

PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN  
AGENDA  
FOR THE REGULAR MEETING OF  
MONDAY, AUGUST 8, 2016 AT 7:00 P.M.  
AT THE  
LOWELL CITY HALL  
CITY COUNCIL CHAMBERS  
SECOND FLOOR  
301 EAST MAIN STREET

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
  - a. July 25, 2016 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
  - a. 2016 Goals/Priorities
  - b. Commissioners Top Three Goals/Priorities
  - c. Zoning Ordinance - Audit
6. NEW BUSINESS
  - a.
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

**OFFICIAL PROCEEDINGS  
OF THE  
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN  
FOR THE REGULAR MEETING OF  
MONDAY, JULY 25, 2016, AT 7:00 P.M.**

1. **CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL.**

The Meeting was called to order at 7:00 p.m. by City Clerk Susan Ullery and the Pledge of Allegiance was recited.

Present: Chair James Zandstra, Commissioners Marty Chambers, Dave Cadwallader, Bruce Barker and Jim Salzwedel  
Absent: Commissioners John Gerard and Alan Teelander  
Also Present: City Clerk Susan Ullery and Andy Moore from Williams & Works

2. **APPROVAL OF ABSENCES.**

IT WAS MOVED BY SALZWEDEL and seconded by BARKER to approve the absences of John Gerard and Alan Teelander.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

3. **APPROVAL OF AGENDA.**

IT WAS MOVED BY CADWALLADER and seconded by BARKER to approve the agenda as written.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

4. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 25, 2016.**

IT WAS MOVED BY CADWALLADER and seconded by SALZWEDEL that the minutes of the June 25, 2016 meeting be approved as written.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

5. **PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.**

No comments were received.

6. **OLD BUSINESS.** These items were tabled until a full commission can be present.

a. **2016 Goals/Priorities.**

Top three items will be emailed to City Clerk Sue Ullery.

b. **Zoning Ordinance – Audit.**

Commissioner Barker suggested the Commission begin with Chapters 4 and 17. Also, it would make sense for the definitions to be reviewed by Andy Moore from Williams and Works.

Moore stated there are many things with Chapter 4 that needs to be written very specifically due to the State Enabling Act.

Moore brought up Section 4.10 (2), noting much work has already been done on this. Salzwedel also noted Section 4.19 (6) has had previous discussion as well.

Further review will be provided during the August 8, 2016.

7. **NEW BUSINESS.**

a. **Public Hearing – Zoning Ordinance Text Amendment – Request from Timothy Zartman.**

IT WAS MOVED BY CADWALLADER and seconded by CHAMBERS to open the public hearing.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

Tim Zartman requested a zoning text amendment to allow dog kennels in a light industrial area. They wish to create a “bed and biscuit”. It would be built to have a maximum of 60 dogs.

Moore explained they are asking that the text of the zoning ordinance be changed so that “Commercial Kennels” are included as a use by right in the light industrial district. The property is he is considering is located at 1351 Bowes.

IT WAS MOVED BY CADWALLADER and seconded by BARKER to close the public hearing.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

IT WAS MOVED BY CADWALLADER and seconded by BARKER to recommend approval of the zoning ordinance to the City Council.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

8. **STAFF REPORT.**

No updates were provided.

9. **COMMISSIONERS COMMENTS.**

No comments were received.

IT WAS MOVED BY CADWALLADER and seconded by BARKER to adjourn at 7:31 p.m.

DATE:

APPROVED:

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James Zandstra, Chair

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Susan S. Ullery, City Clerk

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** April 6, 2016  
**From:** Andy Moore, AICP  
**RE:** Zoning Ordinance Audit

The purpose of this memorandum is to summarize parts of the City of Lowell Zoning Ordinance that may need reconsideration or revision to help ensure effective land use and development standards to regulate the built environment. This report is intended to serve as a brief evaluation of the current zoning language and it highlights key policy issues and structural elements that may be revised to establish a more comprehensive and defensible document. This audit was completed at the request of the Planning Commission as they look to work on revisions to better serve the residents of the City.

As a general comment, the current Zoning Ordinance is fairly comprehensive and includes many the customary regulations normally found in a Michigan ordinance. However, parts of the Ordinance are antiquated and we recommend looking for ways refine certain provisions, remove duplicative language and craft more user-friendly language by using simple tables where appropriate. On another note, the format could be updated to ensure more obvious section and page numbering. Currently, if new language is inserted in the document, all the following pages would be renumbered which can lead to confusion if not everyone is using the same document. We find it more appropriate to number pages using a "chapter number – page number" format, where the fourth page of Chapter 3 would be page 3-4.

The following pages review each chapter of the Ordinance and highlight problems or policy questions that should be considered by the Planning Commission.

### **Chapter 2 – Definitions**

Definitions are of primary importance in the effective use of the Zoning Ordinance. However, the current Ordinance appears to be deficient in its definitions in that many land uses regulated by the Ordinance are not defined. Ideally, every listed permitted or special land use should be defined to help reduce ambiguity. For example, "retail store" is a permitted land use in the C-2 district but is not defined. What happens when an applicant and the City disagree on what constitutes a retail store? All permitted land uses should be defined to eliminate personal interpretation of the Ordinance's intent.

Additional general comments about definitions follow:

1. References to the City or Village Zoning Act, which occur in several instances throughout the Ordinance, should be revised to reference the Michigan Zoning Enabling Act (MZEA), which was adopted in 2006.
2. Throughout the definitions are terms throughout this article that refer to adult or sexually oriented businesses. These should be moved to one definition under the heading of "adult uses" or "sexually oriented businesses."
3. Many of the graphics could be updated for clarity, and additional graphics for could be created as appropriate.
4. Definitions for day cares, adult foster cares and similar state-licensed residential care facilities should be revised and/or updated to be consistent with definitions used by the State of Michigan
5. The definition of "farm" should be revised to be consistent with the Right to Farm Act.
6. The definition for lot lines, particularly those for front lot lines, should be reviewed, particularly in the case of corner lots, where the front lot line is the shorter to the two lot lines that are adjacent to the street. It may be appropriate to allow the Zoning Enforcement Officer to determine the front yard in certain circumstances.

#### **Chapter 4. General Provisions**

Chapter 4 contains provisions generally applying to all properties in the City. Most development proposals, permit applications, and land use activity will need to comply with these requirements. For this reason, general provisions are significant, as they relate generally to the entire City. Following are our observations relating Chapter 4.

1. Section 4.07(J) pertaining to fences seems to prohibit "privacy screens" but it is not clear what that means or how it is different from a privacy fence, if at all. Further, this subsection should be revised for clarity as the language is very confusing.
2. Section 4.10 pertaining to temporary uses should be revised to address temporary sales activities, such as fireworks, Christmas trees, and similar items. Currently the City requires a special land use permit for temporary fireworks tents, which seems unnecessarily burdensome. Note that a change to this Section may require the City Council to amend the general law ordinance pertaining to solicitors, peddlers and transient merchants.
3. Section 4.11 contains standards for home occupations. While the standards are acceptable, we suggest that an exemption be added that allows "the instruction of a fine art or craft" in any dwelling in the City, as required by the MZEA.
4. Section 4.13 pertaining to nonconforming uses should be revised for clarity. This section primarily addresses nonconforming buildings or structures, with nonconforming uses only addressed occasionally. This should be clarified and

expanded. We recommend organizing this section into at least three distinct subsections: one for general provisions pertaining to nonconformities, one for nonconforming uses and one for nonconforming buildings or structures.

5. Section 4.13A contains standards for nonconforming lots, but is somewhat duplicative of the standards in Section 4.03(C). This should be addressed and clarified, and/or combined into Section 4.13.
6. Section 4.19 addresses the keeping of animals. This should be reviewed by the City to determine if it is still appropriate, and to address any potential

### **Chapters 5-16 District Standards**

This chapter contains dimensional, land use and other standards for each of the City's fourteen zoning districts. We have the following comments:

1. As a general note, the boundaries of all the City's zoning districts should be explored and reviewed to ensure that properties are zoned appropriately.
2. It may be beneficial to state certain land uses in more general terms. For example, in the SR district "schools, churches, libraries, and community center buildings" are permitted as special land uses. This may be more aptly described as "institutional uses", which would also include similar uses that are not a school, church, library or community center building.
3. There are some inconsistencies with regard to state-licensed residential care facilities that should be corrected. For example, in the R-1 district such facilities are a permitted use, except for those that care for four or fewer minors. However, the state defines a family day care as one involving fewer than 6 children. This should be corrected for consistency.
4. In the table of dimensional requirements for each district, there is a standard referring to "lot coverage" which corresponds to a percentage. This is defined as the percentage of a lot covered by buildings or structures. However, the standard is of little use because it is not referred to as either a maximum or minimum. This should be corrected to refer to a maximum lot coverage, or eliminated.
5. The City's commercial and industrial district have a "lot coverage" standard of 60%, specifically includes building and parking areas. If interpreted as a maximum lot coverage requirement (as it is typically applied), then this is a difficult if not impossible standard to meet, especially in the more developed portions of the City. This should be reviewed and revised.
6. Some of the land uses permitted in the industrial districts are too specific. For example, "the manufacture, compounding, assembly or treatment of articles from the previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, [etc...]" is too specific and should be shortened to "manufacturing, processing or assembly establishment" or something similar.

7. Section 13.03B indicates that "petroleum storage at least 500 feet from a residentially zoned property", which is confusing. Does this apply to any part of a development in that involves petroleum storage? Or only if petroleum storage is the principal use of the parcel? Why would this only apply to petroleum storage in the Industrial district?
8. The title of Chapter 15 "Planned Unit Development District" seems to indicate that approval of Planned Unit Development (PUD) constitutes a rezoning, but the language of the Ordinance suggests that it is only subject to special land use review and approval. PUDs can be processed either as a special land use or as a rezoning, and each has its benefits and drawbacks. The process should be clarified and one method of review and approval (either special land use or rezoning) should be chosen.
9. The PF Public Facilities district is intended for properties and facilities owned by the City of Lowell or other public or quasi-public entities. Most City facilities, schools, parks, cemeteries, etc. are in this designation. While most of the standards are appropriate, setbacks and other dimensional standards should be revised to ensure that public facilities are in compliance with this chapter.

#### **Chapter 17 - Special Land Uses**

Chapter 17 outlines the process by which special land uses are reviewed and approved in the City. It is generally complete, although we do offer the following comments:

1. The approval criteria in Section 17.03A could be strengthened somewhat and expanded to state that a proposed special land use be consistent with the City's Master Plan.
2. This chapter is missing some suggested provisions regarding special land uses, such as abandonment and changes to an existing or approved special land use.
3. Chapter 17A is a lengthy chapter regulating adult (sexually-oriented) businesses in the City. This chapter should be revised to ensure that adult businesses are not effectively excluded from the City, and that other standards are still defensible and practical. Since adult businesses are a special land use, it may be appropriate to incorporate these provisions into Chapter 17.

#### **Chapter 19. Off-Street Parking and Loading**

Chapter 19 addresses parking and loading provisions. This chapter contains typical minimum parking standards for many land uses permitted in the City, as well as some locational and design requirements for parking areas. It also addresses off-street loading spaces.

1. Section 19.02 contains provisions regarding the location of required parking facilities. The City may consider loosening these regulations somewhat so that in certain instances on-street or other parking may be counted toward the minimum.
2. Section 19.03(B) requires that parking lots be surfaced with asphalt or concrete or some other surface acceptable to the Planning Commission. The Commission



- should discuss what other surfaces are acceptable and under what conditions such surfaces may be used.
3. Section 19.06 sets forth criteria for construction and reconstruction of parking lots, as well as parking lot landscaping. Some of the standards in Section 19.06(B) have been characterized as onerous in the past, as it requires a property owners to complete the parking lot in full conformance with the Ordinance, even if only 25% of it is being reconstructed or resurfaced. The Commission should discuss these standards.
  4. The landscaping standards in 19.06(C) are generally acceptable, but many feel that they result in lots with fewer spaces, which can become a sensitive issue in areas where there is a real or perceived shortage of parking (i.e. downtown). This should be discussed by the Commission.
  5. Section 19.07 contains minimum parking standards for various land uses in the City. This table should be revised so that it ties to specific land uses that are permitted in the City, and the parking requirements should be reviewed against an objective manual such as ITE's Parking Generation to ensure that the standards are appropriate.
  6. As a general note, we often recommend that a high degree of flexibility be written into parking standards. In many cases, an applicant can better determine the amount of parking needed with greater accuracy that the City.

### **Chapter 20 Signs**

This chapter was comprehensively re-written a few years ago so no major revisions are needed. However, the 2015 US Supreme Court decision *Reed v. Town of Gilbert* may affect certain provisions in the Ordinance if any sign regulations are deemed to be "content-based." *Reed v. Town of Gilbert* determined that content-based regulation was unconstitutional, so revisions to potentially content-based regulations may be required.

### **Chapter 21 – Board of Zoning Appeals**

Chapter 21 establishes the Zoning Board of Appeals (ZBA), and outlines the ZBA's jurisdictions and powers, and variance criteria. While generally complete, this chapter should be expanded to more fully enumerate the responsibilities of the ZBA and establish any other obligations that are consistent or required by the MZEA.

### **Chapter 22 – Administration and Enforcement**

This section contains provisions that address the administration of the Zoning Ordinance. This chapter is relatively brief and should be expanded to address public hearing procedures, the creation of the Planning Commission, amendments, others. We have the following specific remarks regarding Chapter 22:

1. Section 22.01 contains language that creates the position of the Zoning Enforcement Officer. While this language is appropriate in this Section, it should be expanded to present the duties and limitations of the Zoning Enforcement Officer in greater detail.
2. Section 22.02 describes the requirements for when building permits and certificates of occupancy are required. I do not believe this language is appropriate in the Zoning Ordinance, since building permits and certificates of occupancy are issued by the building inspector pursuant to the City's adopted Building Code. It should be revised or removed.
3. There is no language in this section that sets forth or authorizes zoning permits. Zoning permits are generally required for most building activities so the Zoning Enforcement Officer can verify that the Zoning Ordinance is being followed. This language should be added to this section.
4. This chapter should be expanded to include language addressing the following topics:
  - a. Public hearing procedure, consistent with the MZEA.
  - b. Zoning amendment procedure, consistent with the MZEA and including criteria to assist the Planning Commission in determining whether an amendment (either a rezoning or text amendment) should be approved or not.
  - c. Fees and applicant escrow accounts.

### **Chapter 23 – Zoning Map Amendments; Description of Rezoned Properties**

This chapter serves to describe changes made to the official City Zoning Map by using legal descriptions to track the changes to the map. However, past practice for many years has been to track zoning changes by parcel address and/or permanent parcel number on the official Zoning Map. Therefore we believe this Chapter can be removed in its entirety.

### **Chapter 24 – Open Space Preservation**

This chapter is intended to address a requirement of the MZEA that requires a municipality to provide an "open space development option" in its Zoning Ordinance. Specifically, the MZEA requires that a municipality provide a developer the option to develop a property with the same number of units as would be provided under conventional zoning, but with some portion of the property set aside as permanent open space, and lot width and area requirements reduced commensurately. The language of this chapter seems a bit lengthy, and it could likely be moved to the general provisions chapter of the Ordinance.

### **Conclusion**

Our notes discussed above are intended as a place to begin discussion on revisions to the Zoning Ordinance. They are intended to generate thought as to creating effective, clear and purposeful regulations for City residents. At our next meeting, we will review the comments in

this memorandum and receive feedback from the Planning Commission on our critique. Additional matters of local importance should be discussed, as well, to provide us with a greater understanding of local issues. The Commission should use this information to discuss which (if any) chapters or provisions of the Ordinance should be revised this year.

As always, please feel free to call me with questions or comments.

## Sue Ullery

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**From:** Jim Salzwedel <jsalzwedel@midstatesecurity.com>  
**Sent:** Monday, July 25, 2016 10:55 AM  
**To:** Sue Ullery  
**Subject:** FW: City of Lowell Planning Commission Review of Audit

Sue

For tonight meeting my top three. (John did a great job)

Chapter 5-16 items 1, 4, 7

Chapter 4 item 4, 6

These would keep the planning commission busy thru the end of the year.

Thanks

Jim

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**From:** Gerard, John (GE Aviation, US) [mailto:John.Gerard@ge.com]  
**Sent:** Tuesday, June 28, 2016 9:45 PM  
**To:** Jim Salzwedel <jsalzwedel@midstatesecurity.com>  
**Cc:** James Zandstra (james@innovarsity.com) <james@innovarsity.com>; David Cadwallader <dcadfish@gmail.com>  
**Subject:** City of Lowell Planning Commission Review of Audit

Jim S, James Z, Dave,

I've copied each of you given your roles on the planning commission: Jim S-Suggested the top three means of winnowing the list; James Z-Chair; Dave-Vice-Chair.  
I've sent this to each of you for consideration over the next several weeks. If you'd like, I can talk through the details in a round-table session.

As I read through the audit results, I liked all of the recommendations because each seemed to point at a form of obsolescence that should be remediated. I wouldn't mind considering each of the items in a timely manner.

With this in mind, as part of my review and assessment, I graded all suggested changes relative to, what I considered High/Medium/Low priority. I also graded each with respect to my perceived degree of difficulty to implement (Involved/Medium/Easy). From there I selected my top three. I have sent my top three to Sue in preparation for the next meeting.

I'm aligned with resolving each commissioner's the top items to create a short list. As a follow-on effort I'd like to see us, as a planning commission, address each one over the next year or so. I've attached my assessment below for your consideration.

Jim S, Thank you for the time you put into the Planning Commission. You always come prepared with the necessary diligence performed and ready to discuss topics on the agenda.

Section	Andy Moore Index	Relative Priority (3 grades)	Degree of Difficulty (3 grades)	Gerard's top three	Notes
Introductory Remarks	Page Numbering	High	Easy		This didn't make my cut. It appears very easy and would facilitate any other changes.
Chapter 2	1	High	Involved		This didn't make my priority cut. It's a real good idea to align MZEA (given it's 10 years old)
	2	Low	Easy		
	3	Medium	Involved		
	4	Medium	Medium		
	5	High	Easy		
	6	High	Medium		This didn't make my priority cut. Being a lot lines issue, it could be a source of confusion or contention to those wishing to develop their property.
Chapter 4	1	High	Medium		This didn't make my priority cut. Being a privacy screens, it could be a source of confusion or contention to those desiring privacy.
	2	Medium	Medium		
	3	Medium	Easy		
	4	High	Involved	1	Being nonconforming uses, it could be a source of confusion and contention to those wishing to develop their property.
	5	Low	Medium		
	6	Medium	Involved		
Chapters 5-16	1	High	Involved		
	2	Medium	Involved		
	3	High	Medium	2	State-licensed residential core issue that could cause confusion or contention.
	4	Medium	Easy		
	5	Medium	Medium		
	6	Medium	Medium		
Chapter 17	7	High	Involved	3	Should account for more than petroleum; could cause (I think) someone to store hazardous material by right.
	8	Medium	Medium		
	9	Low	Involved		
	1	Medium	Medium		
	2	Medium	Involved		
	3	Low	Involved		
Chapter 19	1	Medium	Involved		
	2	Medium	Involved		
	3	Medium	Involved		
	4	Medium	Involved		
	5	Medium	Involved		
	6	Medium	Involved		
Chapters 20		Low	Involved	3	

**Sue Ullery**

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**From:** Red Barn Consignments & Antiques <redbarconsignments@gmail.com>  
**Sent:** Tuesday, July 26, 2016 5:16 PM  
**To:** Sue Ullery  
**Subject:** Top 3 Picks

Sue,  
My top 3 picks for near term consideration by the City of Lowell Planning Commission are:  
Chapter 4 #1  
Chapter 5-16 #7  
Chapter 17 #1

Let me know if you have any questions.

Have a great week.

Marty Chambers

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## RE: Planning Commission Meeting 06-13-2016 - Cancelled



**Bruce Barker**

6/15/2016

You; Sue Ullery (sullery@ci.lowell.mi.us); Alan Teelander (ate+8 more)

Reply |

Zoning Ordinance Audit plan of action suggestions.  
 Definitions should be the last item to be considered, however it might be helpful to have Andy keep a running tab on definitions needed for inclusion.  
 District standards should go toward the end of the process as well since they may change, ie River's Edge District

Priorities; Updating the ZO to reflect all changes mandated by the Michigan Zoning Enabling Act (MZEA). Andy has the playbook on these updates and they have to be done, but would require little time on our part.  
 Clarifying all language issues that Andy raised in his memo of April 6, 2016. He can bring the revised language to us in stages or all at once. Again little time required on our part.  
 Zoning Map updated before Districts standards to be considered.  
 Chapters 4 and 17 may be pivot points for the PC to actively talk about while Andy is doing his magic on definitions, MZEA, and language.

Having gone through this as a PC chair twice in the last 15 years, I can only hope my experiences will be helpful to the PC and Lowell, sincerely Bruce.

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From: sullery@ci.lowell.mi.us  
 To: ateelander@ci.lowell.mi.us; brucebarker@hotmail.com; dcadfish@gmail.com; james@inno-versity.com; jsalzwedel@midstatesecurity.com; jwgerard82@gmail.com; redbarnconsignments@gmail.com; moore@williams-works.com; brandonhall@gmx.com; dpasquale@ci.lowell.mi.us; jaltoft@ci.lowell.mi.us; jhodes@ci.lowell.mi.us  
 Date: Thu, 9 Jun 2016 15:48:07 -0400  
 Subject: Planning Commission Meeting 06-13-2016 - Cancelled

Good Afternoon,

Our Planning Commission meeting for June 13<sup>th</sup> has been cancelled. Items for discussion will be added to the special meeting agenda that we have scheduled for June 27<sup>th</sup> at 7 p.m.

Respectfully,

*Sue Ullery*  
 City Clerk  
 Phone: 616-897-8457

\$35.99

Arizona Safari Sandals

Reebok Princess Classic Womens Shoes