RESIDENTIAL USES AND REQUIREMENTS SUMMARY
NOTE: SEE TEXT FOR ACTUAL REGULATIONS. THIS SUMMARY IS FOR OVERALL REVIEW ONLY
**ASTERISK INDICATES REGULATIONS TOO LENGTHY FOR SUMMARY ON TABLE*

	PERMITTED USES	SPECIAL USES	MIN. LOT AREA PER DWELLING UNIT	MIN. LOT WIDTH	REQUIRED YARDS (ft.)	MAX. LOT COVERAGE	MIN. GROUND FLOOR AREA	MAX. HEIGHT
R-1 One-Family Residence District	1 Fam. Detached Dwellings Public Parks & Rec. Home Occupations Schools Churches	Cemeteries Colleges Golf Courses P.U.D.'s Public Service Uses	Residences 8400 sq. ft. Non-res. 1500 sq. ft.	Residential 70 ft. Non-Res. 80 ft.	Front 25 Side 6 Rear 25	35%	1000 sq. ft.	25 ft.
R-2 One & Two Family Residence District	All R-1 Uses Two Family Dwellings	Same as R-1	Residences 7200 sq. ft. Non-res. 1500 sq. ft.	Residences 60 sq. ft Non-res. 80 sq. ft.	Front 25 Side 6 Rear 25	35%	1000 sq. ft.	35 ft.
R-3 General Residence District	All R-2 uses Rooming Houses Multiple Family Dwelling Row Houses	All R-2 Special Uses Institutions Mortuaries Medical Offices Clubs	1 & 2 fam. 7200 sq. ft. 3 and over 2500 to 5000 depending on apt. size	1 & 2 fam. 60 ft. Multi-fam. ½ depth of lot up to 100 ft.	Front 25 Side * Rear 30	40%	1000 sq. ft.	35 ft.
R-4 Mobile Home District	All R-3 Uses Mobile Home Parks	Same as R-3	Same as R-3 except mobile home parks	*	Front * Side * Rear *	*	Same as R-3 except mobile home parks	35 ft.

SIGNS

§ 154.070 GENERAL STANDARDS.

(A) No sign shall block any required accessway or window.

(B) No sign shall be located on vacant property except a sign advertising the premises for sale or lease and which meets the standards of § 154.073(A)(2).

(C) No sign shall be attached to a tree or utility pole.

(D) The following signs are exempt from the permit required and from the regulations of this subchapter.

(1) Memorial signs and historical tablets displayed on private property.

(2) Address numerals.

(E) The following signs are exempt from the permit requirement but must comply with all other regulations of this subchapter.

(1) Signs permitted by § 154.072(A)(1) and (2).

(2) Signs permitted by § 154.072(B)(1).

(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.071 PERMITTED SIGNS - ALL DISTRICTS.

Highway directional signs and markers which shall be made and installed in accordance with the specifications of the city announcing the location of or directing traffic to given locations which include but are not limited to the following:

(A) Service areas - automobile, food and lodging.

(B) Public and quasi-public information signs.

(C) Business or business districts.

(Ord. 205, passed 1-16-95)

§ 154.072 PERMITTED SIGNS - RESIDENTIAL DISTRICTS.

In all residential districts, the following classes of signs are permitted in accordance with the regulations set forth herein:

(A) Non-flashing, non-illuminating accessory signs.

(1) Nameplates and identification signs, subject to the following:

(a) For one and two-family dwellings, there shall be not more than one nameplate, not exceeding one square foot in area for each dwelling unit indicating the name or address of the occupant or a permitted occupation.

(b) For multiple-family dwellings, for apartment hotels and for buildings other than dwellings, a single identification sign not exceeding nine square feet in area and indicating only the name and address of the building and the name of the management thereof may be displayed.

(c) In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding 25 square feet in area; on corner lots two such signs, one facing each street shall be permitted. Said signs shall be removed by the person or persons erecting same within two weeks after completion of the structure indicated.

(d) Height. No sign shall project higher than one story or 15 feet above curb level, whichever is lower.

(e) Projection. No sign shall project beyond the property line into the public way.

(2) For Sale and To Rent signs, subject to the following:

(a) Area and number. Signs designating parking area entrances or exits are limited to one sign for each such exit or entrance and to a maximum size of two square feet each. One sign per parking area, designating the conditions of use or identity of such parking area and limited to a maximum size of nine square feet shall be permitted. On a corner lot two such signs, one facing each street shall be permitted.

(b) Projection. No sign shall project beyond the property line into the public way.

(c) Height. No sign shall project higher than seven feet above curb level.

(B) Non-flashing signs.

(1) Church bulletins, subject to the following:

(a) Area and number. There shall be not more than one sign per zoning lot, except that on a corner lot, two signs, one facing each street, shall be permitted. No sign shall exceed 16 square feet in area nor be closer than eight feet to any other zoning lot.

(b) Projection. No sign shall project beyond the property line into the public way.

(c) Height. No sign shall project higher than one story or 15 feet above curb level.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.073 PERMITTED SIGNS - BUSINESS DISTRICTS.

In the B-1 and B-2 Districts there may be any sign allowed in the R Districts and wall signs, post signs and marquee signs, when displaying no advertising matter except pertaining to the business conducted in the building or on the premises on which such sign is placed. Roof signs and projecting signs are not permitted in the B-1 and B-2 Districts (see definitions). The total square foot area of wall signs and marquee signs shall not exceed ten percent of the square foot area of the face of the building on which they are placed. There shall not be more than one post sign for each 100 feet of street frontage. No post sign shall extend closer than ten feet to a lot line.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.074 PERMITTED SIGNS - INDUSTRIAL DISTRICT.

In the M-1 Industrial District, any sign is allowed, provided that: no ground sign shall exceed 400 square feet in area; not more than one ground sign shall be erected on any one lot or tract of land, or one sign for each 300 feet of highway frontage when located at least 300 feet apart on such lot or tract of land; no ground sign when erected on a lot fronting on intersecting highways shall be erected within 50 feet of the intersection of the right-of-way lines of highways. (See § 154.014 for types of signs.)
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.075 ADDITIONAL SIGN REGULATIONS.

(A) *Ground signs.* No ground signs shall be at any point over 25 feet above the ground level and shall have an open space of three feet between the lower edge of such sign and the ground level. The ends of all such signs shall be at least six feet distant from any wall or fence or any obstruction that would prevent a clear passage around the ends and shall be at least ten feet distant from any lot line.

(B) *Wall signs.* No wall sign shall extend beyond the surface of the building more than 12 inches.

(C) *Projecting signs.* Projecting signs may extend not more than four feet from the building into the front yard.

(D) *Post signs.* The maximum square foot area for each face of a post sign shall not exceed a total area of 65 square feet per face or a total of 130 square feet for all faces.

(E) *Marquee signs.* Marquees may extend eight feet into a front yard. A marquee shall be not less than 11 feet above the ground at its lowest level. A sign may be placed upon a marquee provided such sign does not extend more than three feet above nor one foot below such marquee.

(F) *Portable signs.* Portable signs are prohibited except that there may be such portable signs on parking lots as permitted by the Building Official as being necessary to the satisfactory operation of the lot and except that each filling station may have one portable sign not exceeding 12 square feet of total sign area.

(G) *Paper posters and certain signs or devices prohibited.* Paper posters applied directly to the wall or building or pole or other support and letters or pictures in the form of advertising printed or applied directly on the wall of a building are prohibited. Temporary signs may be displayed in or attached to the inside of show or display windows provided the total sign area does not exceed 20 percent of the show or display window area. Signs or devices which by color, location, or design resemble or conflict with traffic control signs or devices are prohibited. No sigh shall contain flashers, animators, or mechanical movements or contrivances of any kind, excepting clocks and temperature displays.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

OFF-STREET PARKING AND LOADING

§ 154.080 PURPOSE.

The purpose of this section is to alleviate or prevent the congestion of the public street, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use to which property is put.
(Ord. 205, passed 1-16-95)

§ 154.081 GENERAL PROVISIONS - PARKING AND LOADING.

(A) *Scope of regulations.* The off-street parking and loading provisions of this chapter shall apply as follows:

(1) For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of the ordinance, and provided that construction is begun within one year of such effective date and diligently prosecuted to completion, parking and loading facilities, as required hereinafter, need not be provided.

(2) When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other unit of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity or use.

(3) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date of this chapter, additional parking or

loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of this chapter.

(B) *Existing parking and loading facilities.* Accessory off-street parking or loading facilities which are located on the same lot as the building or use served which were in existence on the effective date of this chapter or were provided voluntarily after such effective date shall not hereafter be reduced below or if already less than, shall no further be reduced below the requirements of this chapter for a similar new building or use.

(C) *Permissive parking and loading facilities.* Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or building provided that all regulations herein governing the location, design, improvement and operation of such facilities are adhered to.

(D) *Damage or destruction.* For any conforming or legally non-conforming building or use which is in existence on the effective date of this chapter, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause and which is reconstructed, re-established or repaired, off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities by this chapter for equivalent new uses or construction.

(E) *Submission of plot plan.* Any application for a building permit or for a certificate of occupancy where no building permit is required, shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any parking or loading facilities to be provided in compliance with this chapter.

(F) *Size.* A required off-street parking space shall be at least nine feet in width and at least 20 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven feet.

(G) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. No driveway across public property nor curb cut shall exceed a width of 30 feet.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.082 SCHEDULE OF PARKING REQUIREMENTS.

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing or both, on the premises at any one time.

(A) Single-family and multi-family dwellings - Two spaces for each dwelling unit.

(B) Rooming and boardinghouses, sororities, and fraternities - One parking space for each 200 square feet of floor area.

(C) Private club or lodge - One parking space for each 400 square feet of floor area.

(D) Church or temple - One parking space for each four seats in the main auditorium.

(E) School - For high schools, colleges and universities, ten spaces per classroom; for elementary schools two parking spaces per classroom.

(F) Hospital - Two parking spaces for each bed.

(G) Sanitarium or institutional home - One parking space for each three beds.

(H) Funeral homes - Ten parking spaces for each chapel plus one for each funeral home vehicle plus one for each family residing on the premises.

(I) Auditoriums, theaters and other places of public assembly - One parking space for each four seats.

(J) Community center, library, museum, or similar public or semi-public building - One parking space for each 300 square feet of floor area in the building.

(K) Hotel or motel - Five parking spaces plus one space for each sleeping room or suite.

(L) Office building - One parking space for each 200 square feet of the gross floor area.

(M) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or other similar establishments - Two parking spaces for every three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

(N) All nonresidential buildings, except those above specified - One space for each 300 square feet of floor area.
(Ord. 205, passed 1-16-95)

§ 154.083 ADDITIONAL REQUIREMENTS - OFF-STREET LOADING.

No trucks over 3/4 tons shall be parked in a residential area over two consecutive hours, except pickup trucks.
(Ord. 205, passed 1-16-95) Penalty, see § 154.999

§ 154.084 ADDITIONAL REGULATIONS - OFF-STREET LOADING.

No loading berth for vehicles over two tons capacity shall be closer than 50 feet to any property in a residence district unless completely enclosed by building wall or a uniformly painted solid fence or wall or any combination thereof, not less than six feet in height. No permitted or required loading berth shall be located within 25 feet of the nearest point of intersection of any two streets. (Ord. 205, passed 1-16-95) Penalty, see § 154.999

ADMINISTRATION

§ 154.095 ADMINISTRATIVE OFFICER.

The Zoning Administrator shall be in charge of the administration and enforcement of this chapter. The Zoning Administrator shall have the following duties:

(A) Receive applications required, issue permits and furnish certificates, all in his judgement and discretion.

(B) Examine premises for which permits have been issued and make necessary inspections to determine compliance.

(C) When requested by the City Council or when the interest of the city so requires, make investigations and render written reports.

(D) Issue such notices or orders as may be necessary.

(E) Adopt rules and procedures consistent with this chapter.

(F) Keep careful and comprehensive records of applicants, permits, certificates, inspections, reports, notices and orders and all actions of the City Council and file the same permanently by street address.

(G) Keep all such records open to public inspection, at reasonable hours, but not for removal from his office.

(H) Report to the City Council at least once each month as to permits and certificates issued and orders promulgated.

(I) Request and receive the assistance and cooperation of the Police Department, the legal department and other City Officials.

(J) Inform the legal department of all violations and all other matters requiring prosecution or legal action.

(K) Be entitled to rely upon any opinion of the legal department as to the interpretation of this chapter or the legal application of this chapter to any factual situation.

(L) Discharge such other duties as may be placed upon him by this chapter.
(Ord. 205, passed 1-16-95)

§ 154.096 ZONING CERTIFICATES.

(A) No permit as required by the Building Ordinance of the city shall be issued by the Building Inspector for the construction of a building, structure or land improvement and the uses thereof, until the Building Inspector certifies in such permit that the application for a permit with accompanying plans and specifications conforms with the regulations or this chapter.

(B) When a permit is not required by the Building Ordinance of the city for an improvement and the use thereof requiring conformance with the regulations of this chapter, an application for a zoning certificate shall be filed with the Zoning Administrator. A zoning certificate shall be issued only when the application shows conformance with the regulations of this chapter.

(C) All applications for building permits or zoning certificates shall be accompanied by a plan or sketch in duplicate, drawn to scale showing the actual dimensions of the lot or lots to be build upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats shall be kept in the office of the Building Inspector. The Building Inspector shall, in writing, approve or disapprove all building permits within five working days after submission thereof; failure to act shall be deemed as approval thereof. The Zoning Administration shall, in writing, approves or disapprove all zoning certificates within five working days after submission thereof; failure to act shall be deemed as approval thereof.
(Ord. 205, passed 1-16-95)

§ 154.097 OCCUPANCY CERTIFICATES.

(A) No building or addition thereto, constructed after the effective date of this chapter and no addition to a precious existing building shall be occupied and no land vacant on the effective date of this chapter shall be used for any purpose until an occupancy certificate has been issued by the Building Inspector. No change in a use in any district shall be made until an occupancy certificate has been issued by the Building Inspector. Every occupancy certificate shall state that the use or occupancy complies with all the provisions of this chapter.

(B) Every application for a building permit shall also be deemed to be on application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or building where no building permit is required, shall be made to the Building Inspector.

(C) No occupancy certificate for a building or addition thereto, constructed after the effective date of this chapter, shall be issued until construction has been completed and the premises have been

inspected and certified by the Building Inspector to be in full and complete compliance with the plans and specifications upon which the zoning certificate was based. No addition to a previously existing building shall be occupied, and no new use of a building in any district shall be established until the premises have been inspected and certified by the Building Inspector to be in full compliance with all the applicable standards of the zoning district in which it is located. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed six months from its date during the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than five working days after the Building Inspector is notified, in writing that the building or premises is ready for occupancy.
(Ord. 205, passed 1-16-95)

ZONING BOARD OF APPEALS

§ 154.110 CREATION AND MEMBERSHIP.

(A) A Board of Appeals is hereby established. The word "Board" when, used in this section shall be construed to mean the Board of Appeals, as provided by Section 18 of said Act 207 P.A. 1921 as amended. The members of said Board of Appeals shall serve respectively for the following terms: one for one year; two for two years; two for three years. The successor of each member so appointed shall serve for a term of three years. Vacancies shall be filled by the City Council for the unexpired term. The City Council shall appoint the members of the Zoning Board of Appeals for their respective terms. Any vacancy that occurs shall be filled by an appointment by the City Council for the unexpired term of the vacancy created. The Zoning Board of Appeals shall elect a chairman of the Zoning Board of Appeals annually.

(B) Meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the City Clerk and shall be a public record.
(Ord. 205, passed 1-16-95)

§ 154.111 JURISDICTION AND AUTHORITY.

The Board of Appeals shall act upon all questions as they may arise in the administration of the zoning ordinance, including the interpretations of the zoning maps, and may fix rules and regulations to govern its procedures sitting as such as Board of Appeals.

(A) It shall hear and decide appeals from and review any order, requirements, decision or determination made by the Building Inspector charged with the enforcement of this chapter.

(B) The concurring vote of one-half of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant any matter upon which they are required to pass under this chapter or to effect any variation in this chapter. Such appeal may be taken by any person aggrieved or by any office, department, board of bureau of the city, county or state. The ground of every such determination shall be stated.
(Ord. 205, passed 1-16-95)

§ 154.112 APPEALS.

Such appeal shall be taken within 30 days by the filing with the Building Inspector from whom the appeal is taken and with the Board of Appeals of a notice of appeal, specifying the grounds thereof. The Building Inspector from whom the appeal is taken shall transmit to the board all the papers constituting the record upon which the action appealed from was taken.
(Ord. 205, passed 1-16-95)

§ 154.113 RESTRAINING ORDER.

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him 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 proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice to the Building Inspector from whom the appeal is taken and on due cause shown.
(Ord. 205, passed 1-16-95)

§ 154.114 HEARINGS.

Hearing of and decision upon appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within 300 feet of the premises in question shall be assessed, such notice to be delivered personally or by mail addressed to the respective owner at the address given in the last assessment roll, and shall decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.
(Ord. 205, passed 1-16-95)

§ 154.115 VARIANCES.

(A) *Authority.* The Board of Appeals shall decide variances to the provisions of this chapter in harmony with its general purpose and intent, and shall vary them only in the specific instances hereinafter set forth where the Board of Appeals shall have made a finding of fact based upon the standards hereinafter prescribed that there are particular hardship in the way of carrying out the strict letter of the regulations of this chapter.

(B) *Initiation.* An application for a variance may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request application for a building permit, zoning certificate or occupancy certificate.

(C) *Processing.*

(1) An application for a variance shall be filed with the City Clerk. The City Clerk shall forward such application to the Board of Appeals for processing in accordance with applicable statutes of the State of Michigan and the provisions of this chapter.

(2) No variance shall be made by the Board of Appeals except after a public hearing before the Board of Appeals, notice of which shall be given by two publications in a newspaper of general circulation in the city; the first to be printed not more than 30 days nor less than 20 days and the second not more than eight days before the date of such hearing.

(D) *Decisions.* All final administrative decisions and findings of the Board of Appeals on variances arrived at after the hearing shall be accompanied by findings of facts specifying the reason or reasons for approving or disapproving the variances and shall be final and subject to judicial review only in accordance with applicable statutes of the State of Michigan.

(E) *Standards.*

(1) The Board of Appeals shall not vary the provisions of this chapter as authorized in this section, unless it shall have made findings based upon the evidence presented to it in the following cases:

(a) That the plight of the owner is due to unique circumstances; and

(b) That the variance, if granted, will not alter the essential character of the locality.

(2) A variance shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the two conditions enumerated above.

(3) For the purpose of supplementing the above standards, the Board of Appeals in making this determination whenever there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence.

(a) That the particular physical surroundings shape or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;

(b) That the conditions upon which the petition for variance is based would not be applicable generally to other property within the same zoning classification;

(c) That the granting of the variance will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located, or;

(d) That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

(4) The Board of Appeals may require each condition and restriction upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this section to reduce or minimize the effect of such variance upon other property in the neighborhood, and to implement the general purpose and intent of this chapter.

(F) *Authorized variance.* Variances from the regulations of this zoning ordinance shall be granted by the Board of Appeals only in accordance with the standards set out in this section.
(Ord. 205, passed 1-16-95)

PLAN COMMISSION

§ 154.125 JURISDICTION.

The Plan Commission of the city, which has been duly established, is the Plan Commission referred to in this chapter, and shall have the following duties under this chapter.

(A) To hear all applications for amendments and special uses and hereafter submit reports of findings and recommendations thereon to the City Council in the manner prescribed in this section for amendments and special uses;

(B) To initiate, direct and review, from time to time, studies of the provisions of this chapter and to make reports of its recommendations to the City Council; and

(C) To hear and decide all matters upon which it is required to pass under this chapter.
(Ord. 205, passed 1-16-95)

§ 154.126 MEETINGS AND RULES.

All meetings of the Plan Commission shall be held at the call of the Chairman, and at such time as the Plan Commission may determine. All hearings conducted by said Plan Commission under this chapter, shall be in accordance with Michigan Statutes. In all proceedings of the Plan Commission, provided for in this chapter, the Chairman and in his absence the Vice Chairman, shall have the power to administer oaths. All testimony by witnesses at any hearing provided for in this chapter shall be given under oath. The Plan Commission shall keep minutes of its proceedings, and shall also keep records of its hearings and other official actions. A copy of every rule or regulation, every amendment and special use, and every recommendation, order, requirement, decision or determination of the Plan Commission under this chapter shall be filed in the office of the City Clerk and shall be public record. The Plan Commission shall adopt its own rules and procedures, not in conflict with this chapter or with applicable Michigan statutes.
(Ord. 205, passed 1-16-95)

AMENDMENTS

§ 154.135 AUTHORITY.

The regulations imposed and the districts created under the authority of this chapter may be amended from time to time, by ordinance in accordance with applicable statutes of the State of Michigan. (See Public Act 207 of 1921 as amended.) An amendment shall be granted or denied by the City Council only after a public hearing before the Plan Commission and a report of its findings and recommendations has been submitted to the City Council.
(Ord. 205, passed 1-16-95)

§ 154.136 INITIATION OF AMENDMENT.

Amendments may be proposed by the City Council, the Plan Commission, the Board of Appeals; other governmental bodies, or by any resident or owner of property within the jurisdictional limits of this chapter.
(Ord. 205, passed 1-16-95)

§ 154.137 PROCESSING.

An application for an amendment shall be filed with the City Council who shall forward the application to the Plan Commission with a request to hold a public hearing. Notice of the hearing shall be given by publications in a newspaper of general circulation in the city not less than 15 days before the date of such hearings, and not lot less than 15 days notice of the time and place of such public hearing shall be given by ordinary United States mail to each public utility company and to each

railroad company which has registered its name and address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing for each mailing must be maintained and a hearing granted any person interested at the time and place specified. In case a protest against a proposed amendment, supplement or change be presented, duly signed by the owners of 20 per centum or more of the frontage immediately in the rear thereof, or by the owners of 20 per centum of the frontage proposed to be altered, such amendment shall not be passed except by the three-fourths vote of such legislative body. Within 15 days following adoption of an amendment by the City Council, a notice of adoption containing a summary of the regulatory effect of the amendment shall be published in a newspaper of general circulation in the city.
(Ord. 205, passed 1-16-95)

SPECIAL USES

§ 154.145 PURPOSE.

The development and execution of the zoning ordinance is based upon the division of the city into districts, within any one of which the regulations governing the use of land and buildings or structures, as related to the land, are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case of the impact of those uses upon neighboring lands and upon the public need for the particular use or the particular location. Such special uses fall into two categories:

(A) Uses operated by a public agency or publicly regulated utilities, or uses traditionally affected with a public interest.

(B) Uses entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
(Ord. 205, passed 1-16-95)

§ 154.146 AUTHORITY.

(A) Special uses shall be authorized or denied by the City Council in accordance with applicable statutes of the State of Michigan (See Public Act 207 of 1921 as amended), the provisions of this chapter applicable to amendments of this chapter and the regulations and conditions set forth in this chapter for special uses.

(B) No application for a special use shall be acted upon by the City Council until:

(1) A written report is prepared and forwarded to the City Council by the Plan Commission in a manner prescribed herein for amendments to this chapter; and

(2) A public hearing has been held by the Plan Commission after due notice by publication as prescribed herein for amendments and the findings and recommendations of the Plan Commission have been reported to the City Council.
(Ord. 205, passed 1-16-95)

§ 154.147 HEARING ON APPLICATION.

Upon receipt of the application referred to above, the Plan Commission shall hold at least one public hearing. At least 15 days in advance of such hearing, but not more than 30 days, notice of the time, place and purpose of such hearing shall be published in a newspaper of general circulation in the city.
(Ord. 205, passed 1-16-95)

§ 154.148 AUTHORIZATION.

For each application for a special use, the Plan Commission shall report to the City Council its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The City Council may grant or deny an application for a special use, provided, however, that in the event of written protest against any proposed special use, signed and acknowledged by the owners of 20 percent of the frontage adjacent thereto, or across an alley, or directly opposite therefrom, such special use shall not be granted except by the favorable vote of three-fourths of all the members of the City Council.
(Ord. 205, passed 1-16-95)

§ 154.149 STANDARDS.

No special use shall be recommended by the Plan Commission unless said Commission shall find:

(A) That the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;

(B) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;

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

(D) That adequate utilities, access roads, drainage or other necessary facilities have been or are being provided;

(E) That adequate measures have been or will be taken to provided ingress and egress so designed as to minimize traffic congestion in the public streets;

(F) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the City Council pursuant to the recommendations of the Plan Commission.

(G) The Plan Commission may require the submission of a site plan of the property and proposed improvements, drawn to scale, together with other information which it deems necessary to its adequate evaluation of the proposal.
(Ord. 205, passed 1-16-95)

PLANNED UNIT DEVELOPMENT

§ 154.160 PURPOSE.

To encourage the most orderly development of properties through advance planning and thus assure adequate standards for the development of residential neighborhoods; provide regulations to encourage a variety of dwelling types; assure adequate open space; protect residential areas from undue traffic congestion; protect residential areas from the intrusion of business; industrial and other land uses that may create an adverse effect upon the living environment; and thus promote the general welfare of the community.
(Ord. 205, passed 1-16-95)

§ 154.161 PROVISIONS.

The basic provisions and requirements concerning Planned Unit Development are as follows: The subdivision, development and use of land containing four or more acres as an integral unit under single ownership and control, in some instances combining more than one primary land use and which may provide for single-family residential, multi-family residential, education, business, commercial, industrial, recreational, park and common use areas may be described as a Planned Unit Development.

(A) In its establishment and authorization as a special use, in addition to the foregoing provisions, the following procedures, requirements, restrictions, standards, and conditions shall be observed.

(B) The Planned Unit Development may be excluded from the provisions of the, subdivision regulations and provisions of the Zoning Ordinance of the city, to the extent specified in the final authorization of the Planned Unit Development.
(Ord. 205, passed 1-16-95)

§ 154.162 PROCEDURE.

(A) The applicant shall request the City Council by letter addressed to the City Clerk, to call a meeting of the Plan Commission for a preliminary discussion of the proposed Planned Unit Development, and the Plan Commission shall call such meeting, which may be continued from time to time. The applicant shall present such exhibits and written information as may be necessary to fully acquaint the Plan Commission with the proposed development which shall include, but not necessarily be limited to the following:

(1) A tentative sketch plan, which may be in freehand sketch form, showing the location and extent of the types of land uses proposed.

(2) The existing topography at five foot contour intervals which may be taken from U.S.G.S. information.

(3) Existing streets surrounding the subject property.

(4) Existing utilities including storm drainage facilities.

(5) The following shall be provided by either graphic exhibits or written statements:

(a) The density of residential uses and the number of dwelling units by type;

(b) The ancillary and non-residential uses to be provided in a residential Planned Unit Development;

(c) The off-street parking and other service facilities proposed;

(d) The exceptions or variations to the city zoning or subdivision requirements being requested as part of the Planned Unit Development Application.

(B) Within 30 days after final adjournment of the meeting, the Plan Commission shall submit to the City Council its report in writing containing recommendations.

(C) The formal petitions for a Planned Unit Development shall be addressed to the City Council and shall be filed with the City Clerk, ten copies of the petitions shall be filed with the City Clerk; attached to each copy shall be copies of the supporting documents and exhibits hereinafter provided for.

(D) A filing fee in an amount of $2 per dwelling unit or $10 per gross acre, whichever is greater, shall be paid to the City Clerk at the time of such filing.

(E) The City Council shall refer the petition to the Plan Commission who shall set a hearing date in the manner herein required for amendments.

(F) The petition shall be heard by the Plan Commission and its report to the City Council of its findings and recommendations shall be accompanied by such plats, exhibits and agreements as shall have been presented by the petitioner; each identified for reference by letter or number, together with any suggested changes therein.

(G) The City Council may grant a special use for a Planned Unit Development which shall be by specific ordinance and which shall contain or to which shall be appended all terms and conditions of the grant, including covenants and agreements, guarantees, performance bonds, plats and the like.
(Ord. 205, passed 1-16-95)

§ 154.163 CONTENT OF PETITION.

The formal petition shall contain, in addition to all other requirements, the following:

(A) An outline plan of the Planned Unit Development. This plan will be at a scale of not less than one inch equals 100 feet which shall show all proposed streets (public and private), street classifications, right-of-ways, all principal and accessory buildings, and their use, lot size, building lines, easements for utility service, off-street parking, service areas, open space, recreation facilities and any other information necessary to clearly show the proposed elements of the Planned Unit Development.

(B) (1) Preliminary architectural plans for all residential buildings shall be submitted in sufficient detail to show the basic building planning, the number of units per building and the number of bedrooms per dwelling unit.

(2) Preliminary architectural plans are not required for business or other non-residential buildings at the time of this application but must be submitted to the Plan Commission for its approval prior to filing an application for a building permit.

(C) A topographic survey and boundary survey of the subject area, prepared and certified by a registered Michigan surveyor.

(D) A rendered plan of the Planned Unit Development area, showing in contrasting colors or by other means, the respective location of all categories of land use.

(E) A map of the city, showing the Planned Unit Development area and its relation to the existing roads and streets and use districts.

(F) Preliminary plans and outline specifications of the following improvements:

(1) Roads, streets, alleys, including classifications, width of right-of-way, widths of paved surfaces and construction details.

(2) Sidewalks, including widths of paved surfaces and construction details.

(3) Sanitary and storm sewer systems (private).

(4) Water supply system (private).

(5) Street lighting and public area lighting system.

(6) Recommended installation for electric, gas and telephone facilities and distribution.

(7) Sequence of phases or stages of development of the Planned Unit Development.

(8) A general landscape planting plan shall be prepared by a landscape architect and shall meet the approval of the Plan Commission.

(G) Estimates of cost of installation of all proposed improvements, confirmed by a registered Michigan engineer.

(H) Petitioner's proposed covenants, restrictions and conditions to be established as part of the Planned Unit Development.
(Ord. 205, passed 1-16-95)

§ 154.164 CONSTRUCTION OF IMPROVEMENTS.

(A) The petitioner shall construct and install the required improvements and must post with the city a sum in cash or negotiable securities, or a surety bond running to the city in an amount sufficient to cover the full cost, including engineering and inspection fees, to assure the satisfactory installation of such improvements; the amount of such deposit or bond shall be based upon the confirmed estimate of cost hereinabove provided for; if a surety bond is submitted, it shall have good and sufficient surety thereupon and shall not be accepted until approved by the City Council.

(B) If the Planned Unit Development is to be constructed and developed in stages or phases, the deposit of cash or securities or the bond posted shall be in an amount based upon the confirmed estimated cost of installation of improvements or phases as approved by the Plan Commission.
(Ord. 205, passed 1-16-95)

§ 154.165 STREET CLASSIFICATIONS.

Street classifications, definitions and specifications, shall be in accord with the regulations pertaining to same as established in the Subdivision Regulations of the city as may be amended from time to time.
(Ord. 205, passed 1-16-95)

§ 154.166 STANDARDS.

No Planned Unit Development shall be authorized unless the Plan Commission shall find and recommend, in addition to those standards, established herein for special uses, that the following standards will be met:

(A) *General.*

(1) The uses permitted by such exceptions as may be requested or recommended are necessary or desirable and appropriate to the purpose of the development.

(2) The uses permitted in such development are not of such nature or so located as to exercise an undue detrimental influence or effect upon the surrounding neighborhood.

(3) That any industrial park areas established in the Planned Unit Development conform to all requirements therefore as set forth elsewhere in this chapter.

(4) That all minimum requirements pertaining to commercial, residential, institutional, or other uses established in the Planned Unit Development shall be subject to the requirements for each individual classification as established elsewhere in this chapter, except as may be specifically varied in the ordinance granting and establishing a Planned Unit Development use.

(5) When private street and common driveways are made a part of the Planned Unit Development or private common open space or recreation facilities are provided, the applicant shall submit as part of the application, the method and arrangement whereby these private facilities shall be operated and maintained. Such arrangements for operating and maintaining private facilities shall be subject to the approval of the City Council.

(B) *Residential.*

(1) Residential density for a Planned Unit Development shall not be greater than the recommended density, as shown on the Land Use Plan nor shall any lot be less in area or dimension than that required by the district regulation applicable to the district in which the planned development is located, except that the Plan Commission may recommend and the City Council may grant a reduction in such lot area and dimension, but not more than 15 percent when the Planned Unit Development provides common open space equal to not less than ten percent of the gross area of the Planned Unit Development.

(2) Business uses may be included as part of a planned residential development when the Plan Commission finds that such business uses are beneficial to the overall Planned Unit Development and will not be injurious to adjacent or neighboring properties. Such business uses shall not be greater in area than ten percent of the Planned Unit Development.

(3) The open areas provided in the part of the planned development containing only residential structures shall be preserved over the life of the Planned Unit Development for use only

by the residents of the planned development or dedicated to the city for school, park, playground or other public uses by an instrument or guarantee acceptable to the city.

(4) For that part of a Planned Unit Development devoted to residential uses, the Plan Commission may recommend and the City Council may approve, access to a dwelling by a driveway or pedestrian walk easement, and spacing between buildings of lesser widths or depths than required by district regulations for the district regulations for the district in which the planned development is located, provided,

(a) That adequate provisions are made which perpetuate during the period of the special use, access easements and off-street parking spaces for use by the residents of the dwellings served.

(b) The spacing between buildings shall be approved by the Plan Commission and shall be consistent with the application of recognized site planning principles for securing a unified development, and due consideration is given to the openness normally afforded by intervening streets and alleys. Minimum side yards between principal buildings within a part of a Planned Unit Development where subsequent transfer of ownership is contemplated, shall be equivalent to side yards as would be required between buildings by district regulations for the district in which it is located; and

(c) The yards for principal buildings along the periphery of the development shall be not less in width or depth than required for permitted uses in the district regulations applicable to the districts in which the Planned Unit Development is located, and the plan is developed to afford adequate protection to neighboring properties as recommended by the Plan Commission and approved by the City Council.

(C) *Variances to minimum requirements.* Wherever the applicant proposes to provide and set out, by platting, deed, dedication, restriction or covenant, any land or space separate from single-family or multi-family residential districts to be used for parks, playgrounds, commons, greenways or open areas, the Plan Commission may consider and recommend and the City Council may vary the applicable minimum requirements of the subdivision regulations and the zoning ordinance which may include but not necessarily be limited to the following:

(1) Rear yard;

(2) Side yard;

(3) Lot area;

(4) Bulk;

(5) Intensity of use;

(6) Street width;

(7) Sidewalks;

(8) Public utilities; and

(9) Off-street parking.
(Ord. 205, passed 1-16-95)

§ 154.167 FINAL DEVELOPMENT PLAN.

(A) Upon determination by the Plan Commission that a proposed Planned Unit Development, as shown in the preliminary plan, appears to conform to the requirements herein and all other applicable requirements of this chapter, the proponents shall submit a final development plan which plan shall incorporate any chances or modifications required by the Commission.

(B) After a Final Development Plan is approved by the legislative body, the Planning Commission shall record such plan in the Van Buren County Register's Office after receipt of the resolution approving the general plan and after required signatures authorizing the recordation of the general plan have been obtained.
(Ord. 205, passed 1-16-95)

WIRELESS COMMUNICATIONS

§ 154.180 TITLE.

This subchapter, in addition to the City of Bangor Zoning Ordinance, shall be known as the Wireless Communications Section of the Zoning Ordinance.
(Ord. 241, passed 1-7-99)

§ 154.181 PURPOSE AND INTENT.

(A) It is the general purpose and intent of the City of Bangor to carry out the will of The United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the City to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this subchapter, attempt has been made to balance these potentially competing interests.

(B) Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this Ordinance to:

(1) Facilitate adequate and efficient provision of sites for wireless communication facilities.

(2) Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.

(3) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

(4) Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.

(5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.

(6) Promote the public health, safety and welfare of the citizens of the City of Bangor.

(7) Provide for adequate information about plans for wireless communication facilities in order to permit the City to effectively plan for the location of such facilities.

(8) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(9) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.

(10) The City of Bangor finds that the presence of numerous tower structures, particularly if located with residential areas, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of public health, safety and welfare.

(Ord. 241, passed 1-7-99)

§ 154.182 DEFINITIONS

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

WIRELESS COMMUNICATION FACILITY. All facilities, structural, attached, or accessory, related to the use of the radio frequency spectrum for the purposes of transmitting or receiving radio signals, including, radio and television towers, telephone devices and exchanges, relay towers, telephone transmission equipment buildings, and commercial mobile radio service facilities. Not included are facilities for: citizen band radio, short wave radio, ham and amateur radio, television reception antennae, satellite dishes, and governmental facilities which are subject to state and Federal law or regulations that preempt municipal authority. Wireless communication facilities shall be specifically excluded from the definitions of "essential services" and "public utilities."

ATTACHED WIRELESS COMMUNICATION FACILITY (ANTENNAE). Any wireless communication facility affixed to an existing structure, such as a building, tower, water tank, utility pole, etc., used to receive and transmit federal or state licensed communication services via duly licensed segments of the radio frequency spectrum. This definition shall not include support structures.

WIRELESS COMMUNICATION FACILITY (COLLOCATION). The location by two or more wireless communications providers, public authorities or other duly authorized parties of wireless communications facilities on a common structure in a manner that reduces the overall need for additional or multiple freestanding single use communications facilities and/or support structures.

WIRELESS COMMUNICATION SUPPORT STRUCTURE (TOWER). Any structure used to support attached wireless communication facilities, or other antennae or facilities, including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting attached wireless communications facilities.
(Ord. 241, passed 1-7-99)

§ 154.183 FACILITIES AND SERVICES.

(A) *Permitted as principal uses.* In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval as provided in § 154.013, Site Plan Review and Approval of the City of Bangor's Code of Ordinances, and also subject to the conditions set forth in division (D) below:

(1) Attached wireless communication facilities within all zoning districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed.

(2) Collocation of an attached wireless communication facility which has been previously approved for collocation by the Planning Commission.

(3) Wireless communication facilities attached to a utility pole or electrical transmission line tower, where the existing pole or tower is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests.

(4) Wireless communication facilities with monopole support structures upon municipally owned property in any zoning district except those zoned for single family residential purposes, subject to the conditions hereinafter imposed in all such districts.

(B) *Permitted as special uses.* Wireless communication facilities with monopole support structures shall be permitted as Special Uses only, within any B-1, Retail and Limited Services Business District, or B-2 General Business District, subject to the conditions hereinafter imposed in such districts, except that they shall not be located within a distance equal to the height of the support structure from any district zoned for single-family residential purposes. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located.

(C) *Permitted as special uses in other districts.* If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in divisions (A) and (B) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with divisions (A) or (B) above, a wireless communication facility with a monopole support structure may be permitted as a Special Use within all other zoning districts, subject to the standards of Chapter 154, under Special Uses, and also subject to the conditions hereinafter imposed in all such districts. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

(1) Wireless communication facilities with monopole support structures which are not located as permitted in divisions (A) and (B) above shall be located on a priority basis only upon the following sites:

(a) Municipally or other governmentally owned sites.

(b) Religious or other institutional sites.

(c) Public park and other large permanent open space areas when compatible.

(d) Public or private school sites.

(2) Wireless communication support structures in such locations shall be of an alternative or stealth design such as (without imitation) a steeple, bell tower, tree, or other form which is compatible with existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

(D) *Required standards for wireless communication facilities in all districts.* All application for wireless communication facilities shall be reviewed in accordance with the following standards and

conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained in a manner consistent with any additional conditions imposed by the Planning Commission and/or the City Council, at their discretion.

(1) *Required information*

(a) *Site plan.* A site plan prepared in accordance with § 154.013, Site Plan Review and Approval, also showing as-built drawings for all proposed attached wireless communication facilities and/or wireless communication support structures, shall be included with all applications for a wireless communication facility.

(b) *Demonstration of need.* A demonstration of the need for the proposed wireless communication facility shall be submitted due to a minimum of one of the following:

1. Proximity to a limited-access freeway or other major thoroughfare.

2. Proximity to areas of population concentration

3. Proximity to commercial or industrial business centers.

4. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.

5. Other specific reasons.

(c) *Service area and power.* As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned shall be included.

(d) *Map of other facilities nearby.* A map showing existing or proposed wireless communication facilities within the city and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility shall be included with all applications. If the information in question is on file with the city, the applicant shall only update such information as needed. (Any such information which is trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant may be submitted with a request for confidentiality in connection with the development of government policy (MCLA 15.243(I)(g)). This subchapter shall serve as the promise to maintain confidentiality as permitted by law. A request for confidentiality must be prominently stated within an application).

(e) *Data on other facilities nearby.* For each location identified by the applicant/provider in § 154.183 division (D)1d, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information.

1. The strut capacity and whether it can accommodate the applicant's facility, as proposed or modified.

2. Evidence of property owner approvals.

3. Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.

(f) *Fall zone certificate.* To determine appropriate setbacks, a signed certification by a licensed, registered engineer regarding the manner in which the proposed structure will fall shall be included with all applications.

(g) *Description of security for removal.* A description of the security for the wireless communication support structure to ensure removal and maintenance shall be included with all applications. The security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the City Attorney and recordable at the Van Buren County Register of Deeds, establishing a promise of the applicant and owner of the property to timely remove the facility as required, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by the City in securing removal.

(h) *Data on FCC and FAA approval.* A copy of the application submitted to the Federal Communications Commission and Federal Aviation Administration detailing technical parameters authorization for the facility shall be included with all applications.

(2) *Compatibility of support structures.* Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment.

(3) *Maximum height.* The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within respective zoning districts. The maximum height of wireless communication support structures shall be:

(a) 120 feet; or

(b) the minimum height demonstrated to be necessary by the applicant; or

(c) such lower heights as approved by the Federal Aviation Administration.

(4) *Setbacks from non-residential districts.* Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the

required setbacks for the principal buildings for the zoning district in which the support structure is located. A greater setback may be required by the Planning Commission if determined necessary based upon the information required in subparagraph (D)1f above.

(5) *Variances*. The Zoning Board of Appeals may grant variances for the setback of a wireless communication support structure. to reduce its visual impact, or to meet the required standards of (D)11, Collocation. The Zoning Board of Appeals may also grant variances for the height of a support structure of up to 20 feet only in cases where a variance would permit additional collocations.

(6) *Compatibility of accessory structures*. Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.

(7) *Appearance of support structures*. The color of wireless communication support structures and all accessory buildings shall minimize distraction, reduce visibility, maximize aesthetics, and ensure compatibility with surroundings. The applicant shall be responsible for the maintenance of the wireless communication facility in a neat and orderly condition.

(8) *Access*. There shall be unobstructed access to all support structures and accessory buildings for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a pavement, width and location as determined necessary by the Planning Commission,

(9) *Federal and state requirements*. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan.

(10) *Lighting*. Lighting on a wireless communication facility shall be prohibited. If the Federal Aviation Administration requires lighting, the applicant shall propose a height reduction to eliminate the need for lighting, or shall submit detailed technical data demonstrating the need for the requested height including an analysis demonstrating that other sites are unavailable or inadequate for their purposes.

(11) *Collocation.*

(a) *Statement of policy*. It is the policy of the City of Bangor to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for placement of attached wireless communication facilities. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of

wireless communication facilities reasonably anticipated to occur as a result of the change of federal law, and policy in the relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should collocate attached wireless communication facilities on existing buildings, structures, including existing wireless communication support structures in the interest of achieving the purposes and intent of this Section of the Zoning Ordinance. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the City of Bangor and this section of the Zoning Ordinance.

(b) *Provisions for collocation required.* All wireless communication support structures shall accommodate no more than three attached wireless communication facilities. Support structures shall allow for future rearrangement of attached wireless communication facilities to accept other attached facilities mounted at varying heights.

(c) *Determining feasibility of collocation.* Collocation shall be deemed to be "feasible" when all of the following are met:

1. The applicant/provider will pay market rent or other market compensation for collocation

2. The site is able to provide structural support, considering reasonable modification or replacement of a facility.

3. The collocation being considered is technically reasonable and will not result in an unreasonable interference, given appropriate physical adjustments.

4. The height of the structure necessary for collocation will not be increased beyond the maximum height limits.

(d) *When collocation is not feasible.* Wireless communication support structures shall not be approved unless the applicant documents to the satisfaction of the Planning Commission that its attached wireless communication facilities cannot be feasibly collocated or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by a licensed, registered engineer and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed, registered engineer, and the interference cannot be prevented at a reasonable cost.

3. Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a licensed, registered engineer.

4. Other unforeseen reasons that make it unfeasible to locate the communications equipment upon an existing support structure or other structure.

(e) *Refusal to permit collocation and violation.* If a party who owns or otherwise controls a wireless communication support structure shall fail or refuse to alter a structure to accommodate a feasible collocation, such facility shall thereafter be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect. If a party who owns or otherwise controls a facility shall fail or refuse to permit collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of a policy, intent and purpose of this Section of the Zoning Ordinance.

(f) *Variance from collocation.* Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

(g) *Offer of collocation required.* An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation. The list of potential users shall be provided by the City based on those entities who have requested approval of a wireless communication facility, current Federal Communications Commission license holders, and other entities requesting to be on the list. If, during a period of 30 days after the notice letters are sent to potential users, a user requests, in writing, to collocate on the new support structure, the applicant shall accommodate the request(s), unless collocation is not feasible based on the criteria of this subchapter.

(12) *Removal.* When a wireless communication facility has not been used for 90 days, or 90 days after new technology is available which permits the operation of a facility with the requirements of a wireless communication support structure all or parts of the wireless communications facility shall be removed by the users and owners of the facility and owners of the property. The removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.

(a) Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had sued the wireless communications facility shall immediately apply for and

secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the site to the condition which existed prior to the construction of the facility.

(b) If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application was made for establishing the facility.

(13) *Frequency emission standards*. Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.

(14) *Effect of approval.*

(a) Subject to subparagraph (b) below, final approval for a wireless communication support structure shall be effective for a period of six months.

(b) If construction of a wireless communication support structure is commenced within two miles of the land upon which a facility has been approved, but upon which construction has not been commenced during the six month period of effectiveness, the approval for the support structure that has not been commenced shall be void 30 days following written notice from the City of the commencement of the other support structure. Such voiding shall apply when the applicant granted approval of the support structure which has not been commenced demonstrates that it would not be feasible to collocate on the support structure that has been newly commenced.

(15) *Incentive*. Review of an application for collocation, and review of an application for a facility permitted as a principal permitted use shall be expedited by the City.
(Ord. 241, passed 1-7-99)

ENFORCEMENT

§ 154.195 PUBLIC NUISANCE PER SE.

Any building or structure which is erected, altered or converted or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be altered by order of any court of competent jurisdiction.
(Ord. 205, passed 1-16-95)

§ 154.999 PENALTY.

(A) Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than $500 and the costs of prosecution, or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the cost of such prosecution.

(B) The owner of any building, structure or premises or part thereof where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

(C) A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(D) Any persons who violate § 154.013 or § 154.057 shall be subject to a fine not less than $100 or imprisonment for not more than 90 days, or to both fine and imprisonment, in the discretion of the court.

(Ord. 205, passed 1-16-95; Am. Ord. 234, passed 12-1-97)

CHAPTER 155: LAND DIVISION

Section

§ 155.01 TITLE; PURPOSE.

(A) This chapter shall be known and cited as the City of Bangor Land Division Ordinance.

(B) The purpose of this chapter is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the city by establishing reasonable standards for prior review and approval of land divisions within the city.
(Ord. 232, passed 7-21-97)

§ 155.02 DEFINITIONS.

For purposes of this chapter certain terms and words used herein shall have the following meaning:

APPLICANT. A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

DIVIDED or ***DIVISION.*** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

EXEMPT SPLIT or ***EXEMPT DIVISION.*** The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalents; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

FORTY ACRES OR THE EQUIVALENT. Either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

GOVERNING BODY. The legislative body of the City of Bangor.
(Ord. 232, passed 7-21-97)

§ 155.03 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the city shall not be divided without the prior review and recommendation of approval from the city's Planning Commission and approval by the City Council, in accordance with this chapter and the State Land Division Act; provided that the following shall be exempted from this requirement:

(A) A parcel proposed for subdivision through a recorded plat pursuant to the city's Site Condominium Development Ordinance and the State Land Division Act.

(B) A lot in a recorded plat proposed to be divided in accordance with the city's Site Condominium Development Ordinance and the State Land Division Act.

(C) An exempt split as defined in this chapter.
(Ord. 232, passed 7-21-97) Penalty, see § 155.99

§ 155.04 APPLICATION FOR LAND DIVISION APPROVAL.

(A) An applicant shall file all of the following with the City Clerk or other official designated by the City Council for review of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

(1) A completed application form on such form as may be provided by the city.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of the 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and

the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

(B) In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirements for a decision on the application until such survey map and legal description are filed with the city, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under this section.

(C) The governing body of the municipality or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

(1) Proof that all standards of the State Land Division Act and this chapter have been met. (See checklist accompanying Ordinance No. 232, passed July 21, 1997).

(2) The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

(3) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(4) If transfer of division rights are proposed in the land transfer detailed information about the terms and availability of the proposed division rights transfer.

(5) Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under § 155.07 of this chapter, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, maximum allowed area coverage of buildings and structures on the site.

(6) The fee as may from time to time be established by resolution of the City Council for land division reviews pursuant to this chapter to cover the costs of review of the application and administration of this chapter and the State Land Division Act.
(Ord. 232, passed 7-21-97)

§ 155.05 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL.

(A) Upon receipt of a land division application package, the City Clerk or other official designated by the governing body shall forthwith submit the same to the city's Planning Commission for review and recommendation to approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this chapter's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this chapter requirements and the State Land Division Act, the City Clerk or other designee shall return the same to the applicant for completion and refiling in accordance with this chapter and the State Land Division Act.

(B) Any person or entity aggrieved by the decision of the city or designee may, within 30 days of said decision appeal the decision to the City Council or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

(C) A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the City Clerk or other designated official accomplishing the approved land division or transfer.

(D) The City Clerk or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
(Ord. 232, passed 7-21-97)

§ 155.06 STANDARDS FOR APPROVAL OF LAND DIVISIONS.

(A) A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.

(2) The proposed land division(s) comply with all requirements of the State Land Division Act and this chapter.

(3) All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the

requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this chapter. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(4) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under § 155.07 of this chapter and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

(B) The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

(C) The permissible minimum width shall be as defined in the applicable zoning ordinance. In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

(1) Where accessibility is to be provided by a proposed new dedicated public road, proof that the city has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

(2) Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:

(a) Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, unit or ownership, it shall be not less than 66 feet in right of way width, 24 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.

(b) Where the private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownership's, it shall not be less than 40 feet in right of way width, 20 feet in improved roadbed width with at least two feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven percent, and a cul-de-sac where dead-ended as specified in subdivision (C)(1)(a) above. If said private road or easement is serving or intended to serve more than four separate parcels, units or ownerships, the right of way and development standards set forth in (C)(1)(a) above shall apply.

(c) If accessibility is by a private road or easement, a document acceptable to the city shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefited, and the right of the city to assess such costs against those properties benefited, plus a 25% administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.

(d) Any intersection between private and public roads shall contain a clear vision triangular area of not less than two feet along each right of way line as measured from the intersecting right of way lines.

(e) No private road or easement shall extend for more than 1,000 feet from a public road.

(f) No private road shall serve more than 25 separate parcels.
(Ord. 232, passed 7-21-97)

§ 155.07 ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.

Notwithstanding disqualification from approval pursuant to this chapter, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this chapter may be approved in any of the following circumstances:

(A) Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the city, designating the parcel as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

(B) Where, in circumstances not COVERED by division (A) above, the Zoning Board of Appeals has, previous to this chapter, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

(C) Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this chapter, any applicable zoning ordinance, or the State Land Division Act.
(Ord. 232, passed 7-21-97)

§ 155.08 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.

Any parcel created in noncompliance with this chapter shall not be eligible for any building permits, or zoning approvals, such as special land use approval or side plan approval, and shall not