

## Chapter 20 - ZONING

*Footnotes:*

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**Cross reference**— *Administration, ch. 2; buildings and building regulations, ch. 6; community development, ch. 7; planning, ch. 14; streets, sidewalks and other public places, ch. 16; subdivision regulations, ch. 17.*

**State Law reference**— *Authority to regulate land use, MCL 125.581 et seq.*

## ARTICLE I. - IN GENERAL

## Sec. 20-1. - Enactment and authority.

The city council adopted Ordinance No. 123, the Wayland Zoning Code, being chapter 20 of the Wayland City Code, under the authority of the Michigan City and Village Zoning Act, being Public Act No. 207 of 1921 (MCL 125.581 et seq.), as amended. The Michigan City and Village Zoning Act has been repealed and replaced by the new Michigan Zoning Enabling Act, being Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq.). The city council hereby amends chapter 20 of the city Code to conform it to and under the authority of the new Michigan Zoning Enabling Act.

(Ord. No. 123, § 1.0, 6-5-89; Ord. No. 211, § 1, 2-5-07)

## Sec. 20-2. - Short title.

This chapter shall be commonly known as the City of Wayland Zoning Ordinance.

(Ord. No. 123, § 1.1, 6-5-89)

## Sec. 20-3. - Purpose.

The city zoning ordinance is hereby established in accordance with the needs of the city. The text, map and schedules contained herein shall constitute this ordinance. The ordinance is expressly adopted for the following purposes:

- (1) To protect and promote the public health, safety, and general welfare of the city.
- (2) To control and guide the orderly growth and development of the city in accordance with its comprehensive planning program, and to implement the growth and development goals and policies contained therein, some of which are enumerated as follows:
  - a. To encourage a wide range of housing opportunities in an orderly manner in the city from single-family to multiple-family and congregate housing for the elderly;
  - b. To ensure that the residential housing environment of the city is safe, healthful and free of visual blight;
  - c. To preserve the character and value of certain historic areas and structures;
  - d. To preserve and enhance the appearance and viability of the central business district; and
  - e. To ensure the orderly development and operation of industrial uses.
- (3) To guard against community impacts which can adversely affect those positive qualities that make up the distinctive character of the city, and which can adversely affect its social and economic climate.
- (4) To promote and protect the value of land and buildings which are appropriate to the various districts established by this chapter.
- (5) To prevent conflicts between the use of land and buildings.

(Ord. No. 123, § 1.2, 6-5-89)

Sec. 20-4. - Usage.

For the purpose of this chapter, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted and defined as set forth in this section.

- (1) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word "herein" means this chapter; the word "regulation" means the regulations of this chapter; and the words "this chapter" shall mean the chapter, text, tables and maps included herein, as enacted or subsequently amended.
- (2) A person includes a corporation, a partnership, and an unincorporated association of persons such as a club; "shall" is always mandatory; a "lot" includes a plot or parcel, a "building" includes a structure; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (3) The city is the City of Wayland in the County of Allegan, State of Michigan; and city council, board of appeals, and planning commission are respectively the city council, board of appeals, and planning commission of the City of Wayland.

(Ord. No. 123, § 2, 6-5-89)

Sec. 20-5. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned sign* means any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure, shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the to the definition of abandoned sign.

*Accessory building* means a detached subordinate building or structure on the same premises with a main building, occupied or devoted to an accessory use which is appropriate, supplemental and customarily related to that use at the main building or premises. Where an accessory building is attached to a main building in a substantial manner by a wall or roof, such accessory building shall be considered part of the main building, including a carport, covered porch or other roofed structure.

*Accessory use* means a use subordinate and customarily incidental to the main use on a lot.

*Alley* means a strip of land over which there is a right-of-way, public or private, on which generally no dwelling or land uses front, serving as a rear entrance to one (1) or more properties.

*Alteration* means any change, addition, or modification in construction of type of occupancy; and any change in the roof or supporting members of the building or structure, such as bearing walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."

*Animal* means dog, cat, bird, reptile, mammal, fish or any other dumb creature.

*Automobile or trailer sales area* means an area used for the display, sale or rental of new and used motor vehicles, boats or trailers (including mobile homes) in operable condition and where no repair work is done.

*Automobile repair—major* means any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair, overall painting and vehicle rustproofing.

*Automobile repair—minor* means any activity involving minor repairs to motor vehicles and the incidental replacement of parts of such vehicles. A place where either gasoline or any other fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and applied directly into motor vehicles, including sale of accessories, greasing, oiling and minor automotive repair on the premises.

*Automobile wash establishment* means a building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

*Awning* means a roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning, which also projects over a door, shall be counted as an awning.

*Balloon sign* means a sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air, which is greater than twenty-four (24) inches in diameter.

*Banner* means a sign containing a commercial message produced on lightweight flexible fabric, such as canvas, cloth, paper or similar material that is mounted to a pole or a building at one (1) or more edges, and which is more or less subject to movement by the wind. National, state, municipal, corporate or educational institution flags are not to be considered banners.

*Basement or cellar* means a portion of a building having more than one-half of its height below grade.

*Beacon* means any stationary or revolving light which flashes, projects or directs one (1) or more beams of single or multiple colored light, in any manner which intended or not, attracts or diverts attention.

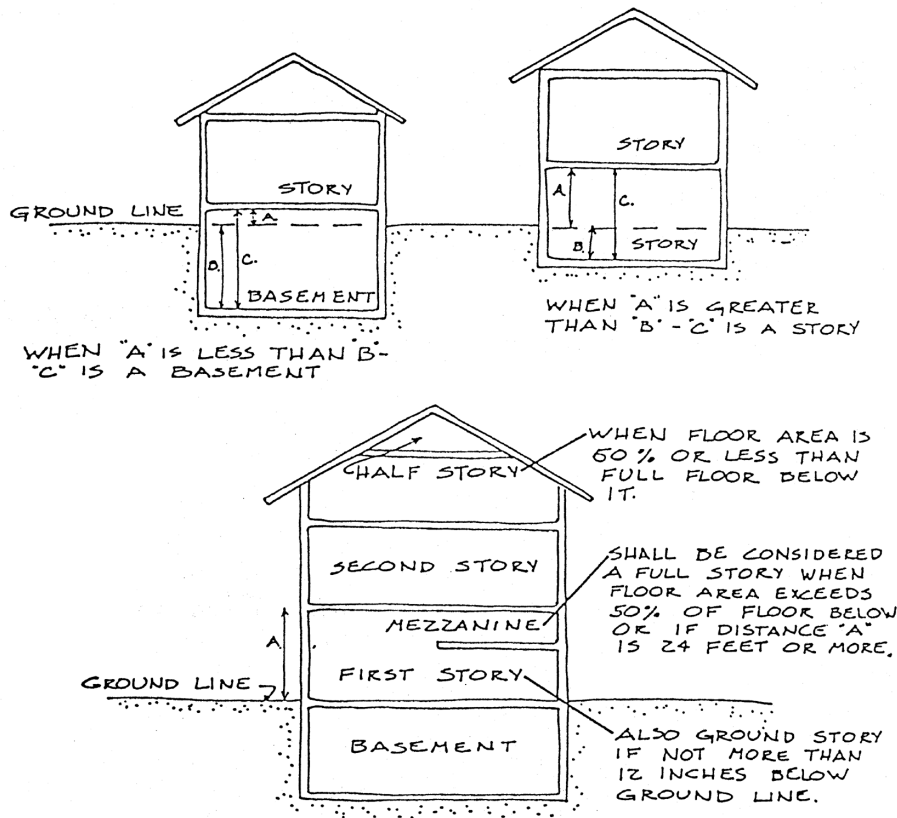
*Bed and breakfast facility* means a building, other than a hotel, where lodgings and light breakfasts for persons, other than the family, are regularly served for compensation.

*Bluff* means the top of a steep bank rising from the ordinary high water mark on a lot or parcel.

*Board of zoning appeals* means the city board of zoning appeals, the members of which have been duly appointed by the city council and which is authorized as a body to interpret, hear appeals, and grant variances only in accordance with the provisions of this chapter.

*Building* means an edifice, framed or constructed and designed to stand more or less permanently and covering a space of land, for use as a dwelling, store, storehouse, factory, sign, shelter or for some other useful purpose. Building in this sense includes a wall, fence, monument, board fence or similar structure, trailer, tent, or vehicle used as a dwelling.

*Building, existing* means any building actually constructed or the construction of which is started previous to the effective date of this chapter; provided, that the construction of any such building continues uninterruptedly and is completed within six (6) months from such date. Any building damaged by fire, collapse, or decay to the extent of its full assessed value as of record at the time of damage shall not be considered an existing building.



## STRUCTURAL TERMINOLOGY

### Structural Terminology

*Building height* means the vertical distance from the average elevation of the street curb paralleling the front, or if on a street corner, the front and side, of the building, to the highest point of the roof surface if the roof is flat; to the deck line, if the roof is of the mansard type; or to the average height between the eaves and the ridge if the roof is gable, hip or gambrel type.

*Building inspector* means the officer charged with the administration and enforcement of the building code, or his duly authorized representative.

*Building line* means a line parallel to the front lot line, and which marks the location of the building.

*Building permit* means a permit signifying compliance with the provisions of this chapter as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the city.

*Building sign* means any sign attached or supported by any building.

*Billboard or poster panel* means any structure or portion thereof, including temporary or mobile conveyances, on which lettered, figures or pictorial matter is displayed for advertising purposes, which is not related to a principal use on the premises or to the nature of business or manufacturing conducted thereon, or any such structure or portion thereof, the area of which, devoted to advertising purposes, exceeds one hundred (100) square feet. This definition shall not be held to include any board,

sign or surface used to display any official notices issued by any court or public office, or posted by a public officer in the performance of a public duty; nor shall it be held to include a real estate sign advertising for sale or rent the property upon which it stands.

*Cabinet sign* means any wall sign that is not of channel or individually mounted letter construction.

*Canopy* means any covered structure made of cloth or other material with frames attached to a building which projects beyond the building wall and is carried by a frame supported by the ground or sidewalk below it.

*Changeable copy sign* means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

*Child-care center or day-care center* means a facility, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child-care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day center, day nursery, nursery school, parent cooperative pre school, play group, before- or after-school program, or drop-in center. Child care center or day care center does not include:

- (1) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three (3) hours per day for an indefinite period or for attending for not more than eight (8) hours per day for a period not to exceed four (4) weeks during a 12-month period.
- (2) A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.
- (3) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
- (4) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

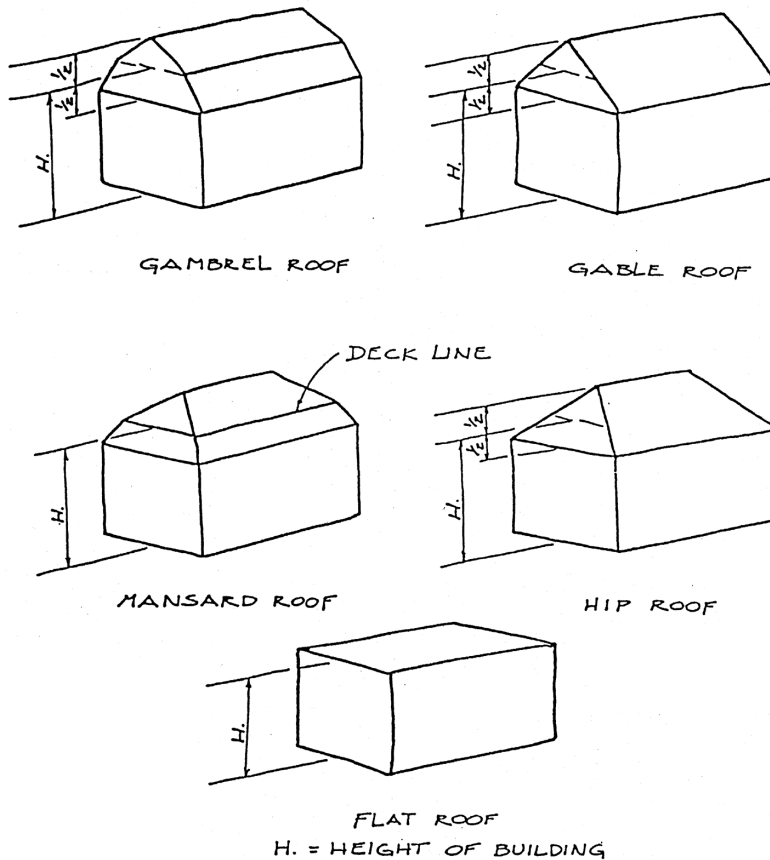
*Church* means a building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel or funeral building.

*Clinic* means a building or group of buildings where human patients are admitted, but not lodged overnight for examination and treatment by more than one (1) professional, such as a physician, dentist or the like.

*Co-location*. The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

*Commercial vehicle* means any motor vehicle other than a motorcycle or passenger automobile designed or used primarily for transportation of persons or property.

*Condominium* means the manner in which real property is owned. It is a combination of ownership in fee simple of the interior space of a townhouse or apartment plus an undivided ownership, in common with other purchasers, of the common elements in the structure, including the land and its appurtenances.



## — BUILDING HEIGHT REQUIREMENTS —

### Building Height Requirements

*Construction* means the building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance shall constitute construction.

*Convalescent or nursing home* means a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders wherein seven (7) or more persons are cared for. Such home shall conform and qualify for license under state law.

*Curb level (grade)* means the mean level of the established curb in front of the building. Where no curb has been established the city engineer shall establish such curb level for the purpose of these regulations.

*Day care home, family* means a private home in which one (1) or fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.

*Day-care home, group.* A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult number of the family by blood, marriage or adoption. Group day care home includes a home in which are is given to an unrelated minor child for more than four (4) weeks during a calendar year.

*Destruction or prevention of woody terrestrial (upland) vegetation; predominance of aquatic vegetation; or other easily recognized characteristic.* Immediately below the high water mark is the streambed, which is also referred to as the active channel. Delineation of the ordinary high water mark entails the identification of indicators on the stream bank and the transition line between, aquatic vegetation (such as sedges and cattails) and terrestrial vegetation (perennial grasses and woody shrubs) or the scour line on exposed earth on the bank (from constant erosion) and terrestrial vegetation. In any area where the ordinary high water mark cannot be found, the top of the lowest stream bank on either side of stream shall substitute. In braided channels, the ordinary high water mark or line of mean high water shall be measured so as to include the entire stream feature. (See riparian areas protection zone figure.)

*Development* means any man made change to improved or unimproved real estate for any purpose, including but not limited to construction of buildings or other structures, mining, dredging, filling, paving or excavation.

*Directional sign* means incidental on premise sign, the sole purpose of which is to guide pedestrians or vehicular traffic.

*Driveway, commercial* means a driveway serving a commercial or industrial establishment, governmental or educational institution, hospital, church, multi-family residential building, mobile home park, and all other facilities not included in the definitions for residential driveway.

*Driveway, residential* means a driveway serving a private single family or two (2) family dwelling.

*Dwelling* means as follows:

- (1) A house or building, or portion thereof, which is occupied wholly as the home, residence, or sleeping place by one (1) or more human beings, either permanently or transiently, but in no case shall a trailer coach, automobile chassis, tent, or portable building be considered as a dwelling.
- (2) In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed as part of a dwelling for area requirements.
  - a. Dwelling, multiple means a building used for and as a residence for three (3) or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including homes.
  - b. Dwelling, one-family means a detached building occupied by one (1) family and so designed and arranged as to provide living, cooking, and kitchen accommodations for one (1) family only. Also known as a single-family dwelling.
  - c. Dwelling, two-family means a detached two-family dwelling that is occupied by two (2) families, each provided with separate facilities for each family for living accommodations. Also known as a duplex dwelling.
  - d. Dwelling unit means any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one (1) family, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile chassis, tent, or other portable building be considered a dwelling in

single-family, two-family, or multiple-family residential areas. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

- e. Efficiency unit means a dwelling unit consisting of one (1) room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing not less than three hundred and fifty (350) square feet of floor area.

*Earth change* means an artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

*Erected* means and includes built, constructed, reconstructed, moved upon; and *erecting* includes any physical operations required for the building on the premises where the building is being constructed, reconstructed, or moved. Excavating, filling, draining, and the like, shall be considered a part of erecting.

*Essential services* means and includes all publicly or privately owned utilities, such as electrical, gas, water, sewer, and communication generation, storage, distribution, collection, supply and disposal systems; municipal police, fire, and road maintenance services; the erection, maintenance, alteration and removal of the foregoing; and all personal property and fixtures including poles, wires, pipes and other accessories reasonably necessary for the furnishing of adequate service by such utility or municipal department.

*Family* means one (1) or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than six (6) persons (exclusive of domestic servants), who are not related by blood, marriage or adoption, shall not be considered to constitute a family.

- (1) An individual or group of two (2) or more persons related by blood, marriage or adoption, including those related as foster children and servants, together with not more than one (1) additional unrelated person, who are domiciled together as a single, domestic, nonprofit housekeeping unit in a dwelling unit; or
- (2) A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

*Filtered view* means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for bank stabilization and erosion control, to serve as an aid to infiltration of surface runoff and to provide cover to shade the water in a manner which still allows a partial view to the water feature.

*First story* means the lowest story of a building the ceiling of which is more than seven (7) feet above the average surface elevation of the ground, or sidewalk adjacent to its exterior walls.

*Flag* means any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

*Flashing sign* means a directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling or sparkling.



*Forestry professional* means a person certified by the Society of American Foresters and/or licensed by the State of Michigan whom by reason of his or her knowledge of the natural sciences, mathematics and principles of forestry, acquired by education and practical experience is qualified to engage in the practice of forestry.

*Freestanding sign* means any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

*Frontage* means the total length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.

*Garage, automotive commercial* means any premises available to the public and used solely for the storage of automobile or motor-driven vehicles, for remuneration, hire, or sale, where any such vehicles or engines may also be serviced for operation, or repaired, rebuilt or reconstructed.

*Garage, private* means a building or other structure designed for the housing of automobiles and having capacity for not more than three (3) automobiles.

*Garage, public* means any building or premises, other than a gasoline filling station, used for the housing or care of more than three (3) automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire, or sale.

*Gasoline filling station* means a space, structure, building or part of a building, used for the retail sale, service or supply of motor vehicle fuels, lubricants, air, water, batteries, tires, other accessories, motor vehicle washing or lubricating; or customary facilities for the installation of such commodities in or on such motor vehicles, including special facilities for the painting, repair or similar servicing thereof.

*Grade* means grade shall be construed to be the final ground elevation after construction. Earth mounding for landscaping and screening is not part of the final grade for sign height computation.

*Greenbelt* means a planting strip or buffer strip, at least ten (10) feet in width, which shall consist of deciduous or evergreen trees or a mixture of both, spaced not more than thirty (30) feet apart and at least one (1) row of dense shrubs spaced not more than five (5) feet apart and which grow approximately five (5) feet wide and five (5) feet or more in height after one (1) full growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.

*Ground sign* means a freestanding sign mounted on the ground surface or mounted on a base and extending not more than six (6) feet above the ground.

*Hazardous materials* mean any materials that have been declared to be hazardous to any agency of the state or of the United States, including but not limited to toxic materials and metal hydroxides.

*Height of sign* means the height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

*Home occupation* means any occupation or profession carried on by one (1) or more members of a family, residing on the premises; provided, that no commodity is sold upon the premises; provided, further, that no person is employed other than a member of the immediate family residing on the premises; provided, further, that no mechanical equipment is installed except such as is normally used for purely domestic or household purposes; provided, further, that not over twenty-five (25) percent of the total actual floor area of any story is used for home occupation or professional purposes.

*Identifying sign* means a sign which is limited to the name, address and number of a building, institution, or person and to activities carried on in the building or institution, or the occupancy of the person.

*Illuminated sign* means any sign which contains an element designed to emanate artificial light internally or externally.

*Incidental sign* means a small sign, emblem, or decal whose purpose is secondary to the use of the lot or is explanatory in nature. Such signs as defined herein may include identifying signs, nameplate signs, directional signs, for sale signs, garage sale signs, small political signs and similar small temporary signs.

*Institutional sign* means a sign upon which is displayed only the name and/or address of a religious institution, government building, school, library, community center, eleemosynary organization or similar institution which occupies the lot, and announcements concerning its services or activities.

*Institutional uses* mean churches, schools, hospitals, and other similar public or semi-public uses. This excludes nursing homes, convalescent homes, adult foster care facilities.

*Interior sign* means a sign, which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of a theater.

*Junkyard* means any land area including buildings thereon used primarily for the outdoor collecting, storage and abandonment of wastepaper, rags, scrap metal or discarded materials which are for sale; or which is used for the outdoor collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition for the sale of parts thereof.

*Laboratory* means a place devoted to experimental, routine study or basic study such as testing and analytical operations, and in which manufacturing of product or products, except prototypes for testing market, is not performed.

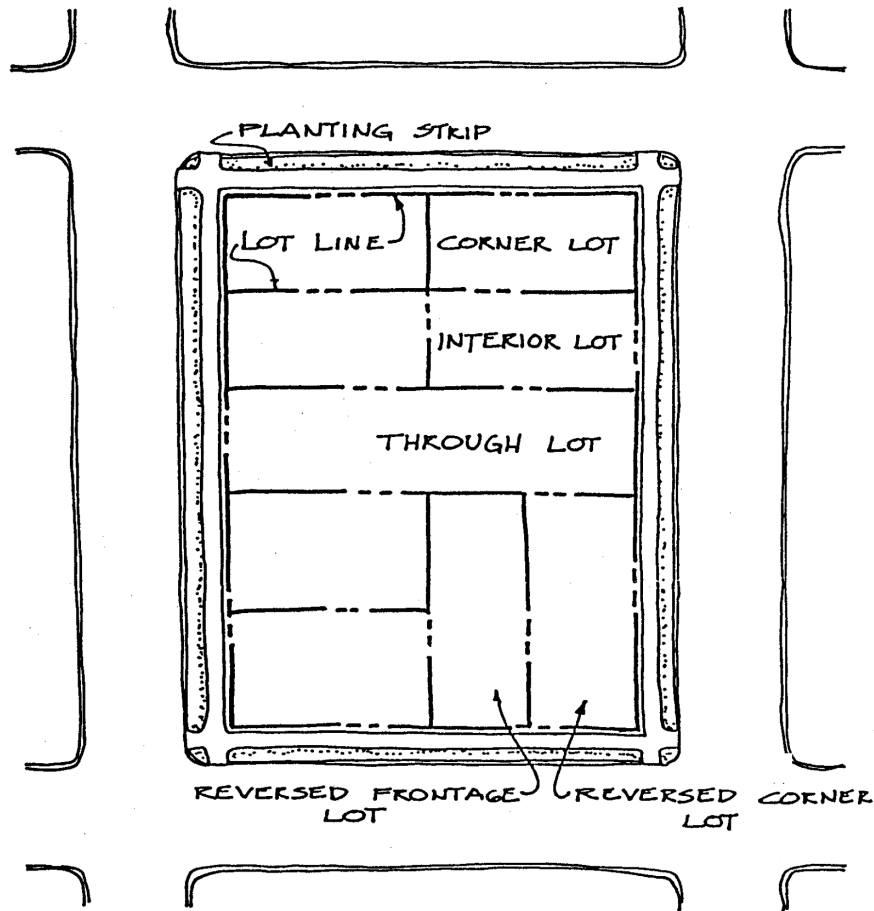
*Land use plan, official* means the plan so designated by the planning commission and incorporated into and made a part of this chapter.

*Legally established nonconforming sign* means any sign and its support structure lawfully erected prior to the effective date of this ordinance, which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance, granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected, shall be deemed to be an illegal sign.

*Loading berth* means an off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking. A loading space is five hundred twenty-eight (528) square feet in area.

*Lodginghouse* means a building or part thereof, other than a hotel, including so-called tourist homes, where lodgings are provided for hire, more or less transiently, and with or without provision for meals.

*Lot* means a plat, plot or parcel of land occupied, or designed to be occupied by one (1) building, and the accessory buildings or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be the land shown on a duly recorded plat. If more than one (1) lot of record is held in common ownership and such lots are contiguous, undeveloped and substandard in size to the minimum lot size in the zoning district, they shall, for the purpose of this chapter, be held as one (1) lot or as many lots as shall leave no lot substandard.



## TYPES OF LOTS

### Types of Lots

*Lot area* means the area of a lot bounded by lot lines.

*Lot, corner* means a lot whose lot lines form an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.

*Lot coverage* means the amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, or swimming pools.

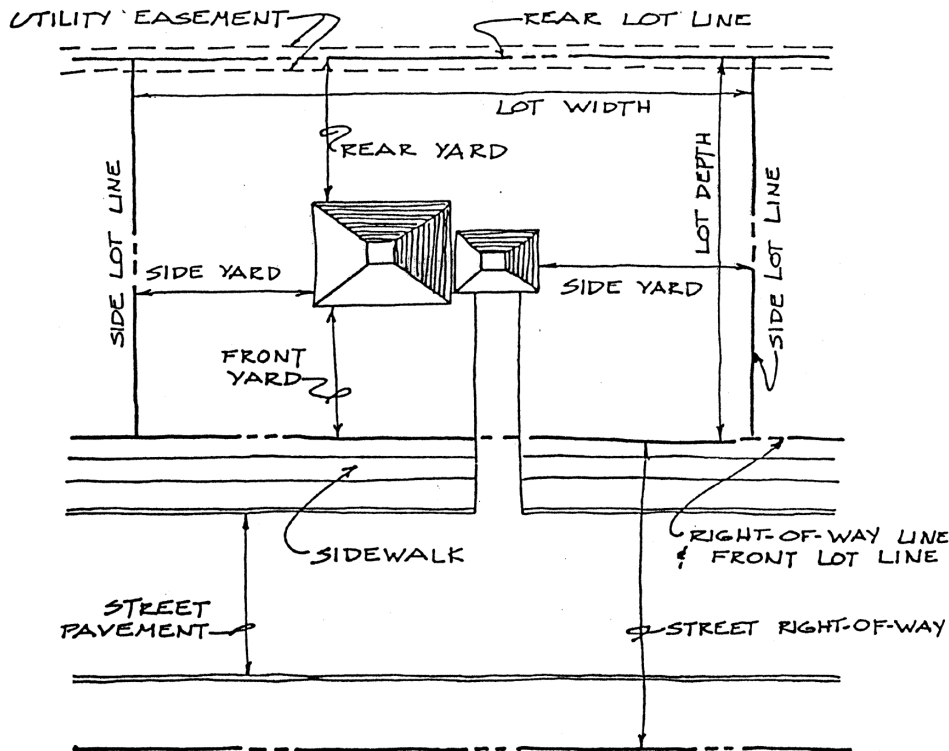
*Lot line* means a boundary line of a lot.

*Lot line, front* means the exterior line or right-of-way of a road on which a lot fronts or abuts.

*Lot line, rear* means any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

*Lot line, side* means any lot line not a front or rear lot line.

*Lot of record* means a lot which actually exists in a subdivision plat as shown on the records of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.



## LOT TERMINOLOGY

### Lot Terminology

*Lot width* means the average distance between side lot lines measured at the building line, on a line parallel to the street, and measured at right angles to the side lot lines.

*Marquee* means a covered projection attached to the face of a building which is supported entirely by the building and projects more than two (2) feet beyond the building wall.

*Marquee sign* means any building sign painted, mounted, constructed or attached in any manner, on a marquee.

*Mobile home* means a structure transportable in one (1) or more sections which is built on a chassis and designed to be used with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle (Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq.), as amended.) All mobile homes must conform to the U.S. Department of Housing and Urban Development's code for mobile homes. Mobile home includes a double-wide unit.

*Mobile home park* means a parcel or tract of land, under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended or used incidental to the occupancy of a mobile home, and which is not intended for use as recreation vehicle trailer park. (Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq.), as amended.)

*Modular* means a structure which meets the requirements of the B.O.C.A. building and construction code, and which is transported in one (1) or more sections on a removable chassis, and is designed to be used on a permanent foundation, when connected to the required utilities, such as plumbing, heating, and electrical systems. Pursuant to B.O.C.A. the characteristics of a modular structure are:

- (1) A pitched roof of heavy truss construction able to support a dead-weight of at least forty (40) pounds, and having roof shingling of five-inch exposure;
- (2) A heavy deck flooring of wood on two (2) by eight (8) floor joists;
- (3) A drain ventilation size of three (3) inches in diameter extending twelve (12) inches above the roof; and
- (4) Establishment on a poured wall or cement block and mortar foundation.

*Monument sign*: See ground sign.

*Motel or motor hotel* means a building or a series of attached, semidetached, or detached rental units providing long-term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided without the approval by the city council with the exception of units for use of the manager and/or caretaker.

*Nonconforming lot of record (substandard lot)* means a lot lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the minimum area requirements of the zoning district in which it is located.

*Nonconforming structure* means a structure, or portion thereof, lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the minimum yard setback requirements of the zoning district in which it is located.

*Nonconforming use* means a use lawfully existing in a building or on land at the effective date of this chapter, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

*Nuisance* means and embraces public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, provided with sewerage, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this chapter, nuisances and all such nuisances are hereby declared illegal.

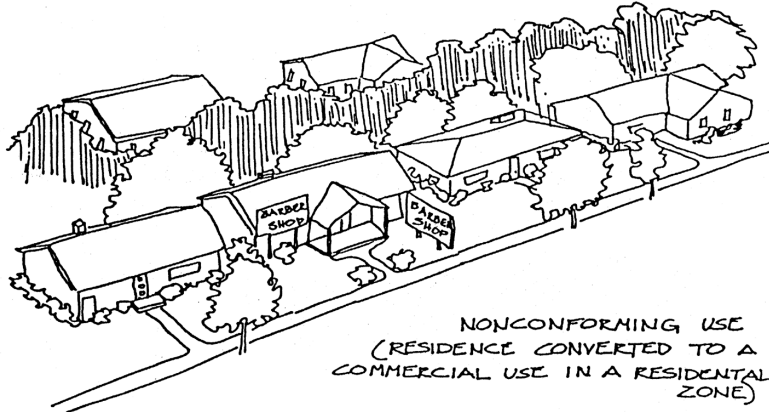
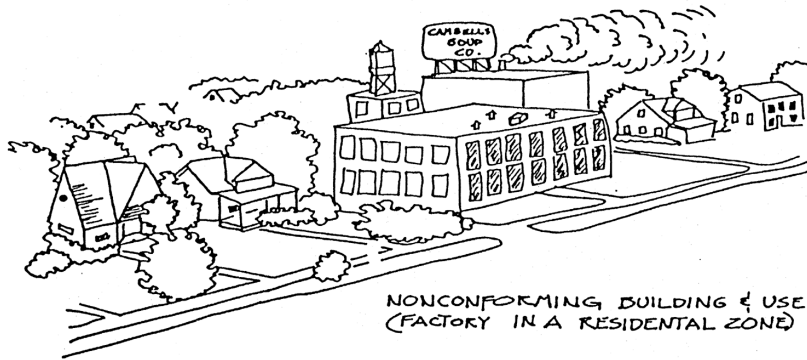
*Off-premise sign* means a sign, which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

*On-premise sign* means a sign related to and incidental to a lawful use of the lot on which it is located.

*Open air business* means and includes the following:

- (1) Retail sales of trees, shrubbery, plants, flowers, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- (2) Retail sale of fruits and vegetables.
- (3) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- (4) Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sales; rental or repair services.
- (5) Outdoor display and sales of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm

implements, and similar products.



## —————NONCONFORMING USE—————

### Nonconforming Use

*Ordinary high water mark* means the line on a stream bank up to which the presence and action of surface water is so continuous as to leave a distinct line marked by erosion;

*Outdoor menu board* means an outdoor sign often associated with restaurants, which gives a detailed list of items such as food, drink or services that are available at the business establishment.

*Pennant* means a sign produced on lightweight flexible fabric such as canvas, cloth or similar material that is mounted to a pole or a building at one (1) or more edges and which is more or less subject to movement by the wind. A pennant is distinguished from a banner in that a pennant is intended primarily for decorative purposes.

*Planning commission* means the city planning commission and shall have all powers granted under authority of Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended, and of any other act.

*Political sign* means a sign whose message relates to: the election of a person to a public office, or to a political party, or to a public issue which shall be voted on at an election called by a public body, or to an opinion.

*Portable sign* means any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be remove and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

*Porte cochere* means a roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway

*Projecting sign* means a sign which is supported by a building wall, and which has its copy area oriented perpendicular to the building wall supporting it; and any sign attached to a building wall that and extends more than fifteen (15) inches from the face of the building wall.

*Public utility.* Except for wireless communication facilities, any person, firm, corporation, municipal department or council duly authorized to furnish and furnishing under state or municipal regulations to the public; electricity, gas, steam, communications, telephonic, transportation or water.

*Pylon sign:* See pylon sign.

*Real estate sign* means a temporary sign placed upon a lot for the purpose of advertising to the public the sale or lease of said lot.

*Real estate development sign* means a sign designed to promote the sale or lease of numerous lots, homes or building spaces in a real estate development that is under construction

*Recreational vehicles* mean vehicles primarily designed or used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. (Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq.), as amended.)

*Recreation vehicle or equipment* means a vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. Such vehicles include boats, personal water craft, airplanes, special purpose automobiles, floats, rafts, snowmobiles, snowmobile trailers, camping or travel trailers, motor homes, detachable slide-in truck campers, chassis-mount campers adaptable to light trucks, and other equipment or vehicles of a similar nature.

*Repairs* mean the rebuilding or renewal of a part of an existing building for the purpose of maintaining its original type and classification.

*Research and development facility* means any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. Development may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test-marketed which is the interim step between full research and development and ultimate full-scale production.

*Restaurant* means as follows:

- (1) Drive-in restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, or any portion of whose business includes one (1) or both of the following characteristics:
  - a. Foods, frozen desserts, or beverages are served directly to the customer in motor vehicles either by a carhop or by other means which eliminates the need for the customer to exit the motor vehicles.
  - b. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is allowed, encouraged, or permitted.
- (2) Fast-food restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carryout with consumption off the premises, and whose design or principal method of operation includes both the following characteristics:
  - a. Foods, frozen desserts, or beverages are usually served in edible containers, or in paper, plastic, or other

disposable containers.

- b. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
- (3) Carryout restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes both of the following characteristics:
- a. Foods, frozen desserts, or beverages are usually served in edible containers, or in paper, plastic, or other disposable containers.
  - b. The consumption of foods, frozen desserts, or beverages within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
- (4) Standard restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one (1) or both of the following characteristics:
- a. Customers, normally provided with an individual menu, are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which such items are consumed.
  - b. A cafeteria-type operation where foods, frozen desserts, or beverages generally are consumed within the restaurant building.
- (5) Bar/lounge/tavern is a structure or part of a structure designed, maintained, and operated primarily for the dispensing of alcoholic beverages. The selling of food and snacks may also be permitted. If the bar/lounge/tavern is part of a larger dining facility, it shall be defined as that part of the structure so designated and/or operated.

*Road or street, arterial* means East and West Superior Streets, North and South Main Streets, and Reno Drive.

*Road or street, secondary* means any street not classified as an arterial street.

*Road or street, private* means a private right-of-way reserved for the use of the occupants of the abutting structures. Such private street shall not be accepted by the city for maintenance in any form and shall have a minimum thirty-foot paved width.

*Road or street, public* means a public right-of-way of sixty-six (66) feet or more in width which has been dedicated for the purposes of providing access to abutting private lots of land including the space for pavement and sidewalks.

*Roof sign* means a sign which is erected upon the roof of a building.

*Rotating sign* means a sign or portion of a sign, which turns about on an axis or gives the appearance or optical effect of rotating.

*Sandwich board/A-frame sign* means a portable sign composed of two panels hinged at the top. From a side elevation, resembles an "A." Such signs are typically placed on a sidewalk immediately in front of the business or hung from a persons shoulders.

*Setback* means the minimum horizontal distance between the front line of a building, excluding steps and enclosed porches, and the street line.

*Shed* means a lightly constructed one- or two-story building for temporary use during the erection of a permanent building; or a light one-story structure attached to, or auxiliary to another building and intended for storage only.

*Shimmering signs* means a sign which reflects an oscillating sometimes distorted visual image.



*Shopping center* means a retail commercial establishment or a group of retail establishments which is planned, developed, owned and managed as a unit, with off-street parking provided on the property and related in its location, size and type of shops to the trade area.

*Sign* means any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

*Sign face* means the surface of the sign upon, against, or through which the message of the sign is exhibited.

*Sign structure* means any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

*Solar panel* means a solar photovoltaic (PV) panel or covering, or solar hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

*Special event sign* means a sign for events such as grand openings, vehicle shows, art and craft shows, benefits, fund-raisers, festivals and other limited term events.

*Special use permit* means a permit for a use that would not be appropriate generally or without restriction throughout the zoning district; but which, if controlled as to the number, area, location or relation to the city, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. Such uses shall be permitted when the specific review criteria provided in this chapter for them are met.

*State licensed residential facility.* A structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701—400.737, or the child care organizations act, 1973 PA 116, MCL 722.111—722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care. Except as otherwise provided in section 206(2) of the Michigan Zoning Enabling Act, being MCL 125.3206(2), a state licensed residential facility is considered a residential use of property and is not subject to a permit or procedure different from those required for other dwellings of similar density in the same zone.

*Stream bank* means the portion of the stream channel cross section that restricts the lateral movement of water at normal bank-full levels often exhibiting a distinct break in slope from the stream bottom.

*Street sign* means a sign extending beyond the boundaries of the lot on which it is located unless attached parallel to the face of a building and not extending more than fifteen (15) inches from the face of such building.

*Stringer* means a line of string, rope, cording, or an equivalent to which is attached a number of pennants.

*Structural change or alteration* means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

*Suspended sign* means any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

*Swimming pool* means any structure or container, either above or below grade, located either in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than twelve (12) inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both.

*Temporary building or use* means a structure or use permitted by the building inspector to exist during periods of construction of the main use or for special events, not to exceed six (6) months. Two (2) extension periods of six (6) months each are allowed.

*Temporary sign* means a sign constructed of light, temporary material, with or without a structural frame intended to be used for a limited time for display, demonstration or announcement.

*Trailer sign* means a sign with a copy area supported on a mobile chassis, other than a motor vehicle.

*Townhouses* means a row of three (3) or more attached one-family dwellings, not more than two and one-half (2½) stories in height and for which there is a rear and front entrance to each dwelling. Townhouse shall not be used as a synonym for the term "condominium" which refers to how property or space is owned rather than for a particular housing style.

*Travel trailer* means a portable unit built on a chassis, designed to be pulled behind a motor vehicle and used as a temporary dwelling for travel and recreational purposes. It includes rigid travel trailers, folding camping trailers, fifth wheel camping trailers and other similar units not requiring special highway movement permits. Travel trailers do not include manufactured homes.

*Utility trailer, light* means a portable unit built on a chassis, fully enclosed or otherwise that is designed to be towed behind a motor vehicle and used to transport cargo and material of a personal or commercial nature, excluding tandem axel trailers over twenty-four (24) feet in length (excluding tongue length), semi-tractor trailers and "low boy" single or tandem axel trailers designed to carry construction equipment.

*Variance* means a varying or relaxation of the standards of the zoning chapter by the board of zoning appeals; and where such variances will not be contrary to the public interest; and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in practical difficulty.

*Vehicle sign* means a sign located on or attached to a vehicle, which is primarily located or used to serve as a sign rather than as transportation. This includes, but is not limited to, automobiles, trucks, boats or airplanes and semi-trailer either attached or detached from a truck tractor.

*Wall sign* means any building sign attached parallel to, but within two fifteen (15) inches of a wall, painted on the wall surface, of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

*Wetlands* means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

*Window sign* means any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

*Wireless communications facilities (or WCF)* means all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and private and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

*Wireless communications facilities, attached* means wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A newly proposed wireless communication support structure shall not be included within this definition.

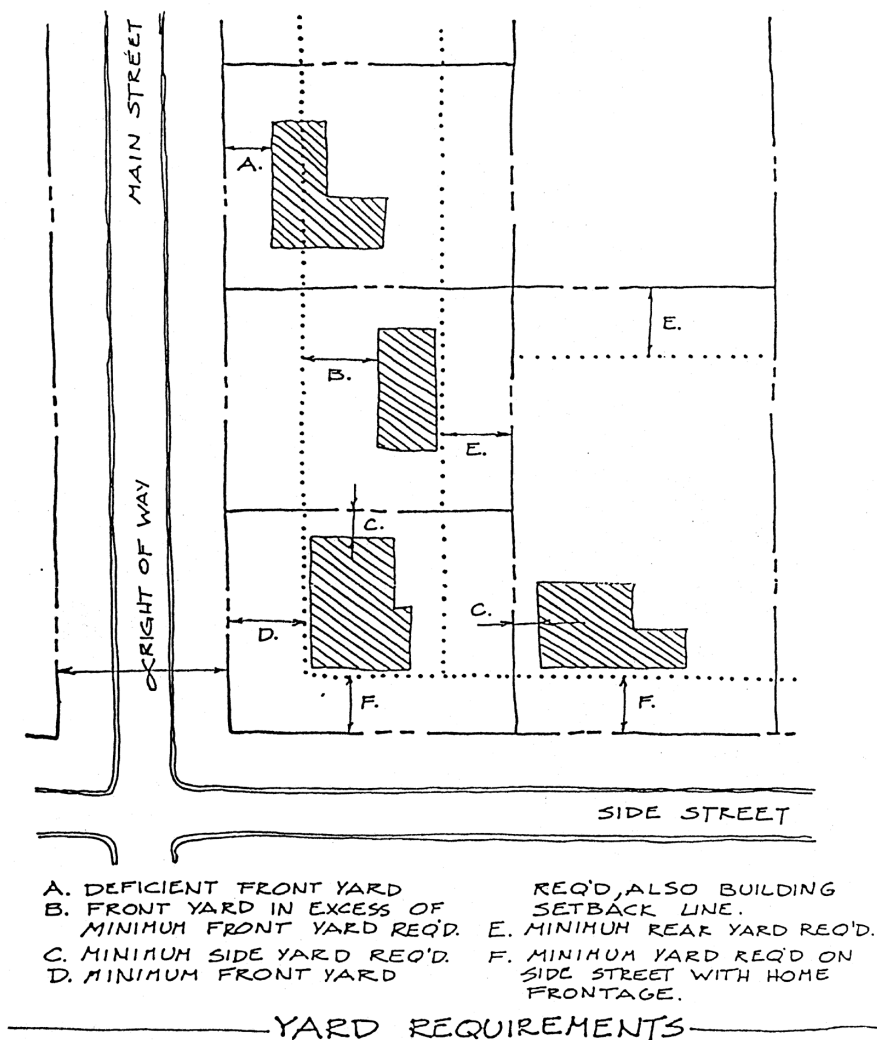
*Wireless communication support structures* means structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, mono-poles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

*Yard* means an open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided herein, and on the same lot with a building. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

- (1) A required yard is that portion of any lot on which the erection of a main building is prohibited.
- (2) A front yard is a yard on the same lot with a building between the front line of the building and the front lot line and extending from one (1) side lot line to the other side lot line.
- (3) A rear yard is a yard on the same lot with a building between the rear line of the building and the rear lot line and extending from one (1) side lot line to the other side lot line.
- (4) A side yard is a yard on the same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.

(Ord. No. 123, § 2.0, 6-5-89; Ord. No. 178, § 1, 6-4-01; Ord. No. 193, art. IV, 7-7-03; Ord. No. 205, § 2, 5-15-06; Ord. No. 209, § 27, 1-2-07; Ord. No. 211, § 2, 2-5-07; Ord. No. 225, § 1, 2-1-10)

**Cross reference—** Definitions and rules of construction generally, § 1-2.



Yard Requirements

Secs. 20-6—20-35. - Reserved.

## ARTICLE II. - ESTABLISHMENT OF DISTRICTS

Sec. 20-36. - Establishment of districts.

The city is hereby divided into the following districts:

LDR	Low Density Residential District
R-1	Single-Family Residential District
R-2	Single- and Two-Family Residential District
R-3	Single-Family and Manufactured Housing District
R-4	Attached Single-Family Residential District
RM	Multiple-Family Residential District
RMH	Residential Mobile Home District
B-1	Local Business District
B-2	General Business District
B-3	Regional Commercial District
CBD	Central Business District
P	Parking District
RO	Restricted Office District
I-1	Light Industrial District
I-2	General Industrial District
RAP	Riparian Area Protection Overlay Zone

(Ord. No. 123, § 3.0, 6-5-89; Ord. No. 205, § 6, 5-15-06; Ord. No. 225, § 2, 2-1-10)

Sec. 20-37. - Zoning map.

- (a) The areas and boundaries of such districts noted in section 20-36 are hereby established to scale as shown on a map entitled Zoning Map of the City of Wayland, and referred to herein as the "zoning map." The zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of the chapter.
- (b) Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the city hall and shall be the final authority as to the current zoning status in the city. No amendment to this chapter which involves a change of a mapped zoning district shall become effective until such change and entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the mayor, and attested by the city clerk.

(Ord. No. 123, § 3.1, 6-5-89)

Sec. 20-38. - Interpretation of district boundaries.

When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- (3) Boundaries indicated as approximately following city boundaries shall be construed to follow city boundaries.
- (4) Boundaries indicated as approximately following property lines, section lines or other lines of a survey shall be construed to follow such charted lines as of the effective date of this chapter, or affecting amendment.
- (5) Boundaries indicated as following railroads lines shall be construed to follow the centerline of the railroad right-of-way.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be interpreted by the building inspector. Upon appeal, the board of zoning appeals reserves the right to override the interpretation of the building inspector.

(Ord. No. 123, § 3.2, 6-5-89)

Sec. 20-39. - Annexed areas.

When property not now in the city shall become annexed to the city, the existing zoning shall be retained for one (1) year or until the planning commission shall have reviewed and recommended rezoning to the city council and the city acts upon the recommendation.

(Ord. No. 123, § 3.3, 6-5-89)

Secs. 20-40—20-60. - Reserved.

ARTICLE III. - GENERAL REGULATIONS

DIVISION 1. - GENERALLY

## Sec. 20-61. - Effects of zoning.

- (a) Zoning affects every structure and use. Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except when in conformity with the regulations herein specified for the zoning district in which it is located.
- (b) In case any building or part thereof is issued, erected, altered or occupied contrary to law or to the provisions of this chapter, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance.
- (c) If construction on a building is lawfully begun prior to adoption of this chapter, nothing in this chapter shall be deemed to require any change in the planned or designed use of any such building provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within one (1) year from the effective date of this chapter, or affecting amendment.

(Ord. No. 123, § 4.0, 6-5-89)

## Sec. 20-62. - Application of regulations.

The regulations set by this chapter throughout the city and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.

- (1) All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located.
- (2) No building or other structure shall hereafter be altered:
  - a. To accommodate or house a greater number of persons or families than permitted by the zoning district.
  - b. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
- (3) No yard or lot existing at the time of passage of this chapter shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. No. 123, § 4.1, 6-5-89)

## Secs. 20-63—20-75. - Reserved.

## DIVISION 2. - GENERAL DISTRICT REGULATIONS

## Sec. 20-76. - Schedule of district regulations.

Regulations affecting the arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in the schedule of regulations being article XVII, sections 20-521 through 20-545.

(Ord. No. 123, § 4.2, 6-5-89; Ord. No. 181, § 1, 11-5-01)

## Sec. 20-77. - Building permit required, conformance to zoning.

In accordance with other city codes, ordinances and regulations duly adopted by the city council, and in accordance with this chapter, no building shall hereafter be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this zoning chapter, eligibility for a building permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures. In the case of detached accessory buildings and structures, a building permit is required.

(Ord. No. 123, § 4.31, 6-5-89)

Sec. 20-78. - Certificate of occupancy required.

No new principal building or dwelling subject to the provisions of this chapter shall be occupied, inhabited or used until a certificate of occupancy is issued by the building inspector.

(Ord. No. 123, § 4.32, 6-5-89)

Sec. 20-79. - Structures.

- (a) *Restoring unsafe buildings.* Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the building inspector or the county health department. A building or structure condemned by the building official may be restored to safe condition provided change of use or occupancy is not contemplated or compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is equal to or in excess of its state-equalized value, the structure shall be made to comply in all respects with the requirements for materials and methods of construction of structures hereafter erected.
- (b) *Structure to have access.* Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing fire protection, and required off-street parking.
- (c) *One single-family structure per lot.* No single-family detached residential structure shall be erected upon a lot with another single-family detached residential structure. In addition, every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined.
- (d) *Accessory building.* No accessory building shall be erected in any required front yard, and no separate accessory building shall be erected on any property line.
- (e) *Exceptions to height regulation.* The height limitations contained in the chapter do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Ord. No. 123, § 4.33, 6-5-89)

Sec. 20-80. - Lots.

- (a) *New lots to be buildable.* All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.
- (b) *Creation of new lots.* No new lots shall be created which do not meet the minimum lot size regulations of this chapter and the provisions of chapter 17, section 17-177 relating to the ratio of depth to width and access.

- (c) *Corner lots.* On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate on his application for permit which of the remaining two (2) required yards shall be the required side yard and which the required rear yard.
- (d) *Existing platted lots.* Any residential lot laid out on an approved plat or existing at the time of adoption of this chapter that fails to comply with the minimum requirements of this chapter may be used for a single-family dwelling, provided the lot is in single ownership as defined in this chapter and further provided that ninety (90) percent of all yard requirements are complied with. An existing platted lot which contains ninety (90) percent or more of the required area and width may be utilized as a separate lot. The use of more than one (1) lot in common ownership where the same do not comply with ninety (90) percent of the minimum requirements of this chapter shall be determined by the board on the basis of neighborhood character. For the purpose of this section, the board shall use the following standards to determine neighborhood character:
  - (1) *Two lots.* If each of the two (2) adjacent lots in question has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least sixty (60) percent of the total number of developed lots within four hundred (400) feet on both sides of the same street, each of the lots in question shall be construed to be in character with the neighborhood. If not, the two (2) lots shall be considered a single lot.
  - (2) *Three lots.* If each of the three (3) lots in common ownership has both frontage and area measurements that equal or exceed the individual frontage and area measurements of at least sixty (60) percent of the total number of developed lots within four hundred (400) feet on both sides of the same street, each of the lots shall be construed to be in character with the neighborhood. If not, the three (3) lots shall be considered one (1) or two (2) lots meeting the zone district requirements.
  - (3) *Four or more lots.* If each of the four (4) or more lots in common ownership are less than the minimum requirements, they shall be resubdivided into one (1), two (2) or three (3) lots meeting the zone district requirements.

(Ord. No. 123, § 4.34, 6-5-89; Ord. No. 181, § 2, 11-5-01)

Sec. 20-81. - Off-street parking and loading.

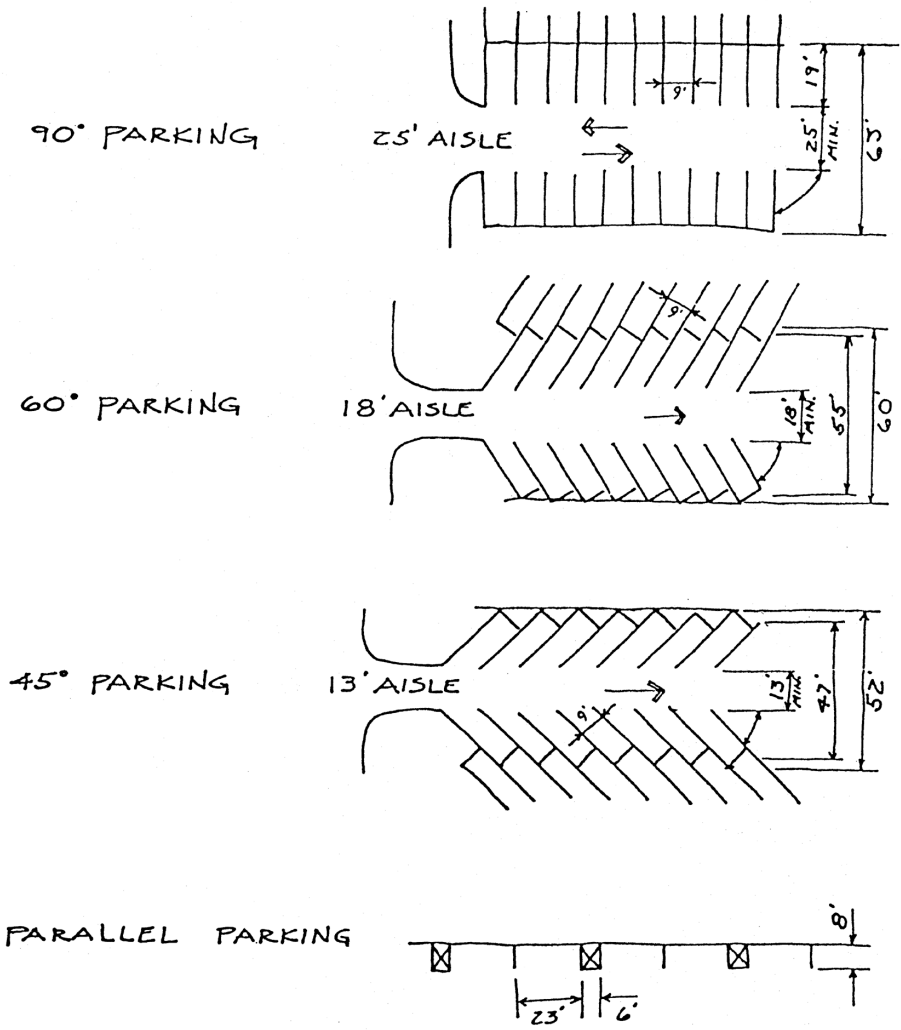
- (a) All buildings located in the city shall provide off-street parking adequate for the use intended.
- (b) The dimensions of off-street parking spaces shall be in accordance with the following minimum dimensions:

Parking pattern	Maneuvering lane width (in feet)	Parking space width (in feet)	Parking space length (in feet)	Total width of one tier of spaces plus maneuvering lane in feet	Total width of two tiers of spaces plus maneuvering lane in feet
0° (Parallel parking)	12	8	23	20	28
30° to 53° (diagonal)	13	9	20	33	53
54° to 74° (diagonal)	18	9	21	39	60
75° to 90° (diagonal)	25	9	18	43	61

The graphic entitled "Parking Layouts" is included for illustration purposes only and not drawn to scale.

- (1) *Residential off-street parking.* Parking in residential zones is only permitted as an accessory use or as a transitional use and in no case is it intended that parking or access drives to parking be permitted as a principal use of any residentially zoned lot.





## PARKING LAYOUTS

### Parking Layouts

- (2) *Nonresidential off-street parking.* Except in parking exempt areas, provisions shall be made for off-street parking for all nonresidential buildings or additions to such buildings in all districts. The conversion of an existing residence to any other use shall be deemed to be a new use which must meet all provisions of this chapter.
- (3) *Mixed occupancies and uses not specified.* In the case of mixed uses, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provision for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal store operation hours may be jointly used where adequate arrangements are made to ensure that the space is available for each function.
- (4) *Location of off-street parking facilities.* Off-street parking facilities shall be located as hereafter specified. Where a distance is specified it shall be the distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve, as follows:
  - a. For all residential buildings and for all nonresidential buildings in residential zones, required parking shall be

- provided on the same lot with the building.
- b. One and two-family dwellings: Required on-premise parking shall be provided on the same lot or parcel as the dwellings they are intended to serve. Off-premise parking must be outside of the public right of way and may consist of driveway areas, parking strips or parking aprons adjacent to the driveway and/or space internal to a garage or car-port. Parking strips and aprons must be placed between the driveway and the side property line and may not otherwise extend in front of habitable ground floor area of the dwelling. Within the permissible areas between the driveway and the side property line, parking strips and parking aprons may be located no closer than three (3) feet to a street right of way line and one (1) foot from the property line. The maximum combined width of parking aprons, parking strips and driveways within the front yard shall be thirty (30) feet. For single-family dwellings, the width of driveway throats within the public right of way shall not exceed twenty-four (24) feet. Total driveway/parking strip/apron width and the width of driveway throats within the public right of way for two-family dwellings shall not exceed forty-eight (48) feet.
  - c. For commercial and all nonresidential uses in commercial zones, required parking shall be provided within seven hundred (700) feet of the business or the owner may be required to contribute to a community parking fund, if established by the city council and in existence at the time of development.
  - d. For industrial uses, required parking shall be provided within seven hundred (700) feet.
  - e. In the cases of attached three, four family or multiple family dwelling complexes, the planning commission shall review and approve the location of off street parking spaces as part site plan approval required under section 20-116.
- (5) *Parking areas in commercial office and industrial districts.* Every parcel of land hereafter established as a public or private parking area in any commercial or industrial district or hereafter enlarged or altered shall be developed and maintained in accordance with the following requirements:
- a. Off-street parking areas shall be effectively screened on any side which adjoins or faces premises situated in any residential zone district or institutional premises, by a screening or evergreen hedge or other material approved by the planning commission. Screening provisions in section 20-84 shall control.
  - b. Every such off-street parking area shall be surfaced in accordance with section 20-81(11). Any lighting in connection with off-street parking shall be so arranged as to reflect the light away from all adjoining residential buildings zones and streets. Lighting provisions of section 20-84 shall control.
  - c. The off-street parking area shall be subject to the approval of the planning commission to ensure its adequacy in relation to traffic safety, lighting, and protection of the adjacent property.
  - d. The use of required parking areas for the storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance, is prohibited, unless specifically approved by the planning commission as part of site-plan review or by special-use permits.
  - e. The storage of semi-trailers outside of areas approved for such storage on an approved site plan is prohibited.
  - f. The use of parking areas for the storage or parking of vehicles unrelated to the business for which the parking is intended is prohibited.
  - g. The use of semi-trailers for storage purposes for a period longer than seven (7) days is prohibited.
- (6) *Parking areas in residential zones.* Any person desiring to establish a parking area as an accessory use in a residential zone shall submit plans to the planning commission showing the location, size, shape, design, landscape, curb cuts, and other features of the parking lot. The establishment and operation of a parking area accessory to a commercial or industrial use in such parts of any residential district that abut either directly or

across the street or alley from a commercial or industrial district is not permitted. All such parking areas and parking areas required for new multiple-family dwellings and nonresidential buildings in all residential zones may then be authorized, subject to the following conditions:

- a. All parking areas shall be landscaped, screened, surfaced, and drained as provided in this chapter.
  - b. No part of such parking areas shall extend into the required front yard more than one-half of the yard required for a residential building, and where the lot or a portion of the lot lies between two (2) privately owned residential properties, the full front yard setback shall be observed. In either case, the front yard area not occupied by the access drive shall be landscaped.
  - c. All such parking areas shall be at least forty (40) feet in width.
  - d. Such parking areas shall be used solely for the parking of passenger automobiles, and no commercial repair work or sales or service of any kind shall be conducted on such parking lot. No sign, other than entrance, exit, and condition of use signs shall be maintained, and the aggregate area of all such signs shall not exceed twelve (12) square feet.
  - e. Each entrance to and exit from such parking lot shall be at least twenty (20) feet distant from any adjacent property located in any residential zone, and the location and design of entrances, exits, surfacing, landscaping, markings, and lighting shall be subject to the approval of the planning commission to ensure adequate relation to traffic safety, lighting and protection of the adjacent residential area.
  - f. The building inspector shall thereafter issue a permit, which may be revoked at any time that the aforementioned requirements are not complied with. Any person operating the premises to which a permit relates in violation of any of the conditions specified by this chapter or fixed to such permit shall be deemed in violation of this chapter and shall be subject to the penalties prescribed in this chapter.
- (7) *Parking and storage of unlicensed vehicles, commercial vehicles, recreation vehicles and equipment and trailers.*
- a. *Parking and storage of unlicensed vehicles.* Automotive vehicles and trailers of any kind or type without current license plates may not be stored on residentially zoned property unless it is within an enclosed building.
  - b. *Parking of commercial vehicles.* In residential districts the parking of commercial vehicles is prohibited unless it is compliance with the following:
    1. No more than one (1) commercial vehicle is permitted.
    2. Regularly manufactured vehicles such as pickup trucks, cargo vans stake trucks, or utility body trucks may not exceed a rated capacity of one (1) ton. Box vans, step vans, dump trucks, ladder/bucket trucks and all other commercial vehicles and utility trailers used for commercial purposes are prohibited.
    3. The vehicle must be owned by a person residing at the address where the vehicle is being parked or the vehicle must be driven by such person as a function of his or her employment.
    4. Parking of commercial vehicles on vacant parcels is prohibited.
  - c. *Parking of recreation vehicles and equipment, and utility trailers.* Within any residential zoning district, the parking of recreation vehicles and equipment, travel trailers and utility trailers on occupied single- or two-family residential lots or parcels is permitted subject to the following requirements:
    1. The parking and storage of recreation vehicles and equipment and utility trailers on residential lots or parcels shall be limited to only those vehicles owned by, and licensed or registered to, the occupant of the residential lot or parcel on which the vehicle is stored.
    2. Unless parked on an approved parking strip or apron as provided herein, all recreational vehicles or

trailers not parked or stored in a garage must be parked or stored in the rear or side yard. This requirement shall also apply to corner lots. A minimum of one (1) foot of side or rear yard shall be maintained between the vehicle and the side or rear lot line. Vehicles or trailers may occupy space in front of the front line of the dwelling only if it is parked on an improved hard surfaced parking strip or apron located in accordance with the provisions of section 20-81, subsection (4), paragraph b and does not obstruct the view of street traffic and of vehicular and pedestrian traffic in adjacent driveways.

3. No more than one (1) travel trailer or recreational vehicle or light utility trailer shall be stored or parked outdoors within the front yard of a single lot. For the purpose of this section, multiple recreation vehicles such as snowmobiles, motorcycles, personal watercraft loaded on a single utility trailer shall be considered one unit.
4. Recreational equipment parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewerage, and at no time shall such equipment be used for living, sleeping or housekeeping purposes.
5. Parking and storage of recreational vehicles and equipment, and utility trailers on vacant parcels of record is prohibited.
6. In the case of attached three family, four family, multiple family dwelling complexes and mobile home parks, the parking of recreation vehicles and equipment, and utility trailers is prohibited unless adequate area for such is established and aside for such in off street parking areas on an approved site plan for the development. As part of site plan approval the planning commission may require that additional parking spaces and screening be provided on the site for the parking and storage of vehicles and equipment.

(8) *Table of parking requirements.* The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space, so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and otherwise shall comply with the provisions of this section.

For uses not specifically listed in the following table, the requirements for off-street parking shall be determined as follows:

- a. If the use is substantially similar to a use listed in the table, the zoning administrator may use the parking requirements for that similar use.
- b. The zoning administrator may use the average-rate of parking for the use as identified in the most recent edition of Parking Generation Manual, published by the Institute of Transportation Engineers, as amended.
- c. If the proposed use is not similar in parking requirement to a use listed in the table and is not included in the Parking Generation Manual, then the zoning administrator shall refer the determination of parking need to the zoning board of appeals to make such determination.

	Use		Number of minimum parking spaces per unit of measure
1.	<i>Residential</i>		
	a.	Residential, one-family and two-family	Two (2) for each dwelling unit.
	b.	Residential, multiple-family	Two (2) for each dwelling unit for developments of 1-24 units. One point seven five (1.75) feet for each dwelling unit for developments of twenty-four plus (24+) units.

	c.	Trailer park and mobile home courts	Two (2) for each trailer or mobile home site and one (1) for each employee of the trailer or mobile home court.
	d.	Boarding and rooming house and bed and breakfast facility	One (1) for each sleeping room.
	e.	Senior citizen apartments	Three-quarters ( $\frac{3}{4}$ ) space for each unit when mass transit is provided; one (1) space for each unit when not provided.
2.	<i>Institutional</i>		
	a.	Churches, temples or synagogues	One (1) for each three (3) seats, maximum seating capacity in the main unit of worship; or one (1) space for each thirty-five (35) sq. ft. of gross floor area.
	b.	Hospitals	One (1) per six hundred (600) sq. ft. of gross floor area.
	c.	Sanitariums, convents, homes for the aged, convalescent homes, children's homes	One (1) per six hundred (600) feet of gross floor area.
	d.	Adult foster care facilities	One-half space per bed plus one (1) space for each employee.
	e.	Public or private elementary and junior high schools	One (1) for each classroom plus one (1) space for each five (5) fixed seats of any area used for auditorium purposes or for each thirty-five (35) sq. ft. of seating area where there are no fixed seats.
	f.	Senior high schools	One (1) space for each classroom and each other room used by students plus one (1) for each ten (10) full-time students in addition to the requirements for auditorium. (see k.)
	g.	Private clubs or lodge halls	One (1) for each three (3) allowed within the maximum occupancy load as established by local county, or state fire, building, or health codes.
	h.	Private golf clubs, swimming pool clubs, tennis clubs, or racquetball clubs	One (1) for each two (2) member families or individuals.
	i.	Golf course open to the general public, except miniature or "par 3" courses	Six (6) for each one (1) golf hole and one (1) for each one (1) employee.

	j.	Stadium, sport arena, or similar place of outdoor assembly	One (1) for each three (3) seats or ten (10) feet of bench.
	k.	Theaters and auditoriums (indoor)	One (1) for each four (4) seats plus one (1) for each two (2) employees.
	l.	Libraries, museums, and noncommercial art galleries	One (1) for each two hundred fifty (250) sq. ft. of gross floor area.
	m.	Day-care, preschool and nursery schools	One (1) space for each staff member plus one (1) space for every five (5) children or one (1) for every ten (10) children if adequate drop-off facilities are provided
3.	<i>Business and commercial</i>		
	a.	Automobile service stations, gasoline stations, convenience stores in conjunction with service or gas stations	Two (2) for each lubrication stall, rack, pit or pump, plus one (1) for every two hundred (200) sq. ft. of gross floor area devoted to retail sales; plus one (1) for each employee.
	b.	Auto wash, auto reconditioning, auto cleaning (interior/exterior)	One (1) for each one (1) employee, plus one (1) for each two hundred fifty (250) sq. ft. of gross floor area devoted to reconditioning or cleaning.
	c.	Beauty parlor or barbershop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additional chair.
	d.	Bowling alleys	Five (5) for each one (1) bowling lane.
	e.	Dance halls, pool or billiard parlors, roller or ice rinks, exhibition halls and assembly halls without fixed seats	One (1) for each three (3) seats or one (1) for each one hundred (100) sq. ft. of gross floor area.
	f.	Drive-in establishments	One (1) for each forty (40) feet of gross floor area, with a minimum of twenty-five (25) parking spaces.
	g.	Establishments for sale and consumption on the premises of beverages, food and refreshments	One (1) for every six (6) seats or eighty (80) sq. ft., whichever requires the greater amount of parking.

	h.	Furniture and appliance, household equipment, repair shop, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	One (1) for each eight hundred (800) sq. ft. of floor area, occupied in processing or manufacturing.
	i.	Laundromats and coin-operated dry cleaners	One (1) for each two (2) washing machines.
	j.	Miniature golf courses	Three (3) for each one (1) hole plus one (1) for each one (1) employee.
	k.	Mortuary establishments	One (1) for each one hundred (100) sq. ft. of gross floor area.
	l.	Motel, hotel or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee, plus extra spaces for dining rooms, ballrooms, or meeting rooms based upon maximum occupancy load.
	m.	Motor vehicles sales and service establishments, trailer sales and rental, boat showrooms	One (1) for each four hundred (400) sq. ft. of gross floor area of sales room.
	n.	Open air business	One (1) for each six hundred (600) sq. ft. of lot area.
	o.	Restaurant, carryout	One (1) space for each one hundred (100) sq. ft. of gross floor area.
	p.	Retail stores, except as otherwise specified herein	One (1) space for each three hundred (300) sq. ft. of gross floor area.
	q.	Shopping center or clustered commercial	One (1) space for each three hundred (300) sq. ft. of gross floor area.
	r.	Auto body shop	One (1) space for each five hundred (500) sq. ft. of gross floor area plus one (1) space for each employee.
	s.	Auto/truck sales	One (1) space for each five hundred (500) sq. ft. of gross floor area for automobile sales.
	t.	Cocktail lounges and taverns	One (1) space for each seventy-five (75) sq. ft. of gross floor area.

	u.	Health spas, gymnasiums, and health clubs	Ten (10) for each club or spa plus one (1) space for each two hundred (200) sq. ft. of gross floor area in excess of one thousand (1,000) gross sq. ft.
4.	<i>Offices</i>		
	a.	Banks, savings and loan offices	One (1) space for each two hundred (200) sq. ft. of gross floor area.
	b.	Business offices or professional offices except as indicated in the following item (c)	One (1) space for each four hundred (400) sq. ft. of gross floor area.
	c.	Medical or dental clinics, professional offices of doctors, dentists or similar professions	One (1) space for each one hundred seventy-five (175) sq. feet. of gross floor area.
5.	<i>Industrial</i>		
	a.	All industrial and warehousing establishments	One (1) space for every six hundred fifty (650) sq. ft. of gross floor area, plus one (1) space per each three hundred (300) sq. ft. of office space.
	b.	Deferred parking option	<u>Section 20-498</u> is made applicable by reference and may be applied to any use located in an I-1 or I-2 district.

- (9) *Required off-street loading berths.* In all districts every building, or part thereof, hereafter erected, which is to be occupied by manufacturing, storage, warehouse, group of stores, or other use similarly requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained, on the same premises with such buildings, off-street loading spaces in relation to floor area as follows:

*Square Feet*

*Spaces*

5,000 to 20,000 .....1

20,000 to 50,000 .....2

50,000 to 100,000 .....3

1 additional space for each additional 100,000 square feet or part thereof; provided that:

- Each loading space shall be at least twelve (12) feet in width, forty-four (44) feet in length, and have a clearance of fourteen (14) feet above grade.
- Such space may occupy all or any part of any required yard or court space, except the front yard.

- (10) *Increased parking, surfacing.* When the floor area, dwelling units, or other unit of measure employed to determine off-street parking requirements shall be increased, it shall be the duty and obligation of the owner and occupant of such residence, business or other use to provide additional off-street parking space of sufficient



area. Such parking space may be on the same lot or lots with the main building or within a maximum distance of three hundred fifty (350) feet from any such lot, whichever may have been originally required under this chapter. All such parking spaces herein required shall be surfaced as provided in section 20-81(11).

- (11) *Surface and drainage requirements.* All parking areas for a multifamily, commercial, industrial or governmental use shall be paved with a durable, concrete or sealed bituminous asphalt surface and shall be graded and provided with an engineered, enclosed stormwater collection system. The requirement for paving may be waived in total or in part by the planning commission at the time of site plan approval or as a specific application to the planning commission when site plan approval by the planning commission is not otherwise required. Such waiver may only be granted if it is demonstrated that the use of the parking area is secondary to a fully improved parking area and can be described as low volume, infrequent and intermittent, or will result in unusual weight or wear. In granting such waivers, the planning commission shall stipulate an appropriate substitute surface material.
- (12) *Striping.* All parking spaces, aisles, and unloading zones shall be striped or marked, using a durable exterior paint. Such striping or other required demarcation shall be maintained in a condition such that easy interpretation of such markings by intended users is possible. In those cases where it is determined by the planning commission or zoning administrator that striping of spaces and the definitions of aisle space would not be effective, three hundred (300) square feet of parking area shall be provided for each required parking space.
- (13) *Lighting.* All parking lot lighting shall be designed, located, directed and/or shielded to prevent glare and spillover onto adjacent properties, and shall be arranged to prohibit adverse effects on the vision of motorist on adjacent public roadways. The maximum height of parking lot light fixtures shall be twenty (20) feet for any fixture to be located within three hundred (300) feet of a residential or agricultural district or use, and a maximum of thirty-five (35) feet in other locations (ref. also sec. 20-84).

(Ord. No. 123, § 4.35, 6-5-89; Ord. No. 182, §§ 1—5, 11-5-01; Ord. No. 193, arts. I, II, 7-7-03)

Sec. 20-82. - Animals, bees, livestock, fowl; use, shelter, storage.

No animals, livestock or fowl, or structures for same, other than common household pets shall be permitted in any zoning district.

(Ord. No. 123, § 4.36, 6-5-89; Ord. No. 217, § 1, 7-7-08)

Sec. 20-83. - Reserved.

**Editor's note**— Ord. No. 217, § 2, adopted July 7, 2008, amended the Code by repealing former § 20-83, which pertained to noncommercial antennas and satellite receiving stations, and derived from Ord. No. 123, adopted June 5, 1989.

Sec. 20-84. - General lighting, screening requirements, and fences.

- (a) *Lighting.* All private lights used for the illumination of dwellings or business establishments or for the illumination of business buildings or areas surrounding them, or the illumination or display of merchandise or products of business establishments shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business property. Lighting which is designed to illuminate the premises shall be installed in a manner which will not cast direct illumination on adjacent properties.
- (b) *Nonresidential uses abutting residentially zoned lots.* Except as otherwise provided in this zoning chapter, all premises used for business, commercial or industrial purposes shall be screened from abutting residential districts

in accordance with the provisions of article XVII, division 2.

(c) *Fences.*

- (1) Retaining walls and fences not more than three (3) feet in height are permitted in the required yards of all zones, provided the fences are not more than twenty-five (25) percent solid. Walls and solid fences of not more than six (6) feet in height are permitted only in side or rear yards in any zone.
- (2) In all districts, the frontage for corner lots shall follow the same limitations as provided for residential front yard fencing. In addition, no fence, structure or planting over thirty (30) inches in height above the curb line except deciduous trees shall be erected or maintained within twenty (20) feet of intersecting street right-of-way lines so as to interfere with traffic visibility across the corner.
- (3) Barbed wire or concertina wire fences are prohibited in all zoning districts. However, barbed wire strands may be used to enclose storage areas or other similar industrial and commercial uses. The strands may not project outward from the vertical plain of the fence, away from the industrial or commercial use and shall be restricted to the uppermost portion of the fence and shall not extend lower than a height of six (6) feet from the nearest ground level.
- (4) In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the board of zoning appeals shall have the right and is hereby given the authority to interpret and determine the screening and lighting provisions and the purpose herein sought to be accomplished.

(Ord. No. 123, § 4.4, 6-5-89; Ord. No. 217, § 3, 7-7-08)

Sec. 20-85. - Private road and streets.

- (a) All plats and lots not fronting on a public street must be accessible by a private drive. A private drive or street is required to have a minimum driveway right-of-way of sixty-six (66) feet and must be either owned or established by a driveway easement granted by the adjacent property owners.
- (b) The layout of private streets in respect to their location, intersections, cul-de-sacs, etc., shall conform to the city's requirements for platted streets.
- (c) The construction of the roadway shall conform to the city's standards for a local road.
- (d) Vertical street alignments, street grades, horizontal curves, curb openings at intersecting streets, etc., shall conform to the city standards for platted streets.

(Ord. No. 181, § 3, 11-5-01)

**Editor's note**— Ord. No. 181, § 4, adopted November 5, 2001, renumbered the provisions of section 20-601(9) as new section 20-85.

Sec. 20-86. - Accessory antennas.

Except as otherwise permitted in this chapter, accessory antennas shall be subject to the following regulations:

- (1) Accessory antennas shall be permitted in all districts as accessory uses provided they are not used for commercial or profit making activities.
- (2) Where the accessory antenna is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main or principal buildings.
- (3) An accessory antenna may be erected in any required yard except a front yard, shall not project forward of the

rear building line, and shall not be closer than five (5) feet to any side or rear lot line. Movable antennas shall not revolve closer than three (3) feet to any side or rear lot line.

- (4) An accessory antenna shall not exceed one (1) story or fifteen (15) feet in height. The total yard area devoted to an accessory antenna use shall not exceed one hundred (100) square feet of yard area. Said height limitation shall be waived by the zoning administrator if it is shown to unreasonably restrict an amateur radio operator lawfully licensed by the Federal Communications Commission.
- (5) A corner lot, the side yard of which is substantially a continuation of the front lot line of the lot to its rear, shall be regarded as having two (2) front yards. When an antenna is located on this type of lot, it shall not project beyond the continued front lot line of the rear lot.
- (6) In the case of double frontage lots, accessory antennas shall observe front yard requirements on both street frontages whenever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- (7) In all cases, an accessory antenna shall be anchored or fastened securely to the building or surface to which it is attached or upon which it rests.

(Ord. No. 181, § 4, 11-5-01; Ord. No. 217, § 4, 7-7-08)

**Editor's note**— Ord. No. 181, § 4, adopted November 5, 2001, renumbered the provisions of section 20-601(14) as new section 20-86.

#### Sec. 20-87. - Outdoor trash containers or dumpsters.

Outdoor trash containers or dumpsters may be required for any use in the RM, B-1, B-2, CBD, I-1, I-2 and RO zoning districts and any institutional or special use located in a residential district provided that they comply with the following requirements:

- (1) Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings. The placement of the container shall be subject to site plan review.
- (2) A solid ornamental screening wall or fence shall be provided around all sides of such containers. An access gate shall also be provided and be of such height as to completely screen such containers. The maximum height of walls, fence or gate shall be six (6) feet.
- (3) The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.

(Ord. No. 181, § 5, 11-5-01)

**Editor's note**— Ord. No. 181, § 5, adopted November 5, 2001, renumbered the provisions of section 20-601(15) as new section 20-87.

#### Sec. 20-88. - Minimum standards for dwellings.

All dwellings located outside of a designated mobile home park shall comply with the following minimum standards, in addition to those contained elsewhere in this Code.

- (1) It shall comply with the minimum square footage requirements of the zoning district in which it is located.
- (2) It shall have a minimum width across any front, side or rear elevation of twenty-four (24) feet and at least fifty (50) percent of the longest view must have a depth of no less than twenty-four (24) feet.
- (3) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7½) feet;

or if a mobile home, it shall meet the requirements of the United States department of housing and urban development regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.

- (4) Each dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the city building code and the area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions, shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission, and shall contain a perimeter wall as required in this subsection.
- (5) If a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (6) Each dwelling shall be connected to a public sewer and water supply or to such private facilities as are approved by the local health department.
- (7) Each dwelling shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- (8) If a dwelling is a mobile home, as defined herein, each mobile home shall contain skirting along the entire perimeter of the main frame between the ground and the bottom edge of the mobile home body. The skirting shall compliment the appearance of the main walls of the mobile home and consist of the same materials or materials of equal or greater durability as those customarily used on the exterior walls of mobile homes. Brick or concrete block wall construction shall also be permitted as skirting. The skirting shall be securely attached and sealed to the mobile home body and shall contain a rat proof wall or slab to prevent the entrance of rodents and other animals to underneath the mobile home. One (1) access door shall be permitted in the skirting, and adequate screening vents shall be required in the skirting around the entire perimeter at intervals of not more than twenty (20) feet so as to provide adequate cross-ventilation. All skirting shall be maintained in good condition at all times. Unprotected flammable materials including hay bales or newspaper shall not be allowed as skirting for mobile homes.
- (9) All dwellings shall provide steps or porch areas, permanently positioned in the ground or permanently attached to the foundation, where there exists an elevation differential of more than one (1) foot between the door and the surrounding grade. All dwellings shall provide a minimum of two (2) points of ingress and egress.
- (10) All additions to dwellings shall meet all of the requirements of this ordinance.
- (11) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along sides of the dwellings. The compatibility of design and appearance shall be determined in the first instance by the building inspector upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the zoning board of appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of mobile home parks within seven hundred fifty (750) feet of the subject dwelling. The foregoing shall not be construed to prohibit design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

- (12) Prior to issuance of a building permit for any dwelling unit, construction plans at a scale of no less than one quarter one (1) foot, including a plot plan, adequate to illustrate compliance with the requirements of this ordinance shall be submitted to the building inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in subsection (12) hereof.
- (13) All mobile homes shall meet the standards for mobile home construction contained in the United States department of housing and urban development regulations entitled "Mobile Home Construction and Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the city.

(Ord. No. 181, § 6, 11-5-01)

Sec. 20-89. - Accessory buildings and structures; general.

- (a) In a zoning district, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- (b) Detached accessory buildings shall not be located closer than five (5) feet to rear lot line or closer than forty (40) feet to the water's edge in the case of a waterfront lot (except that pump houses may be located within forty (40) feet of the water's edge if they do not exceed three (3) feet in height) and; they shall not be closer to any side lot line or front lot line than the principal building is permitted.
- (c) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- (d) Accessory buildings or structures shall not include living quarters for human beings.
- (e) No accessory buildings or structures shall be constructed on any parcel on which there is no principal building. If a detached accessory building and principal building are to be erected concurrently, a building permit for the accessory building shall not be issued until such time that construction of the principal building has been at least ten (10) percent completed.

(Ord. No. 181, § 7, 11-5-01; Ord. No. 249, § 1, 6-3-19)

Sec. 20-90. - Accessory buildings—Residential.

Attached and detached accessory buildings on residential lots shall not directly involve any business, trade, occupation or profession. In addition, the following regulations shall apply:

- (1) *Private garage customary*: On any single-family residential lot a customary private garage consisting of a garage attached to a principal residential structure, or in its place, a detached garage is permitted in a side or rear yard only, subject to the following limitations.
- a. The maximum size of an attached private garage shall be limited to eight hundred thirty-two (832) square feet for the first one thousand three hundred (1,300) square feet of habitable floor area contained in the residence. In addition, for each whole increment of five (5) square feet that the floor area of the residence exceeds one thousand three hundred (1,300) square feet, the floor area of the attached garage may be increased by one (1) square foot.
- b. The size of a detached private garage permitted by right shall be limited to eight hundred thirty-two (832)

square feet of floor area. A detached private garage in excess of eight hundred thirty-two (832) square feet may be approved as a special use provided that the square footage approved may not exceed twenty-five (25) percent of the rear yard area.

- c. In addition to the one attached or detached private garage permitted above, one additional detached accessory building not to exceed three (3%) percent of the total lot area shall be permitted by right.
  - d. The Planning Commission may choose to approve accessory buildings larger than three (3) percent of the total lot area or those taller than permitted by right by Special Use, subject to the procedures and standards of Sections 20-128.
  - e. The total lot coverage, which includes the dwelling and all accessory structures, shall not exceed 35% of the area of the parcel.
  - f. Accessory buildings shall have a sidewall height not greater than ten (10) feet.
  - g. Maximum height for accessory buildings shall not exceed eighteen (18) feet deck height as defined by section 20-5 of this ordinance.
- (2) Notwithstanding the above provisions, one attached garage not exceeding five hundred (500) square feet, and one detached accessory building not exceeding one hundred fifty (150) square feet may be permitted for each duplex or attached single family dwelling.

(Ord. No. 181, § 8, 11-5-01; Ord. No. 249, § 1, 6-3-19)

#### Sec. 20-91. - Solar (photovoltaic-PV) panel energy (SPE) systems.

A solar energy system utilizing solar (photovoltaic) panels is an allowed accessory use and structure in all zoning districts and when in compliance with the requirements and limitations of this section is not considered a distinct principal or business use. Solar (PV) panel energy (SPE) systems shall comply with to the standards in this section.

- (1) *Limits to generating capacity.* For property located in the residential districts and for property in any B-1, B-2, B-3, CBD, RO, I-1 or I-2 districts that is adjacent to a residential district, total SPE system generating capacity shall be limited to twenty (20) kilowatts. For all other properties zoned B-1, B-2, B-3, CBD, RO, I-1 or I-2 District and which are not adjacent to a residential district, SPE system generating capacity shall be limited to 150 kilowatts.
- (2) *Connection to the electrical utility grid system.* SPE systems may be connected to the electrical utility grid system in accordance with established Michigan Public Service Commission and public utility incentives, policies and limitations.
- (3) *Solar (PV) Panels located in the front or side yard.* In any zoning district, solar panels (or arrays thereof) exceeding four (4) square feet in area are not permitted in any front or side yard area or on any wall or face of a building or structure facing a street unless such panel(s) is integrated with the ordinary construction of the building or structure, and/or is fully screened from view of the adjacent street (except that screening is not required for roof-mounted solar panels as set forth below).
- (4) *Ground-mounted solar (PV) panels and SPE systems.* All ground-mounted solar (PV) panels and arrays not permitted in the front or side yard shall meet the following requirements:
  - a. The panels shall be located in rear yard only.
  - b. The panels shall not exceed sixteen (16) feet in height as measured from the highest point of the panel or mounting bracket to the ground at the base of the panel.
  - c. The panels shall not be located closer to any side lot line or front lot line than the principal building is permitted to be located.

- d. The panels shall not be located closer than five (5) feet from any rear lot line or exterior site easement lines (in t cooperative SPE system site.)
  - e. Except for the first forty (40) square feet of solar panel area, ground-mounted solar (PV) panels will be considered a detached accessory structure as defined in section 20-5. As such, ground-mounted solar (PV) panels shall be included in the calculation of maximum rear yard area coverage as applied to detached accessory buildings and structures; the maximum coverage by the aggregate of all detached accessory structures is limited to twenty-five (25) percent (see sections 20-89 and 20-90).  
*Note:* The exemption of the first forty (40) square feet of solar panel area from the area calculation is intended to allow up to forty (40) square feet of solar panel area regardless of total rear yard coverage. Measurement of the panel area shall be based upon the area of the solar panel(s), regardless of the adjustment angle of the panel.
  - f. Notwithstanding the above lot coverage limitations, a ground-mounted solar panel, panel array, or portion thereof, not visible from abutting streets or property at any time of the year is exempt from the area coverage calculations.
- (5) *Roof-mounted solar (PV) panels.* Roof-mounted solar panels are permitted and may include "integrated" solar panels that are either integrated architecturally as part of the roof structure or as part of the surface layer of the roof structure causing no apparent change in relief or projection, as well as separate "flush" and "tilt-mounted" solar panel systems attached to the roof surface as follows:
- a. An integrated solar panel may not cause the height of a building or structure to exceed the height limitations of the district in which the building or structure is located.
  - b. "Flush" and "tilt-mounted" solar panels shall be located on a rear-yard or side-yard facing roof, as viewed from any adjacent street.
  - c. "Flush" and "tilt-mounted" solar panels installed on a pitched roof surface shall not project vertically above the ridgeline of the roof to which it is attached.
  - d. "Flush" or "tilt-mounted" solar panels located on a mansard or flat-roofed building shall be set back at least six (6) feet from the edge of the deck or roof on all elevations and shall be exempt from district height limitations, provided that the panels shall not project more than five (5) feet above the roof surface of a flat roof or the deck of a mansard roof.
- (6) *Location.* Solar (PV) panels and SPE systems shall be located on the same lot as the building being served or shall be located on a cooperative "solar panel array site" as stipulated paragraph (7) below. Where there is no principal building, the system is not permitted.
- (7) *Cooperative solar (PV) panel energy system site.* A cooperative SPE system site is a site created with the mutual consent of two or more adjacent property owners for the purpose of supporting a ground-mounted array of solar (PV) panels. Cooperative solar panel array sites shall meet the following standards:
- a. The site supporting the solar panel array shall be comprised of a legally described and recorded easement encompassing all or portions of two or more adjacent lots or parcel occupied by a permitted principal building.
  - b. A system located on a cooperative site shall maintain the required exterior lot line setbacks of this section and shall not exceed the generating capacity for the applicable zoning district as outlined in subsection (1) of this section.
  - c. As outlined in sections 20-89 and 20-90, the rear yard coverage limitations for any individual lot included in the cooperative easement area may not be exceeded.

(Ord. No. 225, § 3, 2-1-10)

Secs. 20-92—20-95. - Reserved.

### DIVISION 3. - NONCONFORMANCE

*Footnotes:*

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**State Law reference**— *Nonconforming uses and structures, MCL 125.583a.*

Sec. 20-96. - Continuance of nonconforming uses and structures.

Only lawful nonconforming uses or structures in existence at the time of passage of this chapter or amendments thereof, may be continued, but shall not be extended, added to or altered unless each such extension, alteration or addition is in conformity with the provisions of this chapter. Land now occupied by an illegal nonconforming use or structure shall not be eligible for any variance or zoning permit until the illegal nonconformity is removed.

(Ord. No. 123, § 4.51, 6-5-89)

Sec. 20-97. - Discontinuance of nonconforming uses.

If the nonconforming use of any land shall terminate for a continuous period of over six (6) months or more, such use shall not be reestablished and any future use of such land or structure shall be in conformity with this chapter.

(Ord. No. 123, § 4.52, 6-5-89)

Sec. 20-98. - Restoration and repair.

- (a) Such repairs and maintenance work as are required to keep a nonconforming building or structure in a sound condition may be made.
- (b) If any nonconforming building or structure shall be damaged by fire, wind or an act of God or the public enemy, it may be rebuilt or restored provided the cost of restoration thereof shall not equal or exceed the state-equalized value of such building or structure. Such determination shall be made by either the building inspector or city assessor.
- (c) If any nonconforming building or structure shall be damaged by fire, wind, or an act of God or the public enemy and the cost of rebuilding or restoration shall equal or exceed the state-equalized value of such building or structure, the same shall be permitted only with the approval of the board of zoning appeals, which approval shall be granted only upon a finding:
  - (1) That such rebuilding or restoration will not substantially extend the probable duration of such nonconforming use.

(Ord. No. 123, § 4.53, 6-5-89)

Sec. 20-99. - Change of use or structure.



A nonconforming use may be changed to another nonconforming use if the board of zoning appeals find that such a new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a nonconforming use to a prior nonconforming use, nor to waive the other provisions of this chapter.

(Ord. No. 123, § 4.54, 6-5-89)

Sec. 20-100. - Nonconforming due to reclassification.

The foregoing provisions of this chapter shall also apply to buildings, land or uses which hereafter become nonconforming due to any reclassification of districts or any subsequent change in the regulations of this chapter.

(Ord. No. 123, § 4.55, 6-5-89)

Secs. 20-101—20-115. - Reserved.

#### DIVISION 4. - SITE PLAN PROCEDURES

*Footnotes:*

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**Editor's note**— Ord. No. 177, §§ 1, 2, adopted July 2, 2001, repealed sections 20-116—20-128, and replaced them with new sections 20-116—20-121, 20-124—20-128. Former sections 20-116—20-128 pertained to similar material and derived from Ord. No. 123, §§ 4.6, 4.61—4.72, adopted June 5, 1989.

Sec. 20-116. - Site plan review required; purpose.

- (a) Site plan review shall be required as set forth in this chapter. The purpose of site plan review is to consider the proposed use of a site in relation to surrounding uses, accessibility, pedestrian and vehicular circulation, spatial relationships, off-street parking, public utilities, general storm drainage characteristics, environmental considerations, site vegetation, screening and buffering, development characteristics and other site development factors which may have an effect on the public health, safety and general welfare, and to ensure compliance with this chapter.
- (b) The following provisions shall apply to all uses requiring site plan review, including multiple-family developments, mobile home parks, commercial developments, industrial developments, and all uses requiring a special use permit. An approved site plan shall control the development of the site, unless modified as provided in this chapter.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-117. - Submission and review requirements.

Thirteen (13) copies of a site plan shall be submitted to the city for distribution to the planning commission. Site plans shall be subject to the following procedures:

- (1) Professional review by an architect, planner or engineer may be obtained by the city. The costs of such review will be paid by the applicant. No building permit will be issued until these costs are paid.
- (2) The planning commission shall consider the site plan at its next regularly scheduled meeting. The planning commission may postpone consideration of a site plan until its next regularly scheduled meeting if the site plan

is determined to be incomplete, has been submitted within forty-eight (48) hours of the meeting, or there was insufficient time for the planning commission to obtain professional review of the site plan.

- (3) The planning commission shall approve, approve with specified changes and/or conditions, or disapprove a site plan, using the standards described in section 20-120.
- (4) Conditions or changes required by the planning commission shall be recorded in the minutes of the meeting and provided to the applicant in writing. Three (3) copies of an approved site plan shall contain the signatures of the chairperson of the planning commission and the applicant.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-118. - Information to accompany site plan.

The following information shall accompany all site plans submitted for review:

- (1) A legal description of the property under consideration.
- (2) A map indicating the gross land area of the development, the present zoning classification and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements.
- (3) The names and addresses of the architect, planner, designer, or engineer responsible for the preparation of the site plan.
- (4) Drawings or sketches of the exterior and elevations, and/or perspective drawings of the buildings or structures under consideration.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-119. - Information to be on plan.

The following information shall be included on the site plan unless specifically waived by the planning commission or is not applicable.

- (1) A scale of not less than one (1) inch = forty (40) feet, if the subject property is less than three (3) acres, and one (1) inch = one hundred (100) feet, if it is three (3) acres or more.
- (2) Date, north point and scale.
- (3) The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
- (4) The location of all structures and driveways, catch basins and fire hydrants on the subject property and on abutting properties within one hundred (100) feet, and the location and dimensions of driveways and fire hydrants situated on the opposite side of the street from the subject property.
- (5) The location of each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines, and location of vehicular entrances and loading points.
- (6) The location of all existing and proposed drives and parking areas with the number of parking and/or loading spaces provided.
- (7) All existing and proposed pedestrian walks, malls and open areas.
- (8) The location and height of all walls, fences and screen planting, including a detailed landscape plan. The landscape plan may be incorporated within the general site plan or it may be a separate plan, but it shall have

sufficient detail and clarity so as to enable the planning commission to fully evaluate all aspects of the proposed landscaping and to determine whether the plan complies with the provisions of this chapter. The landscape plan shall include, but is not necessarily limited to, the following:

- a. Existing vegetation on the site and a clear indication of which existing plants, if any, will be retained. Individual trees over six (6) inches in diameter shall be identified.
- b. Existing and proposed contours of the site, shown at reasonable intervals.
- c. Typical straight cross-section, including the slope, height and width of berms.
- d. The location, spacing and size of each plant type proposed to be used in all landscaped areas.
- e. A list of all plants, showing the required and proposed quantities thereof.
- f. Topographic features of the site which will be utilized as a part of the landscaping of the site.
- g. Methods and details for protecting during construction activity any existing trees and other existing vegetation that are to be retained on the site.
- h. Description of a proposed landscape maintenance program, including a statement that all diseased, damaged or dead plant materials shall be promptly replaced.
- i. Typical straight cross-section, including the slope, height and width of berms. Such requirement may be required to extend up to one hundred (100) feet beyond the property when the plan is required to determine the effectiveness of required screening for adjacent properties.

(9) The location and right-of-way widths of all abutting streets.

(10) Types of surfacing, such as paving, turf or gravel to be used at the various locations.

(11) A grading plan with topographic elevations of the area, showing the proposed method of storm drainage into city storm sewer system through catch basins.

(12) Size and location of proposed sewer and water lines and connections.

(13) The number of proposed units (or multiple-family developments).

(14) Significant environmental features such as wetlands, shorelines, streams, woodlots, existing trees and vegetation.

(15) Other information as may be reasonably required by the planning commission to assist in the consideration of the proposed development.

(16) Identification of the limits of any required "natural vegetation zone" adjacent to the Rabbit River, as established by the riparian area protection standards contained in article XVIC.

(Ord. No. 177, § 1, 7-2-01; Ord. No. 205, § 3, 5-15-06; Ord. No. 217, § 5, 7-7-08)

#### Sec. 20-120. - Criteria.

In order that structures, improvements, open space and landscaping be in harmony with other structures and improvements in the area, to assure that no undesirable health, safety, noise, visual and traffic conditions will result from the development, and to comply with the purposes set forth in section 20-116(a), the planning commission shall determine whether the site plan meets the following criteria, unless the planning commission determines that one (1) or more of the criteria are inapplicable:

- (1) The vehicular traffic pattern shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by police, fire and other emergency equipment.
- (2) Pedestrian walkways shall be provided for separating pedestrian and vehicular traffic unless deemed

unnecessary by the planning commission.

- (3) Recreation and open space areas shall be provided in all multiple-family residential developments.
- (4) The site plan shall comply with the requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements of this chapter, unless otherwise provided.
- (5) The site plan shall comply with the requirements for fencing, walks, and other protective barriers as required in this chapter.
- (6) The site plan shall provide for adequate storage space for the uses proposed.
- (7) Reasonable security measures shall be provided as deemed necessary by the planing commission upon the recommendation of the chief of police for resident protection in all multiple-family residential developments.
- (8) Reasonable fire protection measures shall be provided as deemed necessary by the planning commission upon the recommendation of the fire chief and in conformance with applicable laws and ordinances.
- (9) The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided.

(Ord. No. 177, § 1, 7-2-01)

#### Sec. 20-121. - Planning commission authorization.

The planning commission shall approve, deny, modify, or approve with conditions a site plan. A building permit shall not be issued until a site plan has been approved as required herein.

- (1) The planning commission shall approve a site plan if it contains the information required by and is in compliance with this chapter and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes. Upon approval of a site plan, three (3) copies of the plan shall be signed and dated by the planning commission. One (1) copy of the plan shall be retained by the applicant, one (1) by the planning commission and one (1) shall be submitted to the building inspector as part of the building permit review process.
- (2) Effect of approval. Approval of a site plan authorizes issuance of a building permit, provided all other requirements for the issuance of a building permit have been satisfied.
- (3) Expiration of approval. Approval of a site plan shall expire and be of no effect unless a building permit shall have been issued within one (1) year of the date of the site plan approval. Approval of a site plan shall expire and be of no effect five hundred thirty-five (535) days following the date of approval unless construction has begun on the property and is diligently pursued to completion in conformance with the approved site plan.
- (4) Approval with conditions. The planning commission may attach reasonable conditions to its approval of a site plan. The conditions shall do all the following:
  - a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the area of the site plan, and the community as a whole;
  - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity; and
  - c. Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land uses or activities under consideration, and be necessary to insure compliance with those standards.

(Ord. No. 177, § 1, 7-2-01)

#### Sec. 20-122. - Appeals.

An appeal of the planning commission's final site plan decision, may be made to the city council. Such appeal may be made by the site plan applicant or by any adjacent or nearby building occupant or property owner aggrieved by the decision of the planning commission on the basis of an alleged error in a requirement, approval or denial. The appeal must be filed in writing with the city clerk within five (5) days of the date of the planning commission's decision.

The city clerk shall upon receipt place the appeal on the agenda of the city council's next available regular meeting. If the party making the appeal is different than the site plan applicant, the applicant shall be immediately notified of the appeal and the alleged error in writing.

An appeal stays and site plan approval and all proceedings, actions or work authorized by the decision of the planning commission. The city council shall affirm, reverse, or modify the action of the planning commission. The city council shall state the basis for its decision in its minutes and forward its decision and basis on writing to the applicant and the aggrieved party.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-123. - Reserved.

Sec. 20-124. - Revocation of building permit.

A building permit may be revoked if any work done under the permit is not in compliance with the site plan upon which the building permit was issued. In such case, the planning commission shall give the holder of the building permit ten (10) days prior written notice of its intention to revoke the permit, the proposed reasons therefore, and the date, time, and place when the matter will be considered by the planning commission. The planning commission shall give the permit holder or his representative an opportunity to address the planning commission during its consideration of the matter and before it makes a decision. The planning commission may revoke such permit if it finds that the site plan and/or any conditions thereof have not been complied with and have not been remedied prior to its consideration. The decision of the planning commission and reasons upon which it is based shall be provided in writing to the permit holder.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-125. - Change to site plan after approval.

Any change to a site plan after approval, except for minor changes described below, shall be approved by the planning commission. Minor changes to a site plan may be reviewed and approved administratively by the city manager or his/her designee provided that the site plan complies with all applicable requirements of this chapter.

Administrative site plan approval shall be limited in scope to the following:

- (1) Minor changes to a site plan involving the addition or relocation of any of the following items, provided that the change does not alter a requirement or condition of approval specifically imposed by the planning commission:
  - a. Landscape materials (change of type or location);
  - b. Sidewalks;
  - c. Refuse containers;
  - d. Lighting;
  - e. Signs;
  - f. Retention/detention ponds;
- (2) A decrease in the size of structures.

- (3) Moving a proposed structure not more than ten (10) feet, or five (5) percent of the distance to the closest property whichever is shorter.
- (4) An increase in building size that does not exceed one thousand (1,000) square feet or five (5) percent of the gross floor area, whichever is smaller.
- (5) New parking lots with fewer than six (6) car spaces or one thousand eight hundred (1,800) square feet of surface and no additional curb cuts.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-126. - Phased construction.

Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the interrelationship of the proposed project to the future stages, including the following:

- (1) Relationship and identification of future structures, roadways, drainage, water, and sewer.
- (2) Pedestrian and vehicular circulation.
- (3) Time schedule for completion of the various phases of the proposed construction.
- (4) Temporary facilities or construction of same as required to facilitate the stated development.

(Ord. No. 177, § 1, 7-2-01)

Sec. 20-127. - Special use permits.

- (a) Special use permits are required for proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which possess unique characteristics or locational qualities which require individual review and which may be allowed upon the imposition of reasonable conditions. The purpose of this review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this chapter.
- (b) All special use permit applications must include a site plan meeting the content requirements of section 20-119 unless specifically waived by other provisions of this chapter. Only those uses or activities specifically identified in use districts or other sections of this chapter require special use permits.
- (c) The following steps shall be taken in making and processing an application for a special use permit.
  - (1) A special use permit application shall be filed by the applicant with the city manager along with the required site plan and application fee. The application shall also include the name and address and telephone number of the applicant, the address and location of the property that is subject of the proposed special use and the date of the application. The application shall include a statement indicating the sections of the ordinance under which the special use permit is required.
  - (2) The city manager shall review the application for completeness and forward the application, with his or her recommendation, to the planning commission for their review and consideration.
  - (3) The planning commission shall hold at least one (1) public hearing on all special land use requests it receives and shall provide notice for said hearing in the manner provided in section 20-805.
  - (4) The planning commission shall within a reasonable period of time after the public hearing, make and forward to the city council, recommendations relative to the denial, approval or approval with conditions of the special use. Thereafter within a reasonable time, a decision of the city council shall be made.
  - (5) The city council shall grant a special use permit upon the finding that the proposed special use is in compliance

with the standards specified in section 20-128.

- a. The city council shall not render a decision on any special use request until it receives the recommendations of the planning commission and a summary of comments received at the public hearing. Upon making a decision on whether to deny, approve, or approve with conditions a special use, the city council shall incorporate its decision in a statement containing the conclusions relative to the special use which specifies the basis for the decision and any conditions attached to the approval as authorized by section 20-128(b). The statement shall be filed with the city clerk and recorded in a record of the approval action and shall be filed together with the special use application and site development plan.
  - b. The city council may impose conditions which limit the duration of the special use where the same is of a temporary nature.
  - c. If deemed necessary to meet the purpose and intent of this ordinance, the city council may require that the special use be periodically reviewed for the purpose of determining whether or not to revoke or require further conditions, depending upon the degree of compliance then existing.
  - d. All conditions of the special use approval shall remain unchanged except upon the mutual consent of the city council and the special use applicant. The city council shall maintain a record of any conditions which are changed and said record shall be filed with the city clerk. The breach of, or noncompliance with, any conditions of the special use shall be grounds for revocation of the approval. In such case, the city council shall give the holder of the special use not less than ten (10) days prior written notice of its intention to revoke the special use, the proposed reasons therefore, and the date, time, and place when the matter will be considered by the city council. The city council shall give the holder or his representative an opportunity to address the city council during its consideration of the matter and before it makes a decision. The city council may revoke the special use approval if it finds that any conditions have not been complied with and have not been remedied prior to its consideration. The decision of the city council and reasons upon which it is based shall be provided in writing to the holder.
- (6) In cases where the special use which is approved has not been commenced or substantial construction started within one (1) year of the date of the approval, and an application for extension has not been filed as provided in this section, the approval shall automatically terminate.
- (7) Upon written application filed before the end of the one-year approval period, the city council may authorize an extension of the time limit for a further period of not more than one (1) year. Such extension may be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one (1) year extension.

(Ord. No. 177, § 2, 7-2-01; Ord. No. 211, § 3, 2-5-07)

Sec. 20-128. - Standards for approval of special uses.

- (a) In formulating recommendations or approving any special use, the planning commission and city council shall make determinations as to whether the proposed special use will:
  - (1) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the area in which the special use is proposed.
  - (2) Be adequately served by essential facilities and services such as highways, streets, police and fire protection, drainage, refuse disposal, water and sewer facilities and schools.
  - (3) Not create excessive additional requirements at public cost for public facilities and services.
  - (4) Not cause traffic congestion, conflict or movement in greater proportion to that normally prevailing for the uses

in the particular zoning district.

- (5) Not be detrimental, hazardous, or unreasonably disturbing to existing or future neighboring uses, persons, property, or the general welfare by reason of noise, smoke, fumes, odor, glare, vibration, traffic, or any other factor.
  - (6) Be compatible and in accordance with the goals and policies contained in the city future land use plan, as amended.
- (b) The city council may attach reasonable conditions to its approval of a special use deemed necessary to protect the public interest of the city, the neighboring property, and to achieve the objectives and purposes of this chapter. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The conditions shall:
- (1) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the special use, residents and landowners immediately adjacent to the proposed special use, and the community as a whole.
  - (2) Be related to the valid exercise of the police power and purposes which are affected by the proposed special use.
  - (3) Be necessary to meet the intent and purpose of this chapter; be related to the standards established in this chapter for the special use under consideration; and be necessary to insure compliance with those standards.
- (c) The general requirements in this section are requirements which must be met by all special uses. In addition, certain special uses are subject to the specific design standards outlined in section 20-601.

(Ord. No. 177, § 2, 7-2-01)

#### Sec. 20-129. - Temporary permits.

Temporary permits may be authorized by the board after a hearing, for a period not to exceed one (1) year, for nonconforming uses incidental to construction projects on the same premises and including such uses as storage of building supplies and machinery, signs and the assembly of building materials. In addition, the board, after a hearing, may authorize a certificate for a dwelling house to be temporarily used as a sales and management office for the sale of homes within a subdivision for a period of one (1) year, provided all of the following requirements are complied with:

- (1) The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.
- (2) No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.
- (3) Such dwelling house shall meet all other zoning restrictions of the zone in which it is located.

(Ord. No. 123, § 4.8, 6-5-89)

#### DIVISION 5. - SITE CONDOMINIUM SUBDIVISIONS

#### Sec. 20-130. - Purpose and scope.



Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for purposes of determining compliance with the requirements of the zoning ordinance and other applicable laws, ordinances, and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the Wayland City Zoning Ordinance may be permitted in a site condominium project.

The purpose of this section is to ensure that plans for developments within Wayland City proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, shall be reviewed with the objective and intent of achieving the same or comparable essential characteristics achieved if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is also the intent of this section to ensure that such development is in conformance with the requirements of this zoning ordinance, as amended, and other applicable city ordinances and state and federal regulations.

(Ord. No. 150, § 1, 4-15-96)

#### Sec. 20-131. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building envelope.* The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built. A "building envelope" can also be a condominium structure.

*Building site.* In the context of a site condominium project, "building site" is the functional equivalent of a "lot" and is that portion(s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the project's master deed. Building site shall be further defined as:

- (a) A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as required by the Wayland City Zoning Ordinance as amended; or
- (b) The contiguous limited common element under and surrounding a condominium unit or units that is or shall be assigned to the owner(s) of the condominium unit(s) for the owner(s) exclusive use and which, together with the condominium unit or building envelope meets the minimum area and yard requirements for lots as required by the Wayland City Zoning Ordinance as amended.

*Common element, limited.* An area which is appurtenant to a condominium unit and which is reserved in the master deed for the condominium project for the exclusive use of less than all of the owners of the condominium project.

*Common land.* A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and or occupants of individual building units in a subdivision or other planned unit development.

*Common open space.* An unoccupied area within a development which is reserved primarily for the leisure and recreational use of all the planned unit development residents and generally owned and maintained in common by them, often through a homeowners association.

*Condominium project.* Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978).

*Condominium structure.* The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g., in a residential development, the condominium structure would refer to the house and any attached garage. A "condominium structure" can also be a "building envelope".

*Condominium subdivision (site condominium).* A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.

*Condominium subdivision plan.* The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

*Condominium unit.* That portion of a 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, business or recreational use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure. The term "condominium unit" may, in certain instances, be subdivision with provisions of this ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio (ref. building site).

*Lot.* A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a building site as defined herein as relating to a condominium subdivision, having frontage upon a public or private-street and having sufficient size to comply with the requirements of this ordinance for minimum area, setbacks, coverage and open-space.

*Master deed.* The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved by-laws for the project and the condominium subdivision plan for the project.

*Mobile home condominium project.* A condominium project where mobile homes are intended to be located upon separate sites which constitute individual condominium units.

(Ord. No. 150, § 1, 4-15-96)

#### Sec. 20-132. - Site condominium review and approval procedures.

Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

(a) *Conceptual preliminary review.* Prior to the formal application for a site condominium subdivision, the developer may meet with the planning commission. The purpose of this meeting is to inform the planning commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the city clerk (or appropriate designee) who shall distribute it to all planning commissioners, the city manager, city planner, and city engineer.

- (1) A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.

- (2) A statement regarding the provision of sewer service and water supply.
- (3) During the preliminary discussion meeting, the planning commission, based on the information available to it, may inform the applicant about the following:
  - a) General requirements of this section and other applicable provisions of the zoning ordinance.
  - b) Planned or anticipated sites of parks and recreation areas and other public uses.
  - c) Utility system capabilities.
  - d) Planned or anticipated public improvements, including streets, pedestrian and bikeways, utility extensions, and the like.
  - e) Street plans and potential problems relative to the natural features of the area including, but not limited to, floodplains, soil conditions, topography, and groundwater tables.
  - f) Additional information which may assist the applicant in proceeding in a reasonable and sound manner toward final approval of the site condominium project.

Conceptual preliminary review is intended for information purposes only and does not constitute binding commitments on the part of the city. Neither does it imply preliminary approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

- (b) *Agency review.* Following conceptual preliminary review, the applicant is advised to submit their site condominium subdivision plans to the following agencies for their review and comment and, if required, their approval:
  - (1) Allegan County Drain Commission.
  - (2) Michigan Department of Natural Resources.
  - (3) Other state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.
  - (4) Michigan Department of Transportation (if applicable).
  - (5) Gas and electrical utility corporations serving the area.
  - (6) Wayland Schools and Allegan County Intermediate School District.
- (c) *Preliminary plan review.*
  - (1) *Submission requirements.* Formal application for preliminary review of a site condominium subdivision project shall be made to the city clerk along with the appropriate fees as required by city council resolution. The application shall, at a minimum, contain the following information:
    - a) The applicant's name, address, and phone number.
    - b) Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
    - c) The name, address, and phone number(s) of the owner(s) of record if different than the applicant.
    - d) The legal description, address and tax parcel number(s) of the property.
    - e) Project description, including number of structures, dwelling units, square feet of building sites (lots), open spaces, and estimated inhabitants, phasing etc.
    - f) Gross and net size of the parcel in acres.
    - g) A certified list of state and county agencies responsible for review and approval of the project along with any written comments and/or preliminary or final approvals from the agencies.

- h) A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
- i) A copy of any preliminary agreements which may be required before final plan approval is granted.
- j) A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the register of deeds as required by state law. The applicant shall provide at least ten copies of the preliminary plan and additional copies if deemed necessary by the clerk. The plans shall contain the information outlined in section 4.0 and the application and plans shall be submitted at least twenty (20) days before the next regularly scheduled meeting of the planning commission. Upon receipt of the preliminary site condominium project plans, the clerk shall forward one (1) copy to each member of the planning commission, city planner and city engineer.

(2) *Planning commission review (preliminary plan).* The city clerk shall notify by mail all the members of the planning commission that a meeting will take place at a specified time concerning the proposed project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given in the manner provided in section 20-805 of the zoning ordinance.

In reviewing the preliminary plan, the planning commission shall give particular attention to the requirements of subsection (4) contained herein. The planning commission shall also review all deed restrictions and covenants for the site condominium project for adequacy to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this ordinance and all other applicable local, county, state and federal regulations, the planning commission shall within sixty (60) days of the date of application recommended its preliminary approval.

The planning commission shall forward one (1) copy of the preliminary plan along with a notation indicating its recommendation for preliminary approval and any other recommendations to the city council for review and approval.

If the plan does not meet the requirements of this ordinance, the planning commission shall:

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing; or
  - b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.
- (3) *City council review and approval (preliminary plan).* After receipt of the preliminary plan and recommendations from the planning commission, the city council shall consider the preliminary plan at its next meeting, or within thirty (30) days from the date of receipt from the planning commission.
- a) The city council shall consider the preliminary plan along with the recommendations of the planning commission. If the plan meets the requirements of this ordinance, the city council shall grant preliminary plan approval. The city clerk shall sign the plan with the notation that it has received preliminary approval and the applicant shall be so notified. Preliminary plan approval shall give the applicant the following rights for a two-year period from the date of approval:
    - 1) That the general terms and conditions under which preliminary approval was granted will not be changed by the city.
    - 2) That the building site sizes, number and orientation, and street layout have been approved.
  - b) If the preliminary plan substantially, but does not totally, meet the requirements of this ordinance, the city council may grant conditional approval of the preliminary plan. This approval shall be conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary

to complete the preliminary plan. Upon the submission of such changes, revisions, or additional material to the city council, the preliminary plan shall be granted unconditional approval and the applicant shall be so notified.

- c) If the preliminary plan does not meet the requirements of this ordinance, the city council shall deny preliminary approval and shall notify the applicant along with the reasons for denial.
- (4) *Effect of preliminary approval.* Approval of a preliminary site condominium subdivision project by the city council shall serve as conditional authorization to proceed with the project, including the sale of individual building sites on the basis of condominium ownership and the construction of required improvements to the land in conformity with approved project plans. Preliminary site condominium subdivision approval shall not serve as the direct authorization for construction of buildings on individual building sites within the subdivision. Prior to building construction, individual uses shall be subject to the customary provisions of article XX, administration and enforcement and any general or special regulations applicable to the individual structure or use as outlined or referenced in the general or district regulations of this zoning ordinance.
- (d) *Final plan approval.*
- (1) Within two (2) years from the date of preliminary plan approval, the applicant shall prepare and submit the necessary copies of the final site condominium plan to the city clerk along with a completed application form and any fee established by the city council at least two (2) weeks prior to the next regularly scheduled board meeting. The applicant must also submit the following:
    - a) Two (2) copies of as-built plans of all required public improvements which shall be reviewed by the city engineer for compliance with applicable city standards.
    - b) A copy of all final agreements and the master deed which is to be recorded with the Allegan County Register of Deeds.
    - c) Letters of final approval from all applicable agencies and utilities having responsibility within the project stating that improvements have been properly installed and inspected, and inspection fees paid, or that performance guarantees or other similar surety have been submitted for uncompleted improvements.
  - (2) If all submissions are found acceptable, the clerk shall submit the same to the city council at its next regular meeting for approval.
  - (3) The city council shall approve or reject the final plan based upon the plans and other material submitted and the recommendation of the city engineer and notify the applicant in writing. The notice may be a copy of the minutes of the meeting at which the council took the action.
  - (4) If the final plan is rejected, the clerk shall notify the applicant stating the reasons for denial in writing. Said notice may be a copy of the minutes of the meeting at which the council took the action.
  - (5) All city approved provisions of the site condominium subdivision plans must be incorporated, as approved, in the master deed for the condominium project. A copy of the master deed as filed with the Allegan County Register of Deeds for recording must be provided to the city clerk within ten days after such filing with the county.

(Ord. No. 150, § 1, 4-15-96; Ord. No. 211, § 4, 2-5-07)

#### Sec. 20-133. - Financial guarantee.

In lieu of completion of all required public or private improvements prior to approval of the final plan, the city council may permit the developer to provide a financial guarantee of performance in one or a combination of the following arrangements. Completion of improvements shall be required prior to the issuance of occupancy and use permits for any dwelling or business

establishment.

(a) *Cash deposit, certified check, irrevocable letter of credit.*

- (1) A cash deposit, certified check, or irrevocable letter of credit shall accrue to the respective public agency responsible for administering the construction, operation, or maintenance of the specific public improvement. These deposits shall be made with the treasurer of the respective unit of government of which the public agency is a part, or deposited with a responsible escrow agent, or trust company, subject to the approval of the respective governmental body.
- (2) The dollar value of the cash deposit, certified check, or irrevocable letter of credit shall be equal to the total estimated cost of construction of the specified public improvement.
- (3) The escrow time for the cash deposit, certified check, or irrevocable letter of credit shall be for a period to be specified by the city.
- (4) In the case of either cash deposits or certified check, an agreement between the city and the developer may provide for progressive payments out of the cash deposit or reduction of the certified check to the extent of the estimated cost of the completed portion of the public improvement in accordance with the standard practices of the public agency responsible for administering the specific public improvement.

(b) *Penalty for failure to complete the construction of a required improvement.* In the event the developer shall, in any case, fail to satisfactorily complete the required construction of a required improvement within such period of time as required by the conditions of the guarantee for the completion of public improvements, the city council may declare the developer to be in default and require that all the improvement(s) be installed regardless of the extent of the building development at the time the developer is declared to be in default. The city council may obtain sums necessary for the cost and expense of such installation by appropriating the amounts necessary to complete the project from the cash deposit, certified check or irrevocable letter of credit. Nothing contained herein shall prohibit the city from the pursuit of any other remedies which may be available for breach of agreement and/or for damages including requests for actual attorney fees and costs.

(Ord. No. 150, § 1, 4-15-96)

Sec. 20-134. - Site condominium subdivision plans.

- (a) *Required content; preliminary plan.* The preliminary plan shall be drawn at a scale of not more than two hundred (200) feet to the inch and shall include or be accompanied by the following information:
- (1) The name of the project; the name and address of the developer; the name, address and seal of a registered surveyor or engineer preparing the plan; and a description of the property to be subdivided.
  - (2) A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.
  - (3) North arrow, scale, contour interval, and legend when appropriate.
  - (4) Contour elevations adjusted to USGS datum at not more than two-foot intervals.
  - (5) Where appropriate, established floodplain contours and elevations adjusted to USGS datum.
  - (6) The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property.
  - (7) The lot lines, intended layout, and intended use of the entire property owned or represented by the developer, including future phases. The following shall be included:
    - a) Street and stub street right-of-way — location, width and curve radii.

- b) Proposed street names.
  - c) Building site lines, site dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.
- (8) The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
- (9) The locations and tentative sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas or lagoons.
- (10) Statements regarding:
- a) Intent to utilize public or private water or sewage facilities.
  - b) Zoning and lot size requirements.
  - c) Zoning requirements for front, side and rear yards.
  - d) A summary of the total number of building sites, minimum and average building site sizes and the square footage of all limited and general common areas.
  - e) Size and type of street in accord with city public and/or private street standards.
  - f) Intent to install gas, sidewalks, street lights, and shade trees.
  - g) Use of waterways, rivers, streams, creeks, lakes or ponds.
- (11) The location of all general and limited common elements.
- (12) The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the master deed.
- (13) Identification of the limits of any required "natural vegetation zone" and/or "transition zone" adjacent to the Rabbit River, as established by the riparian area protection standards contained in article XVIC.
- (b) *Required content final plan.* The final plan for a site condominium subdivision shall include:
- (1) One set of approved as-built or final construction plans for all required improvements to be kept on file by the city.
  - (2) One copy of the final master deed intended for recording.
  - (3) Performance or installation agreements for improvements, such as streets, sidewalks, street lights, or shade trees.
  - (4) One copy of any financing arrangements between the city and the proprietor for the installation of required improvements, if any.

(Ord. No. 150, § 1, 4-15-96; Ord. No. 205, § 4, 5-15-06)

Sec. 20-135. - Site condominium subdivision layout, design, and required improvements.

- (a) *Conformity to zoning.* All land uses and building sites within a site condominium subdivision project shall be subject to the requirements of the City of Wayland Zoning Ordinance for that zoning district in which it is located.
- (b) *Streets.* All site condominium subdivision lots shall be served by a public street system, a private street system, or a system that comprises a combination thereof. All streets shall be constructed in accordance with the design standards for streets contained in the City of Wayland Subdivision Regulations, being Chapter 17 of the City Code, Articles III and IV and the city construction standards. The following shall also apply to private streets within the development.
  - (1) Private streets shall not interconnect with the public street network in a manner that will preclude the extension

of public streets within areas where it is deemed by the City the future extension of public streets is necessary that to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the city council shall consider the circulation pattern and traffic volumes on nearby public streets, existing and proposed land use in the general area, the recommendations contained within the Wayland City Master Plan and Master Roadway Plan, the Street and Highway Plans of the Allegan County Road Commission and Michigan Department of Transportation, and the Street and Land Use Plans of adjacent townships if applicable.

- (2) All streets shall be given a street name that is not the same or similar to any other street name in the city. A street sign bearing the street name, its designation as a private street and meeting Allegan County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public road.
  - (3) The master deed shall specify all private street easements and shall further contain easements granted to the city and private utilities for the purpose of providing for the installation, operation, inspection, maintenance, alteration, replacement, and/or removal of public and private utilities, including conveyance of sewer, water, stormwater, electrical distribution, telephone, natural gas, and cable television.
  - (4) All private improvements installed or constructed as required under the terms of this ordinance shall be made and maintained at the expense of the property owner(s) or developer.
  - (5) Any portion of a residential street which provides direct or indirect means of access to more than fifty (50) building sites or condominium units shall be dedicated to the public.
  - (6) A private street which is to serve two (2) or more commercial or industrial uses shall be constructed to the city standards for commercial and industrial streets.
  - (7) The master deed shall include provisions which provide for the perpetual private (non-public) maintenance of the private road and easement to a necessary and reasonable standard to serve the several interests involved. These documents shall contain the following provisions:
    - a) A method of financing in order to keep the street in good and usable condition.
    - b) A workable method of apportioning the costs of maintenance and improvements.
    - c) A notice that no public funds of the City of Wayland are to be used to build, repair, or maintain the private streets, and a statement that the city will be held harmless for any personal or property damage claims stemming from incidents occurring on or in connection with the private street.
    - d) Easements to the public for purposes of public and private utilities, emergency and other public vehicles for whatever public services are necessary.
    - e) A provision that the co-owners shall refrain from prohibiting, restricting, limiting, or in any manner interfering, with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, employees, and others bound to or returning from any of the properties having a right to use the street.
    - f) An agreement stipulating that the developer or condominium association agrees to the creation and imposition of a special assessment district to cover the cost of reconstruction of streetways to city standards should the developer or association, subsequent to final plan approval by the city, desire to have existing private streets dedicated to the public. Such agreement shall be prepared in such form as shall be necessary, in the reasonable opinion of the city attorney to effectuate the purposes of this provision.
- (c) *Water, sanitary sewer, storm drainage and private utilities.*
- (1) Site condominium subdivisions shall be required to install water and sanitary sewer systems and fire hydrants as



stipulated in Chapter 17, Article IV of the City Code. Said requirements being herein incorporated by reference.

- (2) All electric, gas and cable television utilities, when provided, shall be installed underground within easements dedicated for such use.
- (3) Storm drainage collection, retention, and detention facilities shall be constructed to Allegan County Drain Commission standards and approved by the city engineer based upon city construction standards.
- (d) *Other required improvements.*
  - (1) Monuments shall be located in the ground at all angles along the boundaries of the site condominium subdivision. These monuments shall be made of solid iron or steel bars at least ½ inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four inches in diameter.
  - (2) All corners of lots within a site condominium subdivision shall be staked in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and ½ inch in diameter or other uniform, non-degradable markers as approved by the building inspector.
- (e) *Condominium Act.* The requirements, procedures, regulations and powers set forth in the Condominium Act, Act 59 of 1978, as amended, shall apply except as provided by this ordinance.
- (f) *Inspection and specifications.* The city council may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this ordinance. All plans and installation of improvements called for shall be subject to the approval of the city or its agent, or such other competent persons as designated by the city. All inspection fees shall be paid by the applicant before the final plan is signed by the city unless adequate financial guarantees to cover these expenses are given to the city prior to final plan approval.
- (g) For properties affected by the riparian area protection overlay zone as delineated on the "Riparian Areas Protection Overlay Map," and the official zoning map of the city, master deed provisions and restrictive covenants shall include the following statement: "There shall be no clearing grading, placement of fill, construction or disturbance of vegetation within any lot (unit), out-lot, park or common area labeled "natural vegetation zone" and the "transition zone" as it appears on the exhibit (insert letter designation) drawings of this development except as permitted by Chapter 20 Article XVIC of the Wayland City Code (Zoning Ordinance).

(Ord. No. 150, § 1, 4-15-96; Ord. No. 205, § 5, 5-15-06)

#### Sec. 20-136. - Variances.

- (a) *Building site area, width, and depth regulations.* Variances with respect to individual building site width, depth, and area regulations governed by the district regulations of the zoning district in which the site condominium project is located shall be made to the zoning board of appeals pursuant to the procedures, rules, and conditions contained in the zoning ordinance, unless the proposal is for a planned unit development. In such instances, paragraph (b) below shall apply.
- (b) *Planned unit developments.* Variances with respect to building site dimensions and uses for planned unit developments under the site condominium form of development may be achieved under the procedures and standards contained in Article XVIII, Division 2, Planned Unit Developments.
- (c) *Applications.* Applications for variances or planned unit development shall be made in writing by the petitioner prior to the time when the preliminary plan is filed for the consideration of the planning commission. The application shall state fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans, or other additional data which may aid the planning commission and zoning board of appeals in the analysis of the proposed variance.

(Ord. No. 150, § 1, 4-15-96)

## DIVISION 6. - TRAFFIC IMPACT STUDIES

### Sec. 20-137. - Intent.

The city recognizes the direct correlation between land use decisions and traffic operations. The intent of this division is to assist decision making by permitting accurate evaluation of expected traffic impacts of proposed development projects. This division is further intended to help achieve the following objectives:

- (1) Provide a standard set of analytic tools and format for preparing traffic impact studies.
- (2) Allow the city to assess the effects of a proposed project by outlining information needed and evaluation procedures to be used.
- (3) Help ensure safe and reasonable traffic operating conditions on streets and intersections after development of the proposed use.
- (4) Reduce the negative traffic impacts created by individual developments (which may also negatively impact such developments) by helping to ensure the transportation system can safely and efficiently accommodate the expected traffic.
- (5) To evaluate if rezoning is timely and, if consistent with the future land use plan, if the rezoning will be a reasonable alternative to uses recommended by the future land use plan.
- (6) Provide clarity to city decision makers and developers of expected impacts of a project.
- (7) Alert the city and developers of improvements or modifications needed to the roadway, access, or site design.
- (8) Protect the substantial public investment in the existing street system.

(Ord. No. 196, § 1, 7-8-04)

### Sec. 20-138. - Definitions.

The following terms used in this division shall be defined as follows:

*Average day:* A Tuesday, Wednesday, or Thursday for most uses. The average day may be a Saturday for uses that have higher peak-hour traffic volumes on a Saturday rather than mid-week.

*Development:* A site plan, subdivision tentative preliminary plat, condominium project, mobile home park, redevelopment, re-use, or expansion of a use or building.

*Future land use plan:* The plan adopted by the city which illustrates the intended future land use pattern and may also describe roadway functional classifications and intended improvements to the transportation system.

*Gap (critical gap):* The median time headway (in seconds) between vehicles in a major traffic stream which will permit side-street vehicles at stop or yield controlled approach to cross through or merge with the major traffic stream under prevailing traffic and roadway conditions.

*Level of service:* A qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, delay, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

*Peak hour:* A one-hour period representing the highest hourly volume of traffic flow on the adjacent street system during the morning (a.m. peak hour), during the afternoon or evening (p.m. peak hour); or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).

*Study area:* The geographic area containing those critical arterial intersections (and connecting roadway segments) which are expected to be affected by the site-traffic generated by a development.

*Traffic impact study:* The analysis of the potential traffic impacts generated by a proposed project. This type of study and level of analysis will vary dependent upon the type and size of the project. Traffic impact assessment, rezoning traffic impact study, traffic impact statement, and regional traffic impact study.

*Trip (i.e., directional trip):* A single or one-direction vehicle movement with either the origin or destination (exiting or entering) inside a study site.

(Ord. No. 196, § 1, 7-8-04)

#### Sec. 20-139. - Applicability.

A traffic impact study shall be required and shall be submitted by an applicant for a rezoning, site plan, or subdivision plan under any of the following situations. The type of study required shall be dependent upon the type and scale of the proposed use and existing traffic conditions.

- (1) A "rezoning traffic impact study" for the following rezoning and future land use plan amendment requests:
  - a. A proposed rezoning consistent with the city's future land use plan, but when the timing of the change may not be appropriate due to traffic issues. This threshold applies when a rezoning would permit uses that could generate one hundred (100) or more directional trips during the peak hour, or at least one thousand (1,000) more trips per day, than the majority of the uses that could be developed under current zoning.
  - b. A proposed rezoning inconsistent with the future land use plan when permitted uses could generate at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets or over seven hundred fifty (750) trips in an average day.
  - c. A site along any corridor identified as a critical/congested/safety management corridor in the future land use plan or long range transportation plan (if any).
  - d. Proposed amendments to the future land use plan which would recommend uses which would generate higher traffic volumes.
- (2) Development proposals. Special use permits, site plans, plats, mobile home parks, and site condominium projects:
  - a. A traffic impact statement shall be required for any proposed development which would be expected to generate over one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day.
  - b. A traffic impact assessment shall be required for projects which could generate fifty (50) to ninety-nine(99) directional trips during a peak hour.
  - c. A traffic impact statement shall be required for any proposed development along a corridor experiencing significant congestion or relatively high crash rates which would be expected to generate over fifty (50) directional trips during the peak hour of the traffic generator or the adjacent streets, or over five hundred (500) trips in an average day.
  - d. A *traffic impact statement or assessment*, based on the thresholds in a. and b. above, shall be required for

new phases or changes to a development where a traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than two (2) percent annually).

- e. A traffic impact assessment shall be required for a change or expansion at an existing site where the increased land use intensity is expected to increase traffic by at least fifty (50) directional trips in a peak hour or result in at least seven hundred fifty (750) vehicle trips per day for the entire project. A traffic impact statement shall be required if the traffic is expected to increase by over one hundred (100) directional trips in the peak hour.
- f. Special land uses, planned unit developments, and other uses which are specifically required to provide a traffic impact study in the zoning ordinance. The type of study shall be based on the thresholds in items a. and b.
- g. A change in a planned unit development (PUD) to a more intense use may require either a traffic impact assessment or a traffic impact statement based on the thresholds above.
- h. All other projects where required by the city engineer to evaluate access issues.

(Ord. No. 196, § 1, 7-8-04)

Sec. 20-140. - Traffic impact study contents.

- (a) *Description of the site, surroundings, and study area.* Illustrations and a narrative should describe the characteristics of the site and adjacent roadway system (functional classification, lanes, speed limits, etc.). This description should include surrounding land uses, expected development in the vicinity which could influence future traffic conditions, special site features and a description of any committed roadway improvements. The study should define and justify the study area selected for analysis.
- (b) *Description of the requested zoning or use.*
  - (1) *Traffic study for a rezoning or future land use plan amendment request:* A description of the potential uses which would be allowed, compared to those allowed under current zoning. If the use is not consistent with the city's future land use plan, an explanation of the difference should be provided.
  - (2) *Traffic study for a site plan review, mobile home park, site condominium project, or subdivision tentative preliminary plat, or specified special land uses:* A description of factors such as the number and types of dwelling units, the gross and usable floor area, the number of employees and shift change factors. Intended phasing or future expansion should also be noted.
- (c) *Description of existing traffic conditions.*
  - (1) *Traffic counts:* Existing conditions including existing peak-hour traffic volumes (and daily volumes if applicable) on street(s) adjacent to the site. Existing counts and levels of service for intersections in the vicinity that are expected to be impacted, as identified by the city at a pre-application conference or discussion, should be provided for projects requiring a traffic impact statement or regional traffic analysis. Traffic count data shall not be over two (2) years old, except the city may permit 24-hour counts up to three (3) years old to be increased by a factor supported by documentation or a finding that traffic has increased at a rate less than two (2) percent annually in the past three (3) to five (5) years.

Traffic counts shall be taken on a Tuesday, Wednesday, or Thursday of non-holiday weeks. Additional counts (i.e., on a Saturday for a proposed commercial development) may also be required in some cases. The individual or firm performing the impact study shall obtain the traffic counts during average or higher than average volume conditions (i.e., regarding weather or seasonal variations and in consideration of any construction or special events) for the area under study.

- (2) Roadway characteristics shall be described and illustrated, as appropriate. Features to be addressed include lane configurations, geometrics, signal timing, traffic control devices, posted speed limits, average running speeds and a distance limitations. Existing levels of service shall be calculated for intersections included within the study area.
  - (3) Existing driveways and potential turning movement conflicts in the vicinity of the site shall be illustrated and described.
  - (4) The existing right-of-way shall be identified along with any planned or desired expansion of the right-of-way requested by the applicable road agency.
  - (5) Traffic crash data and analysis covering the most recent three (3) years for the study area of proximity to site access points may be required by the city, particularly for sites along roadways identified as critical or congested corridors. (Note: crash analyses are not generally appropriate for a rezoning traffic study or a traffic impact assessment).
- (d) *Background traffic growth.* For any project requiring a traffic impact statement with a completion date beyond one (1) year at the time of the traffic study, the analysis shall also include a scenario analyzing forecast traffic at date of completion along the adjacent street network using a forecast based on a network traffic assignment model (if available), historical annual percentage increases, and/or future development in the area which has been approved. For projects requiring a regional traffic analysis available long range traffic projections shall be used.
- (e) *Trip generation.*
- (1) Forecasted trip generation of the proposed use of the a.m. (if applicable) and p.m. peak hour and average day. The forecasts shall be based on the data and procedures outlined in the most recent edition of trip generation published by the Institute of Transportation Engineers (ITE). The applicant may use other commonly accepted sources of data or supplement the standard with data from at least three (3) similar projects in the state.
  - (2) For rezoning requests where a traffic study is required, the study should contrast the traffic impacts of typical uses permitted in the requested zoning district with uses permitted in the current zoning district. The determination of typical uses shall be made by the city. For traffic impact assessments, statements, or regional traffic analyses, the rates for the specific use(s) proposed shall be used.
  - (3) Any trip reduction for pass-by trips, transit, ridesharing, other modes, internal capture rates, etc. shall be based both on ITE findings and documented survey results acceptable to the city. For projects intended to be developed in phases, the trip generation by phases shall be described.
- (f) *Trip distribution.* The projected traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing street network to project turning movements at the site access points, and nearby intersections where required. Projected turning movements shall be illustrated in the report. A description of the application of standard engineering procedures for determining the distribution should also be attached (trip distribution model, market studies, counts at existing driveways, etc.) For projects requiring a regional traffic analysis, use of a network traffic assignment model projection (if available) may be required to help evaluate impacts.
- (g) *Impact analysis.*
- (1) Level of service or "capacity" analysis at the proposed access points using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. For projects requiring a traffic impact statement or regional traffic analysis, before and after capacity analyses shall also be performed for all street intersections where the expected traffic generated at the site will comprise at least five (5) percent of the existing intersection capacity and/or for roadway sections and intersections experiencing congestion or a relatively high crash rate, as determined by the city or applicable road agency.  
Option: Level of service analysis for intersections identified at the pre-application conference.

- (2) Gap studies for un-signalized intersections where applicable.
- (3) The city may require a regional traffic analysis which evaluates the impact on the street network over a wide area and/or for up to twenty (20) years for a project of regional significance, if a network model is available.
- (h) *Access design/access management standards.* The report shall include a map and description of the location and design of proposed access (driveways or new street intersections) including: any sight distance limitations, dimensions from adjacent driveways and intersections within two hundred fifty (250) feet on either side of the main roadway, data to demonstrate that the number of driveways proposed is the fewest necessary, support that the access points will provide safe and efficient traffic operation and be in accordance with the standards of the city and the applicable road agency. (Not required for a rezoning traffic study).
- (i) *Other study items.* The traffic impact study shall include:
  - (1) Need for, or provision of, any additional right-of-way where planned or desired by the applicable road agency.
  - (2) Changes which should be considered to the plat or site plan layout.
  - (3) Description of any needed non-motorized facilities.
  - (4) If the use involves a drive-through facility, the adequacy of the queuing/stacking area should be evaluated.
  - (5) If a traffic signal is being requested, the relationship of anticipated traffic to traffic signal warrants in the Michigan Manual of Uniform Traffic Control Devices. Analysis should also be provided on the impacts to traffic progression along the roadway through coordinated timing, etc.
  - (6) Description of site circulation and available sight distances at site driveways.
- (j) *Mitigation/alternatives.* The study shall outline mitigation measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements should be described. The mitigation measures may include items such as roadway widening, need for bypass lanes or deceleration tapers/lanes, changes to signalization, use of access management techniques or a reduction in the proposed intensity of use. Proposed mitigation measures should be discussed with the city engineer. The responsibility and timing of roadway improvements shall be described.
- (k) *Qualifications; preparer.* The preparation of a thorough traffic impact study requires extensive background and experience in traffic-related analyses. Therefore, the experience of the preparer best defines his or her ability to provide a technically sound analysis. Recommended preparer requirements are outlined below.

The person responsible for the preparation of the study shall meet the following requirements:

- (1) Three (3) or more years of recent experience in the preparation of traffic impact studies.
- (2) The development of impact studies (and similar intersection and/or corridor analyses) comprise a major component of the preparer's recent professional experience. This requires ongoing experience and familiarity with the highway capacity manual techniques as well as the computer software (highway capacity software and others) that provide level of service results and other analysis findings needed to fully assess potential impacts.
- (3) Specific education, training, and/or professional coursework in traffic impact analysis from an accredited college or university or other professional transportation training organization (National Highway Institute, Northwestern University Traffic Institute, etc.).
- (4) The study preparer shall be an associate (or higher) member of one (1) or more professional transportation-related organizations, particularly the Institute of Transportation Engineers (ITE) or the Transportation Research Board (TRB). This helps ensure that the preparer is maintaining their knowledge as new research is published and analysis techniques are changed or refined.

In addition, the preparer should have one of the following professional qualifications:

- (1) A registered engineer (PE).
- (2) A community planner with AICP or PCP certification.
- (3) A trained professional transportation planner.

Any study involving a roadway or traffic signal design work shall be prepared by or under the supervision of a registered engineer (PE) with specific training in traffic engineering.

The study should include a resume of the preparer responsible for the report. The study may also include relevant experience of the preparer's firm. The study should also be signed by the preparer with full recognition of potential liability for the results and recommendations outlined in the report.

(Ord. No. 196, § 1, 7-8-04)

#### Sec. 20-141. - Procedures.

- (a) The applicant shall discuss or meet with city staff to determine if a study is needed, what type of study is needed, and specific items to be addressed.
- (b) The applicant submits traffic impact study to the city, with the request for rezoning or development proposal. A revised study may be required as the scope and details of the request change.
- (c) City staff shall distribute the traffic impact study to the appropriate road agencies, and adjacent community, if appropriate. A copy may also be submitted to the metropolitan planning organization, transit agency, etc., as appropriate for projects of regional significance or along critical corridors.
- (d) City staff shall provide comments and recommendations to the planning commission prior to any action on the project.

(Ord. No. 196, § 1, 7-8-04)

#### Sec. 20-142. - Waiver of study requirements.

The requirement for a traffic impact study, or the study elements listed in section 20-140 "traffic impact study contents," may be waived/modified following consultation with the city engineer, planning and zoning administrator. Reasons for the waiver or modification should be documented. Factors to be considered include:

- (1) Roadway improvements are scheduled which are expected to mitigate any impacts associated with the proposed project.
- (2) The level of service along the roadway is not expected to drop below LOS C due to the proposed project.
- (3) The existing level of service is not expected to be significantly impacted by the proposed project due to specific conditions at this location.
- (4) A similar traffic study was previously prepared for the site and is still considered applicable.

(Ord. No. 196, § 1, 7-8-04)

#### Sec. 20-143. - Information to be made public.

All collected traffic data, analysis and findings required under this chapter shall be considered public information and shall be provided to the city in both printed and electronic format. Such information shall contribute to a traffic data base and may be further utilized without limitation by public or private entities in the conduct of subsequent land use and traffic planning efforts.

(Ord. No. 196, § 1, 7-8-04)

Sec. 20-144—20-150. - Reserved.

#### ARTICLE IV. - LDR LOW DENSITY RESIDENTIAL DISTRICT

Sec. 20-151. - Purpose.

The LDR-Low Density Residential district is intended for undeveloped large tracts of land and shall be used for very low density, single-family residential noncommercial outdoor recreational uses and other specialized suburban uses requiring large tracts of open space.

(Ord. No. 123, § 5.0, 6-5-89; Ord. No. 217, § 7, 7-7-08)

Sec. 20-152. - Principal permitted uses.

In the LDR district, no uses shall be permitted unless otherwise provided in this chapter except the following:

- (1) Single-family detached dwellings.
- (2) Parks, playfields, museums, libraries.
- (3) Municipal, state or federal administrative or service buildings, excluding public works facilities.
- (4) Home occupations subject to section 20-581.
- (5) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (6) Off-street parking requirements in accordance with section 20-81.
- (7) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 5.1, 6-5-89; Ord. No. 217, § 8, 7-7-08; Ord. No. 225, § 4, 2-1-10)

Sec. 20-153. - Uses subject to special use permit.

The following uses shall be subject to a special use permit:

- (1) Churches, subject to subsection 20-601(19).
- (2) Group day care homes subject to subsection 20-601 (21).
- (3) Bed and breakfast facilities subject to subsection 20-601(9).
- (4) Gravel mining and resource extraction subject to subsection 20-601(18).
- (5) Private roads and streets subject to subsection 20-85.
- (6) Wireless communications facilities subject to sections 20-640 through 20-648.
- (7) Kennels subject to subsection 20-601(14).
- (8) Parochial or private elementary, intermediate and/or high schools offering courses in general education.
- (9) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 5.2, 6-5-89; Ord. No. 211, § 5, 2-5-07; Ord. No. 217, § 9, 7-7-08; Ord. No. 225, § 5, 2-1-10)



Sec. 20-154. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified, are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 5.3, 6-5-89)

Sec. 20-155. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 1, 1-2-07)

Secs. 20-156—20-175. - Reserved.

ARTICLE V. - R-1 SINGLE-FAMILY RESIDENCE DISTRICT

Sec. 20-176. - Purpose.

The R-1 zoning district is typically a single-family housing area. While most of the developed portion of the city is served with utilities, the low density status is designed to preserve those areas which have developed strictly as single-family detached units on separate lots. The dwelling unit density shall still be at a sufficient scale to support utility system operation and maintenance costs.

(Ord. No. 123, § 6.0, 6-5-89)

Sec. 20-177. - Principal permitted uses.

In the R-1 district, no uses shall be permitted unless otherwise provided in this chapter except the following:

- (1) Single-family detached dwellings.
- (2) Publicly owned and operated parks, playfields, museums, libraries and other recreational facilities.
- (3) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for profit.
- (4) Municipal, state or federal administrative or service buildings.
- (5) Home occupations.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking in accordance with section 20-81.
- (8) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 6.1, 6-5-89; Ord. No. 225, § 6, 2-1-10)

Sec. 20-178. - Uses subject to special use permit.

The following uses shall be subject to a special use permit:

- (1) Churches, subject to subsection 20-601(19).

- (2) Bed and breakfast facilities subject to subsection 20-601(9).
- (3) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- (4) Group day care homes subject to subsection 20-601(21).
- (5) Private roads and streets subject to section 20-85.
- (6) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 6.2, 6-5-89; Ord. No. 211, § 6, 2-5-07; Ord. No. 217, § 10, 7-7-08; Ord. No. 225, § 7, 2-1-10)

Sec. 20-179. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 6.3, 6-5-89)

Sec. 20-180. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 2, 1-2-07)

Secs. 20-181—20-200. - Reserved.

ARTICLE VI. - R-2 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 20-201. - Purpose.

- (a) The R-2 zoning district encompasses land primarily adjacent to the central business district, and some of the older localities of the city. The residential character is mainly urban, single-family homes of earlier construction on individual lots. Some of the older stately homes are of particular vintage design.
- (b) To some extent, two-family homes are permitted here, but with controls as to location, site and density. The basis for transition is the fact that because many of these older homes are larger and represent sizeable maintenance and energy costs for a single family, it is feared that restriction to only single-family use may foster inadequate maintenance or even abandonment. The possible consequences can be a general appearance of blight; which (if allowed to proceed in a downward trend) can erode the social stability of any neighborhood, as well as adversely affect the appeal of the central city. Based upon the above, the R-2 district provides for some conversion of older, larger homes to two-family dwellings provided certain conditions for the health, safety and welfare of the neighborhood are met.

(Ord. No. 123, § 7.0, 6-5-89)

Sec. 20-202. - Principal permitted uses.

In the R-2 residential district, no uses shall be permitted unless otherwise specifically provided for in this chapter, except for the following uses:

- (1) Single-family detached dwellings.
- (2) Two-family dwellings.
- (3) Publicly owned and operated parks, playfields, museums, libraries and other recreational facilities.
- (4) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for a profit.
- (5) Municipal, state or federal administrative or service buildings.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking requirements in accordance with section 20-81.
- (8) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 7.1, 6-5-89; Ord. No. 225, § 8, 2-1-10)

Sec. 20-203. - Uses subject to special use permit.

The following uses shall be subject to a special use permit:

- (1) Churches, subject to subsection 20-601(19).
- (2) Bed and breakfast facilities subject to subsection 20-601(9).
- (3) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- (4) Group day care homes subject to subsection 20-601(21).
- (5) Private roads and streets subject to section 20-85.
- (6) Dwelling unit conversions subject to sections 20-626 through 20-633.
- (7) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 7.2, 6-5-89; Ord. No. 211, § 8, 2-5-07; Ord. No. 217, § 11, 7-7-08; Ord. No. 225, § 9, 2-1-10)

Sec. 20-204. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 7.3, 6-5-89)

Sec. 20-205. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 3, 1-2-07)

Secs. 20-206—20-225. - Reserved.

## ARTICLE VII. - R-3 SINGLE-FAMILY AND MANUFACTURED HOUSING DISTRICT

## Sec. 20-226. - Purpose.

The R-3 district is designed to permit a compatible mixture of residential land uses including single-family detached housing of both types, i.e. conventionally built and manufactured. This district will advance the same goals of stable, residential neighborhoods as districts which promote lower densities.

(Ord. No. 123, § 8.0, 6-5-89)

## Sec. 20-227. - Principal permitted uses.

## (a) Single-family detached dwellings meeting the following standards:

- (1) Each dwelling shall have a core area of living space of at least twenty (20) feet by twenty (20) feet in size and comply in all respects with the city building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the city building code, then and in that event such federal or state standard or regulation shall apply.
- (2) Each dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the city building code and the area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions, shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, and shall contain a perimeter wall as required in this subsection.
- (3) If a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (4) Each dwelling shall be connected to a public sewer and water supply or to such private facilities as are approved by the local health department.
- (5) Each dwelling shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- (6) Each dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively with windowsills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; have not less than two (2) exterior doors with one being in either the rear or side of the dwelling; and containing permanently attached steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same.
- (7) If a dwelling is a mobile home, as defined herein, each mobile home shall contain skirting along the entire perimeter of the main frame between the ground and the bottom edge of the mobile home body. Such skirting shall be a minimum of twenty-six-gauge metal with ribbing, or of other nonflammable materials having similar design and durability. Brick or concrete block wall construction shall be permitted as skirting. The skirting shall be

securely attached and sealed to the mobile home body and shall contain a ratproof wall or slab to prevent the entrance of rodents and other animals to underneath the mobile home. One (1) access door shall be permitted in the skirting, and adequate screening vents shall be required in the skirting around the entire perimeter at intervals of not more than twenty (20) feet so as to provide adequate cross-ventilation. All skirting shall be maintained in good condition at all times. Unprotected flammable materials including hay bales or newspaper shall not be allowed as skirting for mobile homes.

- (b) Publicly owned and operated parks, playfields, museums, libraries and other recreational facilities.
- (c) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for a profit.
- (d) Municipal, state or federal administrative or service buildings.
- (e) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (f) Off-street parking requirements in accordance with section 20-81.

(Ord. No. 123, § 8.1, 6-5-89)

Sec. 20-228. - Uses subject to special use permit.

The following uses shall be subject to a special use permit:

- (1) Churches, subject to subsection 20-601(19).
- (2) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- (3) Group day care homes subject to subsection 20-601 (21).
- (4) Private roads and streets subject to subsection 20-85.

(Ord. No. 123, § 8.2, 6-5-89; Ord. No. 211, § 8, 2-5-07; Ord. No. 217, § 12, 7-7-08)

Sec. 20-229. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 8.3, 6-5-89)

Sec. 20-230. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 4, 1-2-07)

Secs. 20-231—20-250. - Reserved.

ARTICLE VIII. - RM MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 20-251. - Purpose.

The RM district is intended for multiple-family residential uses. This district is characterized by the townhouses, row houses, garden apartments and zero lot line developments, specialized or group housing for seven (7) or more unrelated individuals. Senior citizen housing is also permitted by special use permit.

(Ord. No. 123, § 9.0, 6-5-89)

Sec. 20-252. - Principal permitted uses.

In the RM district, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- (1) Two- and three-family dwellings.
- (2) Garden apartments.
- (3) Townhouses.
- (4) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (5) Off-street parking and loading requirements in accordance with section 20-81.
- (6) Outdoor trash containers or dumpsters subject to section 20-87.
- (7) Single-family homes erected prior to the effective date of this subsection (7) subject to the following provisions:
  - a. Additions to or the repair or reconstruction of such structures shall be governed by all general regulations pertaining to single-family dwellings and to the height, bulk, density and area standards pertaining to single-family homes located in the R-2 district.
  - b. Any lot or parcel being used for a single-family dwelling as of the effective date of this subsection (20) which by fire, wind, act of God or the public enemy is made vacant, or which dwelling is destroyed or damaged, shall remain eligible to be used for a single-family dwelling, which is repaired or rebuilt.
  - c. Conversion of an existing single-family dwelling to a two- or three-family dwelling (within the existing structure) shall be subject to the provisions of section 20-626.
  - d. Conversion of an existing single-family dwelling to a mixed commercial/residential use or office/residential use shall be subject to approval as a special use under the provisions of section 20-127.
- (8) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 9.1, 6-5-89; Ord. No. 176, § 3, 6-4-01; Ord. No. 225, § 10, 2-1-10)

Sec. 20-253. - Uses subject to special use permit.

The following shall be subject to a special use permit:

- (1) All permitted uses subject to special use permit in the R-2 district.
- (2) Private clubs and lodges subject to subsection 20-601(12).
- (3) Convalescent and nursing homes subject to subsection 20-601(13).
- (4) Housing for the elderly in accordance with subsection 20-601(7).
- (5) Conversion of an existing single-family dwelling to a mixed commercial/residential use or to a mixed office/residential use.
- (6) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 9.2, 6-5-89; Ord. No. 176, § 4, 6-4-01; Ord. No. 217, § 13, 7-7-08; Ord. No. 225, § 11, 2-1-10)

Sec. 20-254. - Site plan approval.

For permitted use and use subject to a special use permit, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 9.3, 6-5-89)

Sec. 20-255. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 9.4, 6-5-89)

Sec. 20-256. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 5, 1-2-07)

Secs. 20-257—20-260. - Reserved.

#### ARTICLE VIIIA. - R-4 ATTACHED SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 20-261. - Statement of purpose.

The R-4 district is intended for attached single family residential uses. This district is characterized by townhouse and other similar clustered residential developments in clusters of up to four units each. It is intended that each dwelling unit extending up from the ground the full height of the building, and that each dwelling unit be separated from any abutting dwelling unit by a party wall that each dwelling unit have direct access from outdoors from at least the front and rear or side of the unit.

(Ord. No. 133, § 1, 2-4-91)

Sec. 20-262. - Principal permitted uses.

In the R-4 district, no use shall be permitted unless otherwise provided in the ordinance, except for the following:

- (1) Attached single-family dwelling in clusters of up to four (4) units each.
- (2) Two- and three-family dwellings.
- (3) Publicly owned and operated parks, playfields, museums, libraries and other recreational facilities.
- (4) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for a profit.
- (5) Municipal, state or federal administrative or service buildings.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking requirements in accordance with section 20-81.
- (8) Outdoor trash containers or dumpsters subject to section 20-87.

(9) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-654.

(Ord. No. 133, § 1, 2-4-91; Ord. No. 225, § 12, 2-1-10)

Sec. 20-263. - Uses subject to special use permit.

The following shall be subject to a special use permit:

- (1) Churches in accordance with subsection 20-601(19).
- (2) Public utility buildings, telephone exchange buildings, electric transformer station and substations, and gas regulator stations when operating requirements necessitate locating within the district to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.
- (3) Group day care homes subject to subsection 20-601(21).
- (4) Housing for the elderly in accordance with subsection 20-601(7).
- (5) Private roads and streets subject to section 20-85.
- (6) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 133, § 1, 2-4-91; Ord. No. 211, § 9, 2-5-07; Ord. No. 217, § 14, 7-7-08; Ord. No. 225, § 13, 2-1-10)

Sec. 20-264. - Area, height, bulk and placement requirements.

Gross site area:	2 acres (min.)
Maximum lot coverage:	.25 × developable area
Maximum height:	2½ stories or 35 feet
Minimum parking:	2 spaces per unit
Minimum landscaped area:	.25 of gross site area
Maximum density:	8 units per acre
Minimum front yard:	25 feet
Minimum side yard:	20 feet, 40 feet (total two)
Minimum rear yard:	30 feet
Minimum floor area per unit:	
Efficiency	600 square feet
One bedroom:	750 square feet



Two bedroom:	900 square feet
Three bedroom:	1,200 square feet
Four bedroom:	1,500 square feet

(Ord. No. 133, § 1, 2-4-91)

Sec. 20-265. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 6, 1-2-07)

Secs. 20-266—20-280. - Reserved.

#### ARTICLE IX. - RMH RESIDENTIAL MOBILE HOME DISTRICT

Sec. 20-281. - Purpose.

The RMH district is designed for those who prefer mobile home living. Although a single-family unit, mobile home developments typically have a higher density impact than conventional single-family development. In order to not adversely impact other areas of the city, certain land areas are hereby recognized as appropriate for continued mobile home use provided that proper site design standards and requirements are met.

(Ord. No. 123, § 10.0, 6-5-89)

Sec. 20-282. - Principal permitted uses.

In the RMH district no use shall be permitted unless otherwise provided in this chapter, except for the following:

- (1) Mobile homes located in a mobile home park.
- (2) Mobile home parks.
- (3) Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities.
- (4) Municipal, state and federal administrative or service buildings.
- (5) Home occupations.
- (6) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (7) Off-street parking in accordance with section 20-81.
- (8) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 10.1, 6-5-89; Ord. No. 225, § 14, 2-1-10)

Sec. 20-283. - Uses subject to special use permit.

The following shall be subject to a special use permit:

- (1) Churches, in accordance with subsection 20-601(19).
- (2) Group day care homes subject to subsection 20-601(21).
- (3) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 10.2, 6-5-89; Ord. No. 211, § 10, 2-5-07; Ord. No. 217, § 15, 7-7-08; Ord. No. 225, § 15, 2-1-10)

Sec. 20-284. - Standards and requirements for mobile home parks.

Mobile home parks shall conform to the requirements as promulgated by the state mobile home commission rules, as amended.

(Ord. No. 123, § 10.3, 6-5-89)

Sec. 20-285. - Site plan approval.

For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 10.4, 6-5-89)

Sec. 20-286. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 10.5, 6-5-89)

Sec. 20-287. - Signs.

Signs shall be as regulated in article, XIX, as applicable.

(Ord. No. 209, § 7, 1-2-07)

Secs. 20-288—20-310. - Reserved.

## ARTICLE X. - B-1 LOCAL BUSINESS DISTRICT

Sec. 20-311. - Purpose.

The B-1 local business district is intended to serve the convenience needs of neighborhood residents. This district typically does not contain comparison shopping facilities or open-air businesses.

(Ord. No. 123, § 11.0, 6-5-89)

Sec. 20-312. - Principal permitted uses.

In the B-1 district, no uses shall be permitted unless otherwise provided in this chapter except the following:

- (1) Grocery store, including beer, wine and liquor, fruit, vegetable, meat, dairy products and baked goods.
  - (2) Confectioneries, delicatessens, restaurants and taverns.
- (3) Museums.
- (4) Financial institutions.
- (5) Laundromats.
- (6) Offices for plumbing, roofing, heating contractors, decorators, upholsterers and similar establishments.
- (7) Funeral parlors and mortuaries.
- (8) Shoe repair shops.
- (9) Watch, television and radio repair shops.
- (10) Barber and beauty shops.
- (11) Professional offices, except medical or dental clinics.
- (12) Retail shops.
- (13) Public utilities.
- (14) Mixed uses i.e., commercial and residential uses combined in one (1) building.
- (15) Warehousing facilities.
- (16) Accessory buildings and uses customarily incidental to the above permitted principal uses.
- (17) Off-street parking in accordance with the requirements of section 20-81.
- (18) Outdoor trash containers or dumpsters subject to section 20-87.
- (19) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 11.1, 6-5-89; Ord. No. 217, § 16, 7-7-08; Ord. No. 225, § 16, 2-1-10)

Sec. 20-313. - Uses subject to special use permit.

The following uses shall be subject to a special use permit:

- (1) Medical or dental clinics.
- (2) Office developments.
- (3) Hospitals in accordance with subsection 20-601(15).
- (4) Bowling alleys, skating rinks and indoor recreation facilities subject to subsection 20-601(4).
- (5) Gasoline service stations and filling stations subject to subsection 20-601(16).
- (6) Child care centers and day care centers subject to subsection 20-601(3).
- (7) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 11.2, 6-5-89; Ord. No. 211, § 11, 2-5-07; Ord. No. 217, § 17, 7-7-08; Ord. No. 225, § 17, 2-1-10)

Sec. 20-314. - Site plan approval.

For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 11.3, 6-5-89)

Sec. 20-315. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 11.4, 6-5-89)

Sec. 20-316. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 8, 1-2-07)

Sec. 20-317. - Landscaping, screening and buffers.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable.

(Ord. No. 217, § 18, 7-7-08)

Secs. 20-318—20-340. - Reserved.

ARTICLE XI. - B-2 GENERAL BUSINESS DISTRICT

Sec. 20-341. - Purpose.

The B-2 general business district is intended to serve the highway and comparison needs of the residents of the greater city area as well as the passing motorist. It is characterized by businesses with large lot requirements, extended hours and major thoroughfare locations.

Sec. 20-342. - Principal permitted uses.

In the B-2 business district, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- (1) All principal permitted uses in the B-1 district.
- (2) Retail shops.
- (3) Personal service establishments, including health spas.
- (4) Financial institutions.
- (5) Restaurants and taverns, not including drive-in restaurants.
- (6) General and professional offices, not including medical and dental clinics.
- (7) Museums and art galleries.
- (8) Bakeries, employing not more than five (5) persons, exclusive of retail personnel.
- (9) Dry cleaning and laundry establishments employing not more than five (5) persons.
- (10) Printing, publishing, photography or other reproduction businesses.
- (11) Custom craft shops.
- (12) Combined retail-wholesale business when conducted entirely within a building.

- (13) Gasoline filling or service stations.
- (14) Publicly owned buildings.
- (15) Outdoor trash containers or dumpsters subject to section 20-87.
- (16) Pool or billiard halls.
- (17) Pawnshops.
- (18) Pinball or video game arcades or establishments.
- (19) Sauna, hot tub or other similar health or body improvement or enjoyment enterprises.
- (20) Single-family homes erected prior to the effective date of this subsection (20) subject to the following provisions:
  - a. Additions to or the repair or reconstruction of such structures shall be governed by all general regulations pertaining to single-family dwellings and to the height, bulk, density and area standards pertaining to single-family homes located in the R-2 district.
  - b. Any lot or parcel being used for a single-family dwelling as of the effective date of this subsection (20) which by fire, wind, act of God or the public enemy is made vacant, or which dwelling is destroyed or damaged, shall remain eligible to be used for a single-family dwelling that is repaired or rebuilt.
  - c. Conversion of an existing single-family dwelling to a two- or three-family dwelling (within the existing structure) shall be subject to the provisions of section 20-626.
  - d. Conversion of an existing single-family dwelling to a mixed commercial/residential use or office/residential use shall be subject to approval as a special use under the provisions of section 20-127.
- (21) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 12.1, 6-5-89; Ord. No. 176, § 1, 6-4-01; Ord. No. 217, § 19, 7-7-08; Ord. No. 225, § 18, 2-1-10)

Sec. 20-343. - Uses subject to a special use permit.

The following uses shall be subject to a special use permit:

- (1) Drive-in restaurants subject to subsection 20-601(2).
- (2) Car wash establishments subject to subsection 20-601(6).
- (3) Open-air businesses subject to subsection 20-601(5).
- (4) Medical or dental clinics.
- (5) Hotels, motels, motor courts subject to subsection 20-601(1).
- (6) Adult businesses as defined below and subject to the conditions and requirements described below:
  - a. *Definitions.*

*Adult business* shall include an adult bookstore, adult video store, adult motion picture theater, adult cabaret, massage parlor, nude model studio and a sexually oriented business.

*Adult bookstore* and adult video store, mean a business with a substantial portion of its inventory, or floor space displaying inventory, characterized by an emphasis on the depiction, description, or display of specified anatomical areas or specified sexual activities in books, magazines, pictures, photographs, videos, movies, cassettes, discs, or other media that is offered for sale, rental, or viewing on site for any form of payment.

"Substantial portion" means thirty (30) percent or more.

*Adult motion picture theatre* means a business which, as one (1) of its principal business purposes, regularly offers viewing on the premises to customers for any form of payment, movies, videos or motion pictures characterized by an emphasis on the display or depiction of specified anatomical areas or specified sexual activities.

*Adult cabaret* means a business which, as one of its principal business purposes, regularly offers viewing on the premises to customers, for any form of payment, live performances characterized by an emphasis on the display or depiction of specified anatomical areas or specified sexual activities.

*Massage parlor* means any establishment having a fixed place of business where massages are administered solely or in combination with any other services or activity for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include the following:

1. A hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the state;
2. Establishments where massage is provided only by persons who have successfully completed not less than five hundred (500) hours of training from a recognized school or state-accredited college or university or have been approved by the National Certification Board for Therapeutic Massage and bodywork or are certified as a massage therapist by the American Massage Therapy Association;
3. Barber shops, beauty salons, athletic facilities or separate service establishments where massages are administered only to the scalp, the face, the neck, the feet, the legs below the buttocks and below the genitals and pubic area, the arms, hands and shoulders, or to the back above the waist; or
4. Nonprofit organizations operating a community center, swimming pool or tennis court or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.

*Nude model studio* means a business which, as one of its principal business purposes, regularly offers for viewing on the premises by customers, live models who display specified anatomical areas or specified sexual activities, for any form of payment.

*Sexually oriented business* means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theatre, nude model studio, or any other business offering services which feature or relate to the display of specified anatomical areas or specified sexual activities, or the sale or rental of products or merchandise a substantial portion of which products or merchandise feature or relate to the display of specified anatomical areas or specified sexual activities. "Substantial portion" means thirty (30) percent or more and does not include birth control or disease prevention products.

*Specified anatomical areas* means:

1. Less than completely and opaquely covered:
  - A. Human genitals, pubic region or pubic hair;
  - B. Anus or buttock; and
  - C. Any portion of the female breast that includes the nipple or areola; or
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

*Specified sexual activities* means:

1. The fondling or other erotic touching of human genitals, pubic region, anus, buttock or female breast;
2. Acts of human masturbation, sexual intercourse, oral-genital sex, or sodomy;

3. Human excretory functions or violent acts upon humans as part of any of the sexual activities described above.
- b. *Conditions and requirements.*
1. No adult business shall be located within one thousand (1,000) feet of any other adult business. The distance between two (2) adult businesses shall be measured along the center line of the street or streets of address between two (2) fixed points on the center line determined by projecting straight lines, at right angles to the center line, from that part of the building of each adult business nearest to the other.
  2. No adult business shall be located within three hundred (300) feet of any residential district (not including the PERC district), any single- or multi-family residence, any church or place of worship, school (public or private), or licensed day care center, nor within one thousand (1,000) feet of any park or playground, as measured along a line forming the shortest distance between any portion or the parcel of proposed adult business and the boundary line of the residential zoning district or the parcel of any single- or multi-family residence, church or place of worship, school (public or private), licensed day care center; park, or playground.
  3. No adult business shall be combined with any other adult business.
  4. No adult business shall be operated in connection with, adjoining, or in any premises licensed or subject to licensing by the state liquor control commission.
  5. Every adult business shall have unscreened off-street parking in front or on the side of the building, with the front being the side closest to the public road by which access is obtained. Off-street parking shall be adequately illuminated from dusk until one hour after closing with a lighting system that provides an average horizontal illumination of one foot-candle of light on all parking surfaces and/or walkways.
  6. Signs and window displays shall be without any example or depiction of specified anatomical areas or specified sexual activities.
- c. *Waiver of distance requirement.* The City Council may waive the distance requirements in (6)b.1 and 2 above if it finds the following conditions exist:
1. The proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed.
  2. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a detrimental effect upon other businesses and residents, and a disruption in neighborhood development.
- d. *Public nudity; nudity in certain businesses.* Adult businesses as special uses in this section 20-343 are subject to and limited by the prohibitions against public nudity in section 12-264 and nudity in businesses licensed by the state liquor control commission.
- (7) Conversions of an existing single-family dwelling to a mixed commercial/residential use or to a mixed office/residential use.
  - (8) Open dance hall.
  - (9) Cabaret (except a cabaret defined as an adult cabaret in (6)a above) providing live or projected entertainment where alcoholic liquors may or may not be sold for consumption on the premises. Projected entertainment shall not include standard television screens.
  - (10) Child care centers and day care centers subject to subsection 20-601(3).
  - (11) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements

containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 12.2, 6-5-89; Ord. No. 176, § 2, 6-4-01; Ord. No. 199, § 2, 4-18-05; Ord. No. 211, § 12, 2-5-07; Ord. No. 217, § 20, 7-7-08; Ord. No. 225, § 19, 2-1-10)

Sec. 20-344. - Site plan review.

For all permitted uses and uses subject to a special use permit a site plan shall be submitted in accordance with sections 20-116 through 20-126.

(Ord. No. 123, § 12.3, 6-5-89; Ord. No. 217, § 21, 7-7-08)

Sec. 20-345. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 12.4, 6-5-89)

Sec. 20-346. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 9, 1-2-07)

Sec. 20-347. - Landscaping, screening and buffers.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable.

(Ord. No. 217, § 22, 7-7-08)

Secs. 20-348—20-370. - Reserved.

## ARTICLE XII. - CBD CENTRAL BUSINESS DISTRICT

Sec. 20-371. - Purpose.

The CBD central business district is intended to permit a variety of commercial, administrative, financial, civic, cultural, residential, entertainment and recreational uses in an effort to provide the harmonious mix of activities necessary to further enhance the central business district as a commercial and service center.

(Ord. No. 123, § 13.0, 6-5-89)

Sec. 20-372. - Principal permitted uses.

In the CBD business district, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- (1) Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building.



- (2) Personal service establishments, including health spas, gymnasiums, barber and beauty shops.
- (3) Financial institutions, including drive-thru facilities.
- (4) Restaurants and taverns including sidewalk and outdoor cafes but not including drive-in restaurants.
- (5) General and professional offices not including medical and dental clinics.
- (6) Museums and art galleries.
- (7) Business office and repair facilities.
- (8) Custom craft shops.
- (9) Combined retail-wholesale business when conducted entirely within a building.
- (10) Publicly owned buildings including government facilities.
- (11) Theaters and concert halls.
- (12) Mixed use establishments, i.e. commercial and residential uses combined in one (1) structure.
- (13) Funeral parlors and mortuaries.
- (14) Other uses which are similar to the above and subject to the following restrictions:
  - a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.
  - b. All business, servicing or processing except for off-street parking or loading shall be conducted within completely enclosed buildings.
  - c. Storage of commodities shall be within buildings and shall not be visible to the public from a street or thoroughfare.
- (15) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (16) Off-street parking lots and structures, the requirements shall be in accordance with the requirements of section 20-81.
- (17) Outdoor trash containers or dumpsters subject to section 20-87.
- (18) Single-family homes erected prior to the effective date of this subsection (18) subject to the following provisions:
  - a. Additions to or the repair or reconstruction of such structures shall be governed by all general regulations pertaining to single-family dwellings and to the height, bulk, density and area standards pertaining to single-family homes located in the R-2 district.
  - b. Any lot or parcel being used for a single-family dwelling as of the effective date of this subsection (18) which by fire, wind, act of God or the public enemy, is made vacant, or which dwelling is destroyed or damaged, shall remain eligible to be used for a single-family dwelling that is repaired or rebuilt.
  - c. Conversion of an existing single-family dwelling to a two- or three-family dwelling (within the existing structure) shall be subject to the provisions of section 20-626.
  - d. Conversion of an existing single-family dwelling to a mixed commercial/residential use or office/residential use shall be subject to approval as a special use under the provisions of section 20-127.
- (19) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 13.1, 6-5-89; Ord. No. 173, § 1, 9-5-00; Ord. No. 225, § 20, 2-1-10)

Sec. 20-373. - Uses subject to special use permit.

The following shall be subject to a special use permit:

- (1) Housing for the elderly, subject to subsection 20-601(7).
- (2) Sales of new and used cars, boats, campers, and other recreational vehicles subject to subsection 20-601(24).
- (3) Veterinary hospitals and clinics subject to subsection 20-601(20).
- (4) Gasoline service stations and filling stations subject to subsection 20-601(16).
- (5) Churches subject to subsection 20-601(19).
- (6) Hotels, motels, motor courts subject to subsection 20-601(1).
- (7) Conversion of an existing single family dwelling to a mixed commercial/residential use or to a mixed office/residential use.
- (8) Child care centers and day care centers subject to subsection 20-601(3).
- (9) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 13.2, 6-5-89; Ord. No. 173, § 2, 9-5-00; Ord. No. 211, § 13, 2-5-07; Ord. No. 217, § 23, 7-7-08; Ord. No. 225, § 21, 2-1-10)

Sec. 20-374. - Site plan approval.

For permitted uses and uses subject to special use permit a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 13.3, 6-5-89)

Sec. 20-375. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements, unless otherwise specified, are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 13.4, 6-5-89)

Sec. 20-376. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 10, 1-2-07)

Sec. 20-377. - Landscaping, screening and buffers.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable.

(Ord. No. 217, § 24, 7-7-08)

Secs. 20-378—20-400. - Reserved.

ARTICLE XIII. - P PARKING DISTRICT

Sec. 20-401. - Purpose.

The P zoning district is intended to provide vehicular parking facilities that are associated with business or industrial districts. Such facilities are effective as buffer zones between such districts and residential districts.

(Ord. No. 123, § 14.0, 6-5-89)

Sec. 20-402. - Principal permitted uses.

In the P district, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- (1) Premises in this district shall be used only for vehicular parking areas subject to all regulations hereinafter provided.

(Ord. No. 123, § 14.1, 6-5-89)

Sec. 20-403. - Limitation of use.

- (a) Parking area shall be used for parking or storage of private passenger vehicles only.
- (b) Parking may be with or without charge.
- (c) No business involving the repair or services to vehicles permitted thereon or sale, or other storage, or display thereof, shall be conducted from or upon such premises.
- (d) All P districts shall be contiguous to a business district or industrial district; provided, however, that there may be a private drive, public alley or public street between such P district and such business or industrial district.
- (e) No sign shall be erected or placed on the premises except that not more than one (1) directional sign at each point of ingress and egress may be erected or placed. Such signs may also contain information on price and duration and shall not exceed twelve (12) square feet in area nor fifteen (15) feet in height.
- (f) Construction lighting and screening requirements shall be in accordance with section 20-81.
- (g) All parking areas shall accommodate surface parking only; no parking structures may be permitted.
- (h) Every such parking area shall be surfaced with an asphalt, concrete or similar durable and dustless surface, and shall be graded and drained to dispose of all surface water to the nearest adjoining street and away from the adjoining street and away from adjoining properties.

(Ord. No. 123, § 14.2, 6-5-89)

Sec. 20-404. - Permitted uses subject to a special use permit.

- (a) Single-family dwellings.
- (b) Two-family dwellings.

(Ord. No. 123, § 14.3, 6-5-89)

Sec. 20-405. - Site plan approval.

For permitted use and use subject to a special use permit, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 14.4, 6-5-89)

Sec. 20-406. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 14.5, 6-5-89)

Sec. 20-407. - Landscaping, screening and buffers.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers as applicable.

(Ord. No. 217, § 25, 7-7-08)

Secs. 20-408—20-430. - Reserved.

#### ARTICLE XIV. - RO RESTRICTED OFFICE DISTRICT

Sec. 20-431. - Purpose.

This RO restricted office zoning district is intended to accommodate various types of office uses performing administrative, professional and personal services. These uses can serve as a transitional use between more intensive land uses such as commercial districts or major thoroughfares and less intensive land uses such as single- and two-family districts. It is also intended to allow for uses which do not generate large volumes of traffic, traffic congestion or parking problems.

(Ord. No. 123, § 15.0, 6-5-89)

Sec. 20-432. - Principal permitted uses.

In the RO district, no uses shall be permitted unless otherwise provided in this chapter except the following:

- (1) Office buildings and uses when goods or wares are not commercially created, exchanged or sold.
- (2) Public buildings and uses; public utility buildings but not including storage yards.
- (3) Business and private schools operated for a profit completely within an enclosed building.
- (4) Photographic studios.
- (5) Funeral homes.
- (6) Insurance offices, brokerage houses and real estate offices.
- (7) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (8) Off-street parking and loading in accordance with the requirements of Sec. 20-81.
- (9) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 15.1, 6-5-89; Ord. No. 225, § 22, 2-1-10)

Sec. 20-433. - Uses subject to special use permit.

The following shall be subject to a special use permit:

- (1) Office complexes (two (2) or more structures).

- (2) Medical and dental clinics.
- (3) Pharmacy or apothecary shops; stores limited to corrective garments or bandages, optical stores or restaurants; provided, however, they are located within the building to which they are an accessory and do not have a direct outside entrance for customer use.
- (4) Private service clubs, fraternal organizations and lodge halls subject to subsection 20-601(12).
- (5) Child care centers and day care centers subject to subsection 20-601(3).
- (6) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 15.2, 6-5-89; Ord. No. 211, § 14, 2-5-07; Ord. No. 217, § 26, 7-7-08; Ord. No. 225, § 23, 2-1-10)

#### Sec. 20-434. - Site plan approval.

For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 15.3, 6-5-89)

#### Sec. 20-435. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 15.4, 6-5-89)

#### Sec. 20-436. - Signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 209, § 11, 1-2-07)

#### Sec. 20-437. - Landscaping, screening and buffers.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable.

(Ord. No. 217, § 27, 7-7-08)

#### Secs. 20-438—20-460. - Reserved.

### ARTICLE XV. - I-1 LIGHT INDUSTRIAL DISTRICT

#### Sec. 20-461. - Purpose.

The purpose of the I-1 district is to establish a zone where designated industrial and commercial businesses may locate and intermingle, which produce a minimum amount of adverse effect on adjoining premises, are compatible with one another, and do not require large land or building areas for operation nor large yard areas for isolation or protection from adjoining premises or activities.

(Ord. No. 123, § 16.0, 6-5-89)

Sec. 20-462. - Principal permitted uses.

In the I-1 district, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

- (1) Wholesale and warehousing. The sale at wholesale or warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, paper and paper products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this district, and truck terminals.
- (2) Testing and research laboratories.
- (3) Tool and die shops.
- (4) Facilities for the printing or forming of box, carton and cardboard products.
- (5) Electric transformer stations and substations, electric transmission towers, municipal buildings and uses, gas regulators and municipal utility pumping stations.
- (6) Indoor tennis, paddleball or racquetball courts.
- (7) Bakeries.
- (8) Cold storage plants.
- (9) Bottling works, including milk bottling or distribution stations.
- (10) Tin shops or plumbing supply shops.
- (11) Coal or building materials storage yards.
- (12) Kennels.
- (13) Veterinary hospital or clinics.
- (14) Contractors' storage yards.
- (15) Radio and television towers.
- (16) Automobile storage and parking.
- (17) Accessory buildings and uses customarily incidental to the above principal permitted uses.
- (18) Off-street parking in accordance with section 20-81.
- (19) Outdoor trash containers or dumpsters subject to section 20-87.
- (20) Welding shops.
- (21) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 16.1, 6-5-89; Ord. No. 155, § 1, 7-7-97; Ord. No. 217, § 28, 7-7-08; Ord. No. 225, § 24, 2-1-10)

Sec. 20-463. - Permitted uses subject to a special use permit.

The following shall be subject to a special use permit:

- (1) Outdoor auctions subject to subsection 20-601(25).
- (2) Public garage, motor vehicle repair shop, automobile point and bump shop or car washing establishments.
- (3) Windmill towers.

- (4) Junk yards/salvage yards.
- (5) Undercoating and rust proofing shops.
- (6) Auto body, auto paint shops.
- (7) Child care centers and day care centers subject to subsection 20-601(3).
- (8) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 123, § 16.2, 6-5-89; Ord. No. 155, § 2, 7-7-97; Ord. No. 211, § 15, 2-5-07; Ord. No. 217, § 29, 7-7-08; Ord. No. 225, § 25, 2-1-10)

Sec. 20-464. - Compliance with county and state regulations.

Any use permitted in the I-1 district must comply with applicable county and state health and pollution laws and federal regulations.

(Ord. No. 123, § 16.3, 6-5-89)

Sec. 20-465. - Site plan review.

For permitted use and use subject to a special use permit, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 123, § 16.4, 6-5-89)

Sec. 20-466. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirement unless otherwise specified are as provided in article XVII, schedule of regulations.

(Ord. No. 123, § 16.5, 6-5-89)

Sec. 20-467. - Off-street parking and loading, deferred parking space.

The parking and loading provisions as provided in section 20-81, off-street parking and loading shall apply. To avoid unnecessary parking space construction while still ensuring site adequacy for potential changes in the use of a building or premises, the planning commission may, at the time of site plan approval, defer construction of the required number of parking spaces for industrial or office uses. Deferred parking may be granted if the following conditions are satisfied.

- (1) An application is filed with the site plan of the entire project showing the design and layout of all required parking areas including areas proposed for deferred parking. The design of the parking area, as indicated on the development plan shall include sufficient space to provide for the total parking area as required by section 20-81 off-street parking and loading.
- (2) The area designated for deferred parking shall not include areas required for front, side or rear yards, buffer yards or land otherwise unsuitable for parking due to environmental or physical conditions.

The planning commission may impose reasonably necessary conditions to protect the public interest and may require the posting of security to assure completion of related or future improvements required as conditions of deferred parking plan approval. Subsequent to the implementation of a deferred parking plan, the planning commission may, based on review of parking needs and a recommendation by the zoning administrator, require the construction of additional parking spaces as otherwise required in section 20-81.

(Ord. No. 192, art. III, 6-2-03)

Sec. 20-468. - Building facade materials.

The fronts and sides of industrial buildings facing streets shall be finished with face brick, glass, dryvit, textured or fluted cement block or stone. A minimum building wall offset of twenty-five (25) feet will be used to distinguish the length of the front or side of the building not subject to the finished material requirement. In recognition of developing technologies in building materials, the planning commission may approve other materials including, but not limited to, decorative metal panels, in consideration of the following standards:

- (1) Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image.
- (2) Relative scale of the building in terms of height and area.
- (3) The extent to which the building is setback from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.
- (4) Appeals of facade determinations may be taken, in writing, within ten (10) days of the determination of the zoning administrator. Such appeals shall be made to a review committee comprised of two (2) planning commissioners and an industrial developer/owner (other than the appellant) who shall use the same review standards. Parties aggrieved by a decision of the review committee may appeal, in writing, within ten (10) days of the review committee decision to the planning commission. The planning commission decision regarding such appeal shall be final.

(Ord. No. 192, art. III, 6-2-03)

Sec. 20-469. - General landscaping, lighting and screening.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable. Lighting shall be installed as applicable under the provisions of section 20-84.

(Ord. No. 192, art. III, 6-2-03; Ord. No. 217, § 30, 7-7-08)

Sec. 20-470. - Open storage.

All outdoor storage for fuel, raw materials and products associated with the industrial uses permitted herein shall be located not closer than one hundred (100) feet from a street right of way line. The storage of any combustible material such as lumber or fuel shall not be less than twenty (20) feet from an interior lot line. All open storage shall be screened from all streets and property lines by a solid six-foot fence or other combination of walls, fencing, and planted vegetation having similar screening affect.

(Ord. No. 192, art. III, 6-2-03)

Sec. 20-471. - Permitted signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 192, art. III, 6-2-03; Ord. No. 209, § 12, 1-2-07)

Secs. 20-472—20-490. - Reserved.



## ARTICLE XVI. - I-2 PLANNED INDUSTRIAL DISTRICT

*Footnotes:*

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**Editor's note**— Ord. No. 155, § 3, adopted July 7, 1997, amended art. XVI in its entirety, in effect repealing §§ 20-491—20-497 and enacting similar new provisions in lieu thereof as §§ 20-491—20-507. Formerly, such provisions derived from §§ 17.0—17.6 of Ord. No. 123, adopted June 5, 1989.

## Sec. 20-491. - Purpose.

The purpose of the I-2 planned industrial district is to establish a zoning district where a more select category of industrial and business uses may locate in an industrial park or an industrial park-like setting. The regulations have been established to provide a positive operating environment for industry, protected from encroachment of commercial and five residential uses and incompatible industries, while at the same time reducing to a minimum industries' impact on surrounding non-industrial uses.

(Ord. No. 155, § 3, 7-7-97)

## Sec. 20-492. - Principal permitted uses.

In the I-2 district, only the following uses may be permitted unless otherwise provided in this article:

- (1) Manufacture, extrusion compounding, processing, packaging, treating and assembling from previously prepared materials in the production of:
  - a. Food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionery, beverage and kindred foods.
  - b. Textile mill products including woven fabric, knit goods, dyeing, and finishing, floor coverings, yarn and thread and other textile goods.
  - c. Apparel and other finished products made from fabrics, leather goods, fur, canvas and similar materials.
  - d. Wood products including millwork, prefabricated structural wood products and containers.
  - e. Furniture and fixtures.
  - f. Paperboard containers, building paper, building board and bookbinding.
  - g. Printing and publishing.
  - h. Chemical products such as plastics, perfumes, synthetic fibers.
    - i. Engineering, measuring, optic, medical, lenses, photographic and similar instruments.
    - j. Jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, signs and displays, lampshades and similar manufacturing.
  - k. Electronic equipment.
    - l. Automobiles, automobile and equipment parts and accessories.
  - m. Heating, cooling and electrical systems and components, including sheet metal work.
- (2) Dry cleaning and laundry plants.
- (3) Wholesale establishments including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.

- (4) Warehouses, cartage businesses.
- (5) Laboratories including experimental, film and testing.
- (6) Municipal buildings, public service buildings.
- (7) Tool and die manufacturing and machine shops.
- (8) Electrical substations, electrical switching stations, electrical transmission lines, and pressure control stations or substations for gas, water and sewage.
- (9) Office buildings for any of the following: executive, administrative, professional, accounting, clerical or stenographic, and drafting.
- (10) Accessory buildings and uses customarily incidental to the above permitted uses.
- (11) Radio and television towers (see sections 20-640 through 20-648).
- (12) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 155, § 3, 7-7-97; Ord. No. 217, § 31, 7-7-08; Ord. No. 225, § 26, 2-1-10)

Sec. 20-493. - Permitted uses subject to a special use permit.

The following shall be subject to a special use permit:

- (1) Financial institutions (banks, savings and loans or credit unions).
- (2) Retail sales of goods where such sale is clearly incidental and accessory to the primary use and where the area devoted to retail sales does not exceed five percent (5%) of the total floor area or two thousand (2,000) square feet (whichever is greater).
- (3) Outdoor auctions subject to subsection 20-601(25).
- (4) Municipal sewage treatment plants.
- (5) Child care centers where such use is clearly incidental and accessory to the primary use. Freestanding child care centers.
- (6) Uses similar to those listed in Sec. 20-462 as determined by the planning commission.
- (7) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 155, § 3, 7-7-97; Ord. No. 195, § 1, 6-21-04; Ord. No. 211, § 16, 2-5-07; Ord. No. 217, § 32, 7-7-08; Ord. No. 225, § 27, 2-1-10)

Sec. 20-494. - Uses prohibited.

The following uses are expressly prohibited in the I-2 district.

- (1) Fuel, petroleum or waste oil storage yards.
- (2) Contractors and building materials storage yards.
- (3) Grist mills, saw mills.
- (4) Lumberyards unless authorized as a special use in association with a builders supply and home improvement store on property having direct frontage on U.S. 131 (ref. section 20-494 (g)).
- (5) Stock yards.
- (6) Stonework and cement or asphalt plants.

(7) Junk yards/salvage yards.

(8) Auto body and auto paint and repair facilities.

(Ord. No. 155, § 3, 7-7-97; Ord. No. 195, § 2, 6-21-04)

Sec. 20-495. - Site plan review.

For permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with section 20-116. Adherence to the soil erosion and sedimentation permitting requirements of Allegan County amid all other applicable county, state and federal environmental protection standards enforced by agencies other than the city shall be incorporated into such plans. Evidence of conformity with such standards and approval by the agency having jurisdiction shall be required in order to obtain final, unconditional site plan approval from the City.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-496. - Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements are as provided below unless otherwise specified.

- (1) *Minimum lot size*: Eighty thousand (80,000) square feet.
- (2) *Minimum lot width*: Two hundred (200) feet as measured at the street right-of-way line or in the case of a cul-de-sac or curved streets, at the nearest point of building setback. In any case, the required minimum lot width shall be provided within one hundred fifty (150) feet of the street right-of-way and shall be maintained throughout the remainder of the lot's depth. Corner lots shall have the minimum required frontage on both streets.
- (3) *Lot depth to width*: The maximum ratio of lot depth to lot width shall be three and one-quarter (3.25) feet of lot depth for each one foot of lot width.
- (4) *Maximum building and structure height*: Fifty (50) feet or three (3) stories, whichever is the lesser amount (Ref. section 20-79(e) for exceptions).
- (5) *Minimum front yard setback*: One hundred (100) feet. On a corner lot, each lot line which abuts a public or private street shall be deemed to be a front lot line. Notwithstanding, the corner lot provisions of section 20-80(c), corner lots in this district shall be deemed to have frontage on a major street and a side street, as declared by the planning commission at the time of site plan approval. The minimum front yard setback along a major street shall be one hundred (100) feet. The minimum front yard setback for buildings along a minor street shall be fifty (50) feet. All other front yard requirements and limitations as contained or referenced herein shall apply to both front yard areas.
- (6) *Minimum sideyard*: Thirty (30) feet, sixty (60) feet (total of two).
- (7) *Minimum rearyard setback*: Thirty (30) feet.
- (8) *Maximum lot coverage*: The maximum building coverage for any lot shall be fifty (50) percent, consisting of one principal building and customary accessory buildings.
- (9) *Bufferyards*. Each use permitted on a lot or parcel located in a I-2 district shall provide a bufferyard within each front, side and rear yard. The bufferyard shall begin at the right-of-way line in the case of front yards and the side and rear property lines in the case of side and rear yards. Bufferyards shall be landscaped and maintained in accordance with the standards and guidelines contained in article XVII, division 2, landscaping, screening and buffers as applicable.
- (10) *Fire lanes*: Fire lanes as may be required to meet fire code shall be located between the building wall and the

required buffer yards.

- (11) *Stormwater management:* Each site shall be developed with an enclosed stormwater collection system. On-site stormwater retention shall be required. All roof drains shall be connected to the enclosed stormwater collection system. When appropriate, site drainage will be allowed to connect to the city stormwater collection system as determined by the city engineer. All such facilities shall be designed to the specifications of the city and reviewed as part of site plan approval.

(Ord. No. 155, § 3, 7-7-97; Ord. No. 217, § 33, 7-7-08)

Sec. 20-497. - Off-street parking and loading.

The parking and loading provisions as provided in section 20-81, off-street parking and loading shall apply. Notwithstanding provisions to the contrary, all parking and loading areas in this district initially constructed, or added to, shall be paved with concrete or bituminous materials in accordance with an approved site plan.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-498. - Deferred parking space.

To avoid unnecessary parking space construction while still ensuring site adequacy for potential changes in the use of a building or premises, the planning commission may, at the time of site plan approval, defer construction of the required number of parking spaces for industrial or office uses. Deferred parking may be granted if the following conditions are satisfied.

- (1) An application is filed with the site plan of the entire project showing the design and layout of all required parking areas including areas proposed for deferred parking. The design of the parking area, as indicated on the development plan, shall include sufficient space to provide for the total parking area as required by section 20-81 off-street parking and loading.
- (2) The area designated for deferred parking shall not include areas required for front, side or rear yards, bufferyards or land otherwise unsuitable for parking due to environmental or physical conditions.

The planning commission may impose reasonably necessary conditions to protect the public interest and may require the posting of security to assure completion of related or future improvements required as conditions of deferred parking plan approval. Subsequent to the implementation of a deferred parking plan, the planning commission may, based on review of parking needs and a recommendation by the zoning administrator, require the construction of additional parking spaces as otherwise required in section 20-81.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-499. - Building materials.

All buildings shall be of masonry, precast concrete, or factory finished metal construction. All office facades facing a street shall be constructed of brick, stone, fluted block, glass or similar decorative material. At least twenty-five (25) percent of the total wall surface or balance of any wall facing a street, other than an office facade, shall be constructed of brick, stone, fluted block, glass or similar decorative material. Wood may be utilized for decorative and non-structural porticos, canopies and other attachments. All metal buildings shall be constructed to the minimum requirements established by the Metal Building Manufacturers Association, and all such buildings shall be adequately protected on the interior and exterior from damage by vehicles and operations. In recognition of developing technologies in building materials, the planning commission may approve other materials in consideration of the following standards:

- (1) Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image
- (2) Relative scale of the building in terms of height and area.
- (3) The extent to which the building is set back from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-500. - Landscaping—General.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable. Lighting shall be installed as applicable under the provisions of section 20-84.

(Ord. No. 155, § 3, 7-7-97; Ord. No. 217, § 34, 7-7-08)

Sec. 20-501. - Reserved.

**Editor's note**— Ord. No. 217, § 35, adopted July 7, 2008, amended the Code by repealing former § 20-501 in its entirety. Former § 20-501 pertained to minimum landscaping within required buffer yards, and derived from Ord. No. 155, adopted July 7, 1997.

Sec. 20-502. - Additional planting requirements.

- (a) For reasons of conflicting uses, unfavorable topography or other unique or extenuating physical circumstances the planning commission may increase required landscape plantings if an increase is found to be necessary to reasonably achieve screening and aesthetic objectives.
- (b) *Reductions and substitutions of plantings.* If a physical hardship exists or existing topography and vegetation provide equal or better landscape and buffering effect, the planning commission may approve modifications to require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with stated utilitarian and aesthetic objectives.
- (c) *Green space within the public right-of-way and private easements.* For the land area lying between the required buffer yard and the edge of pavement of a public or private street, the following standards shall apply.
  - (1) Grass or other living groundcover shall be neatly maintained and kept weed free by the owners of property abutting the public right-of-way or private easement.
  - (2) Trees within a public right-of-way shall not be planted without the written consent of the city.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-503. - Reserved.

**Editor's note**— Ord. No. 217, § 35, adopted July 7, 2008, amended the Code by repealing former § 20-503 in its entirety. Former § 20-503 pertained to open storage, and derived from Ord. No. 155, adopted July 7, 1997.

Sec. 20-504. - Required utilities.

All uses permitted in this district shall be required to be served by public water and sewer utilities.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-505. - Performance standards.

Before the issuance of any building or occupancy permit in the I-2 zone, the applicant shall sign an agreement that the use of the property will meet the following performance standards, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant.

- (1) *Fire and explosion hazards.* All activities shall be carried on only in buildings conforming to the building code, and the operation shall be carried on in such a manner and with such precaution against fire and explosion hazards as to produce no explosion hazards as determined by the state department of labor to a use on an adjacent property. Flammable liquids other than fuels used for heating shall be stored in an entirely closed building which shall be used for no other purpose, or in underground tanks provided:
  - a. Such storage building is not closer than one hundred (100) feet to any building occupied by one (1) or more humans.
  - b. Every factory or manufacturing building or other buildings permitted only in the industrial area shall be equipped with automatic sprinklers or other automatic fire extinguishers approved by the building inspector and the chief of the fire department as being sufficient in view of the nature and extent of the fire risk.
- (2) *Smoke, fumes, gases, dust, odors.* There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to create a public nuisance.
- (3) *Liquid or solid waste.* The discharge of untreated industrial waste into a reservoir, pond, lake or stream is prohibited. All methods of salvage and industrial waste treatment and disposal shall be approved by the city and state health departments. No effluent shall contain any acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors, or discolor, poison or otherwise pollute the stream in any way.
- (4) *Vibration.* There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.
- (5) *Noise.* There shall be no noise emanating from the operation which will be more audible beyond the boundaries of the immediate site than eighty (80) decibels.
- (6) *Glare.* There shall be no direct or sky-reflected glare exceeding one and one-half (1½) footcandles or which would be damaging to the human eye measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrances or exits of service drives leading to a parking lot.

(Ord. No. 155, § 3, 7-7-97)

Sec. 20-506. - Permitted signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 155, § 3, 7-7-97; Ord. No. 209, § 13, 1-2-07)

Sec. 20-507. - Reserved.

**Editor's note**— Ord. No. 217, § 35, adopted July 7, 2008, amended the Code by repealing former § 20-507 in its entirety. Former § 20-507 pertained to general lighting screening and fencing requirements, and derived from Ord. No. 155, adopted July 7, 1997.

Sec. 20-508. - Reserved.

## ARTICLE XVIB. - B-3 REGIONAL COMMERCIAL DISTRICT

## Sec. 20-509. - Purpose.

The purpose of the B-3 district is to establish a zoning district where regionally oriented retail and service business uses may locate to take advantage of good highway visibility and access and improved infrastructure and ample land area.

(Ord. No. 192, art. II, 6-2-03)

## Sec. 20-510. - Principal permitted uses.

In the B-3 district, no building or part thereof shall be erected or altered and no land or premises used in whole or in part except for one (1) or more of the following uses, unless otherwise provided for in this article.

Retail, and service uses provided that unless specified herein all business, service or processing shall be conducted wholly within a completely enclosed building.

- (1) Hotels and motels subject to the standards of subsection 20-601(1);
- (2) Lumberyards, builders supply, home improvement stores subject to the standards of subsection 20-601(22);
- (3) Theaters (excluding adult oriented);
- (4) Big box retail (e.g. value department stores, superstores, warehouse clubs; and wholesale centers);
- (5) Shopping centers;
- (6) Financial institutions (banks, savings and loans or credit unions);
- (7) Indoor sports and athletic facilities including racquet and fitness centers;
- (8) Municipal buildings, public service buildings;
- (9) Office buildings for any of the following: executive, administrative, professional, accounting, clerical or stenographic, and drafting, plumbing, roofing, heating contractors, decorators, upholsterers and similar establishments;
- (10) On-site-use wind energy systems having a height of sixty-five (65) feet or less and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 192, art. II, 6-2-03; Ord. No. 225, § 28, 2-1-10)

## Sec. 20-511. - Uses subject to special use permit.

The following shall be subject to a special use permit:

- (1) New and used car, truck, equipment, boat and RV sales and rental subject to the standards of subsection 20-601(24).
- (2) Outdoor sports and athletic facilities, outdoor amusement, exhibition and special event enterprises.
- (3) Uses similar to those listed in section 20-511 as determined by the planning commission.
- (4) Outdoor sales and display. Sales, Service, storage, display, assembly or processing associated with a permitted retail or service or other use that is to be conducted outside of a completely enclosed building, subject to applicable provisions of subsection 20-601(5).
- (5) Child care centers and day care centers subject to subsection 20-601(3).

(6) Outdoor auctions subject to subsection 20-601(25).

(7) Wind energy systems having a height of greater than sixty-five (65) feet on parcels or specialized easements containing at least one (1) acre and meeting the requirements of sections 20-650 through 20-654.

(Ord. No. 192, art. II, 6-2-03; Ord. No. 195, § 3, 6-21-04; Ord. No. 211, § 17, 2-5-07; Ord. No. 217, § 36, 7-7-08; Ord. No. 225, § 29, 2-1-10)

Sec. 20-512. - Site plan review.

For permitted uses and uses subject to approval as special uses, a site plan shall be submitted in accordance with section 20-116.

(Ord. No. 192, art. II, 6-2-03)

Sec. 20-513. - Area, height, bulk and replacement requirements.

Area, height, bulk and placement requirements are as provided below unless otherwise specified.

- (1) *Minimum lot size*: Eighty thousand (80,000) square feet.
- (2) *Minimum lot width*: Two hundred (200) feet as measured at the street right of way line or in the case of a cul-de-sac or curved streets, at the nearest point of building setback. In any case, the required minimum lot width shall be provided within one hundred fifty (150) feet of the street right of way and shall be maintained throughout the remainder of the lots depth. Corner lots shall have the minimum required frontage on both streets.
- (3) *Lot depth to width*: The maximum ratio of lot depth to lot width shall be three and one-quarter (3.25) feet of lot depth for each one (1) foot of lot width.
- (4) *Maximum building and structure height*: Fifty (50) feet or three (3) stories whichever is the lesser amount (Refer to subsection 20-79(e) for exceptions).
- (5) *Minimum front yard setback*: One hundred (100) feet. On a corner lot, each lot line, which abuts a public or private street, shall be deemed to be a front lot line. Notwithstanding, the corner lot provisions of subsection 20-80(c), corner lots in this district shall be deemed to have frontage on a major street and a side street, with each being declared by the planning commission at the time of site plan approval. The minimum front yard setback along a major street shall be one hundred (100) feet. The minimum front yard setback for buildings along a minor street shall be fifty (50) feet. All other front yard requirements and limitations as contained or referenced herein shall apply to both front yard areas.
- (6) *Minimum side yard*: Thirty (30) feet, sixty (60) feet (total of two (2)).
- (7) *Minimum rear yard setback*: Thirty (30) feet.
- (8) *Maximum lot coverage*: The maximum building coverage for any lot shall be fifty (50) percent, consisting of one (1) principal building and customary accessory buildings.
- (9) *Buffer yards*: Each use permitted on a lot or parcel located in a B-3 district shall provide a buffer yard within each front, side and rear yard. The buffer yards shall begin at the right-of-way line in the case of front yards and the side and rear property lines in the case of side and rear yards. Buffer yards shall be landscaped and maintained in accordance with the standards and guidelines contained in section 20-501. Buffer yards shall be required to run the entire length of the property line or street frontage except in areas providing necessary ingress and egress. For the purposes of this district, all yard area fronting on US-131 shall be comply with the buffer requirements applicable to front yard The width of required buffer yards are as follows:



- a. *Front yard*: Twenty-five (25) feet;
- b. *Side yard*: Ten (10) feet;
- c. *Rear yard*: Ten (10) feet;

(Ord. No. 192, art. II, 6-2-03)

Sec. 20-514. - Off-street parking and loading, deferred parking space.

The parking and loading provisions as provided in section 20-81, off-street parking and loading shall apply. To avoid unnecessary parking space construction while still ensuring site adequacy for potential changes in the use of a building or premises, the planning commission may, at the time of site plan approval, defer construction of the required number of parking spaces for retail and office uses. Deferred parking may be granted if the following conditions are satisfied:

- (1) An application is filed with the site plan of the entire project showing the design and layout of all required parking areas including areas proposed for deferred parking. The design of the parking area, as indicated on the development plan shall include sufficient space to provide for the total parking area as required by section 20-81, off-street parking and loading.
- (2) The area designated for deferred parking shall not include areas required for front, side or rear yards, buffer yards or land otherwise unsuitable for parking due to environmental or physical conditions.

The planning commission may impose reasonably necessary conditions to protect the public interest and may require the posting of security to assure completion of related or future improvements required as conditions of deferred parking plan approval. Subsequent to the implementation of a deferred parking plan, the planning commission may, based on review of parking needs and a recommendation by the zoning administrator, require the construction of additional parking spaces as otherwise required in section 20-81.

(Ord. No. 192, art. II, 6-2-03)

Sec. 20-515. - Building facade materials.

The fronts and sides of all buildings facing streets, including US 131, shall be finished with face brick, glass, dryvit, textured or fluted cement block or stone. A minimum building wall offset of 35 feet will be used to distinguish the length of the front or side of the building not subject to the finished material requirement. In recognition of developing technologies in building materials, the planning commission may approve other materials including, but not limited to, decorative metal panels, in consideration of the following standards:

- (1) Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image.
- (2) Relative scale of the building in terms of height and area.
- (3) The extent to which the building is setback from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.
- (4) Appeals of facade determinations may be taken, in writing, within ten (10) days of the determination of the zoning administrator. Such appeals shall be made to a review committee comprised of two (2) planning commissioners and an industrial developer/owner (other than the appellant) who shall use the same review standards. Parties aggrieved by a decision of the review committee may appeal, in writing, within ten (10) days of the review committee decision to the planning commission. The planning commission decision regarding such appeal shall be final.

(Ord. No. 192, art. II, 6-2-03)

Sec. 20-516. - General landscaping, lighting and screening.

Landscaping, screening and buffers shall be provided as regulated in article XVII, division 2, landscaping, screening and buffers, as applicable. Lighting shall be installed as applicable under the provisions of section 20-84.

(Ord. No. 192, art. II, 6-2-03; Ord. No. 217, § 37, 7-7-08)

Sec. 20-517. - Permitted signs.

Signs shall be as regulated in article XIX, as applicable.

(Ord. No. 192, art. II, 6-2-03; Ord. No. 209, § 14, 1-2-07)

#### ARTICLE XVIC. - RIPARIAN AREA PROTECTION OVERLAY ZONE

*Footnotes:*

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**Editor's note**— Ord. No. 205, § 1, adopted May 15, 2006, amended the Code with the addition of article XVIC, sections 20-518—20-523. In order to avoid duplication of section numbers, the provisions of said ordinance have been included herein as article XVIC, sections 20-518—20-520.3, at the discretion of the editor.

Sec. 20-518. - Intent and purpose.

The standards contained in this article govern the use and alteration of land within a specified distance of the Rabbit River, in order to accomplish the following objectives:

- (1) Implement the water quality protection, environmental protection and rural character protection goals and policies of the city's future land use plan.
- (2) Achieve the city's resource protection and community character goals in a manner that is reasonable and sensitive to local conditions and concerns of property owners.
- (3) Protect water quality and habitat quality in the Rabbit River and thereby protect the public health, safety and general welfare, by encouraging filtering of storm water runoff through natural vegetative buffers along river corridor, and by encouraging and protecting vegetative cover along the river banks to shade the river, thereby maintaining lower water temperatures and high-quality river habitat.
- (4) Maintain the integrity and stability of river banks and protect river banks against erosion, by providing for effective vegetative buffers adjacent to the river corridor, and by prohibiting excavation, vegetative clearing and building activities within a specified distance from the river banks.
- (5) Protect the natural character and appearance of the river corridor, which contributes to the valued natural character of the community, its quality of life and its property values.
- (6) Permit and encourage property owners to enhance native vegetation along river corridor within the city.

(Ord. No. 205, § 1, 5-15-06)

Sec. 20-519. - Applicability and administrative action.

- (a) *Applicability*. Except as provided in subsection (2) below the standards contained in this section shall be applicable to

all land in the city which is located within specified distances adjacent to the Rabbit River identified on the map titled "Riparian Areas Protection Overlay Map," and the official zoning map of the city which are attached to the ordinance from which this article is derived and made a part of this article, and copies of which are on file in the office of the city clerk.

- (b) *Exemptions.* The development standards of this article as specifically contained in sections 20-520.1 and 20-520.2 shall not be applicable to:
- (1) Any lot within a subdivision which was a platted subdivision of record within the city on or before June 5, 2006.
  - (2) Agricultural operations that are conducted in conformance with the best management practices (BMPs) as defined and prescribed by the state department of agriculture under Michigan Right to Farm Act, Public Act 93 of 1981, as amended.
  - (3) Forestry operations that are conducted in conformance with generally accepted forestry management practices (GAFMPa) as defined and prescribed by the state department of natural resources under the Right to Forest Act, Public Act 676 of 2002. The following practices shall not be considered exempt by this ordinance and shall be prohibited within the riparian areas protection zone and unless the activity is specifically addressed by guidelines within a forest management plan prepared by a forestry professional and/or the activity is a GAFMP officially recognized by the MDNR and approved by natural resources commission of the state:
    - a. Cutting stream bank trees.
    - b. Unnecessary access roads and skid trails.
    - c. Cording and sacking of wood.
    - d. Excessive soil compaction and rutting by tree harvesting equipment.
    - e. Removal of ground cover or under story vegetation.
    - f. Felling trees into the streambed or leaving logging debris in the stream.
    - g. Servicing or refueling equipment.
    - h. Mechanical site preparation and site preparation burning.
    - i. Mechanical tree planting.
    - j. Broadcast application of pesticides or fertilizers.
    - k. Handling, mixing, or storing toxic or hazardous materials (fuels, lubricants, solvents, pesticides, or fertilizers).
  - (4) All activities that are authorized in a permit issued by the state DEQ pursuant to parts 31, 301, 303 or 315 of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended.
- (c) *Administrative action.* The decision on any application for a zoning approval or a permit for an activity on property subject to the riparian area protection standards of this article shall be made by the zoning administrator.

(Ord. No. 205, § 1, 5-15-06)

Sec. 20-520. - Overlay sub-areas; natural vegetation zones and transition zones; definition; intent and delineation.

- (a) *Definition and intent.* The land area subject to the riparian area overlay protection standards of this section shall be comprised of two (2) subarea zones. The definitions and intended purposes of each of these subareas are as follow:
- (1) *Natural vegetation zone.* The natural vegetation zone includes all lands located within thirty-five (35) feet of the ordinary high water mark of the river. The natural vegetation zone is intended to provide a functional vegetative corridor along the edge of a river, to protect the water quality, animal habitat and aesthetic values of the river by

minimizing erosion, stabilizing the bank, minimizing nutrient flows into the water, shading the water to maintain low water temperatures, and screening man-made structures.

(2) *Transition zone.* The "transition zone," extends for width of fifteen (15) feet beyond the edge of the natural vegetation zone. The transition zone is intended to provide distance between upland development and the natural vegetation zone where some restriction remains necessary to protect water quality, habitat and integrity of the adjacent stream.

(b) *Delineation of sub-area zones.* The limits of the "natural vegetation zone" as used and defined in this article shall be accurately shown on all site plans, land division plans, subdivision plans (plats), site condominium plans, plans for planned unit developments, and all applications for building permits submitted for review by the city. Any such plans for sites on which is located any protected riparian area subject to these regulations shall include the following statement: "There shall be no clearing, grading, earth change, placement of fill, construction or disturbance of vegetation within the area labeled as being subject to the riparian area protection standards of the City of Wayland zoning regulations, except as permitted by Article XVIC thereof."

(Ord. No. 205, § 1, 5-15-06)

Sec. 20-520.1. - Development standards within the natural vegetation zone.

Land located within the natural vegetation zone shall be subject to the following development standards:

- (1) No dwelling unit or other principal building and no accessory building may be constructed within the natural vegetation zone. The following structures may be permitted:
  - a. Flood control or bank protection structures permitted or constructed by authorized state or federal agencies.
  - b. Pedestrian or vehicular bridges when designed and constructed in a manner that minimizes impact on the river.
  - c. Boardwalk access to wetlands constructed in accordance with a permit issued by the state department of environmental quality.
  - d. One (1) pump house per lot housing a pump used for irrigation when located at least fifteen (15) feet landward from the high water mark, having ground coverage of not more than nine (9) square feet.
  - e. Not more than one fishing pier or boat dock per lot or building site, not exceeding ten (10) feet in width and ten (10) feet in length, projecting no more than six (6) feet over the water as measured from the waters edge, unless otherwise regulated by this ordinance or other local or state statute.
- (2) On-site sanitary waste treatment systems are prohibited within the natural vegetation zone
- (3) The area within the natural vegetation zone shall be kept in a predominantly natural condition. Clearing or removal of existing trees shrubs and groundcover shall be limited to the following:
  - a. Removal of isolated diseased or dead trees and damaged trees that are in an unstable condition and that pose a safety hazard. The stumps and root structures of removed trees shall be left in place.
  - b. Removal of noxious plants and shrubs, including poison ivy, poison sumac and poison oak and other plants regarded as common nuisance in section 2, Public Act 359 of 1941 as amended and species that are recognized as highly invasive, as contained on a "List of Invasive Species" maintained on file in the office of the city clerk. (Note: This list will be initially prepared and periodically updated with the help of DEQ and Allegan County conservation district.)
  - c. Planting of native species that are contained on a "List of Native Species" maintained on file in the office of the city clerk is permitted. (Note: This list will be initially prepared and periodically updated with the help of

DEQ and Allegan County conservation district.)

- d. Limited removal of vegetation in order to provide a filtered view of the river from adjacent property and to provide reasonable private access to the river. The term "filtered view" connotes the maintenance or establishment of woody vegetation of sufficient density to screen the river from adjacent property, to provide for bank stabilization and erosion control and to serve as an aid to infiltration of surface runoff. The vegetation need not be so dense as to completely block the view of the river. To that end the following standards shall apply:
1. Sufficient live root system and vegetation must be retained to provide for bank stabilization and erosion control, to encourage infiltration of runoff, and to provide shading of the water surface.
  2. Existing vegetation between a height of three (3) feet above the ground and the ground surface shall remain undisturbed and in a natural condition except as otherwise provided for herein.
  3. Select pruning and removal of vegetation above a height of three (3) feet shall be permitted to harvest merchantable timber.
  4. Existing vegetation may be removed and/or managed, including maintaining a turf lawn, in an area with a maximum width of fifteen (15) feet to and ten (10) feet along one (1) or both sides of the river. Within this corridor a paved or unpaved trail or path with a maximum width of nine (9) feet is permitted.
  5. Clearing that is required to construct the exempt structures permitted in subsection 20-520.1(1) above, is permitted.
- (4) Prohibited activities. The following activities are prohibited in the natural vegetation zone:
- a. Storage of motorized vehicles or petroleum products.
  - b. Storage or use of toxic or hazardous materials.
  - c. Storage of herbicides or pesticides.
  - d. Storage and use of fertilizer.
  - e. Placement of fill or dumping of any refuse.
  - f. Concentrated drainage flow by ditches, under drains or other similar systems.
  - g. Topsoil, sand and gravel extraction.

(Ord. No. 205, § 1, 5-15-06)

Sec. 20-520.2. - Development standards in the transition zone (fifteen feet landward of natural vegetation zone).

Land located within the transition zone shall be subject to the following development standards and restrictions:

- (1) No dwelling unit or other principal building and no accessory building may be constructed within the transition zone. The following structures may be permitted:
  - a. Flood control structures constructed by authorized state or federal agencies.
  - b. Pedestrian or vehicular bridges, when deemed necessary and designed and constructed in a manner that minimizes impact on the river.
  - c. One (1) viewing platform deck or gazebo on each premise with maximum ground coverage of two hundred (200) square feet.
  - d. One (1) pump house per lot housing a pump used for irrigation having ground coverage of not more than nine (9) square feet.
- (2) On-site sanitary waste treatment systems are prohibited within the transition zone.

- (3) Except for public or private access and recreational trails not exceeding nine (9) feet in width, the construction of im surfaces such as paved driveways, paved parking areas, tennis courts and other similar surfaces is prohibited in the zone.
- (4) Vegetation within the transition zone may be altered and managed in a manner customary for the uses permitted in the zoning district applicable to the subject property.

(Ord. No. 205, § 1, 5-15-06)

Sec. 20-520.3. - Minimum lot sizes and principal structure setbacks.

Within all underlying zoning districts the minimum lot width and depth for all lots with any part located within this riparian area protection overlay and created after the effective date of this section shall be increased as follows:

- (1) *Minimum lot width:* One hundred sixty five (165) feet.
- (2) *Minimum lot depth:* The minimum lot depth shall be sufficient to accommodate all setbacks and yard requirements of this overlay zone and the underlying district, and shall not have a width to, depth ratio of more than one (1) to four (4).
- (3) *Minimum principal structure setback:* No principal structure shall be erected closer than one hundred (100) feet from the high water mark of the river except on non-conforming lots of record or where there are steep banks.
  - a. *Non-conforming lots of record.* A principal structure on a lot of record existing on the effective date of this article that is non-conforming by reason of width or depth may be sited closer to the river than the required setback line, only if after review by the zoning board of appeals it is found that:
    - 1. The lot could not be developed in conformance with the requirements of this section;
    - 2. The proposal for use will place the principal, structure in a location as nearly in conformance with the setback requirements of both this article and the underlying zoning district as possible; and
    - 3. Such location does not result in placement within the flood plain or a wetland without appropriate approvals by the state DEQ.

The board of appeals may attach reasonable conditions to its approval.

- b. *Principal structure exception for steep banks.* Where there is a steep bank, a principal structure may be constructed closer to the river according to the following schedule:

Where the bank height, at the bluff, is: (a) is measured in vertical feet from the high water mark, the principal structure may locate no closer than (b) horizontal feet from the bluff or the high water mark, whichever is greater.

Bank height	Setback from Bluff or High Water Mark
(a)	(b)
10	90
15	80
20	70
25	60

(Ord. No. 205, § 1, 5-15-06)

ARTICLE XVII. - SCHEDULE OF REGULATIONS

DIVISION 1. - GENERALLY

Sec. 20-521. - Schedule limiting height, bulk, density and area by zoning districts.

Zoning District	Minimum Lot Size Per Unit		Maximum Building Height		Minimum yard Requirements(l)				Maximum Lot Coverage (in percent)	Minimum Floor Area	
					Front	Side Yard		Rear			
	Area (sq. ft.)	Lot Width	Stories	Height		Least One	Total Two			One-Story	Two-Story
R-A residential agricultural	35,000	165	2½	35	30 (a) (b)	12(d)	30(d)	25	35	1000	750
R-1 single-family residential	10,000	80	2½	35	30 (a) (b)	8(d)	20(d)	25	35	1000	750
R-2 single- and two-family residential											
Single-family	8,200	66	2½	35	30 (a) (b)	6(d)	15(d)	25	35	800	600
Duplexes	10,000										
R-3 single-family mfg. housing	6,000	60	2½	35	30 (a) (b)	6(d)	15(d)	25	35	720	600
RM multiple-family residential	(e)	(e)	(e)	(e)	(e)(a) (b)	(e)(f) (g)	(e)(f) (g)	(e)	(e)	(e)	

RMH residential mobile home	—	—	2½	35	—	—	—	—	—	—	—
B-1 local business	—	—	2½	35	—	(h)(i)	—	(i)(j)	—	—	—
B-2 general business	—	—	3	40	—	(h)(i)	—	(i)(j)	—	—	(k)
CBD central business	—	—	2½	35	—	(j)	—	—	—	—	—
P parking	—	—	—	—	—	(j)	—	—	—	—	—
RO restricted office	—	—	2½	35	—	—	—	—	—	—	—
I-1 light industrial	20,000	100	3	50	50	30	60	30	50	—	—
I-2 general industrial	80,000	200	3	50	100	30	60	30	50	—	—

(Ord. No. 217, § 41, 7-7-08; Ord. No. 237, § 1, 11-2-15)

Sec. 20-522. - Notes to schedule of regulations.

- (a) In all residential districts, the required front yard shall not be used for off-street parking, loading or unloading unless in accordance with the provisions of subsections 20-81(4) and 20-81(7), and shall remain as open space unoccupied and unobstructed from ground upward except for landscaping, plant materials vehicle access drives and on premise parking.
- (b) Where lots are on rivers, the property shall be treated as a through lot and have required front yards on both frontages.
- (c) The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- (d) In the R-A, R-1, R-2 and R-3 districts, the width of side yards, which abut upon a street on the same side or on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front



yard for such homes which front upon such side street.

(e) *Site requirements*

	Garden apartments	Townhouses	Housing for the elderly
Gross site area	1 acre (min.) 0.3 × developable area	2 acres (min.) .25 × developable area	2 acres (min.) .4 × developable area
Maximum lot coverage	.25 × development	.25 × development	.25 × development
Maximum height (b)	2½ stories or 35 ft.	2½ stories or 35 ft.	4 stories or 60 ft.
Minimum parking	2 spaces per unit of 1—24 units. 1.75 spaces per unit of 24+ units.	2 spaces per unit	.75 spaces per unit
Minimum landscaped area	.2 × gross site area	.25 × gross site area	.3 × gross site area
Maximum density	14 units per acre	8 units per acre	25 units per acre
Minimum front yard (a)	25 ft.	25 ft.	25 ft.
Minimum side yard (b,c,d)	20 ft., 40 ft. (total two)	20 ft., 40 ft. (total two)	25 ft., 50 ft. (total two)
Minimum rear yard (b)	30 ft.	30 ft.	40 ft.
Minimum floor per unit			
Efficiency	600 sq. ft.	600 sq. ft.	500 sq. ft.
One-bedroom	750	750	600
Two-bedroom	900	900	750
Three-bedroom	1200	1200	—
Four-bedroom	1500	1500	—

- (f) For every lot on which a multiple row, or terrace dwelling is erected, there shall be provided a side yard on each side of as indicated in the schedule. Each side yard shall be increased beyond the yard spaces indicated by one (1) foot for each (10) feet or part thereof by which the length of the multiple row, or terrace dwelling exceeds forty (40) feet in overall dir along the adjoining lot line.
- (g) Where two (2) or more multiple-row or terrace dwellings are erected upon the same lot, a minimum yard space of twenty (20) feet in width shall be provided between structures. This yard width shall be increased by two (2) feet for each ten (10) feet or part thereof, by which each multiple row or terrace dwelling, having common yards, exceeds forty (40) feet in length on that side of the dwelling facing the common yard.
- (h) Where any B-1, B-2 or CBD district borders on a side street, whereon a residential zoning district exists in the same block, there shall be provided a setback of five (5) feet for all commercial buildings and parking and loading areas.
- (i) Where any B-1, B-2 or CBD district borders a residentially zoned district and the districts are not separated by an alley or street, there shall be a minimum building setback of ten (10) feet from the property line.
- (j) Loading space shall be provided for the rear yard in the ratio of at least ten (10) square feet per front foot of the building. Where an alley or street exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley or street. The board of appeals may waive this requirement in cases where this section causes undue hardship.
- (k) Where motels or hotels are permitted in a B-2 district, a minimum of two hundred and fifty (250) square feet of floor area per unit shall be provided.
- (l) Subject to the applicable peripheral green strips required in section 20-526.

(Ord. No. 123, § 18.1, 6-5-89; Ord. No. 193, art. III, 7-7-03; Ord. No. 217, § 42, 7-7-08)

Sec. 20-523. - Supplementary definitions.

*Garden apartment* means a residential structure having a height limit of two and one-half (2½) stories and containing three (3) or more attached rooms or suites of rooms, each room or suite having its own cooking facilities and being used as a dwelling for one (1) family.

*Gross site area* means the total area within and conforming to the legal description of the site.

*Housing for the elderly* means a multiple-family development having the following tenant eligibility requirements. At the time of rental application, tenants must be:

- (1) Families or two (2) or more persons, the head of which (or the spouse of which) is sixty-two (62) years of age or older, or is handicapped; or
- (2) Single persons who are sixty-two (62) years of age or older or who are handicapped.
  - a. A handicapped person is one whose impairment:
    - 1. Is expected to be continued and of indefinite duration;
    - 2. Substantially impedes his ability to live independently; or
    - 3. Is such that his ability to live independently could be improved by more suitable housing.

*Landscaped area* means a portion of land area which has been changed, rearranged, or to which plant materials or scenery have been added to produce an aesthetic effect appropriate for a residential area.

(Ord. No. 123, § 18.2, 6-5-89)

DIVISION 2. - LANDSCAPING, SCREENING AND BUFFERS

## Sec. 20-524. - Intent.

It is the purpose of this article to specify minimum landscape and screening requirements for all land uses requiring approval under this chapter. The regulations are intended to promote the public health, safety and welfare by reducing noise, air and visual pollution, air temperature and light glare, improve aesthetics, prevent soil erosion and increase water retention, to reduce the negative impacts between incompatible land uses and to protect residential privacy. The regulations are further intended to preserve and enhance land values of the city.

(Ord. No. 217, § 43, 7-7-08)

## Sec. 20-525. - Landscaping—General.

Unless specifically waived by the planning commission, all development required to undergo site plan review shall be landscaped in accordance with a plan and specifications approved by the planning commission as part of site plan approval. The entire site not devoted to floor area, parking, access ways or pedestrian use shall be appropriately landscaped with grass, canopy and coniferous trees, shrubs and ground cover. Expansion areas shall be placed in grass and kept weed free. Any areas which become disturbed for any reason shall be restored in accordance with the original landscape plan unless approved otherwise in writing by the zoning administrator.

- (1) Landscaping shall be installed within one hundred eighty (180) days of completion of the building or structure.
- (2) All landscaping shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.
- (3) Landscaped areas shall be neatly maintained, including mowing, fertilizing and pruning.
- (4) Parking and loading areas shall be landscaped and/or fenced in such a manner as to interrupt or screen the areas from view.
- (5) For the purpose of this section, a corner lot is considered as having two front yards and the appropriate landscaping shall be provided for both.
- (6) The extensive use of cobble stone, crushed stones or other non-living material as ground cover is discouraged.
- (7) In areas located outside of required peripheral green strips and zone buffer yards, plantings should be grouped or clustered to provide the maximum visual effect.

(Ord. No. 217, § 43, 7-7-08)

## Sec. 20-526. - Peripheral green strips required.

- (a) *Green strips.* Each use and parking lot permitted on a lot or parcel located in a B-1, B-2, B-3, R-O, CBD, I-1 or I-2 zoning district, and each parking lot or nonresidential use permitted in a residential district shall provide a green strip within each front, side and rear yard in accordance with this article. The green strip shall begin at the right-of-way line in the case of yards having street frontage and the side and rear property lines in the case of side and rear yards. Green strips and the landscape and/or screening installed within them shall be maintained in accordance with the standards and guidelines contained in this article. Unless otherwise provided herein, green strips shall be required to run the entire length of the property line or street frontage except in driveway or joint parking areas. The minimum width of required green strips are as follows:
  - (1) *Front yard/street frontage green strips.*

- a. Five (5) feet for all uses located in a B-1, B-2, R-O and P district.
  - b. Twenty-five (25) feet for all uses located in an I-1, I-2 and B-3 district.
  - c. Five (5) feet in the CBD except that no front yard green strip is required where the building is placed within five feet of the right-of-way or front property line.
- (2) *Side yard green strips.*
- a. Five (5) feet for all uses located in the B-1, B-2, B-3, R-O, I-1, I-2 and P district and all nonresidential uses when adjacent to a business or industrial use or district.
  - b. No side yard green strip is required for uses located in the CBD when the use is adjacent to a business or other nonresidential use or zoning district.
  - c. Ten (10) feet for all uses located in a CBD, B-1, B-2, B-3, R-O, I-1, I-2 and P district and all other public or private nonresidential uses when adjacent to a residential use or within any residential zoning district.
- (3) *Rear yard green strips.*
- a. Five (5) feet for all uses located in a B-1, B-2, B-3, RO, I-1, I-2 or P district and all nonresidential uses when adjacent to another business or industrial use or district.
  - b. No rear yard green strip is required for uses located in the CBD when the use is adjacent to a business or other nonresidential use or zoning district.
  - c. Twenty-five (25) feet for all uses located in a B-3 and I-2 district when adjacent to a residential use or any residential zoning district.
  - d. Ten (10) feet for all uses located in a CBD, B-1, B-2, R-O, I-1 or P district and all other nonresidential uses when adjacent to a residential use or within a residential zoning district.
- (4) *Off-street parking areas.* When located in a CBD, B-1, B-2, B-3, R-O, I-1, I-2 or P district, front, side and rear yard green strips shall be provided around all off street parking areas in accordance with the above front, side and rear yard green strip requirements.
- (5) *Off-street parking areas in support of residential uses or facing a residential use.* Where off-street parking areas are located in a residential district in support of a residential use and when an off-street parking area faces a residential district or use across a street, the peripheral green strip shall be at least five (5) feet in width.
- (6) *Alleys.* In areas where a public alley separates land uses and zoning districts strict adherence to the green strip standards is not required but a screen wall or vegetative screen may be required. In such situations where screening is necessary but is not possible along the full width of the lot, the planning commission may require the screening of individual objectionable appurtenances such as refuse containers, HVAC units and vents, and loading areas (see screening requirements, section 20-528).

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-527. - Minimum landscaping within required green strips.

- (a) The following table indicates the minimum landscape requirements for peripheral green strips as required under preceding section 20-526.

**Quantity of Plant Materials to be Installed Within Required Front, Side and Rear Yard Green Strips  
Per 100 Linear Feet**

Plant Type	Rear yard All Districts <sup>a</sup>	Side yard All Districts <sup>a</sup>	Front yard (Street)		Zone Buffer Yard Minimums <sup>c</sup> (see <u>20-528</u> )	
			CBD <sup>b</sup> , B-1, B-2, R-O, P Districts	I-1, I-2 and B-3 (25 ft. wide)	Side	Rear
Deciduous canopy tree	3 trees with min. of 2 plant types	5 trees with min. of 2 plant types	0	2	2	2
Deciduous ornamental tree			2	2	2	2
Evergreen/conifer tree			0	1	4	4
Shrubs (deciduous or evergreen)	0	0	4	4	2	0

## Footnotes to table:

- (a) Side and rear yard plantings are not required in CBD unless the property abuts a residential zoning district, in which case the provisions for zone buffer yards shall apply.
- (b) Front yard plantings are only required in the CBD district when the building is set back from the right-of-way line less than five(5) feet or when a parking lot is facing a residential district situated on the opposite side of the street.
- (c) See section 20-528. Unless modified under the provisions herein the planting requirements for zone buffer yards apply to all green strips on nonresidential land and land located in the CBD, B-1, B-2, R-O, B-3, I-1, I-2, and P districts where it abuts residential uses or zones. Such plantings shall be further augmented or substituted as necessary by additional plantings, walls or fences as needed to screen the structures and activities of the business from the view of occupants of adjoining premises.
- (b) A front yard or street green strip may contain pedestrian or bicycle pathway, provided that no plant is eliminated and the total buffer yard (width and length) is maintained.
- (c) Stormwater retention/detention facilities in green strips. Surface retention/detention facilities may extend into green strips where it can be demonstrated that all planting requirements are met, the desired effects provided by the buffer yard will be fully achieved and ponding will not jeopardize the survival of the plant materials.
- (d) Unless specifically approved by the planning commission as part of the site plan approval, all required plantings must be planted within the required green strip.

- (e) At the time of planting, plant types, plant species and the arrangement of plantings shall compliment the improved landscaping that may exist on adjacent sites.
- (f) Existing plant materials. Existing plant materials which satisfy the minimum size requirements set forth in this section and all other requirements or specifications of this section may be credited toward satisfying the planting requirements of the proposed use.
- (g) Minimum plant size. New plant materials must meet the minimum plant size requirements contained in the table below when in a required planting. The planning commission may grant credit of up to twenty-five (25) percent against the required buffer yard planting height for landscape berms that average three (3) feet in height or greater above the average surrounding grade and it is demonstrated that such berms will not diminish the survivability of the plantings.

**Minimum Planting Size**

Plant Type	Within Zone Buffer Yards	Within Required Street, Side and Rear Green Strips not Classified as Zone Buffer Yards
Deciduous canopy tree	2" caliper	1 1/2" caliper
Ornamental understory tree	1 1/2" caliper	4 ft. height
Evergreen tree	5 feet (height)	4 feet (height)
Shrub (upright)	24 inches (height)	15 inches (height)
Shrub (spreading)	18 inches (average spread)	12 inches (average spread)

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-528. - Zone buffer yard screening requirements.

The plantings or screening included within a required zone buffer yard shall be planted or constructed and maintained to achieve the following:

- (1) A natural or planted buffer of trees and bushes of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises. Fifty (50) percent of the plantings shall maintain their density and screening effect throughout the calendar year, and shall be not less than four (4) feet in height at the time of planting.
- (2) An artificial wall or fence may be used in addition to the minimum tree and shrub plantings required in the preceding [section 20-527](#). Such wall or fence in combination with the required plantings shall be of sufficient density or compactness to screen structures and activities of the business from the view of occupants of adjoining premises. Screen walls and fences shall be not less than five (5) feet in height and shall be constructed with durable, weather-resistant and easily maintainable materials. The color, materials, finishes and forms of all

walls shall be compatible with surrounding land uses or structures, as determined by the planning commission. Except in cases where total opacity is required, walls may be constructed with openings that do not exceed twenty (20) percent of the surface.

- (3) All zone buffer yard screens shall be maintained in a neat and attractive manner. Any modifications to a required zone buffer yard screen shall be approved by the planning commission.
- (4) The planning commission may require additional landscape plantings and/or artificial screening if an increase is found to be necessary to achieve reasonable screening and aesthetic objectives.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-529. - When landscaping and screening requirements apply to existing uses.

The requirements of this division shall apply to all expansions, renovations, or alterations which increase the size of an existing structure or building cumulatively by five (5) percent or more of its gross floor area or which entails any exterior site change or grading in excess of one thousand (1,000) square feet, as of the effective date of these regulations.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-530. - Additional planting requirements.

Green space within the public right-of-way and private easements. For the land area lying between the required buffer yard and the edge of pavement of a public or private street, the following standards shall apply.

- (1) Grass or other living groundcover shall be neatly maintained and kept weed free by the owners of property abutting the public right-of-way or private easement.
- (2) Trees within a public right-of-way shall not be planted without the written consent of the city.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-531. - Waivers, alternative landscape or screening.

For reasons of conflicting uses, unfavorable topography or other unique or extenuating physical circumstances, the planning commission may waive, increase, decrease or otherwise alter the required landscape plantings and/or screening requirements of this division. In allowing a waiver or alteration, or requiring an increase, the planning commission must first find, in its discretion, that the stated requirements are unreasonably suited to the particular site and that reasonable alterations either will, or are necessary to, achieve the overall intention of this division. The following factors shall be evaluated by the planning commission in making its decision:

- (1) Topography variations;
- (2) Existence of natural vegetation;
- (3) Existing and proposed building placement;
- (4) Adjacent land uses;
- (5) Existence of flood plain or other non-developable areas;
- (6) Recommendations of zoning administrator.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-532. - Planning commission obligation.

The planning commission shall not be obligated to make any waiver of landscaping requirements.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-533. - Installation of all required landscaping or performance guarantee of same required before occupancy.

- (a) If construction is completed during a planting season, no certificate of occupancy shall be issued until the landscaping complies with the requirement of this article of the zoning ordinance.
- (b) If construction is completed in an off-planting season, a certificate of occupancy shall be issued only after the owner provides a financial guarantee. The provisions governing the posting of a financial guarantee shall be those outlined in section 20-133 of this ordinance except that the zoning administrator shall be responsible for requiring and administering the financial guarantee.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-534. - Standards for maintenance.

All landscaping shall be maintained in a healthy, neat, and orderly state, free from weeds and debris. All grass shall be maintained at a height not to exceed eight (8) inches, unless specifically approved by the planning commissions.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-535. - Responsibility for maintenance.

The owner, tenant, or their agent shall be jointly responsible for maintenance.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-536. - Continuing maintenance required.

All required landscaping shall be maintained on a continuing basis. Dead plant materials shall be replaced as necessary to meet the desired effect of the original landscape-plan approval. The zoning administrator shall have the authority to make a determination of ordinance violation with regard to landscaping. If the zoning administrator issues a notice of violation, the owner shall have six months to correct the landscaping violation.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-537. - Phasing.

If a project is constructed in phases, the landscaping and screening may also be constructed in phases. The planning commission shall determine the extent of landscaping required of each phase, based on adjacent land uses, distance between land uses, operation characteristics, both on- and off-site, building heights, physical characteristics of the site, percentage of total development which each phase represents.

(Ord. No. 217, § 43, 7-7-08)

Sec. 20-538. - Uncredited species.



The trees listed in the following table are species that will not be credited for the purposes of meeting minimum landscape requirements within green strips and zone buffer yards as they split easily, produce excessive fruit or litter, their wood is brittle and breaks easily, their roots clog drains and sewers and they are unusually susceptible to disease or insect pests.

**Species Not Credited**

Common Name	Horticultural Name
Box elder	Acer negundo
Catalpa	Catalpa speciosa
Silver, soft maple	
Russian olive	Elaeagnus angustifolia
Mulberry	Morus species
Poplars, aspens, cottonwoods	Populus species
American elm	Ulmus americana
Siberian elm	U. pumila
Willows	Salix species
Tree of heaven	
Black locust	Robinia species
Honey locust	Gleditsia triacanthos (with thorns)
Austrian pine	Pinus nigra

(Ord. No. 217, § 43, 7-7-08)

Secs. 20-539—20-545. - Reserved.

ARTICLE XVIII. - SITE DESIGN STANDARDS

DIVISION 1. - GENERALLY

Sec. 20-546. - Minimum requirements.

The following are specific regulations and design standards for uses listed in this article, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community.

(Ord. No. 123, § 19.0, 6-5-89)

Secs. 20-547—20-560. - Reserved.

DIVISION 2. - PLANNED DEVELOPMENTS

Sec. 20-561. - Intent and purpose.

- (a) Planned developments are provided herein, by special use permit, in order to allow for some degree of flexibility and innovation in the design of developing areas, as well as to allow for an efficient and aesthetic use of land. Based upon the standards and criteria contained in article XVII, the planning commission may review and recommend, with conditions, a modification in bulk requirements in order to allow certain forms of development containing both privately owned sites and common property, and which are planned collectively as a single unit.
- (b) The planned development section of this article is also provided in order that the growing demand for housing by young married couples, senior citizens and existing residents may be met by a greater variety of innovative housing types, and by the planning and design of structures with the benefit of cost effective land utilization in such development.

(Ord. No. 123, § 19.1, 6-5-89)

Sec. 20-562. - PUD-1, clustered single family residential subdivisions.

In any R-1, R-2, and R-3 district in which single-family detached dwellings are a use permitted by right, the minimum required lot areas for such use, as set forth in the schedule of regulations, may be reduced by an amount not to exceed twenty-five (25) percent; provided that a quantity of land at least equivalent to the total amount deducted from all lots shall be dedicated for open space so that the overall gross density for the entire area shall not exceed that permitted in the applicable zoning district.

- (1) *Site eligibility.* The minimum area necessary to qualify as a PUD-1 clustered single family residential subdivision shall not be less than two (2) contiguous acres of land.
- (2) *Subdivision plans.* Any development plan wherein the clustered residential development concept is proposed shall be subject to the provisions for special use permit approval as well as with all of the procedures and provisions set forth in the applicable subdivision and site condominium regulations of the city.
- (3) *Standards and considerations.* The provisions of section 20-565 shall apply.

(Ord. No. 123, § 19.1, 6-5-89; Ord. No. 184, § 1, 11-3-01)

Sec. 20-563. - PUD-2 mixed residential and mixed industrial/office planned unit developments.

Developments involving two-family or multiple-family homes or any combination of single-family, two-family or multi-family home styles or a development involving mixed industrial and office uses and limited commercial uses may be approved as a planned unit development. A PUD-2 mixed planned unit development may be considered in any zoning district subject to the following criteria:

- (1) *Site eligibility.* The minimum area necessary to qualify as a PUD-2 shall not be less than two (2) continuous acres of land; however, an owner of land less than the minimum required area may apply if the subject land is adjacent to a lawfully approved or constructed PUD-2 having uses similar to the one proposed.
- (2) *Planned single unit.* As a planned single unit, PUD-2's may be constructed in any combination of uses and structures (except mobile homes and principal commercial uses), provided that:
  - a. At least twenty-five (25) percent of the total area is reserved for open space and natural drainage. This area may consist of land included as part of the required yard setbacks, roads, greenbelt areas, drainage easements, open space or any recreational amenity; but shall not include any areas used for structures, or off-street parking and loading.
  - b. Full compliance with the provisions of this chapter and the tables/schedules contained here shall be met, unless waived by the city council.
- (3) *Density, open space.* Density and open space requirements for PUD-2's with residential uses:
  - a. In addition to part (2) above, if a proposed PUD-2 is residential, wholly or in part, that part of the PUD-2 may not exceed a net residential density of one point five (1.5) times the maximum number of units allowed per acre under conventional single-family lot sizes as shown in the schedule of regulations for that part of the total area. The number of dwelling units shall be rounded to the nearest whole number.
  - b. This density is granted, provided that at least twenty-five (25) percent of the total area devoted to residential PUD-2 development is reserved for open space and natural drainage. This area may consist of land included as part of the required yard setback, roads, greenbelt areas, drainage easements, open space or any outdoor recreational amenity; but shall not include any area used for structures, or off-street parking and loading.
- (4) *Residential density bonuses.* Bonuses in net residential density or that area devoted to residential PUD-2 development are permitted by the planning commission, provided that additional land is reserved and dedicated for open space as follows:

<i>If</i>	Then the density multiplier for determining the maximum number of units allowed per acre shall be (x conventional family density):
25% of total area devoted to residences is reserved for open space	1.50
30% of total area devoted to residences is reserved for open space	2.00
35% of total area devoted to residences is reserved for open space	2.50
40% of total area devoted to residences is reserved for open space	3.00
45% of total area devoted to residences is reserved for open space	3.50

(Ord. No. 123, § 19.13, 6-5-89; Ord. No. 184, § 2, 11-3-01)

Sec. 20-564. - Reserved.

**Editor's note**— Ord. No. 184, § 3, adopted Nov. 3, 2001, repealed section 20-564 in its entirety. Former section 20-564 pertained to the preapplication conference with the planning commission for concept review and derived from Ord. No. 123, § 19.14, adopted June 5, 1989.

## Sec. 20-565. - Standards and considerations.

In addition to complying with the standards for special use permits, the following special standards for a PUD-1 clustered residential development or a PUD-2 development must be met:

- (1) *Ownership.* The tract of land may be owned, leased or controlled by a single person, partnership, corporation, cooperative association of individual owners (condominium). An application may be filed by the owner, jointly by the owners of all property to be included, or by a person, persons, corporation, or corporation with an option to buy such property. A plan once approved shall be binding.
- (2) *Utilities.* A PUD-1 clustered single family residential development and a PUD-2 mixed development shall have public water and sewer installed by the developer, and must be approved by all state, county, and local agencies (health, conservation, etc.) who are in authority and have jurisdiction. All utilities shall be placed underground.
- (3) *Permitted uses.*
  - a. *PUD-1 cluster residential developments.* The following uses are considered eligible for consideration within a PUD-1.
    - (i) Single family detached homes (excluding mobile homes).
    - (ii) Passive and active open space recreation uses.
    - (iii) Customary residential accessory buildings.
    - (iv) Indoor recreation facilities and meeting halls.
  - b. *PUD-2 mixed residential developments.* The following uses are considered eligible for consideration within PUD-2 mixed residential developments:
    - (i) Single-family detached homes (excluding mobile homes).
    - (ii) Two-family homes.
    - (iii) Single-family attached homes.
    - (iv) Multiple-family structures (apartments).
    - (v) Day care centers.
    - (vi) Active and passive open space recreation uses.
    - (vii) Carports.
    - (viii) Community buildings and meeting halls.
    - (ix) On premises laundry facilities.
    - (x) Indoor recreation facilities.
    - (xi) Accessory neighborhood personal service and retail establishments serving the PUD only.
  - c. *PUD-2 mixed industrial/office developments.* The following are considered eligible uses for consideration within PUD-2 mixed industrial/office developments.
    - (i) Light industrial uses as outlined for the I-2 planned industrial district (Sec. [20-492](#)).
    - (ii) Office uses.
    - (iii) Day care centers.
    - (iv) Municipal buildings.
    - (v) Financial institutions.
    - (vi) Accessory personal service and retail uses.
    - (vii) Active and passive open space recreation uses.

(Ord. No. 123, § 19.15, 6-5-89; Ord. No. 184, § 4, 11-3-01)

Sec. 20-566. - Appeals.

Any and all administrative interpretations, decisions, any requirements of the planned development provisions of division 2 of this article may be appealed within thirty (30) days to the zoning board of appeals.

(Ord. No. 123, § 19.16, 6-5-89)

Sec. 20-567. - Procedures.

- (a) *Pre-application conference.* Prior to a formal application for a special use permit for any PUD-1, PUD-2, PERC PUD, or single family conservation subdivision as provided for in sections 20-562, 20-563, 20-571, and 20-573, the applicant shall be required to present and discuss with the planning commission, the initial planned development concepts and the application of such concepts to the land in question.
- (b) *Special use permit application.* Following the pre-application conference, the applicant may proceed with a formal planned development application under the special use provisions of section 20-127 and section 20-128.
- (c) *Public hearing.* Prior to making its recommendations regarding the approval, approval with conditions, or the denial to the city council, the planning commission shall hold a public hearing in the same manner as provided under section 20-805. Subsequent to the recommendations of the planning commission and prior to a decision on any final planned development application by the city council, a second public hearing shall be held by city council. The second hearing shall be identified as the body holding the hearing.

(Ord. No. 184, § 5, 11-3-01; Ord. No. 211, § 18, 2-5-07)

**Editor's note**— Ord. No. 184, § 5, adopted Nov. 3, 2001, repealed section 20-567 in its entirety and replaced it with a new section 20-567. Former section 20-567 pertained to public hearings and derived from Ord. No. 123, § 19.17, adopted June 5, 1989.

Secs. 20-568, 20-569. - Reserved.

DIVISION 2A. - PLANNED ENTERPRISE AND RESIDENTIAL CLUSTER DEVELOPMENT

Sec. 20-570. - Intent and purpose.

Notwithstanding the more generalized applicability of section 20-563, these planned enterprise and residential cluster planned development provisions are intended as an overlay district to apply specifically and only to the areas of the city that are identified on the City of Wayland Land Use Plan under the Planned Enterprise and Residential Cluster (P.E.R.C.) designation. It is the intent of the P.E.R.C. area to promote the development of a blend of moderate to high density residential clusters in close proximity to clusters of office and business uses as well as significant areas of light manufacturing. Reserved and dedicated open spaces consisting of a combination of undisturbed wetlands, modified wetlands and surface waters and greenbelted street and pedestrian corridors are encouraged to define the various use groups. The development of a roadway and utility corridor extending from West Superior Street through the district directly or indirectly southward for interconnection with 133rd Avenue is considered a requirement that must be integrated into the P.E.R.C. development.

(Ord. No. 155, § 4, 7-7-97)

Sec. 20-571. - Eligible area; permitted uses; site design standards.

The P.E.R.C. area shall be developed through the special use permit procedure as a planned unit development overlay to certain existing B-I, R-A zoning districts. The granting of a special use permit for a P.E.R.C., P.U.D. is, however, permitted only in those areas designated as Planned Enterprise/Residential Cluster (P.E.R.C.) in the land use plan for the city and which is described specifically as land lying west of the Penn Central Railway, north of a line one thousand three hundred twenty (1320) feet north of 133rd Avenue, and south of a line five hundred (500) feet south of West Superior Street.

- (1) *Permitted uses:* The following are considered eligible for inclusion in the P.E.R.C. development area.
  - a. Single family attached and detached homes (excluding mobile homes).
  - b. Two-family homes.
  - c. Multi family structures.
  - d. Office buildings.
  - e. Retail and personal service establishments not involving outdoor display or sales.
  - f. Open spaces and active and passive recreation excluding outdoor amusements.
  - g. Community buildings and meeting halls.
- (2) *Site design standards:* Unless modified in writing as part of the approval, each residential and commercial element of the P.E.R.C. district shall be designed under the respective site design standards of the R-2 and B-2 zoning districts. For residential clusters, bonus densities may be granted based on the residential density bonuses contained in [section 20-563](#). Site design and building coverage flexibility in the design and layout of residential and commercial areas may be granted based on the overall quality and comprehensive nature of the proposed site layout and the inclusion of desired support infrastructure, open areas and street system as identified in the Wayland Land Use Plan.

(Ord. No. 155, § 4, 7-7-97)

Sec. 20-572. - Procedures.

The procedures for P.E.R.C. pre-application, application and approval shall be as outlined under Article XVIII, Site Design Standards, Division 2, Planned Developments.

(Ord. No. 155, § 4, 7-7-97)

Sec. 20-573. - Single family conservation subdivisions in the RA district.

The intent of this section is to promote residential development that results in an enhanced living environment through the conservation of open space and the preservation of natural landscapes. It is intended to encourage innovative and livable housing environments through both permanent reservation of open space and a planned reduction of individual lot area requirements. The provisions of this section are applicable to all RA residential agricultural zoned lands within the city as depicted on the official zoning district map of the city.

- (1) *Development requirements:* The area (lot size and lot width) requirements of article XVII relative to the RA district may be modified subject to the following provisions:
  - a. *Area and density standards.* The density of any clustered development may exceed by up to ten (10) percent, the density achievable on the subject property under the regular standards for the district as contained in article XVII. In achieving the density increase, the following area requirements shall apply to individual lots and building sites:

1. Maximum lot size: 17,500 square feet
  2. Minimum lot size: 12,500 square feet
  3. Average lot area lot size: 15,000 square feet
  4. Minimum lot width: 80 feet
- b. *Open space standards.* The minimum percentage of land that shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement, dedication to the city or held by a recognized land trust or conservancy, and shall be as specified below:
1. A minimum of forty-five (45) percent of the total tract area, after deducting the following types of unbuildable land:
    - (a) Wetlands and land that is generally inundated (land under ponds, creeks, etc.);
    - (b) All of the floodway and floodway fringe within the 100-year floodplain, (as shown on official FEMA maps if available) or otherwise mapped or approximated based upon on-site evaluation;
    - (c) Land required for street rights-of-way;
    - (d) Land under permanent easement prohibiting future development (including easements for drainage, access and utilities).
- The above areas shall be designated as undivided open space, to facilitate easement monitoring and enforcement, and to promote appropriate management by a single entity according to approved land management standards.
2. All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in a form acceptable to the city and duly recorded in the county register of deeds office.
  3. The purposes for which open space areas are proposed shall be indicated by the applicant.
  4. Storm water management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines. Land within the rights-of-way of high-tension power lines shall not be included as part of the minimum required open space.
- c. *Location of open space:* Open space shall be comprised of two types of land: "primary conservation areas" and "secondary conservation areas."
1. *Primary conservation areas.* This category consists of wetlands, lands that are generally inundated (under ponds, creeks, etc.), and land within the 100-year floodplain. These sensitive lands along with existing street rights-of-way and other unbuildable easement areas are deducted from the total parcel acreage to produce the "adjusted" or "net acreage" on which density shall be based (for both conventional and conservation developments).
  2. *Secondary conservation areas.* At least forty-five (45) percent of the adjusted or net acreage shall be designated as permanently protected. Full density credit will be allowed for land in this category since it would otherwise be buildable under local, state and federal regulations. Development potential is not reduced by this designation. The density credit may be applied to other unconstrained parts of the site. Although the locations of primary conservation areas are predetermined by the locations of features such as floodplains, and wetlands, greater latitude exists in the designation of secondary conservation areas. The location of secondary conservation areas are guided by the maps and policies contained in the city's comprehensive plan, and includes all or part of the following kinds of resources: mature woodlands, aquifer recharge areas, significant wildlife habitat areas, sites listed on the state natural resources

inventory, historic, archaeological or cultural features listed (or eligible to be listed) on national, state or county registers or inventories, and scenic views into the property from existing public roads. No applicant will be required to designate more than forty-five (45) percent of the adjusted or net acreage as a secondary conservation area.

d. *General standards.*

1. Housing clusters must be designed around both the primary and secondary conservation areas, which together constitute the total required open space.
  2. Primary and secondary conservation areas must be placed in undivided preserves, adjoining housing areas that have been designed more compactly to create larger areas that may be enjoyed equally by all residents of the development.
  3. Open space must be directly accessible to the largest practicable number of lots within the development. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided unless the resource areas are vulnerable to trampling damage or human disturbance.
  4. Where the undivided open space is designated as separate noncontiguous parcels, no parcel may consist of less than one (1) acre in area nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as trail links or buffers to wetlands, water bodies or watercourses.
- (2) *Density bonus options:* A density bonus over the number of dwelling units allowed under the density standards of subsection (1)a. and up to twenty (20) percent over the density achievable under a conventional development layout, may be achieved if one or a combination of the two (2) following options are utilized.
- a. *Public dedication of open space.* Dedication of land for public use including trails and active recreation areas is encouraged. A density bonus for open space dedicated to the public for such purpose shall be computed on the basis of one (1) lot or building site for each three acres of accessible open space. The decision to accept an applicant's offer to dedicate open space for public access shall be at the discretion of the city council, which shall receive a recommendation from the planning commission and shall consider adopted plans and policies for parks, recreation and open space.
  - b. *Creation of an open space maintenance fund.* The city council may allow a density bonus for the express purpose of generating income or endowment for a permanent open space maintenance fund. For each bonus lot granted a minimum of seventy-five (75) percent of the net selling price of the lot must be donated to an open space endowment fund created for the preserved lands in the development. The fund must be restricted to expenditures of interest and transferred by the developer to the designated entity having ultimate ownership and maintenance responsibilities.
- (3) *Review procedures:* A conceptual plan must be submitted to the planning commission and city council under the procedures established for special uses under sections 20-127 and 20-128. This is for the purpose of securing preliminary approval of the overall pattern of streets, house lots, primary and secondary conservation areas, and potential trail linkages (where applicable), prior to any significant expenditure on engineering and design costs. Instead of the detailed information required under section 20-119, each conceptual plan shall follow a five-step design process.
- a. *Yield plan.* An applicant must develop a yield or parallel plan using the applicable conventional zoning standards to determine the otherwise achievable net density. Designated wetlands, floodplains and exclusive easements and necessary road right of way shall not be included in determining net density.
  - b. *Designating the open space.* All potential conservation areas (both primary and secondary) shall be identified. Primary conservation areas shall consist of wetlands, floodplains, and slopes over twenty-five (25) percent.



Secondary conservation areas shall comprise forty-five (45) percent of the remaining land, and shall include the most sensitive and noteworthy natural, scenic, and cultural resources on the remaining property based upon the following guidance:

1. On-site visits;
  2. Information from published data and reports; and
  3. Conversations with existing or recent owners of the property, and members of the city council and planning commission.
- c. *Location of homes.* Potential housing sites shall be tentatively located. House sites should generally be located more than one hundred (100) feet from primary conservation areas, but may be situated within fifty (50) feet of secondary conservation areas. The building "footprint" of proposed residences may be changed by more than fifty (50) feet in any direction with approval of the planning commission. Changes involving less than fifty (50) feet do not require approval.
- d. *Street and lot layout.* Lots and streets must be located in a manner that avoids or minimizes adverse impacts on both the primary and secondary conservation areas. To the greatest extent practicable, wetland crossings and streets traversing existing slopes greater than fifteen (15) percent must be avoided. Street connections shall be encouraged to minimize the number of new cul-de-sacs to be maintained by the city and to facilitate easy access to and from homes. The city encourages the creation of single-loaded residential streets, in order that the maximum number of homes in new developments may enjoy views of open space. In situations where more formal, "neo-traditional," or city-type layouts are proposed, steps two and three may be reversed, so that the location of house sites follows the location of streets and squares.
- e. *Lot lines.* Lot lines shall be drawn. These are generally drawn midway between house locations and may include L-shaped "flag-lots" meeting the city's minimum standards for the same.
- (4) *Preliminary engineering review:* Prior to approval of the conceptual plan, the applicant must submit to the planning commission a "preliminary engineering certification" that the approximate layout of proposed streets, lots, and open space lands complies or does not comply with the city's general engineering standards for development and subdivision ordinances, particularly those governing the design of subdivision streets and storm water management facilities. This review requirement is meant to provide the city with reasonable assurance that the proposed plan can be accomplished within the current ordinances and regulations of the city. The review, to be completed by the city's engineer at the expense of the applicant shall note any changes necessary or recommended to implement the plan as drawn.
- (5) *Effect of approval:* Approval of a single-family conservation subdivision development plan shall make the properties proposed for development eligible for additional review and approval in accordance with the approved plan. A development that is not exempted under the state Land Division Act, Act 288 of 1968 as amended, shall be required to undergo subsequent or concurrent review and approvals under site condominium subdivisions (sections 20-130 through 20-150) or the subdivision regulations set forth in chapter 17 of the city Code, as may be applicable.

(Ord. No. 184, § 6, 11-3-01)

Secs. 20-574—20-580. - Reserved.

DIVISION 3. - HOME OCCUPATIONS

## Sec. 20-581. - Controls.

Home occupations shall be controlled as follows:

- (1) None other than members of the family shall be engaged in connection with such home occupation at the same time.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (3) There shall be no change in the outside appearance of the building, no variation from the residential character of the dwelling, and no visible evidence of the conduct of such home occupation.
- (4) No home occupation shall be conducted in any accessory building.
- (5) There shall be no sale of products or services except those customarily incidental to the home occupation.
- (6) The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling. If conducted in other than a single-family dwelling, such nuisance shall not be detectable outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuations in the line voltage off the premises.
- (8) In particular, a home occupation includes, but is not limited to: beauty shop; art studio; dressmaking; teacher with musical or dancing instruction limited to four (4) to six (6) pupils at a time; author; artist; musician; accountant (one); or similar use; but shall not include animal hospital; automotive repair service; barbershop; restaurant; tearoom; tavern; or similar use.
- (9) A certificate of occupancy which shall specify the home occupation as to use and size is required.

(Ord. No. 123, § 19.2, 6-5-89)

Secs. 20-582—20-600. - Reserved.

## DIVISION 4. - DESIGN STANDARDS AND CONDITIONS FOR CERTAIN USES

Sec. 20-601. - Specific standards.

The following site facility and design standards relate to particular uses and are requirements which must be met by those uses in addition to any general regulation or special use standard. In the event of a conflict, the standard in this section 20-601 shall control:

- (1) *Hotel, motel, motor court as may be permitted uses in the B-3 district and permitted as special uses in the B-2 and CBD and PERC districts.*
  - a. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. No more than two (2) driveway openings from a major thoroughfare shall be permitted.

- b. Each unit of commercial occupancy shall contain a minimum of two hundred fifty (250) square feet of gross floor area.
  - c. Where adjacent to a residential district, the screen requirements of section 20-84, shall apply.
- (2) *Drive-in/drive-through restaurants as may be allowed only in the B-1 district as a special use and a permitted use in the B-2 district.*
- a. The main and accessory buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line or residential property line.
  - b. Driveway openings to the site shall be located at least seventy-five (75) feet from any intersection as measured from the intersecting right-of-way lines to the edge of the driveway.
  - c. Screening as required in section 20-84 shall be applicable where lot lines abut any residential district.
  - d. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the street right-of-way. A minimum of six (6) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
  - e. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
- (3) *Child care centers as may be permitted uses in the B-3 district and permitted only as special uses in the B-1, B-2, CBD and I-2 districts.*
- a. Child care centers shall be licensed by the state under Act 116 of the Public Acts of 1973.
  - b. The center shall only be permitted in a safe environment, free from nuisance conditions which would place children's health or safety at risk. Nuisance conditions might include, but are not limited to, unacceptable exposure to traffic, noise, air contaminants, vibration, explosive materials, or other dangerous commercial or industrial activities.
  - c. Site improvements necessary to ensure the health and safety of the children may be required by the city council.
- (4) *Bowling alley, indoor skating and similar uses where permitted by right or special use:*
- a. Driveway openings to the site shall be located at least seventy-five (75) feet from any intersection as measured from the intersecting street right-of-way lines to the edge of the driveway.
  - b. The main and accessory buildings shall be located a minimum of one hundred (100) feet from any residential use.
- (5) *Open air uses except new and used car sales and rental as permitted uses in the B-3 district, principal special uses in the B-1 and I-1 district and as accessory special uses to a principal indoor use in the B-2 district.*
- a. Any business which in whole or in part is to be conducted outside of an enclosed building in the B-1, B-2 or I-1 zoning districts shall require approval by special use permit for that portion of the business to be conducted outside. Excluded from this requirement shall be automobile parking for customers or employees, off-street loading spaces, parking for automobile sales, and signs.
  - b. The city council may require complete or partial screening of any goods or materials or products to be stored or displayed outside. In making the determination regarding required screening of outdoor storage, the city council shall consider the impact of such storage on adjacent uses, and also the potential of such storage to become a blighting influence.
  - c. The outdoor storage areas may be required to be paved, depending on the type of material or product proposed for storage.

- d. Outdoor storage areas are not permitted within required landscape buffer areas, required parking areas, or in a that results in conflict with vehicle circulation or parking.
  - e. All open-air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.
  - f. In the case of indoor-outdoor garden centers or nurseries:
    - 1. The storage of materials display areas shall meet all the yard setback requirements applicable to principal buildings in the district.
    - 2. All loading activity and parking areas shall be provided on the same premises (off-street).
    - 3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon the environment and adjacent properties.
    - 4. Surface areas on which the activity is to take place shall be reviewed for adequacy of drainage. Such surfaces may be required to be paved.
- (6) *Car wash establishments as may be permitted as special uses in the in the B-1, B-2 and CBD districts.*
- a. The minimum lot size shall be twenty thousand (20,000) square feet.
  - b. All washing activities must be carried on within a building.
  - c. Vacuuming activities shall be carried out least fifty (50) feet distant from any adjoining residential use. Automatic car washes involving high velocity blow drying of vehicles shall be located a minimum of five hundred (500) feet from a residential district or use. The exit for such facilities shall be shielded or oriented so that noise levels at the street or property line remain below 65 dBn.
  - d. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.
  - e. All floor drains from wash areas shall be equipped with sand traps before disposal into the sanitary sewer.
  - f. Sufficient stacking capacity for vehicles waiting to be washed shall be provided to ensure that traffic does not extend into the street right-of-way, or interferes with vehicular circulation and parking for vehicles not awaiting the car wash.
  - g. Car wash facilities may be considered as free standing or accessory uses.
- (7) *Housing for the elderly as permitted by special use in the R-4 and R-M districts.*
- a. Minimum lot size shall be two (2) acres.
  - b. Accessory services in common use may include, but not be limited to, the provision of central dining facilities, indoor and outdoor recreational facilities, lounge areas and workshops.
  - c. Each dwelling unit shall contain at least three hundred and fifty (350) square feet of area, not including kitchen and sanitary facilities.
  - d. Development of site and structures shall be in accordance with U.S. department of housing and urban development, minimum property standards, multifamily housing, as it applies to housing for the elderly.
  - e. Municipal water and sanitary sewer shall be available to the site.
- (8) *Automobile disposal, salvage and junkyards as may be allowed as a special use in the I-1 district.* For this use, the following more restrictive provisions shall take precedent above all other provisions which may relate to setbacks, screening, etc. All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less restrictive than those in applicable state statutes, the state requirements shall prevail.

- a. The site shall be a minimum of three (3) acres in size.
  - b. There shall be a required yard setback of at least one hundred (100) feet from any public street and any lot line. The front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored or accumulated in any required yard area.
  - c. A solid fence or wall at least eight (8) feet in height shall be provided along the setback lines of the entire site in order to screen the site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
  - d. All activities shall be confined within the fenced-in areas. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
  - e. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting compressing or packaging shall be conducted within a completely enclosed building.
  - f. Wherever a side or rear lot line of such use abuts residential use or a residential zoning district, the required yard shall be doubled and shall contain plant material, grass, and structural screens to effectively minimize the appearance of the installation.
  - g. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
  - h. All portions of the storage area shall be accessible to emergency vehicles.
  - i. Any area on which the storage of accumulated hazardous or toxic liquids occurs and any surface used to disassemble or store parts or components containing hazardous or toxic liquids shall be paved with concrete and protected by secondary containment measures. The use of asphalt surfacing in such areas shall be prohibited. All state and federal standards for the protection of groundwater shall be met.
- (9) *Bed and breakfast facilities as may be allowed as special uses in the R-A and any residential district.*
- a. The minimum lot size shall be ten thousand (10,000) square feet with a minimum frontage of seventy (70) feet on a public street.
  - b. An existing residence shall not be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this amendment.
  - c. The minimum size of a rental room shall be one hundred twenty-five (125) square feet.
  - d. The minimum size for manager/owner living quarters shall be four hundred fifty (450) square feet.
  - e. A common room or area for guest relaxation is required.
  - f. For those facilities which are not owner-occupied, a manager must reside on the premises and have an equity interest in the facility.
  - g. One (1) off-street parking space shall be provided for each rental room in addition to the two (2) off-street spaces required for single-family dwellings. Parking shall be adequately screened from adjacent residentially developed or zoned property.
  - h. Bathrooms must be furnished for guestrooms at a ratio of not less than one (1) bathroom per two (2) rental rooms.
  - i. The premises (including corner lots) may be permitted one (1) advertising sign not exceeding six (6) square feet in area.
  - j. Approval by the building inspector is required prior to occupancy of the facility. Thereafter, the building inspector shall conduct an annual compliance inspection.

- k. Approval of the county health department is required if other than a continental breakfast is served.
  - l. The maximum stay at a bed and breakfast facility shall be thirty (30) continuous days.
  - m. A site plan shall be submitted in accordance with section 20-116.
  - n. The use of the facility shall not, in the judgment of the city council, be detrimental to adjacent land uses and the immediate neighborhood.
- (10) *Reserved.*
- (11) *Reserved.*
- (12) *Private clubs and lodges as may be permitted as a special use in the CBD and RO districts.*
- a. The lot shall be located so as to abut a collector street, secondary thoroughfare, or major thoroughfare with at least one (1) property line.
  - b. Retail sales of food and beverages may be permitted to members and guests only and there shall be no externally visible sign of commercial activity.
  - c. The provisions of section 20-84 shall apply.
- (13) *Nursing homes as may be allowed as a special use in the RM district.*
- a. Minimum lot size shall be three (3) acres.
  - b. The main and accessory building shall be set back at least seventy-five (75) feet from all property lines.
  - c. The facility shall be designed to provide a minimum of one thousand five hundred (1,500) square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may include off-street parking areas, driveways, required yard setbacks and accessory uses.
  - d. The provisions of section 20-84 shall apply.
- (14) *Kennels as may be allowed as a special use in the R-A district.*
- a. All kennels shall be operated in conformance with all applicable county and state regulations, permits being valid no longer than one (1) year.
  - b. For dog kennels, the minimum lot size shall be two (2) acres for the first three (3) dogs and an additional one (1) acre for each three (3) additional animals.
- (15) *Hospitals as may be permitted as a special use in the B-1 or R-A district.*
- a. Minimum lot area shall be twenty (20) acres.
  - b. The lot location shall be such that at least one (1) property line abuts a major thoroughfare. The ingress and egress for off-street parking facilities for guests and patients shall be directly from the major thoroughfare.
  - c. Minimum main and accessory building setback shall be one hundred (100) feet.
  - d. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or by a masonry wall of six (6) feet or more in height.
  - e. No power plant or laundry shall be located nearer than three hundred (300) feet to any adjacent residential use.
- (16) *Gasoline service stations and filling stations as may be permitted as special uses in the B-1, B-2 and CBD districts.*
- a. Minimum lot area shall be fifteen thousand (15,000) sq. ft.
  - b. Minimum lot width shall be one hundred (100).
  - c. All buildings, structures and equipment shall be located not less than forty (40) feet from any right-of-way line and not less than twenty five (25) feet from any side or rear lot line abutting residentially used property.

- d. Ingress and egress drives shall not be more than thirty (30) feet wide.
  - e. No drive or curb opening shall be located nearer than seventy five (75) feet to any intersection or adjacent residential property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other drive on the premises. Curb cuts shall not be permitted where it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
  - f. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped areas.
  - g. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or bituminous material, except desirable landscaped areas.
  - h. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than twenty five (25) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalks, street or right-of-way.
  - i. When adjoining residentially used or zoned property an affective vegetative screen or screening fence or wall shall be erected and maintained along the common interior lot line, or if separated by an alley, then along the alley lot line. All walls and fences shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within twenty five (25) feet of any right-of-way line, subject to approval by the city council.
  - j. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a five-foot masonry wall and shall comply with requirements for location of accessory buildings. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles for any overnight period shall not exceed more than two (2) vehicles awaiting repairs for each indoor repair stall located within the premises and in no event shall the outdoor storage or parking of any such vehicle be permitted for a period exceeding five (5) days.
  - k. The sale or rental of new or used cars, trucks, trailers, and any other vehicles on the premises shall be permitted only by approval of the city council under such terms and conditions as may be imposed by the council to ensure adequate ingress and egress from such property and to ensure adequate traffic safety.
  - l. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.
- (17) *Natural gas extraction as may be authorized as a special use in the R-A or I districts.* Facilities or plants designed for the removal of sulfur compounds from natural gas extracted from oil and gas wells shall be subject to the following conditions:
- a. A sweetening plant shall be isolated from existing residential, commercial, and manufacturing establishments; wetlands; and surface water; by a minimum of one thousand three hundred (1,300) feet.
  - b. Placement of a sweetening plant shall be so that no subdivisions, apartment buildings, residential developments, mobile home parks, or other land uses that result in a dense population; and no residential uses whose occupants are relatively immobile and which are difficult to quickly and efficiently evacuate, such as hospitals, nursing homes, residential care facilities are within two thousand six hundred (2,600) feet.
  - c. The maximum density of sweetening plants shall not be more than one (1) per square mile section of land. A sweetening plant shall not be within four (4) miles of another sweetening plant and shall be designed to service all oil and gas wells anticipated that are expected to need such service within a two-mile radius. The city council may act to waive the density standard given here if upon documentation by the application:
    - 1. An existing sweetening plant located within the same section of land or within two (2) miles is being

- operated at capacity and cannot be feasibly expanded;
2. Cannot be expanded or modified to accept oil or gas from the applicant's wells; and
  3. The owners of the existing sweetening plant refuse, after reasonable offers and negotiations of terms have been made, to share a sweetening plant to service the applicant's wells.
- d. The applicant for a sweetening plant shall hold an interest ownership in the parcel of land, or lifetime lease for use of the parcel of land, on which the sweetening plant is to be situated.
- e. The sweetening plant shall be screened from view from nearby roads, residents, and commercial establishments by vegetation, berming or both. These should be placed near the property boundary of the parcel of land the sweetening plant is located on so the perimeter road and equipment are within the vegetation/berm and adequate air circulation through the sweetening plant site is provided for. Lights installed to illuminate the site shall be shaded or screened by the vegetation/berm or by apparatus on the light so it is not visible beyond the parcel boundary. The sweetening plant shall comply with all applicable setbacks in this chapter. The sweetening plant shall be made secure so pedestrians and unauthorized persons cannot gain access to the site.
- f. Emissions or effluent from the sweetening plant shall meet or exceed all applicable state and federal air pollution, surface water, and groundwater quality standards. A sweetening plant shall be fitted with a warning siren audible for one (1) mile in all directions on a calm (windless) day which is triggered to sound when concentrations of hydrogen sulfide exceeds two hundred (200) parts per million within the plant site. The siren shall be periodically tested on a regular basis during the life of the plant. Sulfur, once separated from natural gas, shall not be incinerated. Technology which chemically changes the sulfur to its elemental form (or some form for resale) or more advanced technology approved by the city council shall be used.
- g. All solid waste from the site shall be transported by a state-licensed hauler to a licensed type I or type II landfill. No brine pits or other earthen pits shall be allowed as part of the plant, except for inground pits utilized for backup emergency purposes. Steel tanks shall be used instead.
- h. Odor from the sweetening plant shall not be detectable by normal human senses under normal operational circumstances at a distance of one thousand three hundred (1,300) feet from a sweetening plant.
- i. Noise shall not be over ninety (90) decibels at a distance of one thousand three hundred (1,300) feet from a sweetening plant.
- j. A pollution incident prevention plan must be filed as part of the special use permit application and be approved by the following:
1. City fire chief;
  2. County emergency services coordinator;
  3. State police fire marshal;
  4. DEQ geological survey division;
  5. DEQ air quality division;
  6. DEQ groundwater quality division.
- Inasmuch as it deals with fire, evacuation of the community, communications and warnings of incidents, and a mechanism whereby the owner/operator works with the city fire department and the county emergency services coordinator for periodic updating of the plan. Costs of an evacuation, fire, etc., shall be the responsibility of the owner/operator of the establishment.
- k. The application for a special use permit for the proposed sweetening plant shall include letters showing one



(1) of the following:

1. Approval or tentative approval by the state DEQ, soil erosion and sedimentation control agency and any other applicable agencies where approval is required.
2. Letters of understanding for concurrent approval by the city council and the state department of natural resources, soil erosion and sedimentation control agency, and any other applicable agencies where approval is required.

Receiving DEQ approval, or other agency approval, in no way obligates the city council to grant approval unless all standards in this subsection and all general standards of this chapter are found by the city council to be complied with. Site plans, design plans and other documents submitted as part of the special use permit application shall show any changes or modifications required for any applicable regulatory agencies' approvals. Site plan or design plan changes required after the city council issues a special use permit shall also be changed in accordance with procedures established in this chapter for minor adjustments or amendments to site plans.

- l. Upon review of the special use permit application, city council, may require an environmental assessment, environmental impact statement and/or fiscal impact study to obtain additional information needed to make a determination of compliance with the standards, requirements and purposes of this chapter.
  - m. Upon review of the special use permit application, the city council may require upgrading of roads from the sweetening plant to the closest road already constructed to adequately service anticipated traffic. Upon mutual agreement between the city council and applicant, upgrading of roads to a more distant road already constructed to adequately service anticipated traffic may be required. The cost of upgrading of roads shall be the responsibility of the applicant unless a cost-sharing agreement is mutually agreed to between the applicant, the city and the county road commission.
  - n. The application for a sweetening plant shall include information as to the:
    1. Maximum expected life of the operation of the establishment, if such an estimate is possible;
    2. A reclamation plan that includes disassembling the sweetening plant and returning the condition of the land to its original state, or other condition acceptable for future use, when the establishment's useful life has ended; and
    3. Costs for the reclamation in the year it is anticipated the reclamation would take place.
  - o. Prior to issuing a sweetening plant special use permit, a surety is presented to the city clerk for any required improvements, including but not limited to roads, buffers, screening, shading of lights, evacuation and reclamation.
- (18) *Gravel mining, gravel processing, earth removal, quarrying and related mineral extraction businesses as may be permitted as a special use in the R-A district.*
- a. Location.
    1. All such operations shall be located on a major thoroughfare for ingress and egress thereto or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the applicant maybe required to construct or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not all-weather roads.
    2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate

lateral support for adjacent public and private property. No such excavation operations shall be permitted closer than fifty (50) feet to interior boundary lines of the property, or such larger setback as may be required by the city council to adequately protect adjoining properties; however, if the adjoining property is also used for mining and excavation operation then the city council may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to fifty (50) feet if reclamation of the land is promptly effected to increase the setback to at least one hundred fifty (150) feet in accordance with.

3. The reclamation plan approved by the city council, and adequate lateral support as set forth is at all times maintained.
  4. No such excavation operation shall be permitted within fifty (50) feet of adjoining public rights-of-way except from the lowering of land adjoining the rights-of-way to the grade level of the rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
  5. The permanent processing plant and its accessory structure shall not be located closer than two hundred fifty (250) feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
  6. No such excavation operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the state water resources commission or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.
- b. Sight barriers.
1. Sight barriers shall be provided along all boundaries of the site, which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one (1) or more of the following:
    - i. Earth berms constructed to a height of six (6) feet above the mean elevation of the centerline of the adjacent public highway of six (6) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass, trees, or shrubs.
    - ii. Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity and sufficiently spaced to provide effective sight barriers within six (6) feet in height.
    - iii. Masonry walls or attractive solid fences made of uniform new materials constructed to a height of not less than six (6) feet and maintained in good repair.
- c. Nuisance abatement.
1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.

2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment a operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoy property owners. Interior and adjoining roads used in the operations shall have their surface treated to min nuisance.
  3. Hours. The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. and no operations shall be allowed on Sundays.
  4. Fencing. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.
- d. Reclamation of mined areas.
1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one (1) acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one (1) year after termination of mining or excavation activity. Inactivity for a twelve-month consecutive period shall constitute, for this purpose, termination of mining activity.
  2. The following standards shall control reclamation and rehabilitation:
    - i. All excavation shall be either to a water producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or backfilled with nonnoxious, noninflammable and noncombustible solids to ensure:
      - (aa) That the excavated area shall not collect stagnant water and not permit the same to remain therein; or
      - (bb) That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce a gently rolling surface that will minimize wind and water erosion and which will be generally compatible with the adjoining land area.
    - ii. The banks of all excavations shall be sloped to the waterline in a water-producing excavation and to the pit floor in a dry operation, at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
    - iii. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, topsoil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
    - iv. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetation cover on the land surface and to minimize erosion.
    - v. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan, may be retained.
  3. A performance bond or cash shall be furnished the city clerk insuring the proper rehabilitation and reclamation of the mined and excavated operations. The amount of the guarantee shall be not less than three thousand dollars (\$3,000.00) per acre proposed to be mined or excavated in the following twelve-

month period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this chapter and the applicant's filed plan. Mined areas resulting in a water depth of five (5) feet or more shall be deemed to be reclaimed areas to within fifteen (15) feet of any vertical shoreline thereon and to the extent of the shoreline where the same has been sloped to a grade of not more than one (1) vertical to three (3) horizontal for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually, on or about the anniversary date of the excavation permit, for adjustment and compliance with the foregoing requirements by the building inspector and the city council. In no event shall such financial guarantee be less than three thousand dollars (\$3,000.00) in amount.

e. Submission of operational and reclamation plans.

1. No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the planning commission disclosing compliance with all of the provisions of this chapter or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
  - i. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets and whether or not the same are all-weather roads, additional road, if any, to be constructed and the location and nature of abutting improvements on adjoining property.
  - ii. The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
  - iii. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
  - iv. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
  - v. Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site. The soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the city engineer. The written consent of the owners of adjoining premises and of the city council shall be required if mining operations shall be closer than specified in this chapter to the boundaries of the site.
  - vi. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

f. Hearing.

1. After receiving the application for an earth removal, quarrying, gravel processing, mining and related mineral extraction business accompanied by the required plans and specifications and permit fee, the city council shall hold a public hearing upon such application preceded by the notices required for special uses.
2. Opportunity shall be given to all present to be heard at such hearing.
3. Following such hearing, the city council shall approve or deny the application and set forth its reasons for

its decision. Such decision shall be based upon the criteria set forth in this chapter and shall be based, in addition, on a consideration of the following:

- i. The most advantageous use of the land, resources and property.
  - ii. The character of the area in question and its peculiar suitability, if any, for particular uses.
  - iii. Conservation of property, as well as natural resources, and the general and appropriate trend and character of development in the subject area.
  - iv. The protection and preservation of the general health, safety and welfare of the city.
  - v. The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.
  - vi. Whether or not the operations were previously in existence prior to the adoption of the text provision concerning the same and the extent and character of such previous operations.
  - vii. In making its decision, the city council shall have the right and authority to require such additional conditions and safeguards as it deems necessary for the protection of the health safety and general welfare of the neighborhood and of the adjoining residents and property owners. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the planning commission and city council as may be established by the city council.
4. After having received a recommendation from the city planning commission, and holding the public hearing, the city council shall approve, approve with conditions, or deny the application within sixty (60) days.
    - g. Liability insurance. All operators shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than one hundred thousand dollars (\$100,000.00) for each person or property injured or damaged and not less than three hundred thousand dollars (\$300,000.00) for injury or damage to more than one (1) person or one (1) person's property arising out of one (1) occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the city clerk.
    - h. Variances. The zoning board of appeals shall have the right and authority to grant variances from the foregoing conditions and limitations where particular circumstances or hardship may exist, the spirit and intent of the provisions to protect the neighborhood from devastation are still complied with and substantial justice would thereby be affected.
- (19) *Churches as may be permitted as special uses in any zoning district.*
- a. Minimum lot width shall be one hundred and fifty (150) feet.
  - b. Minimum lot area shall be two (2) acres.
  - c. For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be provided.
  - d. The lot location shall be such that access is derived from a collector street, secondary thoroughfare, or major thoroughfare.
  - e. Off-street parking shall be prohibited within the required front yard setback area.
  - f. If the capacity of the main sanctuary or assembly area exceeds three hundred persons, a traffic impact study shall be required to be submitted by the applicant which describes the existing capacity of adjacent and nearby streets providing access to the site and the projected volumes and impacts on traffic operations that

the proposal will have.

- (20) *Veterinary hospitals and clinics as permitted by right in the I-1 district and by special use in the B-1 and B-2 district.*
- a. All pens and animal runs shall be located within a totally enclosed building.
- (21) *Group day care homes as may be permitted as special uses in the residential districts.*
- a. Group day care homes shall be licensed by the state under Act 116 of the Public Acts of 1973, as amended.
  - b. The premises and adjacent property shall be free from nuisance conditions which would place children's health or safety at risk. Nuisance conditions might include, but are not limited to, unacceptable exposure to traffic, noise, air contaminants, vibration, explosive materials, or other dangerous commercial or industrial activities.
  - c. Site improvements may be required to ensure the health and safety of the children while on site.
  - d. The operation shall not cause a basic change in the residential character of the neighborhood in which it is to be located, nor shall it result in any nuisance conditions to residents of the neighborhood in which it is to be located.
  - e. In determining whether potential for a nuisance conditions exists, the following factors shall be evaluated:
    1. Traffic volumes to be generated once the group day care home is in operation;
    2. Adequacy of parking or drop-off sites; and
    3. Presence of other group day care homes or similar uses in the immediate are, and any complaints on record regarding the same uses. If there are existing group day care homes or similar uses already located in the neighborhood where the group day care home is proposed, both the individual and collective impacts of these facilities shall be evaluated in making a determination of a nuisance condition.
- (22) *Lumberyards, retail building supply stores as permitted uses in the B-3 district, as allowed as special uses in the B-1, B-2, and I-1 districts and when allowed as special uses in the I-2 district when located on property having direct frontage on U.S. 131.*
- a. A six (6) foot fence or wall may be required to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
  - b. The storage or materials display areas shall meet all the yard setback requirements applicable to principal buildings in the district and shall not extend into vehicle parking areas.
  - c. Adequate material loading areas shall be provided on site and shall not disrupt on site circulation or street traffic.
- (23) *Public museums and art galleries, as may be permitted as special uses in the B-1, B-2 and CBD and R-1 and R-2 districts.*
- a. The size, character, and nature of the building.
  - b. The proximity and scale of proposed structures to adjoining properties.
  - c. The location and adequacy off-street parking which is to be provided for the use.
  - d. The potential traffic congestion and hazards which will be caused by the use.
  - e. The degree with which the use harmonizes, blends with, and enhances adjoining properties and the surrounding uses.
- (24) *New and used car, boat and RV sales and rentals as may be permitted uses in the B-3 district and permitted as special uses in the B-1, B-2 and CBD districts.*

- a. The display of new, used or rental cars, boat or RV shall not be carried out within any required buffer yard greer
  - b. All outdoor vehicle display areas shall be of an improved concrete or bituminous paved surface.
  - c. Vehicle display or storage shall not be carried out within areas required for visitor, employee, or service parking.
  - d. Sufficient on-site loading area shall be provided so that street traffic is not disrupted by the loading and unloading of vehicle transports.
- (25) *Outdoor auctions.* The establishment of temporary outdoor auction yards for the sale of private merchandise may be permitted in the I-1, I-2 and B-3 districts upon the approval of the city manager subject to the following standards:
- a. The use shall be temporary in nature. The number of consecutive days over which any single event may extend will be limited to three (3). The frequency of the events in the same location and the timing of such events with respect to one another shall be limited to two (2) per calendar year and each event shall be separated by at least sixty (60) calendar days. When authorizing the activity the city manager shall specify the number of days the event may last. No event shall extend beyond 10:00 p.m. and no event shall be open to the public before 9:00 a.m.
  - b. A sketch plan of the event area depicting property lines, street lines and all parking, sanitation areas, portable structures and activities associated with the event shall be submitted as part of the application. The property owner, if different than the applicant, shall provide written consent to the use of the property and to the conditions of approval imposed by the city.
  - c. The auction operator shall possess all applicable state permits applicable to the conduct of an auction.
  - d. The parking or storage of equipment, vehicles, merchandise or material or any other item to be sold at the site may not occur more than ten (10) days in advance of an event date.
  - e. All activities shall comply with all applicable health department regulations regarding food preparation and distribution, sanitation and general health conditions. Adequate temporary sanitation facilities shall be provided on the site during the event and shall be removed within twenty-four (24) hours after the event.
  - f. All refuse, trash, travel trailers, lighting and temporary fencing shall be removed from the site no later than seven (7) days following the event.
  - g. No merchandise or equipment may be left on the site beyond a period of seven (7) days following each auction event.
  - h. Adequate off-street parking capable of supporting the anticipated attendance shall be provided. All parking areas shall be provided on the same property for which the special use permit is granted unless there is written authorization of adjacent property owners for use of established improved parking areas on the adjacent property. All parking areas shall be served by improved driveway entrances meeting the construction standards specified by the city engineer.
  - i. Internal traffic flow control will be required to minimize external traffic impacts and to safely and efficiently manage the circulation of passenger cars and service and emergency vehicles.
  - j. In consideration of the impact of the activity on adjacent uses and passersby, complete or partial screening of activity areas may be required.
  - k. Unless specifically authorized by the city manager, no activity associated with the event may occur within the public right-of-way. Surface areas on which the merchandise is to be placed and on which other activities are to take place shall be reviewed for adequacy of drainage and dust control measures. Depending on the level

of activity and its frequency, the applicant may be required to improve the surface of one or more activity areas.

- l. Temporary off-street parking will be exempt from the paving requirements; however dust from such parking areas shall be controlled through watering and other appropriate measures to prevent it from blowing off site. Positive drainage improvements for the parking areas shall be provided on-site.
- m. To keep trash, paper and other debris from blowing off the premises, fencing of an appropriate height and type may be allowed or may be required at the perimeter of the approved area.
- n. The storage of fuels, or other hazardous materials shall be prohibited.
- o. The applicant shall be required to furnish a performance guarantee in an amount reasonable and necessary to ensure strict compliance with any regulation contained herein or made a condition of approval.

(Ord. No. 123, § 19.3, 6-5-89; Ord. No. 181, §§ 3—5, 11-5-01; Ord. No. 183, § 1, 11-3-01; Ord. No. 192, art. VI, 6-2-03; Ord. No. 195, § 4, 6-21-04; Ord. No. 217, §§ 38—40, 7-7-08)

Secs. 20-602—20-625. - Reserved.

#### DIVISION 5. - DWELLING UNIT CONVERSION

Sec. 20-626. - Allowed conversions.

The provisions of this section allow for the possibility of converting a single-family dwelling (within an existing structure) to a two-or three-family dwelling in the R-1, R-2, R-3, RM, B-2, and CBD districts, provided that the conversion is in conformance with the standards and procedures set forth herein.

(Ord. No. 123, § 19.4, 6-5-89; Ord. No. 173, § 3, 9-5-00; Ord. No. 176, § 5, 6-4-01)

Sec. 20-627. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dwelling unit conversion* means the process in which the owner of a single-family dwelling located in an R-1, R-2, R-3 RM, B-2, and CBD district may apply for conversion of the dwelling into a greater number of dwelling units than existed in the dwelling prior to conversion. Consideration of the application shall be in accordance with the procedures and standards set forth herein.

(Ord. No. 123, § 19.41, 6-5-89; Ord. No. 173, § 4, 9-5-00; Ord. No. 176, § 6, 6-4-01)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 20-628. - Applications, filing procedures, fee.

The owners of a single-family dwelling located in R-1, R-2, R-3, RM, B-2, and CBD zoning districts who wish to convert their existing single- or two-family dwelling into an additional dwelling unit shall file an application on a form prescribed by the city council with the city clerk not less than one (1) week (seven (7) days) before the next regularly scheduled planning commission meeting. The application shall include a site plan with front and side elevations in conformance with the requirements of section 20-116. A separate application shall be required for each structure petitioned for dwelling unit conversion and each application shall be accompanied by a fee of fifty dollars (\$50.00), no part of which shall be refunded.



(Ord. No. 123, § 19.42, 6-5-89; Ord. No. 173, § 5, 9-5-00; Ord. No. 176, § 7, 6-4-01)

Sec. 20-629. - Review procedure.

- (a) Upon receipt of the application and site plan, the city clerk shall transmit copies of the application and site plan to the planning commission, and other individuals and departments as specified in section 20-116, for comment and recommendation, which comments and recommendations shall be forwarded to the city clerk within thirty (30) days of receipt of the plans.
- (b) Upon receipt of comments and recommendations from the planning commission and other contributing departments or individuals, the city clerk shall schedule a public hearing on the application before the city council at its next regularly scheduled meeting provided that the notice requirements required herein cannot be complied with, the hearing shall be scheduled no later than the second regularly scheduled meeting thereafter.
- (c) Upon receipt of the application and site plan, the city clerk shall transmit copies of the application and site plan to the planning commission, and other individuals and departments as specified in section 20-117, for comment and recommendation, which comments and recommendations shall be forwarded to the city clerk within thirty (30) days of receipt of the plans.

(Ord. No. 123, § 19.43, 6-5-89; Ord. No. 211, § 19, 2-5-07)

Sec. 20-630. - Notice requirements for public hearing.

Upon receipt of comments and recommendations from the planning commission and other contributing departments or individuals, the city clerk shall schedule a public hearing on the application in the same manner as provided under section 20-805.

(Ord. No. 123, § 19.44, 6-5-89; Ord. No. 211, § 20, 2-5-07)

Sec. 20-631. - Review power of city council.

The city council may deny, approve, or approve with conditions, requests for dwelling unit conversion which shall be incorporated in a statement of conclusions relative to the dwelling unit conversion under consideration. The decision shall specify the basis for the decision and any conditions imposed. Consideration of the application by the city council shall be based upon conformance with the standards set forth herein. The city council shall render a decision within thirty (30) days after the public hearing required above.

(Ord. No. 123, § 19.45, 6-5-89)

Sec. 20-632. - Review standards.

All applications for dwelling unit conversion as provided herein, shall be reviewed on the basis of whether or not the application and proposed use conform with the following standards:

- (1) The conversion will not be detrimental to the neighborhood; and
- (2) The proposed conversion shall add no more than two (2) apartments to the existing dwelling, and the maximum number of bedrooms per additional dwelling unit shall not exceed two (2) and result in no more than three (3) units maximum; and
- (3) Conversion of any dwelling unit will not result in leaving a dwelling unit whose minimum gross floor area per unit is less than five hundred (500) square feet for an efficiency unit, six hundred (600) square feet for a one-bedroom

unit, and seven hundred fifty (750) square feet for a two-bedroom unit; and

- (4) The owner agrees that all construction and maintenance of the structure and grounds will be in accordance with and conform to all city construction codes, including, but not limited to the building code, electrical code, plumbing code, mechanical code, housing code; and
- (5) Each dwelling unit shall be self-contained consisting of complete lavatory and kitchen facilities and a separate living area; and
- (6) Each dwelling unit shall provide adequate light and ventilation pursuant to the housing code; and
- (7) Stairways leading to the second or any higher floor shall be located within the walls of the building wherever practical, and stairways and fire escapes shall otherwise be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street; and
- (8) Except as may be necessary for purposes of safety in accordance with the proceeding paragraph, there shall be no major structural change in the exterior of the building in connection with the conversion, and after conversion the building shall retain substantially the same structural appearance it had before the conversion; and
- (9) There shall be provided two (2) parking spaces per dwelling unit. The location of the off-street parking spaces shall be consistent and compatible with existing off-street parking in the neighborhood. Where possible, parking should be enclosed or screened from view from any public street. In no case shall an application be approved where parking is intended to be located in the front yard of any dwelling unit for which conversion has been applied for.

(Ord. No. 123, § 19.46, 6-5-89)

#### Sec. 20-633. - Building permit, certificate of occupancy.

If the application is approved, the applicant shall obtain a building permit from the city prior to the construction associated with the conversion. After all construction or reconstruction has been completed, the applicant shall obtain a certificate of occupancy prior to the rental or use of the additional dwelling units. Failure to comply with the provisions of this section will constitute a violation of the zoning chapter for the city and subject the offender to penalties of this chapter.

(Ord. No. 123, § 19.47, 6-5-89)

#### Secs. 20-634—20-639. - Reserved.

### DIVISION 6. - WIRELESS COMMUNICATION FACILITIES (WCF)

#### Sec. 20-640. - Purpose.

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

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

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

- (2) Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
- (3) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the city. Consequently, more stringent standards and conditions should apply to the review, approval and use of the facilities.
- (4) Ensure that wireless communications facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
- (5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
- (6) Promote the public health, safety and welfare.
- (7) Provide for adequate information about plans for wireless communications facilities in order to permit the community to effectively plan for the location of such facilities.
- (8) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
- (9) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.
- (10) The city council finds that the presence of numerous tower and/or pole structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, may have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous tower and/or pole structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-641. - Level 1—Permitted uses within specified zoning districts and on certain existing structures.

Subject to the standards and conditions set forth in section 20-644, and notwithstanding any provisions of the zoning ordinance to the contrary, wireless communication facilities shall be permitted uses in the following circumstances:

- (1) An existing structure which will serve as the support structure for attached WCF within a nonresidential zoning district, where the existing structure is not, in the discretion of the zoning administrator, proposed to be either materially altered or materially changed in appearance; or an existing structure which will serve as support for an attached WCF within any zoning district if the accessory building is either not visible from any residence or can be screened to that extent with landscaping and decorative walls or fences and where the existing structure is not, in the discretion of the zoning administrator, proposed to be either materially altered or materially changed in appearance.
- (2) A proposed co-location of an attached WCF upon an existing wireless communication support structure which has been pre-approved for such co-location as part of an earlier approval by the city.

- (3) An existing structure which will serve an attached WCF consisting of a utility pole located within a right-of-way, where existing pole is not proposed to be modified in a manner which, in the discretion of the zoning administrator, would alter the structure and/or result in an impairment of sight lines or other safety interests.
- (4) A proposal to establish a new WCF shall be deemed a permitted use if proposed in an I-1, I-2 or B-3 zoning district.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-642. - Level 2—Special uses and special uses within specified zoning districts.

If it is demonstrated by an applicant that a WCF may not reasonably be established as a permitted use under section 20-641 and the WCF is, nonetheless required in order to operate a wireless communication service, then, a WCF may be authorized as a special use within any B-1, or B-2 zoning district.

In addition, a WCF may be permitted as a special use on free standing level 2 site in any area of the city outside of a level 1 area if it is located on one (1) of the following types of locations:

- (1) Municipal buildings and sites.
- (2) Church or other institutional site.
- (3) State, county or other governmentally owned site.
- (4) Public or private school sites.

On any of the above free standing special use WCF sites, a WCF shall be subject to application of all standards contained in sections 20-644 and 20-645.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-643. - Level 3—Special uses outside of I-1, I-2, B-1, B-2 and B-3 zoning districts.

If it is demonstrated by an applicant that a WCF may not reasonably be established as a permitted use, or a special use within a level 2 zoning district or as special use on a free standing level 2 site, a WCF may be permitted as a special land use elsewhere in the city subject to the standards and conditions of sections 20-644 and 20-645 and also subject to the following:

- (1) At the time of the submittal, the applicant must demonstrate that a location within a level 1 or level 2 zone cannot meet the needs required for operation of a system.
- (2) The wireless communication facilities must be designed in the appearance of (without limitation) a steeple, bell tower, or other form which, as determined by the village council upon the recommendation of planning commission, is found to be most consistent with the existing and anticipated character of the immediate and general area.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-644. - Standards and conditions applicable to all WCF facilities.

All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions and any additional conditions imposed with a special land use approval:

- (1) Facilities shall be located, designed and landscaped to minimize impacts on the surrounding area. Among other things, all reasonable attempts shall be made and thoroughly explored to utilize existing structures on which to

place facilities, i.e., to utilize attached wireless communications facilities.

- (2) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions, as confirmed by submission of a certification of compliance by the applicants licensed engineer.
- (3) Applicants shall demonstrate a justification of the proposed height of the structures and provide an evaluation of alternative designs which might result in lower heights. Structures which require or are proposed to have high intensity (strobe) lighting shall not be permitted unless such lighting is required by the FAA or other Federal or State regulatory agency.
- (4) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure). The accessory building used to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective zoning district.
- (5) The setback of a new or materially modified support structure from any residential district shall be at least equal to the height of the support structure. The setback of the support structure from any existing or proposed right-of-way or other publicly traveled road shall be no less than seventy-five (75) percent of the height of the structure.
- (6) Where the proposed new or materially modified support structure abuts a parcel of land zoned or used for other than residential purposes, the minimum setback of the structure, and accessory structures, from that parcel shall be the greater distance of either fifteen (15) feet or the required setbacks for main or principal buildings as established for the zoning district in which the support structure is located and be otherwise sufficient taking into account the information required by section 20-646(c).
- (7) When located with direct frontage on a public road, any parcel created for the purpose of siting a new WCF must comply with the minimum lot area and lot frontage and width requirements of the district in which it is located. When located so as not to have direct frontage access, the site shall have access by an easement as required in section 20-644(8) below and shall contain a minimum of twenty-five thousand (25,000) square feet.
- (8) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement that is at least sixty-six (66) feet in width. This access shall have a location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and, the type of equipment which will need to access the site.
- (9) Notwithstanding the provisions of this ordinance to the contrary an attached WCF may be permitted as a principle use or as a structure accessory to another principle use or structure.
- (10) Where an attached WCF is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks. For co-location facilities served by an accessory building, there shall be a single architecturally uniform accessory building for all providers.
- (11) The design and appearance of the support structure and all accessory buildings shall be reviewed and approved so as to minimize distraction, reduce visibility from off site, maximize aesthetic appearance including at and from ground level, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to

maintain the WCF in a neat and orderly fashion.

- (12) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the state. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.
- (13) The requirements of the Federal Aviation Administration, Federal Communication Commission, and state aeronautics commission shall be noted.
- (14) The use of high intensity (strobe) lighting on a WCF shall be prohibited, and the use of other lighting shall be prohibited absent a demonstrated need.
- (15) Applications made which do not include the signature of the licensed operator of a wireless communication service at the time of city processing may be tentatively approved, but shall not receive final approval unless and until the application has been amended to include a signature on behalf of a licensed operator. A tentative approval shall be valid for ninety (90) days. If, during a ninety (90) day tentative approval period, final approval is granted to authorize a WCF within two (2) miles of the property on which a facility has been tentatively approved, such tentative approval shall thereupon expire unless the applicant granted tentative approval demonstrates that it would not be feasible for it to co-locate on the facility that has been newly granted final approval.
- (16) The antenna and other attachments on a WCF shall be designed and constructed to include the minimum attachments required to operate the facility as intended at the site, both in terms of number of size of such attachments, and shall be designed and constructed to maximize aesthetic quality.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-645. - Standards and conditions applicable to special use facilities.

Applications for wireless communication facilities which may be approved as special uses under section 20-642 or section 20-643, shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in section 20-644, any special use approval conditions, and in accordance with the following standards:

- (1) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one (1) or more of the following factors:
  - a. Proximity to an interstate highway or other major thoroughfare.
  - b. Areas of population concentration.
  - c. Concentration of commercial, industrial, and/or other business centers.
  - d. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
  - e. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
  - f. Other specifically identified reason(s) creating facility need.
- (2) The proposal shall be reviewed for conformity with the co-location requirements of this section.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-646. - Application requirements.

- (a) A site plan prepared in accordance with article III, division 4 of this chapter shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

- (b) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screen and aesthetic enhancement for the structure base, accessory buildings and enclosures as required by the standards and code set forth in sections 20-643 and 20-644.
- (c) The application shall include a signed certification by a state-licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
- (d) The application shall include a description of security to be posted with the city at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in section 20-648 below. In this regard, the security shall, at the election of the applicant, be in the form of:
  - (1) Cash;
  - (2) Surety bond;
  - (3) Letter of credit; or
  - (4) An agreement in a form approved by the city attorney and recordable at the office of the register of deeds establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the city in securing removal.
- (e) The application shall include a map showing existing and known proposed wireless communication facilities within the city, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update as needed.
- (f) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- (g) The application fee, in the amount specified by city council resolution.
- (h) The owner or duly authorized representative of all ownership interest in the land on which the WCF is proposed to be located shall sign the application. In addition, if a licensed entity intended to be the operator of the facility does not sign the application, approval shall be restricted as provided in section 20-644(15).

(Ord. No. 197, § 1, 6-21-04)

#### Sec. 20-647. - Co-location.

It is the policy of the city to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for attached WCF purposes, consistent with the statement of purpose and intent, set forth in section 20-640. Each licensed provider of a WCF must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should co-locate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section, and section 20-640. If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by it, where

co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the city.

- (1) *Feasibility of co-location:* Co-location shall be deemed to be "feasible" for purposes of this section where all of the following are met:
  - a. The wireless communication provider entity under consideration for co-location will undertake to pay market rent or other market compensation for co-location. For purposes of this standard and the demonstration required under section 20-647(2)a., "market rent or other market compensation" means an amount and/or form of compensation or consideration that represents the amount that knowledgeable persons, acting in good faith, after reasonable negotiations would agree upon.
  - b. The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
  - c. The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, give inappropriate physical and other adjustment in relation to the structure, antennas, and the like.
  - d. The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the city, taking into consideration the intent and purpose of this section and the several standards contained in sections 20-644 and 20-645.
- (2) *Requirements for co-location:*
  - a. A special use permit for the construction and use of a new WCF shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs. In determining whether an applicant has undertaken to pay market rent or other market compensation for co-location, consideration shall be given to whether the applicant's claim is supported by the opinion, award, determination or recommendation of a qualified, fully informed and disinterested third person such as an arbitrator or mediator, with a rebuttable presumption that absent such support, the applicant has not undertaken to pay market rent or other market compensation for co-location.
  - b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.
  - c. The policy of the city is for co-location. Thus, if a party who owns or otherwise controls a WCF shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
  - d. If a party who owns or otherwise controls a WCF shall fail or refuse to permit a feasible co-location, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible co-location shall be deemed to be in direct violation an contradiction of the policy, intent and purpose of the city, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the city for a period of five (5) years from the date of the failure or refusal to permit the co-location. Such a party may seek and obtain a variance from the zoning council of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that



enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

- (3) *Incentive:* Review of an application for co-location, and review of an application for the use of a facility permitted under section 20-641 shall be expedited by the city whenever possible.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-648. - Removal.

- (a) A condition of every approval of a WCF shall be adequate provision for removal of all or part of the facility by users and owners when the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
- (b) In situations where removal of a facility is required, the requirements may be applied and limited to portions of a facility.
- (c) Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the zoning official.
- (d) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
- (e) The person who had used the facility shall immediately notify the city clerk in writing if and as soon as use of a facility ceases.

(Ord. No. 197, § 1, 6-21-04)

Sec. 20-649. - Reserved.

DIVISION 7. - WIND ENERGY SYSTEMS

Sec. 20-650. - Purpose.

The purpose of this section is to establish standards and procedures by which the installation and operation of wind energy systems (WES) shall be regulated within the city and to:

- (1) Promote the safe, effective and efficient use of WES in order to reduce the consumption of fossil fuels in producing electricity.
- (2) Preserve and protect health, safety, welfare and quality of life by minimizing the potential adverse impacts of WES.
- (3) Establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of a WES shall be governed.

(Ord. No. 225, § 30, 2-1-10)

Sec. 20-651. - Definitions.

*Anemometer.* A wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring and any telemetry devices, that are used to monitor or transmit wind speed and characterize the wind resource at a given location.

*Applicant.* The person, firm, corporation, company, limited liability corporation or other entity that applies for city approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) to any approved wind energy system (WES.) An applicant must have the legal authority to represent and bind the landowner(s) or lessee(s) who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be jointly and severally with the land owner(s), the owner(s) of the WES and the operator or lessee of the WES if different from the owner.

*Building-mounted wind energy systems (WES).* A WES mounted or attached to an existing structure or building.

*Cooperative wind energy system site.* A WES site created with the mutual consent of two or more adjacent property owners, comprised of an easement encompassing all or portions of two or more adjacent lots or parcels. A cooperative WES site meeting the standards of this section may support an on-site WES or a WES for commercial purposes.

*Nacelle.* In a wind turbine, the nacelle refers to the structure that houses all of the generating components, gearbox, drive train and other components.

*On-site-use wind energy system.* A wind energy system (WES) with a main purpose of providing energy to the property where the WES structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or by the mutual consent of adjacent property owners.

*Shadow flicker.* Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects such as dwellings.

*Single wind energy system for commercial purposes.* A single WES placed upon a lot or parcel with the main purpose of generating electricity for sale or otherwise, to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

*Tower-mounted wind energy system.* A WES mounted or attached to a tower, pole or similar structure that is not a building.

*Utility grid wind energy systems.* A WES interconnected with the electricity distribution system.

*Wind energy system (WES).* Any combination of the following:

(Note: For purposes of this section a windmill traditionally used to pump water shall not be considered a wind energy system)

- (1) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft.
- (2) A surface area such as a blade, rotor or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power.
- (3) A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device.
- (4) The generator, alternator or other device used to convert the mechanical energy of the surface area into electrical energy; and any temporary anemometer constructed for the purpose of analyzing the potential for

utilizing a wind energy turbine at a given site prior to the installation of a wind energy turbine.

- (5) The tower, pylon or other structure upon which any, all or some combination of the above are mounted.

*WES height.* The distance from the ground at normal grade and the highest point of the WES, which is the tip of a rotor blade when the blade is in full vertical position.

*WES setback.* The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.

*Wind farm.* Clusters of two or more WES placed upon a parcel or parcels with a purpose of generating electricity to a site or location other than the premises upon which the WES are located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

(Ord. No. 225, § 30, 2-1-10)

Sec. 20-652. - Wind energy systems allowed as a permitted use.

Any on-site use wind energy system that is sixty-five (65) feet or less in total height shall be a permitted use in all zoning districts except the "P" parking district, subject to the following standards and those of section 20-654 of this section:

- (1) *Maximum WES height.* The height of the WES with the blade in vertical position shall not exceed sixty-five (65) feet.
- (2) *Tower-mounted WES setbacks.* A tower-mounted WES shall be set back from all lot lines, or (in the case of a cooperative WES site) all cooperative WES site easement lines a distance that is at least equal to the height of the WES as measured from the lot line or easement line to the base of the tower. No portion of the WES, including the guy wire anchors, shall be located within or above the required front, side or rear yard setbacks.
- (3) *Building-mounted WES setbacks.* A building-mounted WES shall have a distance from the nearest property line that is at least equal to the height of the WES as measured from the point of attachment to the building to the top of the WES with the blade in the vertical position. The blade arcs created by a WES mounted on an existing structure shall have a minimum clearance of eight (8) feet or be designed so the blade or other moving parts do not present a safety hazard.
- (4) *Shared WES usage.* An on-site use WES may provide electrical power to more than one dwelling unit or user, provided the dwelling units or users are located on property or properties that are adjacent to the property or properties on which the WES is located.
- (5) *Construction permit required.* A permit shall be required to be obtained from the city to construct or install any WES. The WES shall not be constructed nor remain on the property unless such permit has been issued. A copy of the manufacturer's installation instructions and blueprints shall be provided to the city as part of the permit application.
- (6) *Operating permit required.* Prior to commencement of operations the applicant shall submit to the city an application to commence WES operations. Included in the operating permit application shall be as-built land survey documentation showing the exact location of all WES towers and appurtenances, the depths and locations of all underground electric lines and all applicable easements and property lines. A permit to operate a WES shall be issued after an inspection of the WES by the city or an authorized agent of the city, and where the inspection finds that the WES complies with the requirements of this section, all applicable state construction and electrical codes, local building permit requirements and all manufacturers' installation instructions.
- (7) *Decommissioning and removal required.* The applicant shall certify and provide the city with written assurance

that the WES shall not be abandoned in place and shall be removed within one (1) year of decommissioning.

(Ord. No. 225, § 30, 2-1-10)

Sec. 20-653. - Wind energy systems that require a special use permit.

A WES including any structure-mounted WES that is greater than sixty-five (65) feet in height may be allowed as a special use in any zoning district provided that the lot, parcel or "cooperative WES site" contains at least one (1) acre of total land area and a shape capable of encompassing within its boundaries a circle with a minimum diameter of 135 feet. Any WES eligible for special use consideration shall be further subject to the following regulations, the requirements of section 20-654 and the procedures and general standards for special land uses contained in section 20-127 of this zoning chapter:

- (1) *Site plan requirements.* For those WES for which a special use permit is required, the following items shall be included with or on the site plan:
  - a. All applicable requirements for a site plan contained sections 20-118 and 20-119.
  - b. A legal survey showing the location and dimensions of the area owned, purchased, leased and/or dedicated by easement that is to contain the WES.
  - c. Location and height of all existing and proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and any other above-ground structures proposed or existing for the parcel or parcels containing the WES.
  - d. Specific distances from the WES structures to all other buildings, structures, and above-ground utilities on the parcel or parcels upon which the WES is proposed to be located.
  - e. Location of all existing and proposed overhead and underground electrical transmission or distribution lines and their associated easements located on the lot or parcel(s) upon which the WES is proposed to be located, as well as within 300 feet of the boundaries of the parcel(s).
  - f. Locations and height of all buildings and structures within 300 feet of the exterior boundaries of the lot or parcel where the WES is proposed to be located.
  - g. Contour elevations of all WES buildings and structures and the elevations of all existing and proposed structures within 300 feet of the parcel(s) upon which the WES is proposed to be located.
  - h. Land uses within 300 feet of the parcel.
  - i. Access drives to the WES including dimensions and composition, with a narrative describing proposed maintenance of the drives.
  - j. All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the planning commission or city staff.
  - k. Security measures proposed to prevent unauthorized trespass and access.
    - l. Standard drawings of the structural components of the WES, including structures, towers, bases and footings. A registered engineer shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state and federal building, structural and electrical codes.
  - m. A shadow flicker analysis. The analysis shall identify locations of shadow flicker that may occur, and shall describe measures such as screening that shall be taken to eliminate or minimize the shadow flicker.
  - n. Additional pertinent information as required by sections 20-118, 20-119 and 20-127 of this chapter or as may be required by the planning commission.
  - o. The zoning administrator may waive or modify the above requirements at the request of the applicant if it is

determined by city staff that those items would not be needed to properly review the project.

- (2) *Height.* The height of a WES for which a special use permit is required shall be determined by compliance with the requirements of this section 20-653.
- (3) *Setbacks.*
  - a. The setback for the base of a WES tower from any adjacent residentially zoned or used lot or parcel shall be at least equal to the height of the WES. Any other part of a WES, including guy wire anchors, shall not be located within the minimum front, side or rear yard area for principal buildings as required for the zoning district in which the WES is located.
  - b. The setback of the WES from any existing or proposed street right-of-way or other publicly traveled road or pedestrian way shall be no less than seventy-five (75) percent of the height of the WES.
  - c. The setback for a WES from any adjacent lot or parcel zoned or used for business (R-O, CBD, B-1, B-2, B-3) purposes or industrial (I-1, I-2) purposes shall be the greater distance of either fifteen (15) feet or the required front, side or rear yard setback for principal buildings as required for the zoning district in which the WES is located. In addition, there shall be signed analysis and certification by a state licensed professional engineer describing the manner in which the WES structure will fall or fail. The certified analysis shall be utilized, along with other applicable zoning regulations, in determining the appropriate setback to be required for the WES.
- (4) *Rotor or blade clearance.* Blade arcs created by a tower-mounted WES shall have a minimum of thirty (30) feet of clearance over and from any structure, adjoining property or tree.
- (5) *Lighting.* A WES shall provide lighting as may be required by the FAA.
- (6) *Maintenance program required.* The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a maintenance schedule of types of maintenance tasks to be performed.
- (7) *Decommissioning plan required.* The applicant shall provide a written description of the anticipated life of the system and facility; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES, system, facility or site become obsolete or abandoned.
- (8) *Siting standards and visual impact.*
  - a. A WES shall be designed and placed in such a manner to minimize adverse visual and noise impacts on neighboring areas.
  - b. A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation and appearance throughout the project as is practicable.
- (9) *Insurance.* The WES operator shall maintain a current insurance policy that shall cover installation and operation of the WES. The dollar amount and type of policy shall be a condition of approval.
- (10) *Performance guarantee.* If a special use permit is approved pursuant to this section, the city may require a security in the form of a cash deposit, surety bond, or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the city, which will be furnished by the applicant to the city in order to ensure full compliance with this section and any conditions of approval.
- (11) *Operating permit required.* Prior to commencement of operations the applicant shall submit to the city an application to commence WES operations. Included in the operating permit application shall be as-built land survey documentation showing the exact location of all WES towers and appurtenances, the depths and locations of all underground electric lines and all applicable easements and property lines. A permit to operate a WES shall be issued after an inspection of the WES by the city or an authorized agent of the City, and where the inspection

finds full compliance with this section and any conditions of special use approval, all applicable state construction and electrical codes, local building permit requirements and all manufacturers' installation instructions.

(Ord. No. 225, § 30, 2-1-10)

Sec. 20-654. - Standards for all wind energy systems.

- (a) *Tower construction.* All towers shall be of mono-pole construction.
- (b) *Sound pressure level.*
  - (1) On-site wind energy systems shall not exceed 55 dB (A) at the property line closest to the WES. This sound pressure level may be exceeded during short-term events such as severe wind storms. If the ambient sound pressure level exceeds 55 dB (A), the standard shall be ambient dB (A) plus 5 dB (A).
  - (2) Utility grid systems and wind farms shall be subject to the sound level requirements of above, however, the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all property used for the utility grid system. In addition, the applicant shall provide modeling and analysis that will demonstrate that the utility grid system or wind farm will not exceed the maximum permitted sound pressure.
- (c) *Construction codes and interconnection standards.*
  - (1) All applicable state construction and electrical codes and local building permit requirements.
  - (2) Federal Aviation Administration requirements.
  - (3) The Michigan Airport Zoning Act, Public Act 23 of 1950, as amended.
  - (4) The Michigan Tall Structures Act, Public Act 259 of 1959, as amended.
  - (5) The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.
- (d) *Safety.*
  - (1) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds or must otherwise be designed so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
  - (2) To prevent unauthorized access, each WES must comply with at least one of the following provisions, and more than one if required by the city:
    - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
    - b. A locked anti-climb device shall be installed and maintained.
  - (3) All WES shall have lightning protection.
  - (4) If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least ten (10) feet above the guy wire anchors.
- (e) *Signs.*
  - (1) Each WES shall have one (1) sign not to exceed two (2) square feet posted at the base of the tower, or, if the structure is fenced, on the fence. The sign shall include the following information:
    - a. The words "Warning: High Voltage."
    - b. Emergency phone numbers.
  - (2) A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer and/or owner's identification.

- (f) *Electromagnetic interference.* WES shall be designed, constructed and operated so as not to cause radio and television interference.
- (g) *Maintenance.* WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.
- (h) *Electrical distribution lines.* All distribution lines from the WES shall be located underground, both on the property where the WES will be located and off-site. The city may waive this requirement for utility grid wind energy systems if the planning commission determines that installation or maintenance of distribution lines underground would be impractical or unreasonably expensive.
- (i) *Road frontage.* A WES, except for building-mounted WES, may be located on a lawful parcel or parcels that do not have frontage on a public or private road.

(Ord. No. 225, § 30, 2-1-10)

Sec. 20-655. - Reserved.

## ARTICLE XIX. - SIGNS

### DIVISION 1. - GENERALLY

Sec. 20-656. - Purpose.

The purpose of this article is to regulate outdoor and window signs in a manner which will minimize their harmful effects upon the health, safety and welfare of the general public and economic values in the community as well as the attractive appearance and natural beauty of the city. The city intends to accomplish the following objectives as the rationale and basis of its various regulations relative to signs:

- (1) To promote the safety of persons and property by providing that signs do not create a hazard due to collapse, fire, collision, decay or abandonment, do not obstruct firefighting or police surveillance, and do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, other vehicles, or traffic signs.
- (2) To protect property values within the city.
- (3) To promote open space and improve the attractiveness and scenic beauty of the community which is considered to be important to the tourist industry and provides the economic base for the city and to encourage a concern for the visual environment which makes the city a more desirable place to live, work and visit.
- (4) To control the quality of materials, construction, electrification and maintenance of all signs.

(Ord. No. 123, § 20.0, 6-5-89)

Sec. 20-657. - Changing location.

- (a) No sign existing at the effective date of this article shall be moved to a new location or structurally repaired unless such sign shall conform or shall be made to conform to the provisions of this article.
- (b) Any sign which is moved to another location either on the same or to other premises or is structurally repaired shall be considered a new sign and shall require a new permit.

(Ord. No. 123, §§ 20.12, 20.13, 6-5-89)

## Sec. 20-658. - Area.

The area of a sign as regulated herein shall be the computed area of the background upon which lettering, insignia or other devices are placed. Where the display area is the face of a building, the area of such sign shall be the product of the total width and the total height occupied by such lettering, devices or insignia. For signs having two (2) sides, the maximum display area shall be permitted on both sides and the total area of one (1) side only shall be deemed to be the total sign area. The supporting structure shall not be included in the area computation unless utilized as part of the total display area.

## Secs. 20-659—20-670. - Reserved.

## DIVISION 2. - PERMIT

## Sec. 20-671. - Required; criteria.

- (a) All signs erected, altered or constructed in the city shall conform to the provisions of this article and as applicable, the provisions of chapter 16 article VI, street banners, sandwich boards. Structural encroachments and portable signs within the public right-of-way. All signs shall require a sign permit from the building inspector.
- (b) All signs pertaining to any new development or development expansion required to undergo site plan approval by the planning commission, shall be reviewed and preliminarily approved as part of the site plan review process (ref. [sec. 20-116—20-129](#))
- (c) Before issuing a sign permit, the building inspector shall determine that:
  - (1) The construction, support and location of the signs will in no way constitute a hazard to the safety of the public or to adjacent properties, the provisions of this article notwithstanding.
  - (2) Street signs conform to all the provisions of this article and if on a state highway, to any additional regulations, which may be set forth by the state highway department.
  - (3) Projecting signs meet all the requirements of this article.
  - (4) Illuminated signs conform in all respect to the electrical codes of the city and the state.
  - (5) Sign illumination shall not be intermittent or flashing.
  - (6) The illumination of building signs, merchandise or products displayed will in no way be confused with standard traffic safety devices.
  - (7) The sign or signs will not by design or arrangement simulate or imitate the size, color, lettering or design of any official traffic sign or any word, phrase or symbol used as a traffic sign or any word, phrase or symbol used as a traffic safety control in such a manner as to confuse traffic.
  - (8) The light sources will be shielded from the direct view of vehicular traffic or adjacent property.
  - (9) Signs using glass shall be adequately constructed and located so as to produce no safety hazard should breakage occur.
  - (10) The sign or signs will not be erected in a manner or location which will obstruct passage from windows or doorways.
  - (11) The sign supports and construction can withstand a horizontal force of forty (40) pounds per square foot applied to the sign display area.

(Ord. No. 123, §§ 20.1, 20.11, 6-5-89; Ord. No. 209, § 15, 1-2-07)



## Sec. 20-672. - Exceptions.

The following signs will not require a permit but are subject to the standards contained herein this chapter:

- (1) A sign painted on or attached to the inside of a window or door of a business building provided that its total area shall not exceed twenty-five (25) percent of the area of the window or door. Such sign area shall furthermore, not be counted in the calculation of total sign area.
- (2) Small temporary and incidental signs as defined in section 20-5, as follows:
  - a. Non-illuminated incidental and temporary signs of five (5) square feet or less in size and a height of forty-two (42) inches above ground level for all permitted residential uses in all residential zoning districts.
  - b. Non-illuminated incidental signs of sixteen (16) square feet or less in size and a height of not more than sixty (60) inches in all business and industrial districts and for all permitted nonresidential uses in residential zoning districts.
  - c. Non-illuminated incidental signs not exceeding five (5) square feet in area and a height of forty-two (42) inches above ground level in all business and industrial districts.
- (3) Street signs which are erected by the city or state or federal government for street direction or traffic control and equivalent street signs in association with private streets.
- (4) One construction sign displaying the name of the architect or contractor on a specific construction project provided the total area of such signs shall not exceed twenty-four (24) square feet. Such signs shall be removed within seven (7) days of the completion of the project.
- (5) Flags of any country, state, municipality, educational institution, non-profit organization, or business entity when attached to a structure or flag pole. A flag pole may not exceed thirty (30) feet above ground level.
- (6) Warning signs. Signs devoted exclusively to warning the public of dangerous conditions and unusual hazards such as steep slopes, high voltage, fire danger, explosives, no trespassing, no dumping, no parking, etc. Warning signs shall not exceed three (3) square feet in area.
- (7) Banners, pennants, string lights, ribbons, balloon signs, inflatable signs and figures and portable signs generally associated with special or seasonal events in association with any uses located in the R-A, R-1, R-2, R-3, R-4, RM, and RMH Districts only. The provisions of section 20-701 shall apply to all such displays located in a B-1, B-2, B-3, RO, CBD, I-1 and I-2 district.

(Ord. No. 123, §§ 20.15, 20.16, 6-5-89; Ord. No. 209, § 16, 1-2-07)

## Sec. 20-673. - Signs prohibited in rights-of-way.

Unless permitted under the provisions of chapter 16, article VI, no sign of greater than two (2) square feet may be placed in the public street right-of-way. Any sign which is placed within a street right-of-way, including a sign placed on a utility pole, which by reason of its size, location, content, coloring or manner of illumination constitutes a traffic hazard or a detriment to traffic safety, by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device on public streets may be removed and impounded by the building official or his or her authorized designee without prior notification of the sign owner or person responsible for the placement of the sign.

(Ord. No. 209, § 17, 1-2-07)

## Sec. 20-674. - Signs prohibited in all districts.

The following signs are expressly prohibited in all districts.

- (1) Roof signs, as defined herein.
- (2) Any sign, which, by reason of its size, location, content, coloring or manner of illumination constitutes a traffic hazard or a detriment of traffic safety, by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device on public streets and roads.
- (3) Signs, which include display of such words as "stop," "look," "danger" or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.
- (4) Signs and sign structures that are no longer in use as originally intended or have been abandoned, or that are structurally unsafe, constitute a hazard to safety and health, or that are not kept in good repair.
- (5) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
- (6) Any sign or other advertising structure containing any obscene or illegal matter.
- (7) Any sign unlawfully installed, erected or maintained.
- (8) Signs having flashing, blinking or running type lights that create the effect of blinking or flashing.
- (9) Display or parking of a motor vehicle or trailer upon a lot or premises in a location visible from a public right-of-way, for the primary purpose of displaying a sign attached to, painted on or placed on the vehicle or trailer. Exceptions include vehicles used regularly in the course of conducting the principal use located on the premises and commercial vehicles parked overnight at the residence of a business owner or employee of a business or institution.
- (10) Signs having any visible portion either in motion or having the appearance of being in motion, whether on a continuous basis or at intervals, and regardless of whether the motion or appearance of motion is caused by natural or artificial sources, with the exception of electronic changeable message signs that do not create a flashing or blinking effect.
- (11) Billboard signs except as permitted in the B-2, B-3, I-1 and I-2 districts.

(Ord. No. 209, § 18, 1-2-07)

Secs. 20-675—20-685. - Reserved.

### DIVISION 3. - RESPONSIBILITY AND REMOVAL

Sec. 20-686. - Owner's risk, removal.

- (a) All signs shall be erected, altered and maintained at the risk of the owner thereof who shall assume full responsibility for consequences or damage caused thereby.
- (b) Permitted signs so erected, altered or maintained shall be removed by the owner upon thirty (30) days' notice from the building inspector where such signs are deemed to have become unsafe or not properly maintained unless such condition is corrected. Upon failure to remove or correct such conditions with thirty (30) days after notice, the building inspector shall have such sign summarily removed as a public nuisance.

(Ord. No. 123, § 20.2, 6-5-89; Ord. No. 209, § 19, 1-2-07)

Sec. 20-687. - Costs of removal.

Signs which no longer associated with an operating business, service or institutional establishment must be removed within thirty (30) days after written notification of the owner or owners or person or firm maintaining the sign or signs, by the building inspector. Upon failure to comply with the request, the building inspector shall have the sign or signs removed, the cost of removal to be borne by the person responsible for the sign, or upon whom notification has been served.

(Ord. No. 123, § 20.2, 6-5-89; Ord. No. 209, § 20, 1-2-07)

Secs. 20-688—20-700. - Reserved.

#### DIVISION 4. - SIGNS IN R-A, R-1, R-2, R-3 AND RMH DISTRICTS

Sec. 20-701. - Permitted signs.

The following standards shall apply to display of temporary signs, including portable signs, banners and other displays for special events in B-1, B-2, B-3, I-1, and I-2 zoning districts.

- (1) Except as permitted for new businesses, temporary signs in excess of 16 square feet, banners, pennants, string lights, ribbons, balloon signs, inflatable signs and figures and portable signs may be in place or erected for no more than sixty (60) days. For new business establishments located in a commercial or industrial district on consecutive display period of thirty (30) days and a total of seventy-five (75) display days may be permitted within the first year.
- (2) The beginning of the display period for temporary or portable sign, banner or other similar display shall not be more than fourteen (14) calendar days from the date of the issuance of the permit.
- (3) There shall not be more than one (1) temporary sign in excess of sixteen (16) square feet, portable sign, banner or inflatable display, displayed per business on a property at any one (1) time.
- (4) Unless first issued a right of way encroachment permit under the provisions of chapter 16, article VI, temporary signs, portable signs and banners, inflatable displays and sandwich boards/A-frame signs (as only allowed in the CBD zoning district) are prohibited within the public street right-of-way or any public street easement.
- (5) No banner shall exceed thirty-five (35) square feet in area.
- (6) Temporary and portable signs shall not exceed eighteen (18) square feet per side with a maximum height of six (6) feet from ground level. The height of a portable or temporary sign includes any portion of a berm on which the sign is placed that is above the average grade between the street and the front of the principle building.
- (7) Portable signs shall be subject to the following additional standards:
  - a. Illuminated portable signs shall be installed in conformance with all state and city electrical codes. No flashing or moving lights shall be used on any portable sign.
  - b. All portable signs and components shall be firmly anchored to the ground in a manner which ensures that the sign will not constitute a safety hazard in the event of high winds, as determined by the building official.

Notwithstanding the provisions of sections 20-686 and 20-687 any temporary sign, portable sign or banner for which a permit has been issued pursuant to this article and which is placed or displayed in violation of this ordinance may be impounded by the city. Any costs associated with the removal and impoundment of the sign by the city shall be deducted from the deposit made at the time of application for the sign permit. Upon removal and impoundment of a sign, the city shall be deducted from the deposit made at the time of application for the sign permit. Upon removal and impoundment of a sign, the city shall notify the sign owner and/or permit

applicant of the city's intent to dispose of the sign. If it is not claimed and removed from the city's place of impoundment within five (5) business days from the date of the notice, the city may dispose of the sign in any manner it deems appropriate.

(Ord. No. 123, § 20.3, 6-5-89; Ord. No. 209, § 21, 1-2-07)

Secs. 20-702—20-715. - Reserved.

#### DIVISION 5. - SIGNS IN RM DISTRICT

Sec. 20-716. - Permitted signs.

In the R-A, R-1, R-2, R-3, R-4, RM and RMH districts only the following signs shall be permitted:

- (1) Signs as permitted under section 20-672.
- (2) For residential subdivisions or site condominiums, multiple family developments, elderly housing, mobile home or manufactured home parks or permitted nonresidential uses, one (1) ground sign not to exceed forty-eight (48) square feet at the primary entrance(s) to the development or use is permitted. For residential developments the following regulations shall apply:
  - a. A sign identifying the development is permitted only if a subdivision association or homeowners association is established and provisions are made for such an association to maintain the sign.
  - b. The signs shall be constructed primarily with carved wood, brick, stone, wrought iron, terra cotta, glazed tile or similar decorative material in order to reflect and enhance the residential character of the area.

(Ord. No. 123, § 20.4, 6-5-89; Ord. No. 209, § 22, 1-2-07)

Secs. 20-717—20-730. - Reserved.

#### DIVISION 6. - SIGNS IN B-1 AND RO DISTRICTS

Sec. 20-731. - Permitted signs.

In the B-1 and RO district, no sign shall be permitted which is not accessory to the business conducted on the property except as permitted under section 40-672. Such sign may only be erected, painted, or placed on any exterior wall providing all of the following requirements shall be met:

- (1) No business establishment shall have a total of more than three (3) signs, provided the total sign area for all signs permitted on the face of any wall shall not exceed fifteen (15) percent of the area of the front face of the wall upon which such sign or signs are attached or related to. Buildings on corner lots shall be deemed to have two (2) front faces and one (1) additional sign may be permitted.
- (2) Wall signs shall be flat signs, attached and parallel to the face of any building wall complying with the provisions of this article. In addition, the following requirements shall be met:
  - a. No sign shall extend farther than fifteen (15) inches from the face of the building to which it is attached; provided, however, that where a sign extends more than three (3) inches from the face of the wall, the bottom of the sign shall not be closer than ten (10) feet to the ground level below the sign.

- b. The maximum width of any sign shall not exceed ninety (90) percent of the width of the wall to which it is attached.
  - c. No sign shall project above the roofline of the building to which it is attached.
- (3) Where entrance or exit to the business property is also provided at the rear or side from an adjoining parking area, the rear or side wall of the building facing upon such parking area shall be deemed to be an additional front face and shall be permitted one (1) additional sign as regulated in subsections (1) and (2); provided, however, that where a side yard or front yard of any residential district adjoins the business district, signs shall then be limited to one (1) additional flat,
  - (4) Monumentalized sign with a total area not to exceed five (5) percent of the building face.
  - (5) Where the second story of a business building is occupied by a separate commercial use, one (1) additional flat sign attached to the face of the second story wall meeting the requirements of this section shall be permitted.
  - (6) One (1) of the permitted signs may be a freestanding pylon sign located at least fifteen (15) feet behind the front street property where the principal building is located at least fifty (50) feet from the property line, provided all the following requirements are met:
    - a. The area of the sign shall not exceed a ratio of one (1) square foot in area for each linear foot of the combined setback of the sign structure and of the principal building from the front street property line.
    - b. The sign shall not be closer to any side lot line than a distance equal to its height.
    - c. The maximum height of a freestanding sign shall be thirty-five (35) feet.

(Ord. No. 123, § 20.5, 6-5-89; Ord. No. 209, § 23, 1-2-07)

Secs. 20-732—20-745. - Reserved.

#### DIVISION 7. - SIGNS IN B-2 DISTRICT

Sec. 20-746. - Permitted signs.

In the B-2 district, no sign may be erected, painted or placed on any exterior wall unless all of the following requirements are met:

- (1) No business establishment shall have a total of more than three (3) signs, provided the total sign area for all signs permitted on the face of any wall shall not exceed fifteen (15) percent of the area of the front face of the wall upon which such sign or signs are attached or related to. Buildings on corner lots shall be deemed to have two (2) front faces and one (1) additional sign may be permitted.
- (2) Wall signs are permitted to project from the front building face, provided that no sign may project into the street right-of-way (street sign) and further provided:
  - a. No sign may project a distance in excess of six (6) feet from the wall to which it is attached.
  - b. No sign shall project a distance which exceeds a ratio of one (1) foot of projection for each five (5) feet of space between the sign and the nearest adjoining business or property.
  - c. No sign shall be hung less than ten (10) feet above the ground or sidewalk level below it.
  - d. The maximum width of any sign shall not exceed ninety (90) percent of the width of the wall to which it is attached.
- (3) Where entrance or exit to the business property is also provided at the rear or side from an adjoining parking area, the rear or side wall of the building facing upon such parking area shall be deemed to be an additional front

face and shall be permitted one (1) additional sign as regulated in subsections (1) and (2); provided, however, that where a side yard or front yard of any residential district adjoins the business district, signs shall then be limited to one (1) additional flat, monumentalized sign with a total area not to exceed five (5) percent of the building face.

Where the second story of a business building is occupied by a separate commercial use, one (1) additional flat sign attached to the face of the second story wall meeting the requirements of this section shall be permitted.

- (4) Free standing or pylon signs. One (1) of the permitted signs may be a freestanding pylon sign located behind the front street property line; provided, however, that no such sign shall be erected on a lot of less than one hundred fifty (150) feet in width, except that on lots abutting a marked state highway of one hundred (100) feet or more in width, such signs may be erected on lots of one-hundred-foot width. No such sign shall be erected on a lot adjoining a lot in residential use under separate ownership where the principal residential building is less than one hundred fifty (150) feet distant from the sign location, the provisions of this article notwithstanding. The following conditions must be complied with:
- a. The sign shall not be closer than five (5) feet to the front street property line and shall be perpendicular to that line.
  - b. No sign shall exceed forty (40) feet in height or one hundred (100) square feet in total area.
  - c. The sign shall meet the side yard requirements of the principal building.
- (5) Billboards as the principal use on vacant lots, may advertise products or entities not related to the use of the property. Such sign shall meet all yard requirements of its zone provided that no such sign shall be closer than ten (10) feet to any property line nor closer than three (3) feet to the ground, and such three (3) feet shall be kept open and unobstructed. Any lot to be used for a billboard or signboard shall have at least sixty (60) feet of frontage on a marked state highway and be at least five hundred (500) feet from a similar use on the same side of the street. The area of the sign shall not exceed a ratio of five (5) square feet for each foot of lot width. No billboard sign or structural sign support shall be attached to a building.
- (6) Roof signs are prohibited.

(Ord. No. 123, § 20.6, 6-5-89; Ord. No. 209, § 24, 1-2-07; Ord. No. 225, § 31, 2-1-10)

Secs. 20-747—20-760. - Reserved.

#### DIVISION 8. - SIGNS IN CBD DISTRICT

##### Sec. 20-761. - Permitted signs.

In the CBD district, no sign shall be permitted which is not accessory to the business conducted on the property except as permitted under section 40-672. All of the following requirements shall be met:

No business establishment shall have a total of more than three (3) signs, provided the total sign area for all signs permitted on the

- (1) Face of any wall shall not exceed fifteen (15) percent of the area of the front face of the wall upon which such sign or signs are attached or related to. Buildings on corner lots shall be deemed to have two (2) front faces and one (1) additional sign may be permitted.
- (2) The maximum width of any sign shall not exceed ninety (90) percent of the width of wall to which it is attached.

- (3) No sign shall project above the roof line of the building to which it is attached and perpendicular street signs may extend outward from the wall not more than thirty-two (32) inches.
- (4) Perpendicular street signs shall not be internally illuminated.
- (5) Where entrance or exit to the business property is also provided at the rear or side from an adjoining parking area, the rear or side wall of the building facing upon such parking area shall be deemed to be an additional front face and shall be permitted one (1) additional sign as regulated in subsections (1) and (2); provided, however, that where a side or rear wall faces or adjoins any residential district, the signs shall then be limited to one (1) additional flat, wall sign with a total area not to exceed five (5) percent of the building face.
- (6) Where the second story of a business building is occupied by a separate commercial use, one (1) additional flat sign attached to the face of the second story wall shall be permitted. The area of the additional wall sign shall be limited to five (5) percent of the second story building face to which the sign is attached.
- (7) Where the principal building is located at least fifteen (15) feet from the property line one (1) of the permitted signs may be a freestanding pylon sign located at least five (5) feet behind the street right of way line. The maximum height of a free standing sign shall be fifteen (15) feet.
- (8) Gasoline service stations, used car lots and garages may display, in addition to the foregoing signs, the following signs which are deemed customary and necessary to their respective businesses:
  - a. One (1) freestanding or pylon sign provided that each sign shall not exceed fifty-four (54) square feet in area on a side, shall not extend beyond the property line and shall not be less than ten (10) or more than thirty (30) feet above ground.
  - b. One (1) temporary sign located inside the property line provided that the sign does not exceed eight (8) square feet in area.
  - c. Incidental signs or lettering on the face of the building over individual entrance doors or bays provided that there shall be not more than one (1) such sign over each entrance or bay.
- (9) For the purpose of this section canopies, marquees and fixed awnings are considered an integral part of the structure to which they are attached. Such canopies, marquees and fixed awnings and signs attached thereto may be allowed in the central business district if they meet the following requirements:
  - a. Awnings, canopies or marquees may have no part of the structure other than support nearer the ground surface than eight (8) feet;
  - b. The architectural style of the awning, canopy or marquee shall be consistent with the building being served and shall be in compliance with the officially adopted streetscape plan for the CBD as applicable, if any;
  - c. An awning, canopy or marquee may not project into the public right-of-way unless it has been issued an encroachment permit from the city council under the provisions of chapter 16, article VI. The awning, canopy or marquee may not project into the public right-of-way nearer than thirty (30) inches to the street curb or curb line. On corner lots this distance shall be at least seventy-two (72) inches. No awning or marquee shall be allowed to interfere with street signs, plantings, light fixtures or other decorative street fixtures installed by the city.
  - d. No sign shall be hung from the awning, marquee or canopy unless the sign is above the top of the door or above eight (8) feet above grade. No such hanging sign may extend outward from the wall more than thirty-two (32) inches.
  - e. No sign shall project beyond the ends of the marquee or canopy.
  - f. The area of signs attached to or made part of an awning, canopy or marquee is considered part of the

allowable total sign area and allowable total number of signs permitted under this section 20-761.

- (10) Sandwich board/A-frame signs may be permitted in the CBD district when issued a permit under the provisions of chapter 16, article VI. Such permits may allow for the placement of a stationary sandwich board/A-frame sign on the public sidewalk when in compliance with the following standards and the other requirements imposed by the city council under the provisions of chapter 16, article VI:
- a. Maximum height: Four (4) feet.
  - b. Maximum area: Eight (8) square feet for each side.
  - c. Location: The sign shall be stationary and may not be positioned closer than one (1) foot from face of curb. A minimum sidewalk width of four (4) feet shall remain free from obstruction.
  - d. Maximum number: One (1) sandwich board/A-frame sign may be permitted for each storefront facing the street, regardless of number of tenant spaces within each building.
  - e. Duration: Temporary, during business hours. The sign must be removed at the end of each business day, December to March only.
  - f. Flashing lights, reflectors, balloons, streamers or other items attached to the sign structure are prohibited.

(Ord. No. 123, § 20.7, 6-5-89; Ord. No. 209, § 25, 1-2-07)

Secs. 20-762—20-775. - Reserved.

#### DIVISION 9. - SIGNS IN I-1, I-2 DISTRICTS

Sec. 20-776. - Permitted signs.

In the B-3 regional commercial, I-1 and I-2 industrial districts, unless otherwise specified, no sign shall be permitted which is not accessory to the principal use of the building or property. The following signs are permitted, provided that all of the following requirements are complied with:

- (1) One (1) freestanding sign, provided:
  - a. The sign is not place in the front half of the setback required for the principal building.
  - b. The sign complies with the side yard requirements for the principal building.
  - c. The length of the permitted sign is not over ten (10) percent of the width of the building that the sign will set in front of.
  - d. The height of the sign shall not exceed one-half the length as permitted above, but in no case shall the height of the sign exceed ten (10) feet.
- (2) One wall sign is permitted to project from the front building face, provided that no sign may project into the street right-a-way (street sign) and further provided:
  - a. No sign may project a distance in excess of six (6) feet from the wall to which it is attached.
  - b. No sign shall project a distance which exceeds a ratio of one (1) foot of projection for each five (5) feet of space between the sign and the nearest adjoining business or property.
  - c. No sign shall be hung less than ten (10) feet above the ground or sidewalk level below it.
  - d. The maximum width of any sign shall not exceed ninety (90) percent of the width of the wall to which it is attached.



- (3) Where entrance or exit to the business property is also provided at the rear or side from an adjoining parking area, side wall of the building facing upon such parking area shall be deemed to be an additional front face and shall be permitted one (1) additional wall sign as regulated in subsection (2); provided, however, that where a side yard or front yard of residential district adjoins the business district, signs shall then be limited to one (1) additional flat, monumentalized sign with a total area not to exceed five (5) percent of the building face.
- (4) Billboards as the principal use on vacant lots, may advertise products or entities not related to the use of the property. Such sign shall meet all yard requirements of its zone provided that no such sign shall be closer than ten (10) feet to any property line nor closer than three (3) feet to the ground, and such three (3) feet shall be kept open and unobstructed. Any lot to be used for a billboard or signboard shall have at least sixty (60) feet of frontage on a marked state highway and be at least five hundred (500) feet from a similar use on the same side of the street. The area of the sign shall not exceed a ratio of five (5) square feet for each foot of lot width, up to a maximum of three hundred (300) square feet. No billboard sign or structural sign support shall be attached to a building.

(Ord. No. 123, § 20.8, 6-5-89; Ord. No. 209, § 26, 1-2-07)

Secs. 20-777—20-800. - Reserved.

#### ARTICLE XX. - ADMINISTRATION AND ENFORCEMENT

Sec. 20-801. - Building permits, plans.

- (a) No building or structure or part thereof shall be erected, constructed, altered, enlarged, repaired, converted, moved or demolished until a permit has been granted by the building inspector. An application for a permit shall be filed with the city which shall state the intended use of the structure and of the land. The application shall be accompanied by detailed plans and specifications, a plot plan showing open spaces, the established building lines within the block and such other information as may be necessary or desirable to provide for the enforcement of this chapter. Plans shall be drawn to scale and shall show actual dimensions in figures. Building and plot plans shall be signed by the person preparing them and by the owner of the property or building involved. A fee as prescribed by resolution of the city council from time to time, to defray the costs of administration and inspections, shall accompany any plans or application.
- (b) No building permit shall be issued unless the plans and intended use indicate that such building or structure is designed to conform in all respects to the provisions of this chapter, and is located on a dedicated public street. All building permits shall expire six (6) months from date of issuance. An expired building permit may be reissued, provided all the requirements of this chapter or any subsequent amendments thereto are complied with. A copy of all approved building permits shall be sent to the city assessor.

Sec. 20-802. - Enforcement.

- (a) This chapter shall be enforced by the building inspector, or by a police officer who has been designated in writing by the city manager to enforce this chapter. The building inspector shall issue permits, but no permit shall be issued for any building or land which would be in violation of any of the provisions of this chapter.
- (b) The building inspector or a police officer who has been designated in writing by the city manager to enforce this chapter, shall investigate any violation of this chapter, and if any violation is found to exist, shall serve written notice upon the owner or his agent, ordering that corrective action be taken to comply with this chapter. If the violations

are not corrected within thirty (30) days after the date of such order, or commencing within thirty (30) days and diligently prosecuted to completion, the building inspector or police officer shall institute legal proceedings to enforce this chapter. If the violation creates an imminent danger to the public health, safety, or welfare, then the violator may be ordered to take corrective action immediately and the thirty-day period shall not apply.

- (c) The building inspector shall make an inspection of all new construction from time to time to ascertain that the dimensions and conditions stated on the application are being met. He shall also make periodic inspections throughout the city to ascertain that the requirements of this chapter are being followed.
- (d) It shall be the further duty of the building inspector to keep all records of all inspections and applications for building permits and of all such permits issued, with a notation of all special conditions involved. He shall file and safely keep copies of all plans other than for one-family houses and fees submitted with such application, and the same shall form a part of the records of his office.

(Ord. No. 139, §§ 1, 2, 6-1-92)

#### Sec. 20-803. - Certificate of occupancy.

- (a) No land shall be occupied or used and no building constructed, erected, altered, repaired, enlarged, converted, or moved shall be occupied or used, in whole or in part for any purpose until a certificate of occupancy shall have been issued by the building inspector stating that the premises or building complies with all the provisions of the approved plans and all ordinances of the city. Such certificate of occupancy shall be granted or denied within ten (10) days from the date written application therefor has been received by the building inspector. Where any special use conditions are applicable such conditions shall be stated on the certificate of occupancy.
- (b) A record of all certificates of occupancy shall be kept on file in the office of the building inspector. Where a building permit is not involved, a fee as prescribed by resolution of the city council from time to time shall be charged. A copy of the certificate of occupancy shall be sent to the city clerk and the city assessor by the building inspector.

#### Sec. 20-804. - Violation and penalty.

- (a) Any land or structure used, erected, constructed, altered, enlarged, repaired, converted, moved, or demolished in violation of this chapter is hereby declared to be a public nuisance. The city may seek an injunction in circuit court to abate such public nuisance in addition to other remedies contained herein.
- (b) Any person who violates any of the provisions of this chapter shall be deemed to be responsible for a municipal civil infraction, which shall be sanctionable in accordance with section 1-13 of this Code.
- (c) Any person in charge of, assisting in, or responsible for any violation of this chapter shall be deemed to be responsible for maintaining or assisting in maintaining a public nuisance.

(Ord. No. 148, § 1, 12-18-95)

#### Sec. 20-805. - Public hearing requirements.

Except where expressly stated otherwise in this chapter, whenever a public hearing on a zoning amendment or zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered according to the following requirements:

- (1) The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the city.
- (2) For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the zoning

board of appeals involving a specific parcel; for all site condominium subdivisions and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:

- a. The applicant;
- b. All persons to whom real property is assessed with three hundred (300) feet of the property that is the subject to the application; and
- c. The occupants of all structures within three hundred (300) feet of the property that is the subject of the application.

If the above-described 300-foot radius extends outside of the city's boundaries, then notice must be provided outside of the city boundaries, within the 300-foot radius, to all persons in the above-stated categories.

- (3) The notice of public hearing shall include the following information:
  - a. A description of the nature of the zoning amendment, application or request.
  - b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
  - c. A statement of when and where the proposal, application or request will be considered.
  - d. Identify when and where written comments will be received concerning the proposal, application or request.

(Ord. No. 211, § 21, 2-5-07)

Secs. 20-806—20-825. - Reserved.

## ARTICLE XXI. - ZONING BOARD OF APPEALS

### *Footnotes:*

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**Editor's note**— Ord. No. 177, §§ 3, 4, adopted July 2, 2001, repealed sections 20-826—20-839 in their entirety and replaced them with new sections 20-826—20-835. Former sections 20-826—20-839 pertained to similar material and derived from Ord. No. 123, §§ 22.2—22.9, adopted June 5, 1989.

**State Law reference**— Board of appeals, MCL 125.585.

Sec. 20-826. - Zoning board of appeals.

In order that the objectives of this ordinance be fully and equitably achieved; that there be a means of interpreting this ordinance, that adequate but controlled flexibility in the form of variances be provided in the application of this ordinance, that the health, safety, and welfare of the public be secured, and that justice be done, the zoning board of appeals and its powers and duties are hereby re-established, re-stated, and modified as set forth in the following sections.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-827. - Membership and terms of office.

The membership of the zoning board of appeals shall be reduced from nine (9) members to five (5) members. The members shall be appointed by the mayor and approved by the city council. The members shall consist of one (1) member from the city council, one (1) member from the planning commission, and three (3) residents from the city at large. The three (3) resident members shall not be members of the city council, planning commission, or employees of the city. Members shall be appointed for three-year terms, provided the term of the planning commission member shall terminate if his or her term on the planning commission terminates. A person who is appointed to the board to replace a member who did not complete a term shall serve initially only for the balance of time remaining in that term. The city council may also approve, at its discretion, up to two (2) alternate members of the board to serve three-year terms. If alternate members are appointed, they shall be called on a rotating basis as determined by the chairman of the board. Alternate members may be called on to serve as a regular member of the board, in the absence of a regular member, or to reach a decision in a matter where a member has chosen to abstain from voting due to a conflict of interest. Alternate members shall have the same voting rights as a regular member, and if used in a matter, shall continue to serve in that matter until a final decision is made.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-828. - Organization and procedures.

- (a) *Rules of procedure.* The board shall adopt its own rules of procedure as may be necessary to conduct its meetings properly.
- (b) *Majority vote.* The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator, to decide in favor of the applicant any matter upon which they are required to pass under this ordinance; or to effect any variation in this ordinance, except that a concurring vote of two-thirds ( $\frac{2}{3}$ ) of the members shall be necessary to grant a variance involving the use of land.
- (c) *Officers.* The board shall appoint a chair, vice-chair, and secretary, as prescribed in their rules of procedure.
- (d) *Meetings.*
  - (1) Meetings shall be held at the call of the chairman and at such other times as the board shall specify in its rules of procedure.
  - (2) The business of the board shall be conducted in compliance with the Open Meetings Act, Act 267 of the Public Acts of 1976 (MCL 15.261 to 15.275), as amended.
- (e) *Minutes.* Minutes shall be taken of each meeting. Minutes shall include the dates, time, place, members absent, members present, any decisions made at the meeting, and all roll call votes taken at the meeting. The minutes shall be filed with the secretary of the board and in the office of the city clerk.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-829. - Duties and powers of the zoning board of appeals.

- (a) *Interpretations.*
  - (1) The board shall hear and decide upon requests for the interpretation of the provisions of this ordinance.
  - (2) The board shall determine the precise location of boundary lines between zoning districts when such boundary lines may be in question.
- (b) *Appeals.* The board shall hear and decide appeals where it is alleged by an aggrieved party or by an official, department, bureau or board of the city, that there is an error in any order, requirement, permit, decision, or refusal made by the zoning administrator in the administration and enforcement of this ordinance.

(c) *Variances*. The board shall hear and decide requests for variances from the requirements of this ordinance.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-830. - Limitation of powers.

(a) The board shall not have any authority other than that expressly conferred upon it by this ordinance and state law.

(b) The board shall not hear any appeal regarding special uses.

(c) The board shall not hear any appeal regarding planned unit developments.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-831. - Appeals process.

(a) *Eligibility for filing an appeal*. An appeal may be taken to the board by any person aggrieved, including a person, firm, or corporation, or by any officer, department, board, or bureau affected by a decision made by the zoning administrator in the administration of this ordinance.

(b) *Filing of appeal*. All appeals shall be filed with the zoning administrator and shall identify the sections of the ordinance involved in the appeal and shall state the grounds for the appeal.

(c) *Fees for appeal*. A fee, as established by the city council from time to time, shall be paid to the zoning administrator at the time of filing an appeal. The purpose of the fee is to recover any necessary advertisement and investigation expenses incurred by the board in connection with the appeal.

(d) *Time for filing an appeal*. An appeal shall be filed with the zoning administrator within thirty (30) days of the date of the decision or order being appealed.

(e) *Stay*. An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board, after the appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the zoning administrator cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the board of appeals or by the circuit court, on application, on notice to the zoning administrator and on due cause shown.

(f) *Distribution of appeal materials to zoning board of appeals*. The zoning administrator shall transmit to the board all of the papers constituting the record upon which the appeal is taken.

(g) *Date and notice of hearing*. The board shall fix a reasonable time for the hearing of the appeal. The board shall give due notice of the hearing to the persons to whom real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of single-and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term occupant may be used.

(h) *Representation at hearing*. At the hearing, a party may appear in person, by agent, or by legal representative.

(i) *Decisions*. The board may reverse, affirm, or modify the order, requirement, decision, or determination appealed. The board shall make any order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the zoning administrator or body from whom the appeal is taken. If an affirmative decision is made, the board may attach reasonable conditions to the decision.

(j) *Time*. The board shall render a decision within sixty (60) days after the hearing, and in any event not less than ninety (90) days from the date the appeal was filed with the zoning administrator.

(k) *Final authority*. A decision of the board shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the circuit court.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-832. - Hearings involving variances.

- (a) Non-use or dimensional variances. The board may authorize a non-use or dimensional variance if it finds, based upon material, competent, and substantial evidence on the record, that all of the following conditions are satisfied:
- (1) That unless the variance is granted, there will be practical difficulty resulting to the applicant in carrying out the strict letter of the ordinance.
    - a. An example of practical difficulty would be if dimensional zoning requirements could not be met on an existing lot due to narrowness, irregular shape, or location of natural features such as wetlands or flood plains on the site.
    - b. Demonstration of practical difficulty should have a bearing on a condition relative to the site, or use upon the site, and not to the applicant personally. Economic hardship or optimal profit potential does not constitute practical difficulty.
  - (2) That the practical difficulty is due to unique circumstances peculiar to the property and not to general neighborhood conditions and shall not alter the essential character of the area.
  - (3) That the practical difficulty was not created by the applicant or any person who has or had an interest in the property.
  - (4) That the granting of the variance will result in the spirit of the ordinance being observed, public safety being secured, and substantial justice being done for both applicant and other property owners in the district. Substantial justice, as it relates to the applicant, shall mean permitting the applicant substantial property rights, such as those enjoyed by adjoining properties in the same zoning district. Substantial justice, as it relates to other property owners in the district, shall mean trying to ensure that special development rights are not bestowed on the applicant that are not enjoyed by the other property owners in the same district, or that the granting of the applicant's variance does not result in substantial adverse impacts on adjoining properties.
- (b) Use variances. The board may authorize a variance in the use of property if it finds, based upon material, competent, and substantial evidence on the record, that all of the following conditions are satisfied:
- (1) That unless the variance is granted, there will be unnecessary hardship resulting to the applicant in carrying out the strict letter of the ordinance. Unnecessary hardship is defined as when the property cannot be reasonably used for any purposes permitted in that zoning district. An inability to maximize profit potential does not constitute unnecessary hardship.
  - (2) That the unnecessary hardship must be due to unique circumstances peculiar to the property and not to general neighborhood conditions and shall not alter the essential character of the area.
  - (3) That the applicant or any person who has or had an interest in the property did not create the problem for which the variance is being sought.
  - (4) That the granting of the variance will result in the spirit of the ordinance being observed, public safety being secured, and substantial justice being done.
- (c) In approving a variance, the board shall only approve the minimum variance necessary to relieve the practical difficulty or unnecessary hardship.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-833. - Record of variance decisions.

The board shall record in the minutes of any variance hearing:

- (1) The decision made, including the vote;
- (2) The conditions, if any, which are attached to the variance;
- (3) For variances approved, a statement indicating the satisfaction of all required conditions;
- (4) For variances denied, a statement of the reasons for denial.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-834. - Variance period of validity.

The construction or activity authorized by a variance approved by the board shall commence within one year of the date of the decision approving the variance, or the variance shall become void.

(Ord. No. 177, § 3, 7-2-01)

Sec. 20-835. - Rehearings.

No application for a variance which has been denied wholly or in part by the board shall be resubmitted for rehearing for a period of one year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found to be valid by the board.

(Ord. No. 177, § 3, 7-2-01)

Secs. 20-836—20-860. - Reserved.

## ARTICLE XXII. - AMENDMENTS

Sec. 20-861. - Procedure.

The city council may from time to time amend, supplement or repeal the regulations and provisions of this chapter in the manner prescribed by the Zoning Enabling Act as amended and in accordance with the following procedural outline:

- (1) A proposed amendment, supplement, or repeal may be originated by the city council, city planning commission, or by petition. All proposals not originating with the city planning commission shall be referred to the commission for a report thereon before any action is taken on the proposal by the city council.
- (2) The city planning commission shall study the proposed amendment, supplement, or repeal. If it decides the proposal has merit, the city planning commission shall hold a public hearing thereon in accordance with procedures stated in section 20-805 and make a report of its findings and recommendation to the city council. If the city planning commission decides that a proposed amendment, supplement, or repeal does not have merit, it shall so report to the city council, without holding a public hearing.
- (3) When the city council receives an adverse report on a proposed amendment or change that has not received a public hearing by the city planning commission, it may concur with the recommendation and stop further action, or, if it does not agree with the recommendation, the city council shall refer the proposed amendment or change back to the city planning commission, with a request that the city planning commission hold a public hearing on the proposed amendment, supplement, or real and make a final report to the city council. When the city council

receives a recommendation from the city planning commission, the city council may but is not required to hold a public hearing thereon. If such a hearing is held, notice shall be given in the manner prescribed section 20-805, with reference given to the city council.

(Ord. No. 123, § 23.03, 6-5-89; Ord. No. 211, § 23, 2-5-07)

Sec. 20-862. - Protests.

Whenever a written protest against such proposed amendment, supplement, or change is presented, duly signed by the owners of twenty (20) percent or more of the frontage proposed to be altered, or by the owners of twenty (20) percent or more of the frontage immediately in the rear thereof, or by the owners of twenty (20) percent of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by the favorable vote of three-fourths of the entire city council.

(Ord. No. 123, § 23.1, 6-5-89)