

**CITY OF DEXTER  
PLANNING COMMISSION  
VIRTUAL MEETING  
MONDAY, NOVEMBER 2, 2020**

**I. CALL TO ORDER AND ROLL CALL**

The Virtual Meeting of the Planning Commission was called to order at 7:00 PM by Chairman Matt Kowalski with roll call.

Matt Kowalski – Attending remotely in the City of Dexter, Michigan.  
Thomas Phillips – Attending remotely in the City of Dexter, Michigan.  
Marni Schmid - Absent  
Jim Carty - Attending remotely in the City of Dexter, Michigan.  
Alison Heatley - Absent  
Chet Hill - Attending remotely in the City of Dexter, Michigan.  
Kyle Marsh - Attending remotely in the City of Dexter, Michigan.  
Karen Roberts - Attending remotely in the City of Dexter, Michigan.  
James Smith - Attending remotely in the City of Dexter, Michigan.

Student Reps:     Charlotte Hawley - Absent  
                          Eleanor King - Absent  
                          Aidan Haughton - Attending remotely in the City of Dexter, MI.

Also present: Michelle Aniol, Community Development Manager; Mike Auerbach, Assistant Planner; Carol Jones, Recording Secretary; and Megan Masson-Minock, CWA.

**II. APPROVAL OF THE MINUTES**

1. Virtual Regular Meeting Minutes – October 5, 2020

Motion Smith; support Roberts to approve the minutes as presented.

Ayes: Carty, Marsh, Phillips, Smith, Hill, Roberts and Kowalski  
Nays: None  
Absent: Heatley and Schmid  
Motion carries

**III. APPROVAL OF THE AGENDA**

Motion Smith; support Roberts to approve the agenda with items from Planning Commissioners Schmid and Marsh added to the VIII – Communications.

Ayes: Phillips; Smith, Roberts, Marsh, Carty, Hill and Kowalski  
Nays: None  
Absent: Schmid and Heatley  
Motion carries

#### **IV. PUBLIC HEARING**

None

#### **V. PRE-ARRANGED CITIZEN PARTICIPATION**

None

#### **VI. CITIZENS WISHING TO ADDRESS THE COMMISSION**

None

#### **VII. REPORTS**

##### **A. Chairman Report – Matt Kowalski**

Chairman Kowalski welcomed Chet Hill to the Planning Commission. Mr. Hill, a retired landscape architect, talked about his interest in the City of Dexter and living in the town during the 1970's and then moving back to the town in 2004.

##### **B. Planning Commissioners and Council Ex-Officio Reports**

None

##### **C. Committee Reports**

None

##### **D. Community Development Office Reports – Michelle Aniol**

Ms. Aniol submits her report as per packet and provided the following updates:

- Justin Breyer will assume the role of Interim City Manager when Ms. Nicholls leaves.
- The two tents temporarily, erected by Dexter's Pub and the Beer Grotto, in the on-street parking spaces in downtown, are permitted until the end of November. Those businesses can resume seating on the sidewalk, as before, if they so choose.
- The City adopted a resolution establishing a Social District, as a way to continue to help the businesses. Input from the businesses is needed to develop a maintenance and monitoring plan for the social district.
- After the first of the year, Phantom Fireworks Company should be submitting an application for a temporary structure to sell fireworks for two-weeks in the summer.

#### **VIII. COMMUNICATIONS**

- ##### **A. Email from Commissioner Schmid suggested edits/suggestions for the proposed outdoor service area Text Amendments.**

- B. Supplemental information for the November 2, 2020 meeting from Commissioner Kyle Marsh.

## **IX. OLD BUSINESS**

- A. Zoning Ordinance Update – The Commission reviewed and discussed the sub-committee job description and project schedule, prepared by CWA. A committee of three members from Planning Commission, one from City Council, and possible one from ZBA was agreed upon. Commissioners Marsh, Phillips and Roberts volunteered to represent Planning Commission on the sub-committee.

## **X. NEW BUSINESS**

- A. Discussion – Text Amendments to Zoning Ordinance regarding Outdoor Service Areas.

Ms. Aniol reported on the Outdoor Service Area text amendments and the areas where the Outdoor Service Area is applicable. The definitions have been expanded to have consistency to include Outdoor Service Area, Outdoor Storage, and outdoor display with the purpose to cleanup and refine the text amendments. Discussion followed with an agreement to hold at Public Hearing on the Text Amendments at the December 7, 2020 meeting.

### **B. PC Liaison to ZBA**

Motion Smith; support Carty to appoint Commissioner Chet Hill as the Liaison to the ZBA.

Ayes: Hill, Roberts, Smith, Phillips, Carty and Kowalski

Nays: None

Absent: Schmid, Heatley and Marsh (left meeting at 7:50 PM)

## **XI. PROPOSED BUSINESS FOR MONDAY, DECEMBER 7, 2020:**

- A. Public hearings for Text Amendments to the Zoning Ordinance:

1. Kennels & Pet Ownership
2. Outdoor Service Areas (f/k/a Outdoor Seating)

- B. Possible Joint Meeting with City Council and ZBA on December 21, 2020

## **XII. CITIZENS WISHING TO ADDRESS THE COMMISSION**

Aidan Naughton, Student Representative, commented that he is looking forward in seeing what the City can do for outdoor seating areas.

## **XIII. ADJOURNMENT**

Motion Carty; support Roberts to adjourn at 7:58 PM.

Unanimous voice vote approval with Planning Commissioners Schmid, Heatley and Marsh absent.

Respectfully submitted,

Carol J. Jones  
Recording Secretary

Approved for Filing: \_\_\_\_\_



## OFFICE OF COMMUNITY DEVELOPMENT

8140 Main Street • Dexter, Michigan 48130-1092 • (734) 426-8303 • Fax (734) 426-5614

### STAFF MEMO

**To:** Chairman Kowalski and the Planning Commission  
Justin Breyer, Interim City Manager/Clerk

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

**Re:** AP2020.21-03 Outdoor Service Areas Zoning Ordinance Text Amendments

**Date:** December 2, 2020

The Planning Commission is scheduled to conduct a public hearing on Monday, December 7, 2020. The purpose of the public hearing is to consider proposed text amendments to the City of Dexter Zoning Ordinance that will remove outdoor seating/eating area as a special land use and establish outdoor services areas as a principal use. The proposed amendments define Accessory Outdoor Service Areas, make Accessory Outdoor Service Areas a permitted accessory use in specific zoning districts, with a zoning compliance permit and annual renewal through administrative review, and establish a set of general regulations for their operation.

#### Proposed Text Amendments

The proposed Zoning Ordinance text amendments are listed below. Text to be added is underlined; ~~strikeout~~ text is to be deleted. A clean copy of the proposed amendments accompanies this memorandum.

#### Article II:

##### Section 2.01 INTERPRETATION

For the purpose of this Ordinance, certain term or word uses shall be interpreted as follows:

- A. The word ~~person~~ "person" includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual.
- B. The present tense includes the future tenses. the singular number includes the plural and the plural includes the singular.
- C. The word ~~shall~~ "shall" is mandatory, the word ~~may~~ "may" is permissive. The words "used" or "occupied" include the words ~~intended~~ "intended", ~~designed~~ "designed", or ~~arranged~~ "arranged" to be ~~used or occupied~~ "used or occupied".
- D. Any word or term not defined herein shall have the meaning of common or standard use, which is reasonable for context in which used herein.
- E. Questions of interpretation arising hereunder shall be decided by the Zoning Administrator whose decision may be appealed to the Zoning Board of Appeals.

##### Section 2.02 DEFINITIONS

**Accessory use or accessory:** A use, which is, clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. Accessory use includes, but it is not limited to uses such as those that follow:

- A. Residential accommodations for servants and/or caretakers within the principal building.

- B. Accessory short-term rental housing. See "Housing, Accessory Short-Term Rental."
- C. Accessory outdoor service areas. See "Outdoor Service Areas".
- D. Swimming pools for the use of the occupants of a residence, or their guests.
- ~~DE.~~ Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
- ~~EE.~~ Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- ~~FG.~~ Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- ~~GH.~~ Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
- ~~HJ.~~ Uses clearly incidental to a principal use such as offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- ~~IJ.~~ Accessory signs, subject to the City Sign Ordinance for the district in which the zoning lot is located.

**Automobile or vehicle dealership:** ~~A business establishment building or premises used primarily for the sale of that sells or leases new or used automobiles, trucks, vans, trailers, recreation vehicles, boats, or motorcycles or other similar motorized transportation vehicles. An automobile or vehicle dealership may maintain an outdoor display of inventory of -new and/or used automobiles and other motor vehicles to include outside storage of vehicles for sale or lease. Accessory uses to an automobile or vehicle dealership may exist on-site, such as, but not limited to maintenance, repair and service areas, and parts storage, all within an enclosed building.~~

**Medical Marihuana Home Occupation:** ~~Means the cultivation of medical marihuana by a registered primary caregiver as defined in Sec. 3 of the Act, MCL §333.26423(g), within a dwelling unit that is the registered primary caregiver's primary residence and which cultivation is in conformity with the restrictions and regulations contained in the Act, as amended and in the MDCH Administrative Regulations.~~

**Open Air Business uses:** ~~Business and commercial uses conducted solely outside of any building. Unless otherwise specified herein, open air business shall include: retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil trellises, lawn furniture, and Christmas trees and outdoor displays of structure and vehicles sold on the premises. See Outdoor Display.~~

**Outdoor Display:** ~~The placement of any item(s) outside of a building for decorative display and/or accessible to the public for the purpose of sale, rent, lease or exhibit. Unless otherwise specified herein, outdoor display businesses include, but are not limited to building/lumber supply, contractors' yards, flea markets, auctions, garden/landscape supplies and equipment, nurseries, greenhouses, stone, farm implements, automobiles, trucks, recreational vehicles, mobile homes, boats, jet skis, mowing equipment, construction equipment and other similar materials or equipment.~~

**Outdoor Service Area:** ~~A porch, patio, deck, sidewalk, or other area of land used for seated dining and beverage service, or retail display, which is directly adjacent and accessory to, but not located within the interior building walls of food and/or beverage establishments or retail establishments.~~

**Outdoor storage:** ~~The keeping, outside of an storage of any materials not fully enclosed within a building, of any goods, junk, material merchandise or vehicles that are directly related to the principal use on the same property, excluding trash containers, for a period of in the same place for more than 24 hours.~~

## Article III, GENERAL PROVISIONS

### SECTION 3.28 OUTDOOR SERVICE AREA (OSA)

#### A. Purpose

1. An Outdoor Service Area (OSA) provides a unique environment for relaxation, food and beverage consumption, and retail shopping, which encourages pedestrian activity and contributes to a vital shopping area.

#### B. Permit Required

1. No person shall operate an OSA without first obtaining a Zoning Compliance Permit.
2. All OSA permits shall be issued on a calendar year basis and shall expire on December 31<sup>st</sup>, unless another time frame is specified in the permit, or by the requirements of this Section, the permit shall allow the operation of an OSA for the entire calendar year for which the permit is issued. All permits shall be reapplied for annually, for administrative review.
3. The application and annual permit fee for operating an OSA shall be established by Resolution of City Council.

#### C. Application Requirements

1. All applications for an OSA permit or permit renewal shall be filed with the City of Dexter Zoning Administrator on forms provided by the Zoning Administrator, subject to the requirements of Section 22.04(B).
2. All applications for an OSA permit or permit renewal shall include the following:
  - i. A location sketch that identifies the dimensions of the OSA, including the width of the public sidewalk, as applicable, the location of an OSA in relation to the business it will serve, the entrance to the business, adjacent properties (include addresses) and their building entrances, as well the location of existing landscaping, street trees, catch basins, fire hydrants, and other utilities.
  - ii. Photographs, drawings or manufacturers brochures fully describing the appearance of all proposed tables, chairs, umbrellas, awnings, canopies, or other fixtures related to the OSA, including but not limited to portable heaters, and other fixtures used during colder weather, shall be included with the application.
  - iii. A signed Hold Harmless Agreement as provided by the City.
3. In addition to the documents listed above, permit applications for an OSA proposed in a public right-of-way or on other public property shall be accompanied by a Certificate of Liability Insurance, in an amount acceptable to the City, including workers compensation, and naming the City as an additionally insured. An OSA in which alcohol is served shall also provide a liquor liability policy or certificate of insurance naming the City as an additionally insured.

#### C. General Regulations

1. The City may restrict the hours of operation for an OSA immediately adjacent to residential uses

2. For an OSA located on a public sidewalk, a minimum of ten feet of sidewalk width must be provided, of which a minimum of five feet must be maintained free of any encumbrances, to allow for unobstructed pedestrian access along the sidewalk, as well as ingress/egress to the principal use for which the OSA is accessory.
3. An OSA and the areas immediately adjacent to the OSA shall be kept clean and free of litter at all times.
4. OSA permittees licensed to serve alcoholic beverages in an OSA shall provide a removable enclosure such as, but not limited to, planters, posts with ropes, or other decorative equipment to define and secure the OSA for consumption.
5. Extended awnings or canopies attached to the building within which the OSA permittees principal use is located, may be allowed, and shall be complementary with the architecture and color of said building.
6. Tables, chairs, umbrellas, planters, trash receptacles, and other elements of street furniture shall be compatible with the architectural character of the building where the OSA is located.
7. OSA street furniture shall be of substantial weight so that at no time shall the OSA furniture present an obstruction or risk to public safety, especially during inclement weather. All umbrellas shall be closed or removed each evening.
8. All OSA furniture shall be maintained in a manner that is compatible with the principal building's site elements, i.e. signs, awnings and walls. No broken, peeling, rusting or other aesthetic elements should be left outdoors for continued use.
9. The City of Dexter reserves the right to deny, revoke or suspend an OSA permit if the permittee has failed to correct violations of the OSA permit within the time specified on the violation notice. If the City denies, revokes, or suspends the permit the City will notify the permittee in writing. The decision to deny, revoke, or suspend a permit may be appealed to the City Council. Variances from the OSA standards must be appealed before the Zoning Board of Appeals.

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## ARTICLE VIII, SPECIAL LAND USES

### SECTION 8.11 SPECIAL LAND USE SPECIFIC REQUIREMENTS

The following sections identify specific requirements, which shall be complied with by individual Special Land Uses, as determined by the Planning Commission and City Council, in addition to the general standards of Section 8.03.

**A. Listing:** Special Land Uses with specific site and/or use standards described on the following pages:

1. Accessory apartment on upper floors of commercial buildings
2. Accessory apartment in a single-family home
3. Accessory use or storage of hazardous materials
- ~~4. Accessory commercial outdoor sales or storage (see commercial outdoor sales)~~
- ~~5.4.~~ Adult regulated uses
- ~~6.5.~~ Arcades and similar devices at public commercial mechanical amusement device centers
- ~~6.~~ Automobile or vehicle dealerships
7. Automobile service centers (minor repair) and major auto repair establishments
8. Automobile service (gasoline) stations including those accessory to another use

9. Automobile washes, automatic or self-service
10. Banks, credit unions, savings and loan institutions with three or more drive-through lanes
11. Cemeteries
12. Churches
- ~~13. Commercial outdoor sales or storage (as permitted or accessory use)~~
- ~~14.13.~~ Essential public service buildings and structures
- ~~15.14.~~ Essential public service storage yards
- ~~16.15.~~ Funeral Homes
- ~~17.16.~~ General and specialty hospitals
- ~~18.17.~~ Group day care homes
- ~~19.18.~~ Housing for the elderly, retirement Villages, etc.
- ~~20.19.~~ Kennels, commercial
- ~~21.20.~~ Motels, hotels including accessory convention/meeting facilities and restaurants
- ~~22.21.~~ Nursing and convalescent homes
- ~~23. Open air business see commercial outdoor display, sales and storage~~
- ~~24. Outdoor eating areas~~
- ~~22. Outdoor display~~
- ~~23. Outdoor storage~~
- ~~25.24.~~ Recreation: Commercial outdoor establishments (excluding golf related uses)
- ~~26.25.~~ Recreation: Indoor commercial recreation (bowling alleys, ice areas, skating rinks, etc.)
- ~~27.26.~~ Recreation: Private, non-commercial institutional or community recreation facilities, and swimming pool clubs.
- ~~28.27.~~ Residential cluster development
- ~~29.28.~~ Restaurants and other establishments with drive-in or drive-thru facilities
- ~~30.29.~~ Vacation rental housing
- ~~31.30.~~ Veterinary Clinics and hospitals

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## ARTICLE XIV C-1 GENERAL BUSINESS DISTRICT

### SECTION 14.02 PERMITTED PRINCIPAL USES

- A. Retail sale of foods, drugs, hardware notions, books and similar convenience goods.
- B. Personal service, include barber shops and beauty salons; medical and dental clinics; self-service laundromats; sale and repair shops for watches, shoes, radios, televisions and home electronics, bicycle repair, tailor shop and music studio.
- C. Business, professional and medical offices.
- D. Stores and shops for the conducting of a service or retail business.
- ~~E.~~ Restaurants
- ~~E.F.~~ Outdoor Service Area (OSA), in accordance with Article III, Section 3.28.
- ~~F.G.~~ Any service establishment of an office-showroom workshop nature of an electrician, decorator,

dressmaker, tailor, baker, printer, upholsterer or an establishment doing radio or home electronics or appliance repair, photographic reproduction and similar service establishments that require a retail adjunct.

~~G.H.~~ Theaters and studios for professional work.

~~H.I.~~ Private clubs, fraternal organizations and lodge halls.

~~I.J.~~ Business schools and colleges, or private schools operated for profit.

~~J.K.~~ Financial Institutions.

~~K.L.~~ Off-street parking in accordance with the regulations of ARTICLE V.

~~L.M.~~ Signs in accordance with the regulations of ARTICLE VII.

### Section 14.03 SPECIAL USES

The following uses may be permitted, upon review and approval by the City Council in accordance with the general standards for all Special Land Uses listed in Section 8.03, and the standards for the specific use listed in Section 8.11.

A. Restaurants and other establishments with drive-in or drive-thru facilities.

~~B. Commercial outdoor sales and open air business uses. Outdoor display.~~

~~B.C. Outdoor storage.~~

~~C.D.~~ Indoor commercial recreation such as bowling alleys, billiard halls, archery ranges, tennis courts, skating rinks, and arcades.

~~D.E.~~ Funeral homes.

~~E.F.~~ Mechanical amusement device centers and arcades as a principal or accessory use if there are more than four (4) such devices.

~~F.G.~~ Automobile service (gasoline) stations when developed as part of a larger planned shopping center with shared access and similar architecture.

~~G.H.~~ Essential public service building and storage yards.

~~H.I.~~ Accessory commercial outdoor sales and storage.

~~I.J.~~ Bars serving alcohol.

~~J.K. Showroom and sales of new automobiles and the display and sale of used cars when in conjunction with a showroom and sale of new units thereof; and repair of same when in conjunction with a showroom and sales of new units thereof. Automobile and vehicle dealership.~~

~~K. Outdoor Seating at Restaurants only.~~

L. Cleaning establishments when in compliance with fire regulations and all other City ordinances relating thereto.

M. Used car lots.

N. Small animal clinic.

O. Automobile service center.

P. Adult regulated uses.

Q. Single family, two family and multiple family dwelling units above the ground floor.

R. A dwelling unit of a resident manager or owner is permitted on the ground floor.

S. Motels & hotels.

T. Automatic or ~~self-serve~~ car wash.

~~U.~~ Mixed Use Developments.

~~U.V.~~ Government or Community Owned Buildings

~~Government or Community Owned Buildings~~

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## ARTICLE XV VC VILLAGE COMMERCIAL DISTRICT

### SECTION 15.02 PRINCIPAL PERMITTED USES

A. Retail establishments for the sale of such products as art/supplies, hardware, books, stationary, flowers, clothing, shoes, music, sporting goods, painting and wallpaper supplies, drugs, and notions, gifts, and home entertainment supplies and rental, and similar specialty retail shops.

B. Personal service establishments such as barber shops, beauty salons, and dry cleaners; including repair shops for watches, bicycles, jewelry, and other such items.

C. Food establishments, retail up to 2,000 square feet of gross floor: such as for the sale of groceries, fruit, meat and fish; baked goods; and dairy products.

D. Restaurants, sit down which do or do not serve alcohol.

~~E.~~ Outdoor eating Service Areas (OSA), in accordance with Article III, Section 3.28.

~~EF.~~ Banks, savings and loan institutions, and credit unions without drive up windows.

~~FG.~~ Business and professional offices such as administrative, legal, architecture, engineering, insurance, real estate, accounting, medical, dental, Computer and Internet Services and other similar offices.

~~GH.~~ Printing and photographic reproduction establishments.

~~HI.~~ Public buildings and offices, post offices, museums, libraries and community centers and Senior Centers.

~~IJ.~~ Schools, commercial: such as dance, art, and music.

~~JK.~~ Theaters, cinemas.

~~KL.~~ Residential dwellings on upper floors only when commercial/retail and office uses are within a building.

~~LM.~~ Off-street parking and loading see Article V.

~~AN.~~ Signs subject to the provisions of Article VII.

~~NO.~~ Live/Work Units, subject to the regulations in Article III, Section 3.25.

~~OP.~~ Bed and breakfasts in accordance with Article III, Section 3.26.

~~PQ.~~ Accessory short-term rental housing in accordance with Article III, Section 3.27.

~~QR.~~ Uses or structures accessory to principal permitted uses.

### Section 15.03 SPECIAL USES

The following uses may be permitted upon review by the Planning Commission and approval by the City Council in accordance with the general standards for all Special Land Uses listed in Section 8.03, and the standards for the specific uses listed in Section 8.11.

A. Food establishments, retail over 2,000 square feet of gross floor area but not to exceed 10,000 square feet of gross floor area: such as for the sale of groceries, fruit and meat; baked goods; and dairy products.

- B. Restaurants, carryout.
  - C. Bars/Taverns/Lounges.
  - D. Vocational and technical training facilities.
  - E. Banks, savings and loan institutions, and credit unions with drive-up windows.
  - F. Service Establishments of an office/workshop/retail outlet or showroom nature, such as plumbing, electrician, interior decorating, dressmaking, tailoring, upholstering, hose appliance and similar establishments of similar character subject to the provision that not more than fifty (50) percent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities.
  - ~~G. Outdoor eating areas.~~
  - ~~H.G.~~ Small animal clinics
  - ~~H.H.~~ Private clubs, fraternal organizations, and lodge halls.
  - ~~J.I.~~ Vacation rental housing.
  - ~~K.J.~~ All buildings over 10,000 square feet gross floor area require a special use permit per Article 8.
  - ~~K.K.~~ Commercial outdoor recreational facilities, such as, but not limited to, canoe/kayak/liveries, concession stands, swimming pools; provided that any necessary facilities or accessory buildings, structures or uses are constructed and located so as to cause minimal encroachment and/or intrusion upon any natural resource area, and to minimize any negative effects on adjacent residential properties. The standards of Section 8.11, sub-section B.27 shall not apply to commercial outdoor recreation facilities in the VC Zoning District. (effective 2016-12-28)
  - ~~M.L.~~ Multiple-Family Dwellings
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## **ARTICLE XV(A) CBD CENTRAL BUSINESS DISTRICT**

### **SECTION 15(A).02 PERMITTED USES**

The dimensional standards and required conditions of this overlay district shall apply simultaneously with the list of uses permitted or regulated as Special Uses in the underlying district. All uses shall meet the applicable standards for the CBD District listed in Section 15.04(A) and Article XX, Schedule of Regulations.

- A. Retail establishments for the sale of such products as art/supplies, hardware, books, stationary, flowers, clothing, shoes, music, sporting goods, painting and wallpaper supplies, drugs, and notions, gifts, and home entertainment supplies and rental, and similar specialty retail shops.
- B. Personal service establishments such as barber shops, beauty salons, and dry cleaners: including repair shops for watches, bicycles, jewelry, and other such items.
- C. Food establishments, retail up to 2000 square feet of gross floor: such as for the sale of groceries, fruit and meat; baked goods; and dairy products.
- ~~D.~~ Restaurants, sit down which do or do not serve alcohol.
- ~~E.~~ ~~Outdoor cafes and eating~~ ~~Service Areas (OSA)~~, in accordance with Article III, Section 3.28.
- ~~A.~~
- ~~D.F.~~ Banks, savings and loan institutions, and credit unions without drive up windows.
- ~~E.G.~~ Business and professional offices such as administrative, legal, architecture, engineering, insurance, real estate, accounting, medical, dental, and other similar offices.
- ~~F.H.~~ Printing and photographic reproduction establishments.

- ~~G.I.~~ Public buildings and offices, post offices, museums, libraries, community centers, and Senior Centers.
- ~~H.J.~~ Schools, commercial: such as dance, art, and music.
- ~~I.K.~~ Theaters, cinemas.
- ~~J.L.~~ An integration of upper floor residential, commercial/retail, and office uses within a building.
- ~~K.M.~~ Off-street parking and loading, see Article V.
- ~~L.N.~~ Signs subject to the provisions of Article VII.
- ~~M.O.~~ Bed and breakfasts in accordance with Article III, Section 3.26.
- ~~N.P.~~ Accessory short-term rental housing in accordance with Article III, Section 3.27.
- ~~O.Q.~~ Uses or structures accessory to principal permitted uses.

### Section 15(A).03 SPECIAL USES

The following uses may be permitted upon review by the Planning Commission and approval by the City Council in accordance with the general standards for all Special Land Uses listed in section 8.03, and the standards for the specific uses listed in Section 8.11.

- A. Food establishments, retail over 2000 square feet of gross floor area but not to exceed 20,000 square feet of gross floor area: such as for the sale of groceries, fruit and meat; baked goods; and dairy products.
- B. Restaurants, carryout.
- C. Bars/Taverns/Lounges.
- D. Banks, savings and loan institutions, and credit unions with drive up windows.
- E. Service Establishments of an office/workshop/retail outlet or showroom nature, such as plumbing, electrician, interior decorating, dressmaking, tailoring, upholstering, home appliance and other establishments of similar character subject to the provision that not more than fifty (50) percent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities.
- F. Indoor Recreation
- ~~G.A. Outdoor cafes and eating areas.~~
- ~~H.G.~~ Small animal clinics.
- ~~I.H.~~ Vacation rental housing.
- I. All buildings over 20,000 square feet gross floor area require a special use permit per Article 8.

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### ARTICLE XVII RD RESEARCH AND DEVELOPMENT DISTRICT SECTION 17.03 SPECIAL LAND USES

- (F) Tasting Room, subject to the following provisions:
  - 1. A tasting room shall be accessory to a wine, beer and/or other alcoholic beverage manufacturing facility, licensed as such by the State of Michigan.
  - 2. The square footage of the tasting room shall not exceed 15% of the gross floor area of the principal facility.
  - 3. A tasting room licensee may be permitted to operate an ~~accessory~~-outdoor ~~eating-service~~ area, subject to the following:

- (a) ~~The requirements in Section 8.11.B(25) Article III, Section 3.28, as applicable, unless otherwise cited herein.~~
  - (b) The maximum size of the ~~accessory~~-outdoor ~~eating-service~~ area shall not exceed 20,000 square feet.
  - (c) The entrance to an ~~accessory~~-outdoor ~~eating-service~~ area shall be located no more than 25 feet from the entrance to a tasting room.
  - (d) An ~~accessory~~-outdoor eating ~~area-service~~ shall be well-defined and clearly marked using decorative planters, posts with ropes, live landscape materials, such as an evergreen screen and/or other similar means to enclose the outdoor eating area.
  - (e) The consumption of alcoholic beverages outside of the ~~accessory~~-outdoor ~~seating service~~ area enclosure shall be prohibited.
  - (f) An ~~accessory~~-outdoor ~~eating-service~~ areas may include decorative outdoor lighting, provided such lighting shall be limited to half an hour before the use to half an hour after service, not create glare that negatively impacts public safety or adjacent properties and shall be secured in a manner to prevent trip or electrical hazards.
  - (g) Hours of operation shall be consistent with the hours of operation of the tasting room.
  - (h) All other federal, state, and local approvals.
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### Text Analysis and Review Criteria

As established in Section 23.06 of the Zoning Ordinance, the Planning Commission and City Council must consider zoning ordinance text amendments according to the following criteria:

- A. Documentation has been provided from City Staff or the Zoning Board of Appeals indicating problems and conflicts in implementation of specific sections of the Ordinance.

*Staff Comments: The Planning Commission will recall in 2017 Aubree's and Dexter Pub (separately) wanted to amend its outdoor seating area special land use approval. For Aubree's, it was to relocate its outdoor seating area, so that it was directly adjacent to front of the building, from which it operated. The request was made after skateboarders and bicyclists had run into Aubree's waitstaff and customers. Even though the request would serve to protect the public health, safety and welfare, due to the conditions of special land use approval, and by extension the approved site plan, staff (i.e. Zoning Administrator) did not have the authority to approved the request administratively.*

*For Dexter's Pub, it had expanded its outdoor seating area without approval and was violation of its special land use permit and approved site plan. The Planning Commission asked staff to consult with the City Attorney. At that time, the City Attorney recommended that the Planning Commission and City Council consider amending the Zoning Ordinance to eliminate the special land use requirement for outdoor seating. In his opinion, the process was more cumbersome and time consuming than is warranted.*

- B. Reference materials, planning and zoning publications, information gained at seminars or experiences of other communities demonstrate improved techniques to deal with certain zoning issues, or that the City's standards are outdated.

*Staff Comments: If COVID 19 has taught us nothing else, it's taught us to, not only consider allowing land uses we might not have allowed pre-COVID, but we also learned that allowing them, subject to administrative review and approval, does not compromise the health, safety, welfare of the community.*

For example:

- *Allowing the conversion of public on-street parking spaces on Main Street for use as expanded outdoor eating/drinking and retail display areas, was unthinkable, pre-COVID. Not only was that conversion permitted on a temporary basis this year (through emergency ordinances), City Council is already discussing the possibility of doing it next year and possibly into the future (through a permanent ordinance).*
- *Prior to COVID the very idea of outdoor eating/drinking in the winter was not even a blip on anyone's radar; even though an approved outdoor seating special land use permit is valid for an entire year. This year having an outdoor seating area operational through the winter is not a luxury. It's widely viewed as an economic lifeline for downtown businesses.*

*That reality prompted the Michigan Economic Development Corporation (MEDC) to develop a "[Winter Strategies for Downtowns and Business Districts](#)" guide. The Guide is designed to help communities get a jumpstart on winter planning, while offering creative solutions, ways to dialogue with community stakeholders and offering a foundation for embracing winter as a season of prosperity. The Guide incorporates the National Trust for Historic Preservation Main Street Model – Four Point Approach, which focuses on organization, promotion, design and economic vitality to incrementally make downtown and communities strong, vibrant, and economically healthy. The Guide establishes seven principles of winter city planning:*

- Provide or enhance opportunities for winter outdoor activity;*
- Improve winter transportation for pedestrian, cyclists and public transit users;*
- Design for winter safety and comfort;*
- Snow Management;*
- Vegetation and landscaping;*
- Lighting and Color; and*
- Make winter a positive asset to attract business, tourism and new residents.*

*The Guide recommends Identifying local zoning ordinances, zoning, and policies to determine if any updates are needed to support and accommodate creative efforts and new initiatives, as one of 3 steps required to implement the seven guiding principles.*

C. The City Attorney recommends an amendment to respond to significant case law.

*See Staff Comments in criteria A, above.*

D. The amendment would promote implementation of the goals and objectives of the City's Master Plan.

*Staff Comments:* *The recently adopted Master Plan Update established an economic development goal to "Provide quality, job producing economic development for a diverse economy within the City". Strategies to implement that goal, include the following:*

- *Promote and coordinate activities aimed at improving the business climate within the City*
- *Plan for and promote tourism for the City of Dexter*

*An amendment to allow accessory outdoor service areas as a by-right use in certain commercial/business districts, subject to administrative review would help implement the stated goal and objectives cited herein.*

**In summary...**

Amending the zoning ordinance, as proposed:

- Would eliminate a costly, cumbersome and time-consuming process, while still protecting public health, safety and welfare;
- Would immediately help local businesses now and in the future;
- Has been recommended by the city attorney;
- Would help implement the economic goals and strategies in the City's Master Plan.

**Suggested Motions**

Staff have prepared the following suggested motions; 1) to recommend approval or denial of the proposed zoning ordinance text amendments as presented, 2) to recommend approval of the proposed text amendments with modifications, or 3) to postpone action on the proposed text amendments.

1. Pursuant to Section 23.06 of the City of Dexter Zoning Ordinance, together with the information presented by staff and the input received during the public hearing conducted by the Planning Commission on December 7, 2020, the Planning Commission recommends City Council **(approve/deny)** AP2020.21-03 Outdoor Service Area Zoning Ordinance Text Amendments, as provided herein.
2. Pursuant to Section 23.06 of the City of Dexter Zoning Ordinance, together with the information presented by staff and the input received during the public hearing conducted by the Planning Commission on December 7, 2020, the Planning Commission recommends that City Council **approve** AP2020.21-03 Outdoor Service Area Zoning Ordinance Text Amendments, as cited herein, **subject to the following changes (identify sections to remove and/or sections and text to modify):**
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  4. \_\_\_\_\_
3. Based on the information presented by staff and the input received during the public hearing conducted by the Planning Commission on December 7, 2020, the Planning Commission moves to **postpone** the action on AP2020.21-03 Outdoor Service Area Zoning Ordinance Text Amendments as provided herein until **(date)** to allow more time to address the following:
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_

Please feel free to contact me prior to the meeting if you have any questions.



## OFFICE OF COMMUNITY DEVELOPMENT

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### Proposed Text Amendments (clean copy)

#### Article II:

#### Section 2.01 INTERPRETATION

For the purpose of this Ordinance, certain term or word uses shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual.
- B. The present tense includes the future tenses. the singular number includes the plural and the plural includes the singular.
- C. The word "shall" is mandatory, the word "may" is permissive. The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be "used or occupied".
- D. Any word or term not defined herein shall have the meaning of common or standard use, which is reasonable for context in which used herein.
- E. Questions of interpretation arising hereunder shall be decided by the Zoning Administrator whose decision may be appealed to the Zoning Board of Appeals.

#### Section 2.02 DEFINITIONS

**Accessory use or accessory:** A use, which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. Accessory use includes, but it is not limited to uses such as those that follow:

- A. Residential accommodations for servants and/or caretakers within the principal building.
- B. Accessory short-term rental housing. See "Housing, Accessory Short-Term Rental."
- C. Accessory outdoor service areas. See "Outdoor Service Areas".
- D. Swimming pools for the use of the occupants of a residence, or their guests.
- E. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
- F. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- G. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- H. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
- I. Uses clearly incidental to a principal use such as offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- J. Accessory signs, subject to the City Sign Ordinance for the district in which the zoning lot is located.

**Automobile or vehicle dealership:** A business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreation vehicles, boats, or motorcycles or other similar motorized transportation vehicles. An automobile or vehicle dealership may maintain an outdoor display of inventory of new and/or used vehicles for sale or lease. Accessory uses to an automobile or vehicle dealership may exist on-site, such as, but not limited to maintenance, repair and service areas, and parts storage, all within an enclosed building.

**Open Air Business Uses:** See Outdoor Display.

**Outdoor Display:** The placement of any item(s) outside of a building for decorative display and/or accessible to the public for the purpose of sale, rent, lease or exhibit. Unless otherwise specified herein, outdoor display businesses include, but are not limited to building/lumber supply, contractors' yards, flea markets, auctions, garden/landscape supplies and equipment, nurseries, greenhouses, stone, farm implements, automobiles, trucks, recreational vehicles, mobile homes, boats, jet skis, mowing equipment, construction equipment and other similar materials or equipment.

**Outdoor Service Area:** A porch, patio, deck, sidewalk, or other area of land used for seated dining and beverage service, or retail display, which is directly adjacent and accessory to, but not located within the interior building walls of food and/or beverage establishments or retail establishments.

**Outdoor storage:** The storage of any materials not fully enclosed within a building that are directly related to the principal use on the same property, excluding trash containers, for a period of more than 24 hours.

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### **Article III, GENERAL PROVISIONS**

#### **SECTION 3.28 OUTDOOR SERVICE AREA (OSA)**

- A. Purpose
1. An Outdoor Service Area (OSA) provides a unique environment for relaxation, food and beverage consumption, and retail shopping, which encourages pedestrian activity and contributes to a vital shopping area.
- B. Permit Required
1. No person shall operate an OSA without first obtaining a Zoning Compliance Permit.
  2. All OSA permits shall be issued on a calendar year basis and shall expire on December 31<sup>st</sup>, unless another time frame is specified in the permit, or by the requirements of this Section, the permit shall allow the operation of an OSA for the entire calendar year for which the permit is issued. All permits shall be reapplied for annually, for administrative review.
  3. The application and annual permit fee for operating an OSA shall be established by Resolution of City Council.
- C. Application Requirements
1. All applications for an OSA permit or permit renewal shall be filed with the City of Dexter Zoning Administrator on forms provided by the Zoning Administrator, subject to the requirements of Section 22.04(B).
  2. All applications for an OSA permit or permit renewal shall include the following:
    - i. A location sketch that identifies the dimensions of the OSA, including the width of the public sidewalk, as applicable, the location of an OSA in relation to the business it will serve, the entrance to the business, adjacent properties (include addresses) and their building entrances, as well the location of existing landscaping, street trees, catch basins, fire hydrants, and other utilities.

- ii. Photographs, drawings or manufacturers brochures fully describing the appearance of all proposed tables, chairs, umbrellas, awnings, canopies, or other fixtures related to the OSA, including but not limited to portable heaters, and other fixtures used during colder weather, shall be included with the application.
  - iii. A signed Hold Harmless Agreement as provided by the City.
3. In addition to the documents listed above, permit applications for an OSA proposed in a public right-of-way or on other public property shall be accompanied by a Certificate of Liability Insurance, in an amount acceptable to the City, including workers compensation, and naming the City as an additionally insured. An OSA in which alcohol is served shall also provide a liquor liability policy or certificate of insurance naming the City as an additionally insured.

C. General Regulations

1. The City may restrict the hours of operation for an OSA immediately adjacent to residential uses
  2. For an OSA located on a public sidewalk, a minimum of ten feet of sidewalk width must be provided, of which a minimum of five feet must be maintained free of any encumbrances, to allow for unobstructed pedestrian access along the sidewalk, as well as ingress/egress to the principal use for which the OSA is accessory.
  3. An OSA and the areas immediately adjacent to the OSA shall be kept clean and free of litter at all times.
  4. OSA permittees licensed to serve alcoholic beverages in an OSA shall provide a removable enclosure such as, but not limited to, planters, posts with ropes, or other decorative equipment to define and secure the OSA for consumption.
  5. Extended awnings or canopies attached to the building within which the OSA permittees principal use is located, may be allowed, and shall be complementary with the architecture and color of said building.
  6. Tables, chairs, umbrellas, planters, trash receptacles, and other elements of street furniture shall be compatible with the architectural character of the building where the OSA is located.
  7. OSA street furniture shall be of substantial weight so that at no time shall the OSA furniture present an obstruction or risk to public safety, especially during inclement weather. All umbrellas shall be closed or removed each evening.
  8. All OSA furniture shall be maintained in a manner that is compatible with the principal building's site elements, i.e. signs, awnings and walls. No broken, peeling, rusting or other aesthetic elements should be left outdoors for continued use.
  9. The City of Dexter reserves the right to deny, revoke or suspend an OSA permit if the permittee has failed to correct violations of the OSA permit within the time specified on the violation notice. If the City denies, revokes, or suspends the permit the City will notify the permittee in writing. The decision to deny, revoke, or suspend a permit may be appealed to the City Council. Variances from the OSA standards must be appealed before the Zoning Board of Appeals.
-

**ARTICLE VIII, SPECIAL LAND USES**  
**SECTION 8.11 SPECIAL LAND USE SPECIFIC REQUIREMENTS**

The following sections identify specific requirements, which shall be complied with by individual Special Land Uses, as determined by the Planning Commission and City Council, in addition to the general standards of Section 8.03.

- A. Listing:** Special Land Uses with specific site and/or use standards described on the following pages:
1. Accessory apartment on upper floors of commercial buildings
  2. Accessory apartment in a single- family home
  3. Accessory use or storage of hazardous materials
  4. Adult regulated uses
  5. Arcades and similar devices at public commercial mechanical amusement device centers
  6. Automobile or vehicle dealerships
  7. Automobile service centers (minor repair) and major auto repair establishments
  8. Automobile service (gasoline) stations including those accessory to another use
  9. Automobile washes, automatic or self-service
  10. Banks, credit unions, savings and loan institutions with three or more drive-through lanes
  11. Cemeteries
  12. Churches
  13. Essential public service buildings and structures
  14. Essential public service storage yards
  15. Funeral Homes
  16. General and specialty hospitals
  17. Group day care homes
  18. Housing for the elderly, retirement Villages, etc.
  19. Kennels, commercial
  20. Motels, hotels including accessory convention/meeting facilities and restaurants
  21. Nursing and convalescent homes
  22. Outdoor display
  23. Outdoor storage
  24. Recreation: Commercial outdoor establishments (excluding golf related uses)
  25. Recreation: Indoor commercial recreation (bowling alleys, ice areas, skating rinks, etc.)
  26. Recreation: Private, non-commercial institutional or community recreation facilities, and swimming pool clubs.
  27. Residential cluster development
  28. Restaurants and other establishments with drive-in or drive-thru facilities
  29. Vacation rental housing
  30. Veterinary Clinics and hospitals
-

**ARTICLE XIV C-1 GENERAL BUSINESS DISTRICT**  
**SECTION 14.02 PERMITTED PRINCIPAL USES**

- A. Retail sale of foods, drugs, hardware notions, books and similar convenience goods.
- B. Personal service, include barber shops and beauty salons; medical and dental clinics; self-service laundromats; sale and repair shops for watches, shoes, radios, televisions and home electronics, bicycle repair, tailor shop and music studio.
- C. Business, professional and medical offices.
- D. Stores and shops for the conducting of a service or retail business.
- E. Restaurants
- F. Outdoor Service Area (OSA), in accordance with Article III, Section 3.28.
- G. Any service establishment of an office-showroom workshop nature of an electrician, decorator, dressmaker, tailor, baker, printer, upholsterer or an establishment doing radio or home electronics or appliance repair, photographic reproduction and similar service establishments that require a retail adjunct.
- H. Theaters and studios for professional work.
- I. Private clubs, fraternal organizations and lodge halls.
- J. Business schools and colleges, or private schools operated for profit.
- K. Financial Institutions.
- L. Off-street parking in accordance with the regulations of ARTICLE V.
- M. Signs in accordance with the regulations of ARTICLE VII.

**Section 14.03 SPECIAL USES**

The following uses may be permitted, upon review and approval by the City Council in accordance with the general standards for all Special Land Uses listed in Section 8.03, and the standards for the specific use listed in Section 8.11.

- A. Restaurants and other establishments with drive-in or drive-thru facilities.
- B. Outdoor display.
- C. Outdoor storage.
- D. Indoor commercial recreation such as bowling alleys, billiard halls, archery ranges, tennis courts, skating rinks, and arcades.
- E. Funeral homes.
- F. Mechanical amusement device centers and arcades as a principal or accessory use if there are more than four (4) such devices.
- G. Automobile service (gasoline) stations when developed as part of a larger planned shopping center with shared access and similar architecture.
- H. Essential public service building and storage yards.
- I. Accessory commercial outdoor sales and storage.
- J. Bars serving alcohol.
- K. Automobile and vehicle dealership.
- L. Cleaning establishments when in compliance with fire regulations and all other City ordinances relating thereto.

- M. Used car lots.
  - N. Small animal clinic.
  - O. Automobile service center.
  - P. Adult regulated uses.
  - Q. Single family, two family and multiple family dwelling units above the ground floor.
  - R. A dwelling unit of a resident manager or owner is permitted on the ground floor.
  - S. Motels & hotels.
  - T. Automatic or self-serve car wash.
  - U. Mixed Use Developments.
  - V. Government or Community Owned Buildings
- 

**ARTICLE XV VC VILLAGE COMMERCIAL DISTRICT**  
**SECTION 15.02 PRINCIPAL PERMITTED USES**

- A. Retail establishments for the sale of such products as art/supplies, hardware, books, stationary, flowers, clothing, shoes, music, sporting goods, painting and wallpaper supplies, drugs, and notions, gifts, and home entertainment supplies and rental, and similar specialty retail shops.
- B. Personal service establishments such as barber shops, beauty salons, and dry cleaners; including repair shops for watches, bicycles, jewelry, and other such items.
- C. Food establishments, retail up to 2,000 square feet of gross floor: such as for the sale of groceries, fruit, meat and fish; baked goods; and dairy products.
- D. Restaurants, sit down which do or do not serve alcohol.
- E. Outdoor Service Area (OSA), in accordance with Article III, Section 3.28.
- F. Banks, savings and loan institutions, and credit unions without drive up windows.
- G. Business and professional offices such as administrative, legal, architecture, engineering, insurance, real estate, accounting, medical, dental, Computer and Internet Services and other similar offices.
- H. Printing and photographic reproduction establishments.
- I. Public buildings and offices, post offices, museums, libraries and community centers and Senior Centers.
- J. Schools, commercial: such as dance, art, and music.
- K. Theaters, cinemas.
- L. Residential dwellings on upper floors only when commercial/retail and office uses are within a building.
- M. Off-street parking and loading see Article V.
- N. Signs subject to the provisions of Article VII.
- O. Live/Work Units, subject to the regulations in Article III, Section 3.25.
- P. Bed and breakfasts in accordance with Article III, Section 3.26.
- Q. Accessory short-term rental housing in accordance with Article III, Section 3.27.
- R. Uses or structures accessory to principal permitted uses.

### **Section 15.03 SPECIAL USES**

The following uses may be permitted upon review by the Planning Commission and approval by the City Council in accordance with the general standards for all Special Land Uses listed in Section 8.03, and the standards for the specific uses listed in Section 8.11.

- A. Food establishments, retail over 2,000 square feet of gross floor area but not to exceed 10,000 square feet of gross floor area: such as for the sale of groceries, fruit and meat; baked goods; and dairy products.
  - B. Restaurants, carryout.
  - C. Bars/Taverns/Lounges.
  - D. Vocational and technical training facilities.
  - E. Banks, savings and loan institutions, and credit unions with drive-up windows.
  - F. Service Establishments of an office/workshop/retail outlet or showroom nature, such as plumbing, electrician, interior decorating, dressmaking, tailoring, upholstering, hose appliance and similar establishments of similar character subject to the provision that not more than fifty (50) percent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities.
  - G. Small animal clinics
  - H. Private clubs, fraternal organizations, and lodge halls.
  - I. Vacation rental housing.
  - J. All buildings over 10,000 square feet gross floor area require a special use permit per Article 8.
  - K. Commercial outdoor recreational facilities, such as, but not limited to, canoe/kayak/liveries, concession stands, swimming pools; provided that any necessary facilities or accessory buildings, structures or uses are constructed and located so as to cause minimal encroachment and/or intrusion upon any natural resource area, and to minimize any negative effects on adjacent residential properties. The standards of Section 8.11, sub-section B.27 shall not apply to commercial outdoor recreation facilities in the VC Zoning District. (effective 2016-12-28)
  - L. Multiple-Family Dwellings
- 

### **ARTICLE XV(A) CBD CENTRAL BUSINESS DISTRICT**

#### **SECTION 15(A).02 PERMITTED USES**

The dimensional standards and required conditions of this overlay district shall apply simultaneously with the list of uses permitted or regulated as Special Uses in the underlying district. All uses shall meet the applicable standards for the CBD District listed in Section 15.04(A) and Article XX, Schedule of Regulations.

- A. Retail establishments for the sale of such products as art/supplies, hardware, books, stationary, flowers, clothing, shoes, music, sporting goods, painting and wallpaper supplies, drugs, and notions, gifts, and home entertainment supplies and rental, and similar specialty retail shops.
- B. Personal service establishments such as barber shops, beauty salons, and dry cleaners: including repair shops for watches, bicycles, jewelry, and other such items.
- C. Food establishments, retail up to 2000 square feet of gross floor: such as for the sale of groceries, fruit and meat; baked goods; and dairy products.
- D. Restaurants, sit down which do or do not serve alcohol.
- E. Outdoor Service Area (OSA), in accordance with Article III, Section 3.28.
- F. Banks, savings and loan institutions, and credit unions without drive up windows.

- G. Business and professional offices such as administrative, legal, architecture, engineering, insurance, real estate, accounting, medical, dental, and other similar offices.
- H. Printing and photographic reproduction establishments.
- I. Public buildings and offices, post offices, museums, libraries, community centers, and Senior Centers.
- J. Schools, commercial: such as dance, art, and music.
- K. Theaters, cinemas.
- L. An integration of upper floor residential, commercial/retail, and office uses within a building.
- M. Off-street parking and loading, see Article V.
- N. Signs subject to the provisions of Article VII.
- O. Bed and breakfasts in accordance with Article III, Section 3.26.
- P. Accessory short-term rental housing in accordance with Article III, Section 3.27.
- Q. Uses or structures accessory to principal permitted uses.

#### **Section 15(A).03 SPECIAL USES**

The following uses may be permitted upon review by the Planning Commission and approval by the City Council in accordance with the general standards for all Special Land Uses listed in section 8.03, and the standards for the specific uses listed in Section 8.11.

- A. Food establishments, retail over 2000 square feet of gross floor area but not to exceed 20,000 square feet of gross floor area: such as for the sale of groceries, fruit and meat; baked goods; and dairy products.
  - B. Restaurants, carryout.
  - C. Bars/Taverns/Lounges.
  - D. Banks, savings and loan institutions, and credit unions with drive up windows.
  - E. Service Establishments of an office/workshop/retail outlet or showroom nature, such as plumbing, electrician, interior decorating, dressmaking, tailoring, upholstering, home appliance and other establishments of similar character subject to the provision that not more than fifty (50) percent of the total useable floor area of the establishment shall be used for servicing, repairing, or processing activities.
  - F. Indoor Recreation
  - G. Small animal clinics.
  - H. Vacation rental housing.
  - I. All buildings over 20,000 square feet gross floor area require a special use permit per Article 8.
- 

#### **ARTICLE XVII RD RESEARCH AND DEVELOPMENT DISTRICT SECTION 17.03 SPECIAL LAND USES**

- (F) Tasting Room, subject to the following provisions:
  - 1. A tasting room shall be accessory to a wine, beer and/or other alcoholic beverage manufacturing facility, licensed as such by the State of Michigan.
  - 2. The square footage of the tasting room shall not exceed 15% of the gross floor area of the principal facility.
  - 3. A tasting room licensee may be permitted to operate an outdoor service area, subject to the following:

- (a) Article III, Section 3.28, as applicable, unless otherwise cited herein.
- (b) The maximum size of the outdoor service area shall not exceed 20,000 square feet.
- (c) The entrance to an outdoor service area shall be located no more than 25 feet from the entrance to a tasting room.
- (d) An outdoor eating service shall be well-defined and clearly marked using decorative planters, posts with ropes, live landscape materials, such as an evergreen screen and/or other similar means to enclose the outdoor eating area.
- (e) The consumption of alcoholic beverages outside of the outdoor service area enclosure shall be prohibited.
- (f) An outdoor service area may include decorative outdoor lighting, provided such lighting shall be limited to half an hour before the use to half an hour after service, not create glare that negatively impacts public safety or adjacent properties and shall be secured in a manner to prevent trip or electrical hazards.
- (g) Hours of operation shall be consistent with the hours of operation of the tasting room.
- (h) All other federal, state, and local approvals.

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## OFFICE OF COMMUNITY DEVELOPMENT

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### Memorandum

**To:** Chairman Kowalski and the Planning Commission  
Justin Breyer, Interim City Manager/Clerk  
Michelle Aniol, Community Development Manager

**From:** Mike Auerbach, Assistant Planner

**Re:** AP2020.21-05 Commercial Kennel Zoning Ordinance Text Amendments

**Date:** December 1, 2020

The Planning Commission is scheduled to conduct a public hearing during its' December 7, 2020 virtual regular meeting to consider text amendments to the City of Dexter Zoning Ordinance. The purpose of the text amendments is to reconcile conflicting language between the Zoning Ordinance and General Code, and clarify that residents who own four or more pets are not required to obtain special land use approval and an annual zoning compliance permit. The amendments would also establish an annual permit requirement for commercial kennels under the Zoning Ordinance, which is currently required under the General Code but would be removed under a corresponding General Code amendment.

#### Proposed Text Amendments

The proposed Zoning Ordinance text amendments are listed below. Text to be added is underlined; ~~strikeout~~ text is to be deleted. A clean copy accompanies this memorandum.

#### Section 2.02 – Definitions:

Kennel, Commercial: Any lot or premises on which four (4) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, or training subject to the regulations set forth herein regulating ~~private and~~ commercial kennels. Residents that own pets, as defined herein, are not considered commercial kennels.

#### Section 8.11(B)(20) – Kennels, Commercial:

- a. For kennels housing dogs, the minimum lot size shall be ten acres.
- b. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located nearer than 100 feet to property lines and shall not be located in any required front, rear or side yard setback area.
- c. Such facilities shall be subject to other conditions and requirements necessary to prevent possible nuisances (i.e., fencing, sound-proofing, sanitary requirements).
- d. An operations/management plan shall be submitted to the City.
- e. No person shall operate a commercial kennel without first obtaining a Zoning Compliance Permit. All commercial kennel permits expire December 31 of the current year, and must be renewed annually through administrative review. The annual permit fee for establishing and maintaining a commercial kennel shall be established by City Council resolution.

### **Corresponding General Code Text Amendment**

City Council will hold a public hearing on December 14, 2020 to consider the following corresponding amendment to the City's General Code of Ordinances.

#### **Section 10-38. – Pet Ownership:**

- (a) Pet ownership of certain animals expressly owned by any residents shall be permitted in residential districts and shall include:
  - (1) Small animals (legal, nonprotected species) confined solely within the dwelling proper (e.g., rodents, birds and reptiles);
  - (2) Marine (fish) species except those prohibited by protective law;
  - (3) Domesticated dogs and household cats as single pets providing, they are in compliance with the ordinance.
- (b) Keeping, possession, or harboring of live hogs, cows, sheep, goats, or any species of equines is prohibited.
- (c) Keeping, possession, or harboring of protected species, except as federally approved, is prohibited. Keeping, possession, or harboring undomesticated animals of a wild or feral nature, or larger than a house cat, is prohibited.
- ~~(d) Any resident who keeps four or more dogs and/or cats shall be required to first obtain a special use permit from the city council after a public hearing held in the manner required for special use permits under the provisions of the zoning ordinance of the city.~~

~~[sic] Any resident who keeps four or more dogs and/or cats shall annually, on or before the first day of January, apply for and obtain from the city zoning official a zoning compliance permit, which application shall certify under oath that the applicant is in full compliance with all the provisions of this article and all other ordinances pertaining to the keeping of dogs and cats in the city. The fee for such permit shall be as established by resolution of the city council.~~

(Ord. No. 2010-04, 10-11-2010)

#### **Text Analysis and Review Criteria**

As established in Section 23.06 of the Zoning Ordinance, the Planning Commission and City Council must consider zoning ordinance text amendments according to the following criteria:

- A. Documentation has been provided from City Staff or the Board of Zoning Appeals indicating problems and conflicts in implementation of specific sections of the Ordinance.

Staff Comments: Staff provided a memo in the Planning Commission's October 5, 2020 meeting packet which described the conflict between the City's Zoning Ordinance and General Code requirements for commercial kennel operations and pet ownership, and recommended that the Planning Commission and Council consider amendments to reconcile the conflict.

- B. Reference materials, planning and zoning publications, information gained at seminars or experiences of other communities demonstrate improved techniques to deal with certain zoning issues, or that the City's standards are outdated.

Staff Comments: The proposed amendments will reconcile conflicting ordinance requirements and are consistent with current best practices, to the best of staffs' knowledge.

- C. The City Attorney recommends an amendment to respond to significant case law.

Staff Comments: The City Attorney has reviewed the Zoning Ordinance and General Code sections mentioned above, and recommends that the City consider a simple text amendment to clarify that the special land use approval and annual permit requirements apply to Commercial Kennels, and not residents who keep pets.

- D. The amendment would promote implementation of the goals and objectives of the City's Master Plan.

Staff Comments: While the Master Plan does not include language specific to Commercial Kennels or pet ownership, the proposed amendments are based on the Commission's October 5, 2020 feedback to staff about how the ordinance language should be clarified, and what requirements should be established for Commercial Kennels and pet owners.

In summary, Commissioners supported exempting residents who own pets from the special land use and annual permit requirement, and did not support alternative pet ownership requirements such as a limit on the number of animals (specifically dogs) that residents can own in a dwelling. The Commission also seemed to be in consensus that the City's noise and nuisance ordinance provisions are the most appropriate way to address excessive barking and other pet-related complaints.

*(Suggested Motions on Next Page)*

### Suggested Motions

Staff have prepared the following suggested motions to recommend approval or denial of the proposed zoning ordinance text amendments as presented, to recommend approval of the proposed text amendments with modifications, or to postpone action on the proposed text amendments.

1. Pursuant to Section 23.06 of the City of Dexter Zoning Ordinance and based on input received during the public hearing conducted by the Planning Commission on December 7, 2020, the Planning Commission recommends that City Council **(approve/deny)** AP2020.21-05 Commercial Kennel Zoning Ordinance Text Amendments as provided in the December 7, 2020 Planning Commission meeting packet.
  
2. Pursuant to Section 23.06 of the City of Dexter Zoning Ordinance and based on input received during the public hearing conducted by the Planning Commission on December 7, 2020, the Planning Commission recommends that City Council **approve** AP2020.21-05 Commercial Kennel Zoning Ordinance Text Amendments as provided in the December 7, 2020 Planning Commission meeting packet **with the following changes (identify sections to remove and/or sections and text to modify):**
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  
3. Based on the information presented by staff and the input received during the public hearing conducted by the Planning Commission on December 7, 2020, the Planning Commission moves to **postpone** the action on AP2020.21-05 Commercial Kennel Zoning Ordinance Text Amendments as provided in the December 7, 2020 Planning Commission meeting packet until **(date)** to allow more time for the following:
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_

Please feel free to contact me prior to the meeting if you have any questions.



## OFFICE OF COMMUNITY DEVELOPMENT

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### Proposed Text Amendments (clean copy)

#### **Section 2.02 – Definitions:**

Kennel, Commercial: Any lot or premises on which four (4) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, or training subject to the regulations set forth herein regulating commercial kennels. Residents that own pets, as defined herein, are not considered commercial kennels.

#### **Section 8.11(B)(20) – Kennels, Commercial:**

- a. For kennels housing dogs, the minimum lot size shall be ten acres.
- b. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located nearer than 100 feet to property lines and shall not be located in any required front, rear or side yard setback area.
- c. Such facilities shall be subject to other conditions and requirements necessary to prevent possible nuisances (i.e., fencing, sound-proofing, sanitary requirements).
- d. An operations/management plan shall be submitted to the City.
- e. No person shall operate a commercial kennel without first obtaining a Zoning Compliance Permit. All commercial kennel permits expire December 31 of the current year, and must be renewed annually through administrative review. The annual permit fee for establishing and maintaining a commercial kennel shall be established by City Council resolution.

#### **Corresponding General Code Text Amendment**

City Council will hold a public hearing on December 14, 2020 to consider the following corresponding amendment to the City's General Code of Ordinances.

#### **Section 10-38. – Pet Ownership:**

- (a) Pet ownership of certain animals expressly owned by any residents shall be permitted in residential districts and shall include:
  - (1) Small animals (legal, nonprotected species) confined solely within the dwelling proper (e.g., rodents, birds and reptiles);
  - (2) Marine (fish) species except those prohibited by protective law;
  - (3) Domesticated dogs and household cats as single pets providing, they are in compliance with the ordinance.
- (b) Keeping, possession, or harboring of live hogs, cows, sheep, goats, or any species of equines is prohibited.
- (c) Keeping, possession, or harboring of protected species, except as federally approved, is prohibited. Keeping, possession, or harboring undomesticated animals of a wild or feral nature, or larger than a house cat, is prohibited.