions, and shall keep records of hearings and other official action. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it. The Zoning Board of Appeals shall not conduct business unless a majority of the members of the Board are present.

### Section 24.04 APPEAL

~~An appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation, or by any officer, department, board, council or bureau affected by a decision of the Zoning Administrator. The Zoning Board of Appeals shall hear and decide appeals from and a review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this Zoning Ordinance. Decisions related to Planned Unit Developments or Specials Land Uses shall not be appealed to the Zoning Board of Appeals. Such appeal shall be in writing and taken within such time as shall be prescribed by the Zoning Board of Appeals, by filing with the Zoning Administrator and with the Zoning Board of Appeals, a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all the documents and records pertaining to the action being appealed.~~

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals, after notice of appeal has been filed with the Zoning Administrator, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record.

The Zoning Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the

appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

A fee, as established by the City Council shall be paid to the City Clerk at the time the notice of appeal is filed.

## Section 24.05 JURISDICTION

- A. **General Powers.** The Zoning Board of Appeals has the power to act on matters as provided in this Article and Public Act 110 of 2006, as amended. The specific powers of the Zoning Board of Appeals are enumerated in this section.
- B. **Delegated Duties.** To hear and decide on all matters referred to it upon which it is required to pass under this Ordinance.
- C. **Administrative Review.** The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official or body ~~in-charged with the~~ enforcement of the Zoning Ordinance. In exercising the powers set forth in this Article, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order requirements, decision, or determination appealed from and may make such order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the ~~zoning official~~ administrative official or body from whom the appeal is taken.
- D. **Interpretation.**
1. The Zoning Board of Appeals shall hear and decide requests for interpretation of this Ordinance or the zoning map, taking into consideration the intent and purpose of this Ordinance and the Master Plan.
  2. In an interpretation of the Zoning Map, the Zoning Board of Appeals shall be governed by the rules of interpretation set forth in Section 2.01.
  3. A record shall be kept by the Zoning Board of Appeals of all decisions for interpretation of this Ordinance or Zoning Map and land uses which are approved under the terms of this Section. The Zoning Board of Appeals shall request the Planning Commission to review any ordinance amendment it deems necessary.
- E. **Variances.** Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties ~~within the meaning of this Ordinance~~ by reason of narrowness, shallowness, shape, or area of a specific piece of property at the time of enactment of this Ordinance, or by reason of exception topographic conditions or other extraordinary or exceptional conditions of a property, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the dimensional provisions of

this Ordinance with such spirit of this Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless all of the following facts ~~and conditions exist:~~ the requirements of Section 24.06 A. are met.

~~E.~~ \_\_\_\_\_

1. ~~-That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.~~
  2. ~~That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.~~
  3. ~~That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.~~
  4. ~~That the granting of such variance will not adversely affect the purpose of objectives of the master plan.~~
  5. ~~Absent exceptional circumstances which would otherwise result in substantial injustice, the circumstances or conditions upon which the variance is based do not result from the actions of the applicant or his predecessors in title.~~
- ~~5.~~ No provision contained in this Section shall be construed to give or grant the Zoning Board of Appeals the power or authority to alter or change the Zoning Ordinance or the Zoning Map, to rezone or to grant use variances, such power and authority being reserved to the City Council in the manner provided under Public Act 110 of 2006, as amended.

- ~~F.~~ ~~**Temporary Uses:** The Zoning Board of Appeals may permit, temporary uses not otherwise permitted by Section 3.06, not to exceed 12 months with the granting of one 12-month extension being permissible for uses which do not require the erection of any site improvement or structure. In considering granting a permit for a temporary use, the Zoning Board of Appeals shall review the following criteria:~~
- ~~1. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property where the temporary use is permitted.~~
  - ~~2. The granting of the temporary use shall be in writing, stipulating all conditions as to time, nature of development permitted, and arrangements for removing the use at the termination of said temporary permit.~~

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- ~~3. All setbacks, land coverage, off-street parking and lighting, and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City, shall be made at the discretion of the Zoning Board of Appeals.~~
  - ~~4. In classifying uses as not requiring site improvements and/or structures, the Zoning Board of Appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems, or sanitary connections.~~
  - ~~5. The use shall be in harmony with the general character of the district.~~
  - ~~6. No temporary use permit shall be granted without first giving notice to owners of adjacent property and all owners of record listed in the latest assessment roll of the City located within 300 feet of the area of the request of the time and place of a Public Hearing to be held as further provided for in this Ordinance. Further, the Zoning Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.~~

**G.F. Expansions, Alterations, and Substitutions:** The Zoning Board of Appeals is required to determine whether a non-conforming structure may be enlarged, expanded, or extended or whether a non-conforming use can be substituted. In considering expansions, alterations, and/or substitutions related to non-conforming structures and uses, the Zoning Board of Appeals shall review the following criteria:

1. The reasons for a non-conformity shall be limited to minimum lot area, lot width, required yards, off-street loading and parking requirements, and transition strip and landscape strip requirements. In no case shall a structure that is non-conforming due to lot coverage, floor area ratio, lot area per dwelling unit, or height requirements be permitted to expand without removing the existing non-conformity, except as permitted under a variance.
2. The existing and proposed uses of such buildings and structures shall be permitted in the district in which situated.
3. The proposed improvement shall conform to all requirements of the district in which situated.
4. The retention of the non-conforming structure is reasonably necessary for the proposed improvement or that requiring removal of such structure would cause undue hardship;
5. ~~that~~ The proposed enlarged or otherwise improved nonconforming structure will not adversely affect the public health, safety and welfare; and

6. ~~that~~The proposed improvement is reasonably necessary for continuation of the use on the lot.
7. The Zoning Board of Appeals shall have authority to require modification of the non-conformity, where such requirement is reasonable, as a condition of approval. The Zoning Board of Appeals may attach other conditions of approval which it deems necessary to protect the public health, safety, and welfare.
8. All expansions permitted under this Section shall meet all requirements of Article XXI, herein, Site Plan Review, if a site plan is required. The site plan may be a final site plan, and shall be first reviewed by the Planning Commission. Upon completion of its review, the Planning Commission shall transmit the site plan and a summary of its review to the Zoning Board of Appeals. The Zoning Board of Appeals shall then act upon the request and return the site plan and the Board's findings on the request to the Planning Commission for its action.
9. A structure which does not conform to zoning ordinance regulation shall not substitute for, or replace, any conforming or non-conforming structure.
10. A non-conforming use of a structure may be substituted for another non-conforming use upon permission by the Zoning Board of Appeals, provided that no structural alterations are made, and that such nonconforming use is more appropriate than the existing non-conforming use in the district in which it is located. The Zoning Board of Appeals may require appropriate conditions and safeguards in accordance with the intent of this Ordinance. A non-conforming use, when superseded by a more appropriate use as provided in this subsection, shall not thereafter be resumed.

## Section 24.06 STANDARDS FOR VARIANCES AND APPEALS

Variances ~~and~~ or reversal on appeals shall be granted only in accordance with Michigan Public Act 110 of 2006, as amended, and based on the findings set forth in this section. The extent to which the following criteria apply to a specific case shall be determined by the Zoning Board of Appeals; however, all of the applicable criteria must be found by the Zoning Board of Zoning Appeals in order to receive a variance or appeal.

### A. Criteria Applicable to Variances.

1. **Practical Difficulties:** Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.

2. **Substantial Justice:** Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district; or, as an alternative, granting of lesser variance than requested would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners. Absent exceptional circumstances which would otherwise result in substantial injustice, the circumstances or conditions upon which the variance is based do not result from the actions of the applicant or his predecessors in title.
  3. **Public Safety and Welfare:** The requested variance or appeal can be granted in such fashion that the spirit of these regulations will be observed and public safety and welfare secured. The granting of such variance or modification will not be detrimental to the public welfare or injurious to the property or improvement in such zone or district in which the property is located.
  4. **Extraordinary Circumstances:** There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district. The conditions resulting in a variance request cannot be self-created. Such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
  5. **No Safety Hazard or Nuisance:** The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.
  6. **Relationship to Adjacent Land Uses:** The development permitted upon granting of a variance shall relate harmoniously in a physical and economic sense with adjacent land uses and will not alter the essential character of the neighborhood. In evaluating this criterion, consideration shall be given to the purpose and objectives of the master plan, prevailing shopping patterns, convenience of access for patrons, continuity of development, and the need for particular services and facilities in specific areas of the City.
- B. **Criteria Applicable to Appeals:** The Zoning Board of Appeals shall reverse an order of an Enforcement Official only if it finds that the action or decision appealed (Also refer to Section 24.06A for decision criteria):
1. Was arbitrary or capricious, or
  2. Was based on an erroneous finding of a material fact, or
  3. Constituted an abuse of discretion, or
  4. Was based on erroneous interpretation of the Zoning Ordinance or zoning law.

5. Appeals from denial of Zoning Board of Zoning Appeals may be taken to Washtenaw County Circuit Court.

### **Section 24.07 ORDERS**

In exercising the above powers, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such an order, requirement decision, or determination as ought to be made, and to that end, shall have all the powers of the Zoning Administrator ~~administrative official or body~~ from whom the appeal is taken. ~~However, in the event that the Planning Commission representative has already voted on a matter which is now being appealed to the Zoning Board of Appeals, that member shall abstain from voting.~~

A member of the Zoning Board of Appeals who is also a member of the Planning Commission or City Council shall not participate in a public hearing on the same matter that the member voted on as a member of the Planning Commission or City Council. However, the member may consider and vote on other unrelated matters involving the same property.

~~A 2/3 vote of the members shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator matter upon which is authorized by this Ordinance to render a decision. Nothing contained herein shall be construed to give or grant to the Zoning Board of Appeals the power or authority to alter or change this Ordinance or the Zoning Map.~~ The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirements, decision, or determination of the administrative official or body, decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the Zoning Ordinance.

### **Section 24.08 NOTICE**

The Zoning Board of Appeals ~~of Appeals~~ shall make no determination, except in a specific case, until after a public hearing. Notice of the public hearing shall be published in the manner required by Section X.XX Notices.

### **Section 24.09 EFFECTIVENESS**

No order of the Zoning Board of Appeals permitting the erection of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and completed in accordance with the terms of such permit.

No order of the Zoning Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection

or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and completed in accordance with the terms of such permit.

### **Section 24.10 APPEAL OF BOARD OF ZONING APPEAL DECISION**

Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Washtenaw County Circuit Court as provided in Act 110 of Public Acts of Michigan of 2006, as amended. An appeal under this section shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision, whichever of the following deadlines comes first:

- A. Thirty days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson.
- B. Twenty-one days after the Zoning Board of Appeals approves the minutes of its decision.



## Article XXII

### ADMINISTRATION AND ENFORCEMENT

#### Section 22.01 - PURPOSE

It is the purpose of this article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators and enforcement of provisions of this Ordinance and amendments thereto.

#### Section 22.02 - ADMINISTRATION

The provisions of this Ordinance shall be administered by the Zoning Administrator, or their designee, to enforce the provisions of this Ordinance. The Zoning Administrator shall be appointed by the City Council. When the position of Zoning Administrator is vacant the City Manager shall act as Zoning Administrator until such time a Zoning Administrator is appointed by the City Council.

#### Section 22.03 - DUTIES AND POWERS OF THE ZONING ADMINISTRATOR

The Zoning Administrator shall have the following duties and powers.

- A. The Zoning Administrator shall interpret all provisions of this Ordinance.
- B. The Zoning Administrator shall enforce all provisions of this Ordinance and shall issue all necessary notices or orders to ensure compliance with said provisions.
- C. The Zoning Administrator shall receive applications for and issue certificates of zoning compliance in accordance with this Ordinance and shall sign certificates of occupancy as required herein.
- D. The Zoning Administrator shall make all inspections required by this Ordinance, and all inspections necessary to enforce this Ordinance, and may engage the assistance of the City Fire Chief, and Engineer as deemed necessary, in making such inspections. The Zoning Administrator may engage other expert opinion to assist in making such inspections subject to the approval of the City Council.
- E. The Zoning Administrator shall identify and process violations of this Ordinance. The Zoning Administrator shall be responsible for making periodic inspection of the city or parts thereof for the purpose of finding violations of this Ordinance.
- F. The Zoning Administrator shall keep official record of applications received, certificates issued, fees collected, reports of inspections, and notices and orders

issued.

- G. The Zoning Administrator shall submit to the City Council a quarterly report in which a summary of the activities of the office is presented.

## **Section 22.04 - CERTIFICATE OF ZONING COMPLIANCE**

A. **Purpose.** The certificate of zoning compliance signifies that, in the opinion of the Zoning Administrator, the intended use, building or structure complies with all provisions of this Ordinance. No building permit shall be issued unless certificates of zoning compliance have been issued. It shall be unlawful to change a type of use of land, to change the type of use or occupancy of any building or structure, or to extend any use on any lot on which there is a non-conforming use or structure, until a certificate of zoning compliance has been issued. No occupancy permit shall be issued for any lot, building, or structure that does not have a certificate of zoning compliance.

B. **Requirements.**

A.

1. Applications for certificates of zoning compliance shall be made to the Zoning Administrator. Each application shall include a description of the proposed use, specifications including a dimensional plot plan or site plan as required in Section 21.04 herein, or any other information requested by the Zoning Administrator necessary to determine zoning compliance. The Zoning Administrator may waive information requirements that do not affect compliance with the Ordinance. The Zoning Administrator shall retain the original documents in accordance with the City's document retention policy.
2. A certificate of zoning compliance shall be issued for a use or structure and the lot on which situated in which one or more legal non-conformities exist. In such case, the certificate of zoning compliance shall clearly list each legal non-conformity. A certificate of zoning compliance shall not be issued for any use or structure and the lot on which situated if any illegal non-conformity exists thereon.
3. Application for a certificate of zoning compliance may be made by the owner or lessee of the structure or lot, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work or operation. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work or operation is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee,

applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

4. Subject to the limitations of this section, amendments to a plan, application, or other records accompanying the same may be filed at any time before completion of the work for which the zoning compliance is issued. Such amendments shall be deemed part of the original application and shall be filed therewith.

C. ~~C.~~ **Issuance of a Certificate.** The Zoning Administrator shall examine or cause to be examined all applications and required supplemental materials for a certificate of zoning compliance and amendments thereto within seven days after filing. If the application or the plans do not conform to all requirements of this Ordinance, the Zoning Administrator shall reject such application in writing and state the reasons therefor. If the application or plans do so conform, the Zoning Administrator shall issue a certificate of zoning compliance as soon as possible. The Zoning Administrator shall attach his/her signature to every certificate, or may authorize a subordinate to affix such signature thereto. The Zoning Administrator shall stamp or endorse all sets of corrected and approved plans submitted with such applications as "Approved."

D. **Voiding of a Certificate.** An application for a certificate of zoning compliance shall be deemed to have been abandoned six months after the date of filing unless such application has been diligently prosecuted or a building permit shall have been issued, or a certificate of occupancy shall have been issued for a use not requiring a building permit. The Zoning Administrator may, for reasonable cause, grant one or more extensions of time for additional periods not exceeding 90 days each. Any certificate issued shall become invalid if the authorized work is suspended or abandoned for a period of six -months after time of commencing the work.

The Zoning Administrator may revoke a certificate of zoning compliance in case of any false statement or misrepresentation of fact in the application or on the plans on which the certificate was based.

## **Section 22.05 - BUILDING PERMITS**

No building permit shall be issued for the erection, alteration, moving or repair of any structure or part thereof which does not comply with all provisions of this Ordinance and unless a certificate of zoning compliance has been issued therefore by the Zoning Administrator and is in effect. No structure shall be erected, moved, added to, or structurally altered unless a building permit shall have been issued therefore by the Zoning Administrator.

**Section 22.06 - CERTIFICATES OF OCCUPANCY**

- A. **General Requirement.** It shall be unlawful to use or occupy or to permit the use or final zoning compliance of any structure or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of final zoning compliance has been issued t by the Zoning Administrator. A certificate of final zoning compliance shall not be approved until it has been signed by the Zoning Administrator, signifying compliance with all provisions of this Ordinance. A certificate of occupancy shall state the building, structure, lot, and use thereof, conform to the requirements of this ordinance, and shall list each legal non-conformity existing on the premises. Failure to obtain a certificate of occupancy when required shall be a violation of this Ordinance and punishable under Section 22.09, herein.
- B. **Change in Use.** A structure or part thereof shall not be changed to or occupied by a use different from that existing at the effective date of this Ordinance if a building permit is required, unless a certificate of occupancy is first issued for the different use.
- C. **Existing Structure and Use.** A certificate of occupancy shall be issued upon the request of the owner for an existing structure or part thereof, or for an existing use of land, including legal non-conforming uses and structures if, after inspection of premises, it is found that such structures or uses comply with all provisions of this Ordinance, or otherwise have legal non-conforming status. All legal non-conformities shall be clearly described on the certificate of occupancy. A certificate of occupancy shall not be issued for any premises on which illegal non-conformities exist.
- D. **Accessory Structures.** An accessory structure shall require a separate certificate of occupancy, unless included in the certificate of occupancy issued for the principal structure, when such accessory structure is completed under the same building permit as the principal structure.
- E. **Application.** Application for certificates of occupancy shall be made in writing to the Zoning Administrator on forms therefore furnished.
- F. **Certificate to Include Zoning.** Certificates of occupancy as required by the County Building Code for new buildings or structures, or parts thereof, or for alterations or repairs to existing buildings or structures, shall also constitute certificates of occupancy as required by this ordinance.
- G. **Temporary Certificates.** Where permitted under the County Building Code, a temporary certificate of occupancy may be issued provided that the temporary certificate is signed by the Zoning Administrator.

**Section 22.07 RECORDS**

The Zoning Administrator shall maintain records of all certificates and permits issued under this ordinance and said records shall be open for public inspection.

**Section 22.08 NOTICES**

Except as otherwise provided below, notices of hearings regarding zoning amendments, special land uses, and matters before the Zoning Board of Appeals shall be provided as required by the Zoning Enabling Act as follows:

A. **Newspaper Notice.** A notice shall be published in a newspaper of general circulation in the City At least not less than 15 days before the hearing.

B. **Notice Requirements.** At least 15 days before the hearing, notices shall be mailed or hand-delivered to the following:

1.      The applicant and the owner(s) of the property, if the applicant is not the owner.
2.      All persons to whom real property is assessed within 300 feet of the property for which approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the City.
3.      The occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within the City, except as set forth in Section 22.08 B.4.
4.      Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, 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.
5.      The notice under Section 22.08 is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service, or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

C. **Exemption.** Actions exempt from notification:

1.      Requirements for individual notice to property owners shall not apply to

Ordinance text amendments.

2. Requirement for individual as set forth in Section 3.05.B. does not apply to any group of adjacent properties numbering 11 or more that are proposed for rezoning.

D. **Content of Notice.** The notices shall:

1. Describe the nature of the request.
2. Identify any property that is the subject of the request. The notice shall include a listing of all existing street addresses and/or parcel ID numbers within the property. If there are not street addresses, other means of identification (including illustrations) may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

## **Section 22.09 FEES**

The City Council shall establish a schedule of fees, by resolution, for administering this Ordinance. The schedule of fees shall be posted on public display in the Office of the Zoning Administrator and may be altered or amended only by the City Council. No permit, certificate, space land use approval, or variance shall be issued unless or until such costs, charges, fees, or expenses listed in this Ordinance have been paid in full, nor shall any action be taken on proceedings before the Zoning Board of Appeals, unless or until charges and fees have been paid in full.

## **Section 22.10 COMPLIANCE WITH PLANS AND APPLICATIONS**

Building permits and certificates of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided in Section 22.10, herein.

## **Section 22.11 VIOLATIONS**

- A. A violation of this Ordinance shall be a Municipal Civil Infraction and shall be subject to the penalties established under the Municipal Civil Infraction Ordinance of the City of Dexter (Section 22-9). The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance nor prevent the Township from seeking injunctive relief or any other remedy available

under the law. It shall be the responsibility of the Zoning Administrator to initiate the procedure for removing or abating a violation of the Zoning Ordinance. Upon verification that a Zoning Ordinance violation exists, the Zoning Administrator shall:

1. Give notice of violation by mail or in person to the property owner and the property possessor/occupant (if any). Such notice shall identify the subject property, identify the nature of the violation and the applicable parts of the Zoning Ordinance, direct the discontinuance of the violation, and specify the time period, which will be allowed for abatement of the violation. Or,
2. Issue a "Stop Work Order" if any one of the following apply:
  - a. A zoning permit has not been issued.
  - b. Work in progress does not comply with the plan of the zoning permit.

The stop work order shall contain the same information required for the notice of violation (paragraph A.1., above). In addition the stop work order shall contain the time of day that the order is issued, shall order all persons to stop work immediately, and shall state that failure to comply with the order or removal of the posted order may result in criminal prosecution. If work is progressing at the time of issuance of the stop work order, the order shall be shown to all persons performing work. A copy of the order shall be posted on the property at a point visible from the street and shall be of a distinctive bright color.

The Zoning Administrator shall cancel a notice of violation or remove and cancel a stop work order when his/her re-inspection confirms that the violation originally cited has been abated and that no new violation exists. A copy of the cancellation will be mailed or hand delivered to the property owner and the occupant if different from the owner.

- B. If work continues after posting of the stop work order or the noted violation has not been rectified within the time period afforded, the Zoning Administrator is authorized to issue a Municipal Civil Infraction violation notice per Section 22-9 of the City of Dexter General Code. Any person who violates any provision of this section shall be responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in Section 22-9 of the City of Dexter General Code.
- C. **Public Nuisance Per Se.** Any structure which is erected, altered, or converted, or any use of any structure or lot which is commenced or changed after the effective date of this Ordinance, in violation of any of the provisions herein, is declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

## Section 22.41-12 PERFORMANCE GUARANTEE

- A. A performance guarantee shall be provided by the applicant to the City. The guarantee shall be provided after a final site plan and/or zoning compliance certificate is approved, but prior to issuance of a certificate of final zoning compliance, or as determined by the Zoning Administrator, for any improvements to be covered by the site plan. The guarantee shall cover site improvements shown on the approved final site plan, which will not be completed prior to issuance of the certificate of final zoning compliance. Site improvements shall include but not be limited to: streets, and drives, parking lots, sidewalks, street signage, grading, required landscaping, required screens storm drainage, exterior lighting, trash enclosures, utilities and any other information shown on the approved final site plan.
- B. The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and such estimate shall be verified as to the amount by the City Engineer. The form of the guarantee shall be approved by the City Attorney.
- C. If the applicant shall fail to provide any site improvement according to the approved plans within the time period specified in the guarantee, the City Council shall have the authority to have such work completed. The City Council may reimburse itself for the cost of such work, including administrative costs, by appropriating funds from the deposited security, or may require performance by the bonding company.
- D. If a cash deposit is used, the applicant and the City Zoning Administrator shall decide at the time of the deposit on the means of rebating portions of the deposit in proportion to the amount of work completed on the covered improvements. All required inspections for improvements for which the cash deposit is to be rebated shall have been made before any rebate shall be made.
- E. The Zoning Administrator may refuse to ~~sign~~ sign a certificate of final zoning compliance in order to achieve compliance with the approved final site plan, and approved engineering plans related thereto. In such cases, a certificate of final zoning compliance shall be signed by the Zoning Administrator upon compliance with the approved plans or upon provision of adequate security to guarantee compliance following occupancy.

## Section 22.42-13 DEVELOPMENT AGREEMENTS

- A. **Development Agreement Requirement.** ~~Prior to~~ Following the approval of a site plan, special land use, planned unit development, or conditional rezoning, an applicant shall execute a development agreement, in a form approved by the City, specifying all the terms and understandings relative to the proposed development. Development agreements following the approval of site plans or special land uses shall be at the City's discretion. All costs incurred by the City, including attorney

fees, in drafting and approving the development agreement shall be paid by the applicant.

**B. Minimum Terms.** The content of the agreement shall outline the specifics of the proposed development, but shall at a minimum provide the following terms:

1.      A survey of the acreage involved in the proposed development.
2.      A description of the ownership of the subject property.
3.      A land use description, including a specific description of the proposed uses, density, lot dimensions, setbacks, and other dimensional standards.
4.      Proposed method of dedication or mechanism to protect areas designated as common areas, open spaces, or conservation areas.
5.      Description of required improvements to common areas, recreational facilities, and non-motorized pathways.
6.      General description of any improvements to roads or utilities.
7.      Mechanisms to ensure the continued maintenance of common areas, including but not limited to roadways, sidewalks, lighting, landscaping, utilities, and other site improvements.
8.      Provisions assuring that open space areas shown on the plan for use by the public or residents of the development will be irrevocably committed for that purpose. The City may require conveyances or other documents to be placed in escrow to accomplish this.
9.      Provisions for the future financing of any improvement shown on the plan as site improvements, open space areas, and common areas, which are to be included within the development, and that maintenance of such improvements is assured by means satisfactory to the City.
10.     Provisions to ensure adequate protection of natural features.
11.     Financial assurances in accordance with Section 22.11 Performance Guarantee, to guarantee the completion of all site improvements.
12.     Requirements that the applicant maintain insurance coverage during development in amounts established by the City, naming the City as an additional insured, and required insurance provisions after the development is completed.
13.     The site plan, special land use, planned unit development, or conditional rezoning shall be incorporated by reference and attached as an exhibit.

14. Description of the timing to complete the development of the project. If the project is to be developed in phases, a timeline to complete the construction of each phase.
15. An acknowledgement by the applicant that the terms and conditions of the approval are fair, reasonable, and equitable, and that the terms and conditions do not violate any constitutional rights, and that the applicant freely agrees to be bound by each condition and provision of the development agreement.

## Article IV

### NON-CONFORMITIES

#### Section 4.01 INTENT

Certain existing lots, structures, and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such legal non-conforming lots, structures, or uses to continue until they are removed, but not to encourage their survival or where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various districts.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided work shall be diligently carried on until completion of the building involved.

#### Section 4.02 NON-CONFORMING LOTS OF RECORD

Any non-conforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record -at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance requests from district yard requirements may be applied for through the City of Dexter Zoning Board of Appeals.

If two or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes

compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by a dwelling unit.

Upon application, the Zoning Administrator may permit the combination, in whole or in part, of non-conforming lots of record into building sites less than the size requirements established by this Ordinance, provided that the combination of lots reduces the degree of non-conformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area, setback, and side yard requirements of this Ordinance.

### **Section 4.03 NON-CONFORMING USES OF LAND**

The lawful use of any land existing on the effective date of this Ordinance or amendment thereto, may be continued even though such use does not conform to the provisions of this Ordinance or amendments subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If such non-conforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. Where non-conforming off-street parking, landscaping, signage, fences, and other similar land uses exist, those uses shall be made to conform to the terms of this Ordinance when any legal use, principal or accessory, located on the land in question is established or expanded in such a manner that would necessitate site plan review and approval in accordance with Article XXII.

### **Section 4.04 NON-CONFORMING BUILDINGS AND STRUCTURES**

Where a lawful building or structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. **Restriction on Creating Non-conformities:** No such building or structure may be enlarged or altered in a way which increases its non-conformity.

- B. **Restriction on Movement:** Should such structure be moved for any reason or for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- C. **Restrictions on Alteration or Modification:** If a non-conforming structure or building is altered or modified so as to eliminate, remove, or lessen any or all of its non-conforming characteristics, then such non-conforming characteristics shall not be later re-established or increased. The Zoning Board of Appeals shall determine if a proposed alteration should decrease the degree of non-conformity.
- D. **Restrictions on Replacements:** Nothing in this Ordinance shall prevent the reconstruction, repair, or restoration and the continued use of any non-conforming structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this Ordinance.

Any non-conforming building which has been damaged substantially or destroyed may be repaired, rebuilt or replaced within 18 months of such damage or destruction, provided that such repairs or rebuilding or replacement does not extend or expand the previously existing non-conforming structure.

Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the fire or act of God is fully removed, the premises shall be fenced and secured from pedestrian or unauthorized access.

#### **FOR DISCUSSION:**

A non-conforming structure, except a single-family dwelling and its accessory structures, which are damaged by any means to an extent of more than 50% of its replacement cost, shall not be reconstructed except in conformity with the regulations of the district in which it is located. Any non-conforming structure, except single-family dwellings and their accessory structures, that is damaged to an extent of 50% or less of its replacement cost, may be replaced in its location existing prior to such damage, provided replacement is commenced within 18 months of date of damage and is diligently pursued to completion. Failure to commence replacement within 18 months shall result in the loss of legal non-conforming status.

Non-conforming structures may be replaced or expanded in accordance with the following requirements:

1. A single-family dwelling unit and permitted accessory structures may be replaced or expanded, subject to the following standards:
  - a. The dwelling is a permitted use in the district in which it is located; and
  - b. Any expansion shall meet yard, lot coverage, floor area ratio, and impervious surface regulations of the zoning district in which it is located.

2. All other non-conforming structures, in any zoning district, may be expanded only after approval by the Zoning Board of Appeals, as provided in Section 24.05 F.

## Section 4.05 NON-CONFORMING USES OF STRUCTURES AND LAND

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. **Prohibition on Enlargement of a Building Housing Non-conforming Use:** No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. **Extension Throughout Building:** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. **Changing Use:** If no structural alterations are made, any non-conforming use of a structure, or structure and land in combination, may be changed to another non-conforming use of the same or a more restricted classification provided that the Zoning Board of Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- D. **Prohibition of Re-establishment if Replaced by Conforming Use:** A non-conforming use of any structure which is replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- E. **Discontinuance or Termination of Non-conforming Use of Structure:** When a non-conforming use is discontinued or ceases to exist for six consecutive months the non-conforming -structure or use of land shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be ~~excepted~~ exempt from this provision. ~~Appeals for continuation of such uses shall be provided and determined by making application to the City of Dexter Zoning Board of Appeals.~~

- F. **Repairs to Non-conforming Use:** On any building devoted in whole, or in part, to any non-conforming use, work may be done in any period of 18 consecutive months on ordinary repairs, improvements, or modernization, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to correct deterioration, obsolescence, depreciation and wear. Such repairs, improvements, replacement, or modernization activities shall be permitted providing the total area (in square feet) of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Repairs begun within the required 18 consecutive months but not completed upon the expiration of the permitted time period may be completed provided the repairs have been issued and approved and valid building permit and the work has continued without interruption to eventual completion.
- G. **Safety Repair.** Nothing in the Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building, or part, thereof declared unsafe by an official charged with protecting public safety, upon order of such official.

**FOR DISCUSSION:**

If a structure devoted in whole or in part to a non-conforming use is destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed and again be devoted to any use except in conformity with the regulations of the district in which it is located.

**Section 4.06 NON-CONFORMING SITES**

The purpose of this Section is to encourage improvements to existing sites in the City that were developed before the site design standards of this Chapter were established or amended. This section establishes standards for prioritizing improvements to existing sites that are intended to gradually bring the site into compliance with current zoning ordinance standards. Non-conforming sites may be improved or modified without a complete upgrade of all site elements, subject to the following conditions:

1. A non-conforming site shall not be improved or modified in a manner that increases its non-conformity.
2. The proposed site improvements shall resolve public safety deficiencies, including building and fire code violations, emergency access, and pedestrian/vehicle conflicts.
3. The proposed site improvements shall include exterior lighting, landscaping, screening, and building improvements that are in reasonable proportion to the scale and construction cost of the proposed building improvements, expansions, or other improvements.
4. The proposed site improvements shall include the installation, restoration, or expansion of sidewalks within the through the site, where appropriate.

5. A reasonable timeline for completion of site improvements to an existing non-conforming site may be approved as part of any plan approval. Failure to complete improvements in accordance with an approved timeline shall be deemed a violation of the approved site plan.

### **Section 4.06-07 GENERAL REQUIREMENTS**

- A. **Structure and Land in Combination.** Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
- B. **Illegal Non-conforming Uses:** Those alleged non-conforming uses which cannot be proven conclusively to have been in existence prior to the date of the enactment or amendment of this Ordinance shall be declared illegal uses and shall be discontinued following the enactment of this subsection.

### **Section 4.07-08 USES UNDER EXCEPTION PROVISIONS NOT NON-CONFORMING USES**

Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district.

### **Section 4.08-09 CHANGE OF TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures and land in combination provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.

### **Section 4.10-10 ACQUISITION OF NON-CONFORMING USES**

The City Council may acquire private property, or an interest in private property, to remove a non-conformity, as provided in Act 207, PA of 1921, as amended.