

ARTICLE VI: SUPPLEMENTARY REGULATIONS

Section 6.1 MISCELLANEOUS REGULATIONS

6.1.1. PRIOR BUILDING PERMITS: Any building permit issued prior to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, PROVIDED that construction is commenced within ninety (90) days after the date of permit issuance and that the entire building shall be completed according to the plans filed with the permit application within one (1) year after the issuance of the building permit.

6.1.2. ACCESS TO A STREET: Any lot of record created after the effective date of this Ordinance shall have frontage on a public street, except in the case of an officially approved group housing development as provided in Article V, Section 5.4.3. Any one (1) lot of record created before the effective date of this Ordinance without any frontage on a public street shall not be occupied without access provided by an easement or other right-of-way no less than twenty (20) feet wide.

6.1.3. REAR DWELLING PROHIBITED: No buildings in the rear of and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers and domestic employees whose employment functions are related to the functions of the principal building, PROVIDED that all other requirements of this Ordinance are satisfied.

6.1.4. TRAILER DWELLING PROHIBITED: No trailer coach or mobile home shall be occupied as a dwelling in the City of Olivet except for those mobile homes located in an approved and licensed mobile home park development.

6.1.5. REVIEW OF BUILDING DESIGN NEAR PUBLIC BUILDINGS AND

SITES: The design of proposed nonresidential building within five hundred (500) feet of the nearest property line of public parks, scenic areas, and buildings, such as community centers, village office buildings, libraries,

schools, or hospitals, shall first be approved by the Board of Appeals before a building permit can be issued. The purpose of this requirement is to prevent the occurrence of inappropriate structural appearance of building designs intended to attract attention of potential customers and patrons in proximity to improvements in which the public has invested tax monies. The Board of Appeals shall request recommendations from the Planning Commission and City Council before making its determination.

6.1.6. REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES: After the effective date of the Ordinance, no structure shall be erected, altered, or moved upon a lot or premise and used in whole or in part for dwelling, business, industrial, or recreational purposes unless it shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human excrement and domestic, commercial and industrial wastes. All such installations and facilities shall conform with the minimum requirements of the Eaton County Health Department and the State of Michigan Health Department.

Section 6.2 SUPPLEMENTARY USE REGULATIONS

6.2.1. USES OF STRUCTURES FOR TEMPORARY DWELLING: No structure shall be used for dwelling purposes that is not considered a standard dwelling structure, as defined in this Ordinance. No garage or other accessory building, tent, cabin, partial structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purpose for any length of time unless authorized by the Board of Appeals by the issuance of a temporary permit as provide for in Article IV, Section 4.4.4.

6.2.2. ACCESSORY BUILDINGS: Authorized accessory buildings may be erected as a part of the principal building or may be connected to it by a roofed-over porch, patio, breezeway, or similar structure, or they may be completely detached. If attached to a principal building, an accessory building shall be made structurally a part of it and shall comply in all respects with the requirements applicable to the principal building. An

accessory building not attached and not made a part of the principal building, as provided in the preceding statement, shall not be nearer than ten (10) feet from any other separate structure on the same lot.

1.) Accessory Uses, Garages: In residential districts, the number of motor vehicles for which structural space may be provided as accessory to an authorized use shall not exceed the following:

a.) R-1A Residential Districts: Four (4) motor vehicles, one (1) of which may be a commercial vehicle not exceeding one (1) ton rated capacity, and one and one-half (1-1/2) tons if the residence is part of an agricultural operation.

b.) R-1B Residential Districts: Three (3) motor vehicles, one (1) of which may be a commercial vehicle not exceeding one (1) ton rated capacity; and for each five thousand (5,000) square feet by which the lot exceeds the minimum lot area required, space for one (1) additional moto vehicle may be provided.

c.) R-M1 Districts and Group Housing Developments: Two (2) motor vehicles for one-family and two-family dwellings and for each family or household group housed in a multiple-family dwelling structure; but not more than one (1) of these two (2) motor vehicles may be a commercial vehicle not exceeding one (1) ton rated capacity.

Space in a garage accessory to a multiple-family residence or a motel shall be rented only to occupants of the dwelling.

d.) A parking area of ten (1) feet by twenty (20) feet shall be considered as adequate storage space for each authorized motor vehicle Additional space may be

provided in a garage for uses incidental to a garage function or for hobby workshops and storage areas.

2.) Accessory Uses, Fallout Shelters: Fallout shelters are permitted uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately and in addition to shelter use may be used for any accessory use permitted in the district, subject to the district regulations for such use.

6.2.3 SIGNS: Signs as used in this Section are defined as signs in Article X, Definitions, and shall be allowed in the particular district as noted in the following:

1.) All Zoning Districts: The following signs shall not be allowed in any district.

- a.) Signs which are obsolete.
- b.) Signs which are illegal under state laws or regulations and applicable local ordinance or regulations.
- c.) Signs that are not clean and in good repair.
- d.) Signs not securely affixed to a substantial structure.
- e.) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with or resemble any official traffic sign, signal or device.
- f.) Signs which are erected or maintained upon trees, painted or drawn upon rock or other natural features.
- g.) Signs which project above the cornice or roof line, except as noted in a particular zoning district.
- h.) Signs which are not consistent with the standards in this Ordinance.

2.) R-1A, R-1B Residential Districts:

a.) One nonilluminated sign advertising the sale or lease of the lot or building not exceeding six (6) square feet in area on any one (1) lot, such sign being placed no closer to the street line than one-half (1/2) the minimum front yard depth.

b.) One nonilluminated sign announcing a home occupation or professional service not to exceed one a one-half (1-1/2) square feet in area for platted lots, four (4) square feet in unplatted areas and attached flat against a building wall.

c.) One nonilluminated sign or structure advertising a recorded subdivision or development not to exceed fifty (50) square feet and placed no closer to any street line than twenty-five (25) feet.

d.) All plans for the construction and design of signs shall be submitted to the Planning Commission for review and approval, excepting those signs permitted in (a) and (b) of this subsection.

3.) R-M1 Multiple and Group Housing Developments:

a.) All signs permitted in R-1A and R-1B Residential Districts and subject to the same limitations required for those districts.

b.) One flat sign or structure announcing the identification of the multiple or group housing development that shall not exceed twelve (12) square feet in area. Such a sign or structure may be illuminted, PROVIDED that the source of light is not visible to traffic, neighboring residences or to the units within the Group Housing or Multiple Unit Developments.

4.) B-1 General Business Districts:

a.) Signs may be attached flat against a main building or parallel to the building with a projection not to exceed eight (8) inches and may face only public streets or parking areas which are part of the development.

b.) Signs may be illuminated, but all bare incandescent light sources and immediately adjacent reflecting surfaces shall be shielded from view. But if intended to have moving illumination, such illumination must be approved in advance by the Planning Commission which body shall make certain that light intensity, color and movement will not likely distract motor vehicle operators, or constitute a traffic safety hazard.

c.) Signs shall not project above the cornice or roof line.

d.) No temporary sign made of paper, cardboard, canvas or similar material, other than a sign advertising the sale or rental of the premises on which the same is located, will be permitted on the exterior walls.

e.) Signs shall not exceed, in height, twenty percent (20%) of the building height and the total area of all signs on any wall shall not exceed twenty percent (20%) of the surface areas of such wall.

f.) Additional requirements for gasoline service stations to include one (1) free-standing sign structure to be utilized to identify the station, PROVIDED SUCH SIGN IS SET BACK FIFTEEN (15) feet from any public street pavement edge and does not exceed a height of twenty-five (25) feet, nor be placed so low as to obstruct the visibility of passing motorists.

g.) The plans and specifications for site development which are required within this Section shall include the

type, size, location and illumination of all signs proposed as part of the site development. The Planning Commission's review of sign proposals shall be to ensure that light intensity, color and movement shall not likely be so distracting to motor vehicle operators as to constitute a traffic hazard.

5.) B-2 Highway Service Districts:

a.) All signs permitted in the B-1 General Business Districts and subject to the same limitations required for those districts.

b.) Signs not exceeding two (2) square feet, purely for traffic regulations and directions within the development, may be utilized as required.

c.) One (1) free-standing sign structure may be utilized to identify the district development, PROVIDED such sign is set back twenty-five (25) feet from any public street right-of-way and is of such size and design that it will, in the judgment of the Planning Commission meet the vehicular safety and protective standards of the Highway Service District.

6.) M-1 Industrial Districts:

The restrictions imposed on all signs permitted in the B-1 General Business Districts shall apply to all signs in the M-1 Industrial Districts.

7.) A-1 Agricultural Districts:

a.) All signs permitted in R-1A and R-1B Residential Districts and subject to the same requirements for those districts.

b.) One nonilluminated sign advertising the sale of farm products grown on the premises not to exceed fifty (50)

square feet in area and placed no closer to any street line than fifteen (15) feet.

c.) Homes of occupants and other identification painted on or otherwise made a part of the surface of a roof of a barn and other accessory building pertaining to and identifying the owner and/or activity of the farm unit, PROVIDED said identification is not for advertising purposes.

d.) Memorial or historical signs such as "Centennial Farm" signs and/or other signs representing awards won by the farm unit and/or its proprietors.

8.) For Nonconforming Uses: One (1) sign placed flat on the wall of a legal nonconforming use not to exceed twenty (20) square feet in area.

9.) For Organizations and Institutions: One (1) sign per lot for churches, schools, clubs, associations and institutions serving as identification and/or bulletin boards not to exceed twenty (20) square feet in area. Such signs may be placed flat against the wall of a building or may be free-standing PROVIDED that it shall be not closer to any property line than ten (10) feet. Such signs may be illuminated, providing the source of light is not visible to traffic or neighboring properties.

6.2.4. FENCES, WALLS AND SCREENS: No fence, wall or structural screen, other than plant materials, shall be erected on any residential property higher than eight (8) feet, nor shall they be allowed in the front yard.

No hedge or other screen planting shall exceed a height of three (3) feet within any residential front yard within an area closer than twenty (20) feet to the front line. On any corner lot, no hedge or other screen planting shall exceed a height of three (3) feet within twenty (20) feet of any corner so as to interfere with traffic visibility across the corner.

Section 6.3 SUPPLEMENTARY AREA REGULATIONS

6.3.1. EXCEPTION TO REQUIRED LOT AREA FOR RESIDENTIAL DISTRICTS: Any residential lot created and recorded prior to the effective date of this Ordinance may be used for any permitted use even though the lot area and/or dimensions are less than those required for the district in which the lot is located, PROVIDED:

- 1.) That the other requirements of the district are met.
- 2.) That no adjacent land or lot is owned by the owner of the lot in question.
- 3.) That no lot shall be so reduced in area that the required open space will be smaller than those established as a minimum for the district in which the lot is located.
- 4.) That any lot so excepted shall be no less than fifty (50) feet in width at the street line.

6.3.2. LOT AREA CAN BE ALLOCATED ONCE: No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for the construction of a proposed or the alteration of an existing building.

6.3.3. ACCESSORY BUILDING: An accessory building shall not occupy more than forty percent (40%) of the area of any rear yard.

Section 6.4 SUPPLEMENTARY YARD REGULATIONS

6.4.1. SIDE YARD REDUCTION: Area required for side yards may be reduced in the following situations:

- a.) For residential lots adjoining an alley, the least width of a required side yard may be measured to the centerline of that alley, PROVIDED that no building shall be erected closer than five (5) feet to the nearest alley right-of-way.

b.) For lots of record eight (80) feet or more in width at the building line, the same side yard requirements as for lots one hundred (100) feet or over in width shall apply.

c.) For lots of record sixty (60) to seventy-nine (79) feet in width at the building line, the least width of either side yard shall be eight (8) feet, but the sum of two (2) side yards shall not be less than eighteen (18) feet.

d.) For lots of record fifty (50) to fifty-nine (59) feet in width at the building line, the least width of either side yard shall be six (6) feet; but the sum of the two (2) side yards shall not be less than thirteen (13) feet.

6.4.2. REAR YARD REDUCTION: When a lot of record in any residential district has a depth of less than one hundred fifteen (115) feet prior to the effective date of this Ordinance, the rear yard of such lot may be reduced one-fourth (1/4) of distance if the lot depth is less than one hundred fifteen (115) feet, PROVIDED that no rear yard shall be less than twenty (20) feet in depth.

When there is a public alley at the rear of a lot upon which the lot abuts for its full width, measurements of the depth of the rear yard may be made to the centerline of such alley.

6.4.3. PERMITTED YARD ENCROACHMENTS:

1.) Paved terraces patios and uncovered porches shall not be subject to yard requirements, PROVIDED:

a.) The paved area is unroofed and without such walls, parapets, or other forms of solid, continuous enclosure that so link the paved area to the principal building that an enclosed area is formed which appears functionally a part of the principal building.

b.) The highest finished elevation of the paved area is not over three (3) feet above the average surrounding finished ground grade.

c.) No portion of any paved area is closer than five (5) feet from any lot line.

Such paved areas may have an open railing or fence not over three (3) feet high and may have noncontinuous windbreaks or visual screen fences or walls not over six (6) feet high and not enclosing more than one-half (1/2) the perimeter of the paved area.

2.) Unenclosed porches, roofed or unroofed, may project into a required side or rear yard area a distance not to exceed eight (8) feet, PROVIDED:

a.) The porch is unenclosed, no higher than one (1) story, and is erected on piers.

b.) The porch shall not be closer than eight (8) feet at any point to any side or rear lot line.

3.) Enclosed porches, either one (1) story, two (2) story, or an unenclosed porch having solid foundations and capable of being enclosed shall be considered an integral part of the building and shall, therefore, be subject to all yard and area dimensional requirements established for principal buildings.

4.) Special structural elements, such as cornices, sills, beltcourses, chimneys, gutters, eaves, pilasters and similar structural features may project into any yard up to a maximum of two and one-half (2-1/2) feet.

5.) Fire escapes, outside stairways, and balconies, if of open construction, may project into the yard area up to a maximum of five (5) feet.

6.4.4. ACCESSORY BUILDINGS:

- 1.) In a Front Yard: No accessory building shall project into any front yard.
- 2.) In a Rear Yard: No accessory building, including detached garages, shall be closer than three (3) feet to any lot line.
- 3.) In a Side Yard: No accessory building, including garages, shall be erected closer to any side lot line than the permitted distance for a dwelling within a residential district, except when an accessory building is located (10) feet or more to the rear of the principal dwelling; then the accessory building shall be no closer than three (3) feet to the side lot line.
- 4.) On a Corner Lot: No accessory building shall be closer to the side street lot line than the side yard setback of the principal building on the lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a residential district, an accessory building shall not be closer than eight (8) feet to the common lot line.

Section 6.5 SUPPLEMENTARY HEIGHT REGULATIONS

6.5.1. PERMITTED EXCEPTIONS, STRUCTURAL

APPURTENANCES: The following kinds of structural appurtenances and permitted exceptions shall be permitted to exceed the height limitations for authorized uses only when all of the following conditions can be satisfied: No portion of any building or structure permitted as an exception to a height limitation, shall be used for human occupancy or for commercial enterprise. Any structural exception to height limitations shall be erected only to such height as may be necessary to accomplish the purpose it is intended to serve, so as not to become a hazard to aviation. If the roof area of such structural elements permitted to exceed the height limitations exceed twenty percent (20%) of the gross roof area, they shall be considered as integral parts of the whole structure, and thereby shall not be eligible for permission to exceed height limitations. Structural appurtenances qualifying for exception includes those listed below:

1.) Ornamental in purpose, such as church spires, belfries, cupolas, domes, ornamental towers, flag poles and monuments.

2.) Appurtenances to mechanical or structural functions such as chimneys and smoke stacks, water tanks, elevator and stairwell, penthouses, ventilators, bulkheads, radio towers, masts, aerials, televeision antennas, fire and hose towers, cooling towers, and grain and seed elevators.

3.) Commercial free-standing towers when not attached to a building or structure, shall be constructed under applicable state and federal regulations and approved by the Planning Commission.

4.) Free-standing towers, such as TV or radio towers intended primarily to serve the occupants of the main structure shall not exceed fifty (50) feet.

6.5.2. PERMITTED EXCEPTIONS, RESIDENTIAL DISTRICTS:

There shall be no exceptions permitted for residential structures; certain non-residential structures in residential districts may be permitted to exceed height limiations as specified in Article VIII, Section 8.2.

6.5.3. PERMITTED EXCEPTIONS, BUSINESS AND INDUSTRIAL DISTRICTS:

1.) In any business or industrial district, any principal building may be erected to a height in excess of that specified for the district, PROVIDED each front, side and rear yard is increased one (1) foot for each one (1) foot of such additional height.

Section 6.6 FLOODPLAIN REGULATIONS

6.6.1. INTENT AND PURPOSE: The purpose of these regulations is to protect those areas of the city which are subject to periodic inundation from flood waters of the major rivers, their branches and tributaries within the city so that the reservoir capacity shall not be significantly reduced,

thereby creating changes to areas previously not so endangered in time of high water, or to impede, retard, accelerate or change the direction of the flow or carrying capacity of the river valley or o otherwise increase the possibility of flood. Said regulations, while permitting reasonable use of such properties, will help protect human life, safety, health and general welfare, and prevent or minimize material or economic losses, through public aid and relief efforts occasioned by the unwise occupancy of such flood areas. All land and land uses within the floodplain area shall be subject to the requirements specified herein, in addition to the zoning district requirements of the zones in which said lands are located.

6.6.2. FLOODPLAIN DELINEATION. The floodplain within the City of Olivet is all of the land which would be inundated during an Intermediate Regional Flood. The Flood Hazard Boundary Map (Department of Housing and Urban Development Community No. 26--91A) shall serve as the Official Floodplain available. The Flood Insurance Rate Map shall take precedence over all prior maps and serve as the Official Floodplain Zoning Map. The Official Floodplain Zoning Map may be subject to alteration with any significant change in land use, including the indirect impact of such a change that seriously impedes, rtards, accelerates or changes the direction of flow or carrying capacity of the watercourse or which otherwise increases the possibility of flood. The Official Floodplain Zoning Map is on file at the office of the city clerk.

6.6.3. PERMITTED PRINCIPAL USES. Notwithstanding any other provisions of this Ordinance within the floodplain, no building or structure shall be erected, converted or structurally altered, and no land and/or structure shall be used except for one or more of the following uses:

1.) Open space uses, such as crop farming and gardening (not including related buildings), parks, playgrounds, golf courses, nature preserves, bridle trails and nature paths, private and commercial recreation and other similar open spaces.

2.) Public rights-of-way, private drives and off-street parking uses, PROVIDED that all parking shall be at

grade level and in conformance with the provisions of Article VII.

3.) Public utility facilities, PROVIDED utilities are constructed or elevated to withstand flood damages and are as further regulated by this Ordinance.

4.) Storage yards for materials and equipment, not including flammable liquids which are not subject to removal or major damage by floodwaters.

6.6.4. USES PERMITTED BY SPECIAL PERMIT. The following uses of land and structures may be permitted within the floodplain upon application for and issuance of a special use permit with specified procedures and requirements as outlined, and shall be subject to a finding of the Zoning Administrator that requirements of this section are satisfied.

1.) Any use permitted by right or special use permit within the zone district shall be permitted within the floodplain, PROVIDED:

a.) The use pattern and the structure proposed to accomplish said use shall be so designed as to not significantly reduce the impoundment capacity of the floodplain and the flow of water by the use of stilts, cantilevering, or such other design techniques which will place the desired buildings above the Intermediate Regional Flood high water level of the site in a safe manner so said structure or building will withstand the anticipated velocity of the floodwaters, and not suffer flood damage.

b.) All buildings substantially improved or newly constructed shall have a minimum floor elevation of the lowest floor, including the basement, of not less than the high water level of the Intermediate Regional Flood and shall further incorporate elevation for floodproofing of the

structure and all attendant utility and sanitary facilities up to the level of the Intermediate Regional Flood.

6.6.5. DATA SUBMISSION. Prior to the issuance of a special use permit or a building permit for structures on/or adjacent to floodplain areas, the Zoning Administrator shall require the applicant for such permit to submit topographic data, engineering studies, proposed site plans or other similar data needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by technically qualified persons. Review of the data submitted an application for special use permit shall be processed according to the procedures described in Article VIII Section 8.1.2.

6.6.6. ALTERATIONS TO THE FLOODPLAIN. Dumping or backfilling in the floodplain areas with any material in any manner is prohibited unless, through compensating excavation and shaping of the floodplain, it is provided that the flow and natural impoundment capacity of the floodplain will be maintained or improved so that no significant or measurable change in flow or reduction in impoundment capacity of the floodplain would thereby result. Where there is dumping, backfilling, or excavation, in any manner, adequate site plans and engineering drawings shall be submitted to the Zoning Administrator which must effectively show the final results of such action.

6.6.7. EXISTING USES IN THE FLOODPLAIN. It is the intent of this Ordinance to permit existing uses to continue in the floodplain until they are removed, but not to encourage their survival.

It is recognized there exists within the floodplain, as defined by this Ordinance, lots and structures which were unlawful before this Ordinance was passed or amended, which would be prohibited, regulated, or restricted under terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the floodplain. It is further the intent of this Ordinance that

illegal uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited in the floodplain.

Should a structure located in the floodplain, as defined by this Ordinance, be damaged by any means to an extent of more than sixty percent (60%) of the structure's pre-catastrophy market value, as recorded by the assessing officer, it shall be reconstructed. The damage to the structure is the expenditure necessary to return the structure to its condition before destruction and shall be determined by the Zoning Administrator after:

- 1.) receiving an estimate of the structural damage from the Fire Chief;
- 2.) receiving a figure representing the difference between the pre-catastrophy market value of the structure and the post-catastrophy value as determined by the assessing officer;
- 3.) dividing the sum of the figure derived in (1) from the Fire Chief and (2) from the assessing officer by two (2).

Any building damaged by any means to an extent of less than sixty percent (60%) of the structure's pre-catastrophy market value, as recorded by the assessing officer, may be modified, repaired or replaced, but any alterations must incorporate floodproofing of utility and sanitary facilities up to the improvements for floodproofing shall not be included in determining the damage costs.

The Board of Appeals may permit reconstruction of a use if it is adequately protected against flood damage, is not located in the floodway, and not allowing reconstruction would create undue hardship on the appellant.

6.6.8. LIABILITY. Under no circumstances shall the City of Olivet incur any liability whatsoever for the granting of any use or building in floodplain areas.

Section 6.7 NONCONFORMING USES

It is the intent of this Ordinance to permit the continuance of a lawful use of any building or land existing at the effective date of this Ordinance,

although such use of land or structures may not conform with the provisions of this Ordinance.

There are two types of non-conforming uses; Class A and Class B.

Class A Nonconforming Uses or structures are those which have been so designated by the Zoning Board of Appeals, after application by the person having interest in the property or the Zoning Administrator. Where Class A Nonconforming Uses are identified it is the intent of this Ordinance to provide for their continuance, so long as they fulfill the requirements in this Section.

Class B Nonconforming Uses or structures are all nonconforming uses or structures not designated as Class A. It is the intent of this Ordinance not to encourage the survival of Class B Nonconforming Uses or structures. Class B Nonconforming uses or structures shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other uses or structures prohibited elsewhere in the same district.

The continuance of all nonconforming uses and structures within the City shall be subject to the conditions and requirements set forth in this Section.

6.7.1. PROCEDURES FOR OBTAINING CLASS A DESIGNATION:

Any application for a Class A designation for a nonconforming use permit for any land or structural use permitted under this article shall be submitted and processed under the following procedures:

1.) A written application shall be filed with the Zoning Board of Appeals setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains and including such other information as may be necessary to enable the Board of Appeals to make a determination of the matter.

2.) The Zoning Board of Appeals may require the furnishing of such additional information as it considers necessary.

- 3.) A notice of hearing, and subsequent hearing procedures shall be given in accordance with the procedures outlined in Section 4.2.

Before an application of Class A designation for nonconforming use can be processed, the Zoning Board of Appeals shall review each application to insure, beyond a reasonable doubt, that the following standards are met:

- 1.) That the continuance of the use would not be contrary to the public health, safety or welfare, or the spirit of this Ordinance.
- 2.) That the use or structure does not and is not likely to significantly decrease the value of nearby properties.
- 3.) That the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

6.7.2. APPROVAL OF CLASS A DESIGNATION: The Zoning Board of Appeals shall approve Class A designation for nonconforming uses that comply with the standards and procedures of this Section. The decision of the Board of Appeals shall be in writing and shall set forth the findings and reasons on which it is based. The Board of Appeals shall attach conditions, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance. In addition, no vested interest shall arise out of a Class A designation.

6.7.3. REVOCAION OF CLASS A DESIGNATION: Any Class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

6.7.4. REGULATIONS PERTAINING TO CLASS A NONCONFORMING USES AND STRUCTURES: A Class A nonconforming use or structure shall not be repaired, restored, extended,

enlarged or substituted for except in accord with the following requirements:

1.) This ordinance shall not prohibit the repair, improvement or modernization of a Class A nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed an aggregate cost of fifty (50) percent of the structure's replacement cost. Repairs, improvements or modernization in excess of fifty (50) percent of the structure's replacement cost may be permitted by the zoning Board of Appeals provided the structure will still meet the qualifications of a Class A nonconforming use or structure.

2.) Any Class A nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, may be restored, rebuilt or repaired, provided that such restoration does not exceed fifty (50) percent of the structure's pre-catastrophy replacement cost as determined by a qualified appraiser. Restoration of a Class A nonconforming use or structure damaged in excess of fifty (50) percent of the structure's pre-catastrophy replacement cost may be permitted by the Zoning Board of Appeals provided the restored structure would still meet the qualification of Class A nonconforming use or structure. However, no Class A nonconforming structure damaged in a floodplain, shore-land erosion area or other areas of recurring natural hazards in excess of fifty (50) percent of the structure's pre-catastrophy replacement shall be rebuilt except in full compliance with this Ordinance.

3.) Structural changes including enlargement or extension of a Class A nonconforming structure or use may be permitted by the Zoning Board of Appeals except when such extension for enlargement would be incompatible with surrounding land uses or when the structural change would be inconsistent with the intent of this Ordinance. No extension or enlargement of a Class A nonconforming use or structure shall be approved if

approval would result in violation of the setback, side yard or bulk requirements of this Ordinance.

4.) A Class A nonconforming use may be substituted for a similar nonconforming use or structure when the Zoning Board of Appeals determines that the substitution would improve the property, would not increase the structure or uses nonconformity, or when the substitution would not be contrary to the intent of this Ordinance.

6.7.5. REGULATIONS PERTAINING TO CLASS B

NONCONFORMING USES AND STRUCTURES: It is a purpose of this Ordinance to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation. A Class B nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

1.) Minor repairs or maintenance of a Class B nonconforming use or structure in order to keep it structurally safe and sound is permitted. A Class B nonconforming use or structure shall not be repaired, improved or remodeled when such repair or improvement exceeds twenty-five (25) percent of the structures replacement cost. The replacement cost shall be determined prior to any repairs or improvements by a qualified appraiser. If a Class B nonconforming use or structure is changed to conform with this Ordinance, the limitations on repairs or improvements shall not apply.

2.) Any Class B nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, shall not be rebuilt, repaired or reconstructed if damaged in excess of fifty (50) percent of the structures pre-catastrophy replacement cost except when the use or structure would fully comply with the requirements of this Ordinance.

3.) No Class B nonconforming use or structure shall be enlarged, extended or structurally altered nor shall the nonconforming use be change to a substantially different nonconforming use.

4) If a mineral extraction operation is designated a Class B nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations were conducted at the time of the operation being so classified, but no new holes or shafts shall be established.

5.) No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.

6.) A Class B nonconforming structure or use may be substituted for with a conforming use or structure, or by a use or structure which meets the requirements of a Class A nonconforming use when the Zoning Board of Appeals determines that the substitution would not increase the nonconformity of the use or structure or be contrary to the public health, safety and welfare and the intent of this Ordinance.

6.7.6. DETERMINATION OF REPLACEMENT COST: The replacement cost of repairing, restoring, or improving a Class A or B nonconforming use or structure excluding contents, damaged by fire, explosion, flood, erosion or other means shall be made on the basis of an appraisal by a qualified individual designated by the Zoning Board of Appeals. The cost of such determination shall be born by the Zoning Administrator after:

- 1.) receiving an estimate of the structural damage from the City Fire Chief;
- 2.) receiving a figure representing the difference between the pre-catastrophy market value of the structure and the post-

catastrophy value as determined by the assessing officer for the City of Olivet;

3.) dividing the sum of the figures derived in (1) from the Fire Chief and (2) from the assessing officer by two (2).

6.7.7. NONCONFORMING LOTS OF RECORD: Any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this ordinance or an amendment thereto, shall be used only for a use permitted in this ordinance. If the use of a nonconforming lot requires a variation of the setback or yard requirements of this ordinance in excess of 15 percent of the requirements, then such use shall be permitted if a variance is granted by the Zoning Board of Appeals under the terms of this Ordinance. The reduction by 15 percent or less of dimensional requirements for lawful nonconforming lots may be granted by the Zoning Administrator when the minimum dimensional requirements of this ordinance can be met by the combination of two or more nonconforming contiguous lots owned by the same person, said lots may be combined for use and no variance is necessary.

6.7.8. DISCONTINUANCE OR ABANDONMENT: Whenever a nonconforming use has been discontinued for twelve (12) consecutive months, or for eighteen (18) months during any three (3) year period, such discontinuance shall be considered conclusive evidence of an intention to abandonment; the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this Ordinance.

6.7.9. CHANGING USES: If no structural alterations are made, the Board of Appeals may, upon an appeal, authorize a change from one nonconforming use to another nonconforming use, PROVIDED the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.

6.7.10 . PRIOR CONSTRUCTION APPROVAL: Nothing in this Ordinance shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this Ordinance, PROVIDED that construction is commenced within ninety (90) days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one (1) year after the issuance of the building permit.

6.7.11. TERMINATION OF NONCONFORMING LAND USES: Class B nonconforming uses of land existing at the effective date of this Ordinance, where no building is located, may be continued, PROVIDED that the nonconforming land use shall be terminated and converted to conform with the provisions of the current Zoning Ordinance within three (3) years after the effective date of this Ordinance, and PROVIDED FURTHER that the nonconforming land use shall not in any way be expanded or extended during this three (3) year interval, either on the same property or adjoining property.

6.7.12 . ILLEGAL NONCONFORMING USES: Nonconforming uses of buildings or land existing at the effective date of this Ordinance established without a building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal, nonconforming uses and shall be discontinued within a period of three (3) years following the effective date of this Ordinance, subject to the review and approval of the City Council.

6.7.13 . DISTRICT CHANGES: Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

6.7.14. ELIMINATION OF NONCONFORMING USES: In accordance with Act 207, Public Acts of the State of Michigan of 1921, as amended, the

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City Council may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses or may be used by the City for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.