

be recognized as a separate parcel on the assessment roll. In addition, violation of this chapter shall subject the violator to the penalties and enforcement actions set forth in § 155.99 of this chapter, and as may otherwise be provided by law.

(Ord. 232, passed 7-21-97) Penalty, see § 155.99

**§ 155.99 PENALTY.**

(A) Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

(B) Any person who violates any of the provisions of this chapter shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. 232, passed 7-21-97)



## CHAPTER 156: CONDOMINIUMS

### Section

- 156.01 Title, purpose
- 156.02 Definitions
- 156.03 Plan preparation
- 156.04 Design layout standards and improvements
- 156.05 Review procedure
- 156.06 Interpretation

### § 156.01 TITLE; PURPOSE

(A) This chapter shall be known as the City of Bangor Site Condominium Development Ordinance

(B) It is the purpose of this ordinance to insure that plans for development within the City of Bangor proposed under the provisions of the Condominium Act, Public Act 59 of 1978, shall be reviewed with the objective interest of achieving the site characteristics and land use results as if the development and improvements were being proposed in accordance with the Subdivision Control Act, P.A. 288 of 1967, as amended. It is the intent of the City to insure that the appearance of the project and size of the building site or "Condominium lot" are equivalent to the appearance of a subdivision and to the minimum lot size of the zoning district in which the project is located.

(Ord. 219, passed 5-5-97)

### § 156.02 DEFINITIONS

For the purpose of this ordinance all definitions used in the Condominium Act P.A. 59 of 1978 as amended, and all applicable administrative regulations shall have the same meaning here. In addition, the following words as defined will also apply to this ordinance, unless the context clearly indicates a different meaning.

**BUILDING SITE.** A lot, or a two-dimensional condominium unit of land (i.e., envelope, footprint) with or without limited common element designed for construction of a principal structure or a series of principal structures plus accessory buildings. All building sites shall have frontage on public or private roads.

**COMMON ELEMENTS.** Portions of the condominium project other than the condominium units.

**CONDOMINIUM PROJECT.** A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act.

**CONDOMINIUM SUBDIVISION PLAN.** The plan as required in this chapter, including but not limited to, the survey and utility plans, building site and existing and proposed structures and improvements including their location on the land.

**CONDOMINIUM UNIT.** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial or recreational use.

**CONSOLIDATING MASTER DEED.** The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master land or convertible space, which final amended master deed fully describes the condominium project as completed.

**CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the Condominium Act.

**LIMITED COMMON ELEMENTS.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

**LOT.** A measured portion of a parcel or tract of land which is described and fixed in a recorded plat or recorded in the Master Deed of a site condominium development.

**MASTER DEED.** The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approval bylaws for the project and the approved condominium subdivision plan for the project.

**PARCEL.** A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory building(s), condominium units, or by any other use or activity permitted thereon including open spaces and setbacks required in this chapter, and having its frontage on a public street.

**SETBACK - FRONT, SIDE, AND REAR YARD.** Front, side and rear yard setbacks shall mean the distance measured from the respective front, side, and rear yard area lines associated with the lot as described in the master deed.

(Ord. 219, passed 5-5-97)

### § 156.03 PLAN PREPARATION

(A) *Existing Conditions.* The preliminary plan shall be designed and drawn by a Registered Civil Engineer, a Registered Land Surveyor, a Registered Architect or a Registered Landscaped Architect



containing the following information:

- (1) Proposed name of the project.
- (2) Full legal description to adequately describe the parcel or parcels comprising the project.
- (3) Names and addresses of the applicant, owners, and professionals who designed the project.
- (4) Scale of the plan (maximum scale shall be 100 feet to an inch).
- (5) Date of preparation.
- (6) Cardinal points.
- (7) Boundary lines of the proposed project.
- (8) Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium subdivision including those areas across abutting roads.
- (9) Location, widths, and names of existing or prior easements of record, public and/or private.
- (10) Location of existing sewers, water mains, storm drains, telephone, electric, cable TV and other underground utilities within or adjacent to the tract being proposed for a site condominium subdivision.
- (11) Existing topographical information drawn at contours with a maximum of two foot intervals.
- (12) The location of significant natural features such as natural water courses, bodies of water, stands of trees, and individual trees within the projects area having a diameter of 12 inches or greater at a height of two feet above the existing grade.

**(B) *Proposed Condominium Subdivision Plan.***

- (1) Layout of streets indicating proposed street names, right-of-way widths, and connections and adjoining streets and also the widths of and locations of alleys, easements, public walkways, bike paths and other transportation related elements.
- (2) Layouts, numbers and dimension of lots, including building setback lines showing dimensions and finished grade elevations of buildings first floor elevation.
- (3) Proposed topography, including contour lines at the same interval as shown for existing topography.

(4) Indication of the parcels of land and/or easements intended to be dedicated or set aside for public use and a description of the common elements of the project and the use and occupancy restrictions as will be contained in the master deed.

(5) An indication of the ownership and existing and proposed use of any parcels identified as "excepted" on the preliminary plan. If the applicant has an interest, or owns any parcel so identified as "excepted," the preliminary plan shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed preliminary plan.

(6) Statement describing the sewage system and method to be approved by the City of Bangor.

(7) Statement describing water supply system and method to be approved by the City of Bangor.

(8) Schematic indication and description of storm drainage acceptable to the City of Bangor.

(9) In the case where the applicant wishes to develop a given area, but wishes to begin with only a portion of the total area, the preliminary plan shall include the proposed general layout for the entire area. The part which is proposed to be developed first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the applicant intends to follow. Each subsequent development shall follow the same procedure until the entire area controlled by the applicant is subdivided. Each phase of the development shall not exceed, on a cumulative basis, the average density allowed for the entire development.

(10) An indication of the means by which and extent that significant natural features such as water courses, bodies of water, stands of trees, and individual trees (apart from stands of trees) having a diameter of 12 inches or greater at a height of two feet above existing grade, are to be preserved in conjunction with the development of the proposed project.

(11) Indication of the approximate area for all site improvements including roads, utilities, drains, and all building activity that will have to be cleared and graded in order to develop the proposed project.

(12) The Preliminary Site Condominium Subdivision Plan will also indicate the significant ecological areas that are to be preserved in their natural state. The intent is not to require a detailed grading plan at this time but to ensure that the developer's consultant has given sufficient thought to the clearing and grading requirements in preparing the Preliminary Plan.

(Ord. 219, passed 5-5-97)

**§ 156.04 DESIGN LAYOUT STANDARDS AND IMPROVEMENTS**

(A) *Requirements and Standards.* The requirements and standards contained in the published infrastructure design standards shall apply and are herein incorporated by reference.

(B) *Construction of Development in Phases.* For developments where construction is to occur in phases, that portion which is constructed shall conform with all laws, ordinances and regulations of all governmental bodies having jurisdiction, and be capable of functioning independently without further improvements, including, additional roads, drainage, or utilities.

(Ord. 219, passed 5-5-97)

**§ 156.05 REVIEW PROCEDURE**

The procedure for review and approval of a site plan for a site condominium project shall consist of two stages: the first is the review and approval of the preliminary site plan by the City Planning Commission and City Council; the second is the review and approval of the final site plan by the City Planning Commission and City Council.

(A) *Planning Commission Review of Preliminary Site Plan.*

(1) The applicant shall submit 15 copies of the preliminary site plan, to scale, to the City at least two weeks prior to a regularly scheduled Planning Commission meeting so the site plan can be placed on the agenda and given time for technical review.

(2) The Planning Commission shall review the plan pursuant to the standards for site plan approval contained in the City Zoning Ordinance.

(3) Upon review the Planning Commission shall make a recommendation to the City Council to grant or deny approval of the proposed site condominium project or to grant conditional approval based on the following:

(a) The standards for approval contained in the City Zoning Ordinance.

(b) Conformity of the proposed site condominium and its related by-laws with the objectives of the City's Land Use Plan.

(c) Project developer's financial and technical capacity to meet the design and improvement standards of this chapter.

(4) The Planning Commission is authorized to make a recommendation to the City Council to grant approval, grant approval subject to conditions, or reject the site plan, as follows:



(a) *Recommend approval.* Upon determination that the site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the Planning commission recommend approval.

(b) *Recommended approval subject to conditions.* Upon determination that a site plan is in compliance except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain approvals from other agencies. The applicant may re-submit the site plan to the Planning Commission for final review after conditions have been met. The Planning Commission may waive its right to review the revised plan, and instead authorize the City Manager to review and recommend approval of the re-submitted plan if all required conditions have been addressed.

(c) *Recommend rejection.* Upon determination that a site plan does not comply with the standards and regulations set forth in this chapter, or requires extensive revision in order to comply with said standards and regulations, the Planning Commission shall recommend that site plan approval be denied.

(B) *Submission of Preliminary Site Plans for City Council Review.* After the Planning Commission makes a recommendation on the preliminary site plan, the applicant shall make any required modification and submit sufficient copies of the revised preliminary site plan (as specified on the application form) for City Council review.

(C) *City Council Determination.* The City Council shall make a relevant determination based on the requirements and standards in this chapter, taking into consideration the comments and recommendations of the Planning Commission, City departments and other reviewing agencies. The City Council is authorized to grant approval, grant approval subject to conditions, or reject a site plan.

(D) *Recording of Site Plan Review Action.* Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission or City Council as appropriate. The grounds for action taken upon each site plan shall also be recorded in the minutes.

(E) *Approval.* Approval shall confer on the proprietor for a period of one year from the date of approval.

(F) *Preliminary Plan.* Upon receipt of preliminary plan approval, the proprietor shall submit the preliminary plan to all authorities as required by local and state regulation such as MDOT, MDEQ, MDOC and shall deliver two copies of the preliminary plan to the superintendent of the school district in which the condominium project is to be located.

(G) *Construction.* No installation or construction of any improvements or land balancing or grading shall be made or begun until the final plan has been approved. No removal of trees and/or other vegetation shall be started at this time except for minor clearing required for surveying and staking purposes.

(H) *Final Plan Approval.* The final plan shall conform substantially to the approved preliminary plan and shall be prepared by a registered land surveyor or registered engineer. The final plan shall also constitute only that portion of the approved preliminary plan which the proprietor proposes to record and develop at the time and conform in all respects with the requirements of the Condominium Act. The procedure for the preparation and submittal of a plan for final approval shall be as follows:

(1) *Conditions of Approval.* In addition to all other requirements of this chapter and of the Condominium Act, application for final plan approval shall be made only if the proprietor has complied with the following:

- (a) Received approval of the preliminary plan.
- (b) Received approval of the engineering construction plans for all improvements to be built in accordance with the standards and specification adopted by the City Council and received notification of the issuance of the appropriate county and state construction permits for utilities.
- (c) Received certification from the city that all fees required by this chapter have been paid, and that engineering review fees and other charges and deposits specified in this chapter have been paid.
- (d) Received approval of the lot drainage, and the soil erosion and sedimentation plan.
- (e) Provided a policy of title insurance currently in force covering all the land within the boundaries of the proposed development, establishing ownership interest of record and other information deemed necessary by the city.
- (f) Deposited with the city the financial guarantees as may be required by this chapter.
- (g) If the installation of landscaping, street trees and street lights have been required by the City Council, the proprietor and the city may enter into a special agreement to ensure installation.
- (h) The City Council and the proprietor shall have entered into an agreement for the review and inspection of the installation of public improvements and their conformance with the construction plan and the plan.
- (i) The proprietor shall have delivered two copies of the Master Deed and Condominium Bylaws in final recordable form.

(2) *Review and Approval Procedures*

- (a) At their next scheduled meeting, the Planning Commission shall recommend to the City Council:
  - 1. Approval of the final plan if it meets the requirements of this chapter and the Condominium Act; or



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2. Rejection of the final plan, if it does not meet such requirements.

(b) At their next scheduled meeting following the Planning Commission review of the plan, the City Council shall:

1. Approve the plan if it conforms to all provisions of this ordinance and instruct the City Clerk to certify on the plan the City Council approval and date thereof;

2. Reject the plan and instruct the City Clerk to advise the proprietor, explain the reasons for the rejection, and return the plan to the proprietor; and

(c) Approval of the final plan shall confer upon the proprietor for a period of two years from the date of City Council approval, the conditional right that the general terms and conditions under which the final approval of the plan was granted will not be changed.

(d) Upon approval of the final plan by the City Council the subsequent approvals required by the Condominium Act shall follow the procedure set forth therein, including the registration of the master deed with the Van Buren County Register of Deeds.

(Ord. 219, passed 5-5-97)

**§ 156.06 INTERPRETATION**

(A) *Application of Traditional Definitions.* In the review of preliminary and final plans, as well as engineering plans, it is recognized that it may not be feasible to precisely apply traditional definitions and measures which have been provided for and which would be made for developments proposed under the Subdivision Control Act. However, the review of plans submitted in this chapter shall be accomplished with the objective and intent of achieving the same results as if the improvements were being proposed pursuant to the Subdivision Control Act, including, without limitation, conformance with all requirements of the City Zoning Ordinance, as amended and the City Infrastructure Development Ordinance.

(B) *Conflict with Existing Regulations.* These regulations are not intended to repeal, abrogate, annul, or in any manner interfere with existing regulations or laws of the City nor conflict with statutes of the State of Michigan or Van Buren County except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations. Nothing in this Ordinance shall be construed as requiring a Site Condominium Subdivision to obtain plat approval under the Subdivision Control Act.

(Ord. 219, passed 5-5-97)



## CHAPTER 157: CERTIFICATES OF OCCUPANCY

### Section

- 157.01 Legislative findings
- 157.02 Certificate of occupancy required
- 157.03 Application
- 157.04 Enforcement
- 157.05 Exemptions
- 157.06 Partial exemptions
- 157.07 Application procedures
- 157.08 Limitations on inspections
- 157.09 Duration - residential
- 157.10 Duration - commercial
- 157.11 Conditional certificate of approval
- 157.12 Conditional certificate of approval - bond required
- 157.13 Registration of rental dwellings
- 157.14 Appeals
  
- 157.99 Penalty

### § 157.01 LEGISLATIVE FINDINGS.

The council finds that a certificate of occupancy program is in the public interest for the following reasons:

(A) The city is a mature community with much of the housing stock and commercial buildings being in excess of 40 years old.

(B) Based on past experiences with building inspections, many of these buildings have serious code violations, which are a threat to the health, welfare and safety of the residents of the city.

(C) It takes special training and knowledge, which is beyond the expertise of the average property owner to recognize many of these code violations.

(D) In order to preserve the value of existing construction, to safeguard the public, and to prevent blight, it is necessary to inspect every building in the city.

(E) The least intrusive method, which should result in eventual inspection of all residential premises, is to require a certificate of occupancy upon sale, transfer of the property, or change in occupancy.

(Ord. 239, passed 11-2-98)

#### **§ 157.02 CERTIFICATE OF OCCUPANCY REQUIRED.**

(A) It shall be unlawful to occupy any premises, except as identified as exempt under §§ 157.05 and 157.06 of this chapter, in the city of Bangor unless there is an unexpired certificate of occupancy in effect, which covers the specific use for which the premises are being occupied.

(B) Violation of this section is a misdemeanor. Each day that the unlawful occupancy continues shall be a separate offense.

(C) In the case of tenant occupied commercial property, either the owner or the tenant, or both, may be cited for the violation. In the case of tenant occupied residential property, only the owner may be cited.

(D) In the case of a corporation, the president or managing agent shall be personally responsible for the violation, in addition to the corporation.

(E) In the case of a partnership, any general partner may be cited for the violation.  
(Ord. 239, passed 11-2-98)

#### **§ 157.03 APPLICATION**

(A) All owners or occupants of commercial property shall apply for a certificate of occupancy as required by § 157.10.

(B) Owners of tenant occupied residential property shall apply for a certificate of occupancy as required by § 157.09.

(C) Owners of all owner occupied residential property shall apply for a certificate of occupancy when the property is sold or transferred and thereafter as required by § 157.09.  
(Ord. 239, passed 11-2-98)

#### **§ 157.04 ENFORCEMENT.**

(A) If a residence is found to be vacated or occupied without an occupancy permit and material, health or safety hazards exist, water service will be discontinued until all bills are paid and an occupancy permit is obtained. Any charges for delinquent water charges or turn-on or turn-off fees connected with

obtaining an occupancy permit must be paid before an occupancy permit will be issued and before water service will be continued.

(B) If the violations are not corrected within the time limits set by the building official, charges may be brought against the responsible party.

(C) The owner or occupant will be contacted and an inspection will be requested.

(D) If permission is refused, a search warrant shall be requested from the district court.

(E) If the warrant request is granted, the premises will be inspected and the owner or occupant will be given written notice of any violations. The owner or other responsible party will be billed for the regular inspection fee, any court costs and attorney fees incurred in securing the search warrant. If not paid, these amounts will become a lien on the property.

(Ord. 239, passed 11-2-98)

***Cross Reference:***

*For provisions on discontinuance of water service, see § 52.18*

**§ 157.05 EXEMPTION - MULTIPLE HOUSING.**

A certificate of occupancy is not required for an apartment building, condominium, cooperative or other multiple residential property if there are more than six units under common ownership or management at one location. A yearly inspection is required for all dwelling units and common areas. (Ord. 239, passed 11-2-98)

**§ 157.06 PARTIAL EXEMPTIONS - OWNER OCCUPIED RESIDENTIAL.**

(A) A certificate of occupancy is not required for a single family-housing unit, which was occupied by the owner as the owner's principal residence on the effective date of this ordinance for as long as that occupancy continues. If the housing unit is sold, or if it is no longer occupied by the owner, a certificate of occupancy shall be required, except as provided in division (B) of this section. A land contract purchaser shall be considered an owner.

(B) Application for a certificate of occupancy is not required when owner occupied residential property is transferred to a member of the household of the owner, provided the transferee has resided in the property for at least one-year immediately before the transfer, and the transfer is for a nominal consideration.

(C) No part of this section shall be so construed as to prevent the city from investigating any complaint of hazardous conditions in any building, brought to the city's attention by a responsible party, nor to prevent any code official from acting on violations discovered or suspected under the plain view doctrine.

(Ord. 239, passed 11-2-98)



**§ 157.07 APPLICATION PROCEDURE.**

(A) A certificate of occupancy may be obtained by submitting a written application to the building department on the prescribed form, and by paying the fee which shall be established by resolution of the city council.

(B) Before issuing a certificate of occupancy, the building official shall inspect the property and determine whether the property is in substantial compliance with all material provisions of the most recent edition of the BOCA National Property Maintenance Code and HUD Section 8 housing quality inspection form, as amended and adopted by the city. The building official shall give the applicant a list of all violations found as a result of the inspection.

(C) The building official shall issue a certificate of occupancy immediately if no violations are found. If violations are found to exist, a certificate of occupancy shall be issued after the building official is satisfied that all violations have been corrected. If the premises are occupied without a valid certificate of occupancy, the city may proceed under § 157.02.

(D) Upon any re-inspections, should an inspector discover any other violations or defect not first observed in an earlier inspection, the inspector shall have the authority to require compliance within a specific time limit determined by the inspector.

(E) If an inspection appointment is made and no one is there when the inspector goes for the inspection, a \$10.00 fee will be charged before another inspection appointment is made.

(F) The certificate of occupancy shall state that the building official has inspected the dwelling or structure and has determined that the dwelling or structure may be occupied. The existence of an unexpired certificate of occupancy shall not bar enforcement of or excuses compliance with any building code or other ordinance of the city. The certificate of occupancy shall bear this legend in capital letters or bold face type:

**"THE CITY DOES NOT WARRANTY OR GUARANTEE THAT THERE ARE NO DEFECTS IN THE PREMISES COVERED BY THIS CERTIFICATE AND THE CITY SHALL NOT BE HELD RESPONSIBLE FOR DEFECTS NOT NOTED IN THE INSPECTION REPORT. INTERESTED PERSONS ARE ADVISED AND ENCOURAGED TO MAKE THEIR OWN INSPECTION OF THE PREMISES IN ORDER TO DETERMINE THEIR CONDITION."**

(G) The person applying for a certificate of occupancy shall sign an inspection agreement on a form prescribed by the building official. The inspection agreement shall disclose the scope of the inspection, state the limitations on the inspection and shall prohibit disclosure of the inspection report unless the scope and limitations of the inspection are also disclosed. In the case of a sale of the property, both the buyer and the seller shall sign and acknowledge receipt of completed inspection report.

(Ord. 239, passed 11-2-98)

**§ 157.08 LIMITATIONS ON INSPECTIONS.**

(A) All occupancy inspections shall be made to determine substantial compliance with the BOCA national property maintenance code and HUD Section 8 housing quality inspection form, as amended and adopted by the Bangor city council, as attached hereto.

(B) All inspections shall be visual or those which may require nondestructive testing to the extent of the removal of covers or plates, or the checking of electrical voltages or grounding conditions, as is deemed necessary by the building official.

(C) A list of all defects, if any, shall be made at the initial inspection. Any additional defects or code violations discovered or uncovered during repair or made known to the building official, prior to the issuance of the occupancy permit, shall be noted and will require repair within the time limits established by the building official.

(Ord. 239, passed 11-2-98)

**§ 157.09 DURATION - RESIDENTIAL.**

(A) A certificate of occupancy issued for residential property shall be valid until the property is sold or transferred or occupancy changed. In the case of property occupied by a tenant, the certificate of occupancy shall be valid until there is a change of tenant, or until the property is sold, whichever comes first.

(B) No part of this section shall be so construed as to prevent the city from investigating any complaint of hazardous conditions in any building, brought to the city's attention by a responsible party, nor to prevent any building official from acting on violations discovered or suspected under the plain view doctrine.

(Ord. 239, passed 11-2-98)

**§ 157.10 DURATION - COMMERCIAL.**

(A) A certificate of occupancy for commercial property shall be valid until the property is sold or transferred or the occupancy has changed.

(B) No part of this section shall be so construed as to prevent the city from investigating any complaint of hazardous conditions in any building, brought to the city's attention by a responsible party, nor to prevent any building official from acting on violations discovered or suspected under the plain view doctrine.

(Ord. 239, passed 11-2-98)

**§ 157.11 CONDITIONAL CERTIFICATE OF APPROVAL.**

In the event, for any reason, an owner requests that a certificate of approval be issued prior to complete compliance with the provisions of this ordinance, and if the absence of complete compliance does not, in the judgment of the building official, constitute a material health or safety hazard, a conditional certificate of approval may be issued upon the condition that complete compliance be achieved within a reasonable time specified by the building official, but not more than 60 days for good cause. In the event of issuance of a conditional certificate of approval, the owner shall notify said department by or before the time period specified for achieving compliance that said conformance has been achieved. A certificate of approval shall then be issued if the building official determines compliance after inspection.

(Ord. 239, passed 11-2-98)

**§ 157.12 CONDITIONAL CERTIFICATE OF APPROVAL - BOND REQUIRED.**

The building official shall require submission of a cash or surety bond in an amount equal to 150 percent of the estimated cost of repairs as determined by the building official prior to issuance of a conditional certificate of approval or in the event the official agrees to extend the time for compliance or in the event the inspection of the premises, buildings or structures after the time set forth for compliance has expired reveals that all the deficiencies have not been corrected. The bond or any moneys deposited as same shall be refunded within 30 days after certificate of approval is issued.

(Ord. 239, passed 11-2-98)

**§ 157.13 REGISTRATION OF RENTAL DWELLINGS.**

All dwellings, as defined by this chapter, which are leased or otherwise made available for rental purposes shall be registered by the owner with the city clerk's office at city hall.

(A) *Time periods for registration.*

(1) All existing rental dwellings shall be registered within 90 days of the effective date of this chapter.

(2) All newly constructed or newly converted rental dwellings shall be registered within 30 days of the issuance of the certificate of occupancy by the city of Bangor.

(3) A rental dwelling, which is sold, transferred or conveyed, shall be re-registered by the new owner within 30 days of the date of the deed, land contract or other instrument of conveyance.

(4) All existing non-rental dwellings, which are converted to rental dwelling without issuance of a certificate of occupancy, shall be registered within 30 days from the date on which the property is first occupied for rental purposes.



(B) *Required information.* The owner of a rental dwelling shall submit the following information to the city clerk's office at Bangor city hall on forms prescribed by the city.

- (1) The address of the rental dwelling;
- (2) The number of rental units within the structure;
- (3) The name, residence address, business telephone and home telephone of the owner;
- (4) The name, residence address, business address and business telephone of the responsible agent designated by the owner;
- (5) The date of registration of the rental dwelling;
- (6) Name of current tenant.

(C) *Fee; administrative late charge.* No registration fee shall be assessed to the owner of a rental dwelling by the city if registration complies with the provisions of this chapter. An administrative late charge as established by a resolution adopted by the city council per dwelling unit, boarding house, dormitory, or rooming house, shall be paid by the owner if registration of a rental dwelling does not comply with the provisions of this chapter.

(D) *Incorrect and outdated registration information.* An owner who fails to provide correct or current registration information shall be in violation of the provisions of this chapter.  
(Ord. 239, passed 11-2-98)

**§ 157.14 APPEALS.**

Any violation notice may be appealed to the five members board of construction appeals established by the city council. The appeal shall be in writing and shall be filed within ten days of receipt of the violation notice. The appeal fee, in an amount of \$25.00, shall be paid at the time of filing. The board shall have no authority to waive, vary or modify the provisions of this, or any other, ordinance. The violation notice shall contain a notification of the appeal rights.  
(Ord. 239, passed 11-2-98)

**§ 157.99 PENALTY AND ENFORCEMENT.**

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment. In addition to the fine and cost imposed for violation of this chapter, the owner shall pay the administrative late charge prescribed in § 157.13.  
(Ord. 239, passed 11-2-98)



## CHAPTER 158: WELLHEAD PROTECTION OVERLAY ZONE

### Section

- 158.01 Purpose
- 158.02 Definitions
- 158.03 Principal land uses permitted; prohibited
- 158.04 General provisions
- 158.05 Site plan review requirements
- 158.06 Determination of applicability
- 158.07 Conditions for approval or denial
- 158.08 Exemptions and waivers
- 158.09 Appeals
- 158.10 Penalties and costs

### § 158.01 PURPOSE.

(A) The city has determined that:

- (1) Certain groundwater underlying the city is the sole source of the city's drinking water.
- (2) Groundwater aquifers are integrally connected with the surface water, lakes, and streams which constitute significant public health, recreational and economic resources of the city and surrounding area.
- (3) Spills and discharges of petroleum products, sewage and hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

(B) Therefore, the city has enacted an overlay ordinance to initiate the following actions:

- (1) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the city, and to protect them from adverse land use development or land use practices.
- (2) Preserve and protect sources of drinking water supply for public health and safety.
- (3) Conserve the natural resources of the city and the surrounding area.

(4) Provide a level of protection of the financial investment that the city has in its drinking water supply.

(5) Assure that state regulations which help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.  
(Ord. 251, passed 9-5-00)

#### § 158.02 DEFINITIONS.

**AQUIFER.** A geologic formation, group of formations or part of formations capable of storing and yielding a significant amount of groundwater to wells or springs.

**BEST MANAGEMENT PRACTICES.** Measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water or groundwater.

**DEVELOPMENT.** The construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

**ENVIRONMENTAL CONTAMINATION.** The presence or release of a hazardous substance or other substance, in a quality, which is or may become injurious to the environment, or to the public health, safety, or welfare.

**FACILITY.** Any building, structure, installation or property from which there may be a discharge of hazardous substances.

**HAZARDOUS SUBSTANCE.** A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term **HAZARDOUS SUBSTANCE** includes, but is not limited to, any of the following:

(1) Hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767.

(2) Hazardous waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

(3) Regulated substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

(4) Hazardous substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

(5) Used oil.



- (6) Animal waste or byproducts, or carcasses.

**PRIMARY CONTAINMENT FACILITY.** A tank, pit, container, pipe or vessel of first containment of a hazardous substance.

**SECONDARY CONTAINMENT FACILITY.** A second tank, catchment pit, or vessel that limits and contains liquid or hazardous substance leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent future environmental contamination of land, ground water or surface water.

**UNDERGROUND STORAGE TANK SYSTEM.** A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

**USED OIL.** Any oil which had been (a) refined from crude oil, (b) used, and (c) as a result of such use contaminated by physical or chemical impurities.

**WELL.** A permanent or temporary opening in the surface of the earth for the purpose of removing fresh water, testing water quality, measuring water characteristics, liquid recharge, waste disposal, or dewatering purposes during construction, as defined in the Michigan Water Wells Construction and Pump Installation Code, Part 127, Public Act 368 of 1978, as amended, and rules.

**WELLHEAD PROTECTION AREA (WHPA).** The area around and upgradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.

**WELLHEAD PROTECTION OVERLAY ZONE.** The Wellhead Protection Area as outlined on the overlay zoning map.  
(Ord. 251, passed 9-5-00)

### § 158.03 PRINCIPAL LAND USES PERMITTED; PROHIBITED.

Proposed land use is specified by applicant and confirmed by the City Planning Commission. Permitted land uses in the Wellhead Protection Overlay Zone include all those permitted uses as allowed in the underlying zoning district, except for the following:

(A) Petroleum product manufacturing (including coal).

(B) Commercial salvage yards and/or scrap processing.

(C) Oil and gas drilling.

(Ord. 251, passed 9-5-00)

**§ 158.04 GENERAL PROVISIONS.**

These provisions shall apply to all properties within the Wellhead Protection Overlay Zone, including private, commercial, industrial, residential and public properties, which use include the storage or generation of hazardous substances in quantities greater than 100 kilograms (approximately 220 pounds or 25 gallons) per month, and which require site plan review under provisions of this chapter or § 154.013 of the City Zoning Ordinance. The general provisions apply to entire property parcels, providing parcel is at least partially included in the Wellhead Protection Overlay Zone.

**(A) Groundwater protection standards.**

(1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.

(2) Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.

(3) Industrial facilities with a point source discharge of storm water shall maintain a Storm Water Pollution Prevention Plan in accordance with applicable state and federal regulations.

(4) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with the city's Industrial Pretreatment Ordinance.

(5) Sites that at any time use, store or generate substances in quantities greater than 100 kilograms that include hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

(6) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.

(7) Bulk storage of pesticides shall be in accordance with applicable county, state and federal regulations.

**(B) Aboveground storage and use areas for hazardous substances.**

(1) Primary containment of hazardous substances shall be product tight.



(2) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers with a volume of less than 40 gallons and packaged for retail use shall be exempt from this item.

(3) Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance of the expected accumulation of precipitation.

(4) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained pursuant to applicable county, state and federal regulation.

(5) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetlands, groundwater, or soils.

(C) *Underground storage tank systems.*

(1) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality.

(2) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality. Leak detection, secondary containment, corrosion protection, spill prevention and overflow protection requirements shall be met.

(D) *Well abandonment.* Out of service wells shall be sealed and abandoned in accordance with applicable state requirements.

(E) *Well construction.*

(1) Well drilling, construction and installation shall only be performed by State of Michigan Registered Well Drillers.

(2) Well construction shall be completed in accordance with Part 127 of Public Act 368 of 1978, as amended, and rules.

(3) Well construction shall include fully grouting the entire length of the well casing in accordance with Part 127 of Public Act 368 of 1978, as amended, and rules.

(F) *Sites with contaminated soils and/or groundwater.*

(1) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and environment.

(2) Information must be provided regarding the type, concentration and extent of identified contamination, land use deed restrictions and any remedial action plans.

(3) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(G) *Construction standards.*

(1) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.

(2) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container volume of over 40 gallons that contains hazardous substances shall have secondary containment.

(3) If the contractor will be storing or handling hazardous substances that require a Material Safety Data Sheet (MSDS), the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.

(4) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable state and federal regulations.

(5) Excavation, drilling, direct-push and other earth penetration shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(H) *Maintenance.* In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where hazardous substances are handled or stored.

(I) *Exclusions.*

(1) A limited exclusion from the general provisions is hereby authorized for hazardous substances as follows:

(a) The hazardous substance is packaged for personal or household use or is present in the same form and concentration as a product packaged for use by the general public.

(b) The total excluded substances containing hazardous substances may not exceed 50 gallons or 400 pounds at any time.

(2) A limited exclusion from the general provisions is hereby authorized for non-routine maintenance or repair of property in the Wellhead Protection Overlay Zone provided the uses are limited as follows:

(a) The aggregate of hazardous substances may not exceed 50 gallons or 400 pounds at any time.

(b) The total use of substance containing hazardous substances may not exceed 100 gallons or 800 pounds at any time.

(Ord. 251, passed 9-5-00)

#### **§ 158.05 SITE PLAN REVIEW REQUIREMENTS.**

(A) Specify location and size of interior and exterior areas and structures to be used for on-site storage, use, load/unloading, recycling, or disposal of hazardous substances.

(B) Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated stormwater or wash water, and all similar uses.

(C) Specify location of existing and proposed wells.

(D) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

(E) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of any site remedial action plan and land use deed restrictions, if applicable.

(F) Submit "City of Bangor State and County Environmental Permits Checklist."

(G) Refer to § 154.013 regarding Site Plan Review of the City Zoning Ordinance (Chapter 154 of Title XV) for additional requirements.

(Ord. 251, passed 9-5-00)



**§ 158.06 DETERMINATION OF APPLICABILITY.**

It shall be the responsibility of any person owning real property and/or owning and operating a business within the city corporate limits to make a determination of the applicability of the chapter as it pertains to the property and/or business under his or her ownership or operation and his or her failure to do so shall not excuse any violations of the chapter.

(Ord. 251, passed 9-5-00)

**§ 158.07 CONDITIONS FOR APPROVAL OR DENIAL.**

The Planning Commission, upon reviewing a site plan, shall take one the following actions:

(A) *Approval.* If the plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record such approval and the Chairman shall sign three copies of the site plan filing one in the official site plan file, forwarding one to the Building Inspector, and returning one to the applicant.

(B) *Disapproval.* If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.

(C) *Conditional approval.* Conditions on the approval of the site plan may be imposed meeting the requirements specified in the City Zoning Enabling Act. Conditions must be:

(1) Designed to protect natural resources, and the health, safety, and welfare and the social and economic well-being of residents, neighbors, and the community as a whole;

(2) Related to the valid exercise of the police power;

(3) Necessary to meet the purposes of the Zoning Ordinance and related to the standards established in the Zoning Ordinance for the land use or activity under consideration.

(D) *Table.* If the site plan is found to be in violation of requirements, incomplete with respect to necessary information or presenting a unique situation, the Planning Commission may table the site plan until a public hearing can be scheduled to determine specific improvement requirements the Planning Commission feels are necessary but the applicant is not in agreement with.

(Ord. 251, passed 9-5-00)

**§ 158.08 EXEMPTIONS AND WAIVERS.**

The transportation of the hazardous substance shall be exempt from the provisions of this chapter provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a state licensed hazardous waste treatment, storage, or disposal facility. (Ord. 251, passed 9-5-00)

**§ 158.09 APPEALS.**

The City Council may grant a special permit if it finds by written decision that the proposed use:

(A) Meets the intent of this chapter as well as its specific criteria.

(B) Will not, during construction or thereafter, have an actual or potential adverse impact on any aquifer or recharge area in the district.

(C) Will not actually or potentially adversely affect an existing or potential domestic or municipal water supply; and is consistent with existing and probably future development of surrounding areas. (Ord. 251, passed 9-5-00)

**§ 158.10 PENALTIES AND COSTS.**

(A) *Falsifying information.* Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any method required under this chapter, shall be fined upon conviction not more than \$2,000 per occurrence.

(B) *Violations.*

(1) Any person or persons who are found to have violated an order of the city or who willfully or negligently fails to comply with any provision of this chapter and the orders, rules and regulations and permits issued thereunder, shall be fined upon conviction not more than \$2,000 per occurrence.

(2) Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued thereunder.

(3) Any person or person violating any of the provisions of this chapter shall be liable to the city for any expense, loss, or damage caused by such violation. The city shall bill the person and persons for the costs incurred by the city (caused by the violation).  
(Ord. 251, passed 9-5-00)