

## TITLE SIX - Zoning

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### CHAPTER 1230

#### Title, Purpose, and Scope

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##### **1230.01 SHORT TITLE.**

This Title Six of Part Twelve of these Codified Ordinances may be referred to and cited as the “Zoning Ordinance of the City of Battle Creek” or the “Zoning Ordinance” or the “Zoning Code.”

(Ord. 10-2020.Passed 11-24-20.)

##### **1230.02 PURPOSE.**

(a) The zoning districts and the regulations specified for each district established by this Zoning Code have been constructed in accordance with a general plan for the physical development of the City. This plan, called the Master Plan, provides thoroughly considered objectives for the sound and orderly development of the City.

(b) It is the purpose of this Zoning Code to promote the safety, health, morale, convenience and general welfare of the public and community; to encourage the use of lands and natural resources in the City in accordance with their character, adaptability and suitability for particular purposes; to conserve social and economic stability, property values and the general character and trend of community development; to limit the improper use of land; to prevent excessive concentrations of the population; to lessen congestion on public streets and highways; to facilitate adequate provision of streets and highways, sewerage and drainage, water supply and distribution, educational, recreational and other public facilities; and to conserve life, property, natural resources and the expenditure of public funds for public facilities and services, by establishing standards for development in accordance with the objectives contained in the Master Plan, and by providing for the enforcement of such standards.

(c) The development standards provided in this Zoning Code designate zoning districts which establish the location, size and use of buildings, structures, parking areas, and minimum open space; provides maximum densities per acre of land; and generally, set forth standards for new roads, utilities, and other infrastructure for new development.

(Ord. 10-2020.Passed 11-24-20.)

### **1230.03 SEPARABILITY.**

Should any section or provision of this Zoning Code be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Zoning Code as a whole or any part thereof other than the part so declared to be invalid.

(Ord. 10-2020.Passed 11-24-20.)

### **1230.04 PENDING ACTIONS AND PRESERVATION OF RIGHTS.**

All proceedings in court or that have been administratively initiated that are now pending, and all rights and liabilities existing with respect thereto, are hereby saved. Such proceedings may be consummated in accordance with the law in force at the time such proceedings were commenced, unless otherwise provided. Where applicable, the rights of the City under its original Zoning Code in 1924 shall be deemed to be cumulative and are preserved.

(Ord. 10-2020.Passed 11-24-20.)

### **1230.05 EFFECTIVE DATE.**

This Zoning Code is declared to be effective seven days following its publication and adoption on November 24, 2020, in accordance with the Michigan Zoning Enabling Act, Public 110 of 2006, as amended, being MCL 125.3101 et seq.

(Ord. 10-2020.Passed 11-24-20.)

### **1230.06 DEFINITIONS.**

(a) General Definitions.

(1) "Accessory Building." A separate building located on the same lot as the main building, the use of which is naturally and normally incidental to that of the primary use of the main building or land.

(2) "Accessory Use." A use which is naturally and normally incidental to the primary use of the premises.

(3) "Accessory Dwelling Unit (ADU)." A smaller, independent residential dwelling unit located on the same lot as a single-family dwelling unit detached home.

(4) "Adult Business." Any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which, also may depict or describe sexual activities.

(5) "Adult-Use Marihuana Microbusiness." A person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

(6) "Adult-Use Marihuana Retailers." A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

(7) "Aesthetic Compatibility." The favorable size, scale, massing, design and attractiveness similarities between a proposed structure and its adjacent existing building stock.

(8) "Agri-Tourism." Tourism in which tourists take part in farm or village activities, including but not limited to animal and crop care, cooking and cleaning, handicrafts, and entertainments including but not limited to weddings, hayrides, and pumpkin patches.

(9) "Airport." Battle Creek Executive Airport at Kellogg Field.

(10) "Alley." A public or private roadway which affords a secondary means of vehicular access to property abutting thereon and not intended for general traffic circulation.

(11) "Alternative Tower Structure." Man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

(12) "Antenna." Any exterior transmitting or receiving device mounted on a tower, pole, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

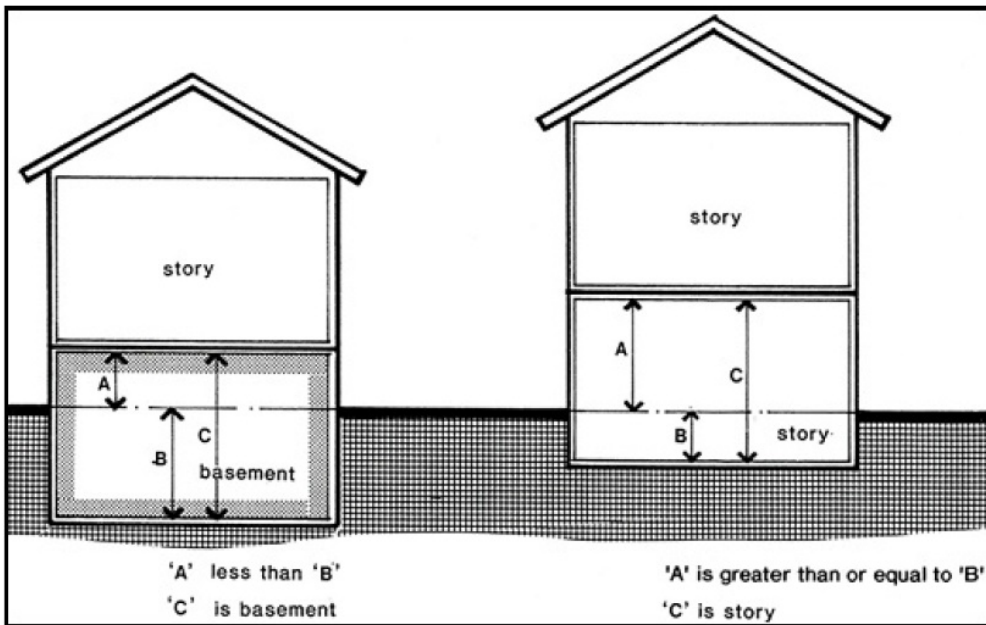
(13) "Antique." An object, such as, but not limited to, a work of art, piece of furniture, decorative object, or household furnishings, but excluding clothing, whose value is derived by virtue of its age, rarity, artistic or historical significance, or which has an estimated age of at least fifty years.

(14) "Antique Shop." A retail establishment whose primary business is the sale of antiques.

(15) "Apartment." A room or suite of rooms in a two-family or multiple dwelling, or, where more than one living unit is established over nonresidential uses, that which is intended or designed for use as a residence by a single family, which includes its own separate entrance, a bath, and kitchen accommodations.

- (16) "Art Gallery." An establishment used for the display and sale of original works of art.
- (17) "Art Studio." A building used for the production, display or sale of works of art.
- (18) "Artisan Maker Space." A place in which people with shared interests can gather to work on projects while sharing ideas, equipment, and knowledge.
- (19) "Assisted Senior Living." A multiple-family housing type for senior citizens with central dining facilities provided as a basic service to each dwelling unit. Each dwelling unit may or may not contain cooking facilities but must contain sanitary facilities.
- (20) "Attic." The space between ceiling beams of a top story and the roof rafters.
- (21) "Automobile." A road vehicle, typically with four wheels, powered by an internal combustion engine or electric motor and able to carry a small number of people.
- (22) "Automobile Car Wash Establishment." An establishment for the washing or cleaning of vehicles. A car wash may be:
- A. A single unit type which has a single bay or a group of single bays with each bay to accommodate one vehicle only where a person uses a high-pressure hose to wash the vehicle by hand;
  - B. An automated single unit type which has a single bay to accommodate one vehicle at a time; or
  - C. A tunnel unit type which allows washing of multiple vehicles in a tandem arrangement while moving through the structure.
- (23) "Automobile or Vehicle Dealership." A business that sells three or more new or used automobiles at the retail level. It may also provide maintenance services for automobiles, and employ automotive technicians to stock and sell spare automobile parts and process warranty claims.
- (24) "Automobile Repair." All general repair and reconditioning of motor vehicles, including engine rebuilding, repair of collision damage, overall painting and vehicle rust proofing, and other similar services with the exception of an automobile junk yard. (See also definitions of "Vehicle Service, Major" and "Vehicle Service, Minor.")
- (25) "Automobile Service Station." A complex used primarily for supplying automobile fuel and motor oil, at retail, directly to the customer, including the supplying of accessories, replacement parts and services that are essential to the normal operation of automobiles, but not including body or fender work, painting or major motor repairs.
- (26) "Backhaul Network." The lines connecting a telecommunication provider, or wireless communication service provider's tower site and antennas to one or more cellular telephone switching offices, and/or long-distance telephone providers, or the publicly switched telephone network.
- (27) "Bakery." A place for baking and/or selling baked goods.
- (28) "Banquet and Meeting Hall." An establishment available to the public for rental for the purpose of holding meetings, banquets and receptions.
- (29) "Bar, Tavern, or Saloon." An establishment primarily devoted to the sale and serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.
- (30) "Basement." A portion of a building which is all or partly underground but having at least one-half (50% or more) of its height below the average level of the adjoining ground. A basement is not counted as a story for the purpose of height regulations. See Figure 1.

*Figure 1. Basement, Cellar, Story Illustration*



(31) “Bed and Breakfast.” A private residence occupied by the property owner that offers rental sleeping accommodations to registered guests. The property owner resides in the establishment while managing the renting of the rooms to registered guests.

(32) “Block.” An area of land within a subdivision that is entirely bounded by streets, highways or other public ways, except alleys, or a combination of streets, highways or other public ways and rivers, streams, railroad rights of way or the exterior boundary of the subdivision.

(33) “Bookstore.” An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and/or other periodicals or publications or reproductions of any kind.

(34) “Box office.” An area, not necessarily attached to a theater, museum, exhibition hall or athletic facility, used for the sale of tickets for admission to entertainment, including, but not limited to, athletic events, theatrical performances, museum admissions or concerts.

(35) “Brewpub.” A licensed establishment that manufactures and sells 25% or more of its beer on-site.

(36) “Building.” A structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property.

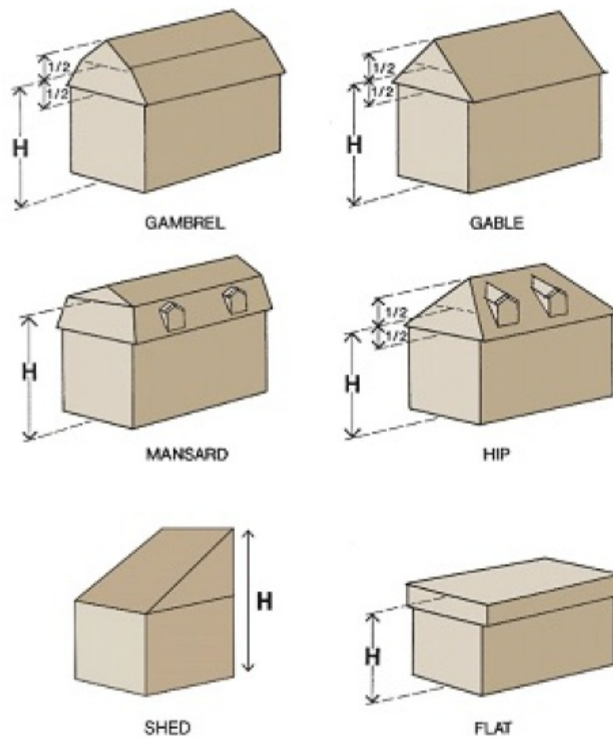
(37) “Building Coverage.” The surface area of a lot or parcel enclosed by the exterior walls of any building located upon the lot. The area of land covered by a swimming pool or minor accessory structure of less than fifty square feet shall not be considered in determining building coverage.

(38) “Building Floor Area.” The total floor area enclosed by exterior walls, excluding such area not accessible by a fixed stairway, ramp, escalator or elevator or an area not fit for occupancy. This term is synonymous with Usable Floor Area (UFA).

(39) “Building, Height of.” The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the mean height level between eaves and the ridge for gable, hip and gambrel roofs. See Figure 2.

Figure 2. Building Height Illustration

Figure 2. Building Height Illustration



(40) "Building Line." A line parallel to a street right-of-way line, shore of a lake or edge of a stream or river bank, which is established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right of way, other public area, the shore of a lake or the edge of a stream or river bank.

(41) "Bulk Storage." Indoor or outdoor goods for sale, storage, or display that have a large size, mass, or volume and are not easily moved or carried, such as railroad ties, large bags of feed, fertilizer, wood, sand, gravel, stone, lumber, equipment, and other similar materials and supplies.

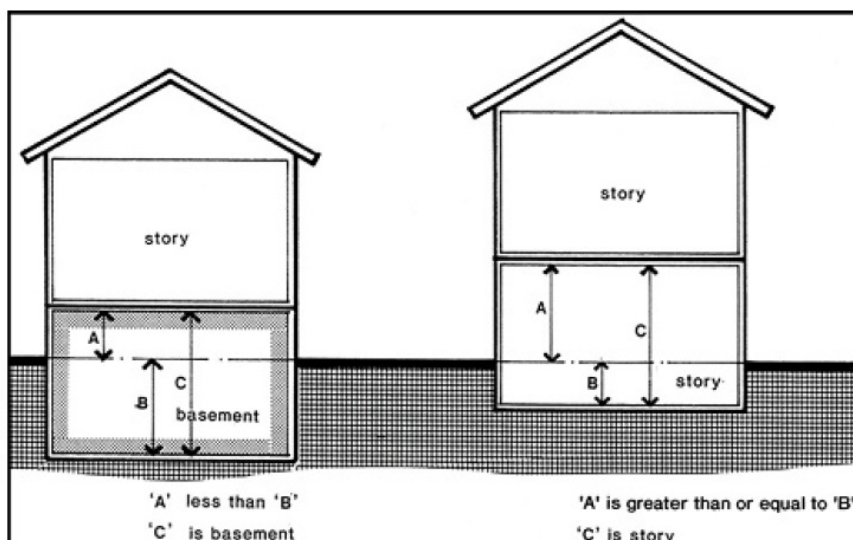
(42) "Campground." An area for recreational camping in tents, travel trailers, pickup campers, motor homes, and folding tent trailers for periods not to exceed twenty (20) days.

(43) "Caption." The name by which the plat is legally and commonly known.

(44) "Catering Business." A business where food is prepared at the business address and transported for serving off-site locations.

(45) "Cellar." A room below ground level in a house that is often used for storage. A cellar is not included in computing the number of stories for the purpose of height measurement. See Figure 3, where distance "A" equals zero, a basement meets the definition of a cellar.

Figure 3. Basement, Cellar, Story Illustration (same image as Figure 1)



(46) "Cemetery." Land used or intended to be used for the burial of deceased animals or humans, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

(47) "City." The incorporated Municipality of Battle Creek, Michigan.

(48) "Collectibles shop." A business limited to the sale or trade of first-edition hardcover books, board or electronic games, including card games, computer games, role-playing or miniature games, CD's, DVD's, sports trading cards, comic books, stamps, coins, antique jewelry or a combination thereof. The term "collectibles shop" does not include secondhand goods dealers or pawn shops.

(49) "Consignment Shop." A store that sells secondhand items (typically clothing and accessories) on behalf of the original owner, who receives a percentage of the selling price.

(50) "Commercial Development." A planned commercial center providing areas for building, parking, service, screen planting and widening, turning movement and safety lane roadway improvements.

(51) "Common Open Space." A parcel or parcels of land or an area of water, or a combination of land and water within an area designated for any planned unit residential development and designed and intended for the use and enjoyment of all residents of the planned unit residential development.

(52) "Community Garden." A vacant parcel of land or portions thereof that is divided into plots for cultivation of crops including fruits, vegetables, plants, flowers and/or herbs by one or more individuals and/or group. The land may be managed collectively by members of a group. The land may or may not be owned by a participating member of the community garden group.

(53) "Compost." Relatively stable decomposed organic matter for use in agriculture and other growing practices usually consisting of materials such as grass, leaves, yard waste, and also including raw and uncooked food wastes.

(54) "Convalescent Home, Nursing Home, or Home for the Aged." Residences for the elderly that provide 24-hour supervision and are designed and operated for seniors who require some level of support for daily living. Such support shall include meals, security, and housekeeping, and may include daily personal care, transportation and other support services, where needed. Individual dwellings may contain kitchen facilities.

(55) "County Drain Commissioner." The Calhoun County Drain Commissioner.

(56) "County Health Department." The Calhoun County Health Department.

(57) "County Plat Board." The Calhoun County Plat Board.

(58) "County Road Commission." The Calhoun County Road Department.

(59) "County Treasurer." The Calhoun County Treasurer.

(60) "Craft Distillery." A licensed establishment that manufactures and sells at that licensed establishment spirits pursuant and subject to the requirements for a Michigan Small Distiller License.

(61) "Crops." Commodities produced from the earth which are planted, raised, and gathered within the course of a single season and/or over multiple seasons. Crops include those plants or trees that are intentionally planted and require human intervention and cultivation, including flowers, berries, fruit, vegetables, herbs, spices, beans and legumes, grains, and nuts. For the purposes of this chapter, marijuana is not considered a crop.

(62) "Dedication." The intentional commitment of land by the owner to public use.

(63) "Driveway." A means of ingress or egress consisting of concrete, asphalt or brick, or uniformly surfaced with macadam, gravel or cinder not less than six inches thick in compacted depth or other material approved by the Zoning Administrator.

(64) "Dwelling Unit." A building, or part of a building which is designed and used exclusively for one family residential purposes and having principal kitchen facilities, bath, and separate entrance.

(65) "Dwelling, Multiple." A building or group of buildings on one lot which has accommodations for and is occupied exclusively by three or more families.

(66) "Dwelling, Single-Family." A building designed and used for the complete living accommodations of a single family.

(67) "Dwelling, Two-Family." A building which has accommodations for and is occupied exclusively by two families living independently of each other.

(68) "Easement." A right of way granted by a property owner for the limited use of private property for specific public or semipublic purposes and designated as "public" or "private" on the plat.

(69) "Essential Services." The erection construction, alteration and maintenance by a public utilities company or City department, for the purpose of furnishing adequate service by such public utility or City department, for the public health, safety or general welfare, of gas, electrical, communication, water and wastewater distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms and police call boxes, public telephones, hydrants and other similar equipment and accessories in connection therewith, other than essential service structures.

(70) "Essential Service Structure." A structure used or occupied, or intended for use or occupancy, as a transformer substation, communications relay station, pumping station, water tower, water collection and treatment facility, gas or steam regulating station, high voltage transmission tower or water or sewage lift station and other buildings or structures of a similar function.

(71) "Exhibition Hall." An establishment open to the public for the viewing of temporary exhibits of collections or displays of items relating to, or artifacts of, natural, local, State or national history; the presentation of theatrical performances or musical concerts; or the holding of flea markets, swap meets or other shows involving the sale or trade of publicly displayed items and merchandise.

(72) "FAA." The Federal Aviation Administration.

(73) "Family." Means either of the following:

A. An individual or group of two or more persons living together and related by the bonds of blood, marriage or adoption, together with foster children and domestic staff of the principal occupants and not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or

B. The functional equivalent of the single domestic unit, that is, a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuous, non-transient, domestic character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and living as a single, non-profit 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 determinable period.

(74) "Farm Equipment and Tools." Those pieces of machinery and tools used to prepare the soil, cultivate produce, fertilize, harvest, etc. including but not limited to tractors, rototillers, rakes, shovels, hoes, fertilizer, pesticide and herbicide spreaders, etc.

(75) "Farmer's Market." A place where vendors and individuals can sell products from their crops.

(76) "Farm Stand." A temporary structure, accessory to a private garden, community garden, or urban commercial farm, for the display and sale of produce and crops grown on the site.

(77) "Farming or Other Agricultural Purpose." The use of land for farming and agricultural purposes of all types, including crops, vegetable farming, fruit orchards, livestock and poultry operations, feed lots and other similar agricultural operations.

(78) "FCC." The Federal Communications Commission.

(79) "Fence." A vertical structure forming a barrier, or a group of bushes or shrubs aligned in such a way to form a barrier, on either the whole or any portion of a given area.

(80) "Filing Date." The date upon which a proprietor files an application, together with the submission of the required fee, to the City Clerk.

(81) "Financial Institutions." Banks, savings and loans, credit unions, mortgage or loan companies and stock brokers; this may also include retirement, investment, or annuity companies. The term "financial institutions" does not include pawnbrokers, bail bondsmen or cash advance establishments.

(82) "Floodplain." An area of land adjoining the channel of river, stream, watercourse, lake or other similar body of water liable to flooding, which may be reasonably expected for that region.

(83) "Florist shop." A business whose principal purpose is the display and sale of natural and faux flowers, arrangements of flowers and decorative accessories used in the display of flowers.

(84) "Frontage." The measurement of the length of a plot of land or a building facing the main road on to which the plot or building fronts.

(85) "Garage, Private." Private garage means an accessory building that houses vehicles or property that is for the private use of the occupants of the lot on which the private garage is located.

(86) "Garage, Public." Public garage means any building or premises, except those used as private or community garages, used for equipping, repairing, hiring, selling or storing motor-driven vehicles.

(87) "Governing Body." The Battle Creek City Commission.

(88) "Government Survey." The land surveyed, subdivided and monumented by the United States public land survey.

(89) "Grade." Means any of the following that apply:

A. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

B. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the centers of all walls adjoining the streets;



C. For buildings having no walls adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building; or

D. Any wall approximately parallel to and not more than five feet from a street line shall be considered as adjoining the street. Where no sidewalk exists, the grade shall be determined by the City Engineer.

(90) "Greenbelt." A strip or parcel of land, privately restricted or publicly dedicated as open space, located between incompatible uses for the purpose of protecting and enhancing the environment.

(91) "Greenhouse." An accessory building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

(92) "Health Department." The Calhoun County Health Department.

(93) "Home Occupation." An activity carried on for consideration by a resident conducted as an accessory use in the resident's dwelling unit. Consideration shall be defined as some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other.

(94) "Hoop house." An unheated accessory structure whose roof and sides are made largely of transparent or translucent material for the purpose of the cultivation of plants inside.

(95) "Hotel." A building in which lodging or boarding is provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. This definition does not include rooming houses or boarding houses.

(96) "Housing Tenure." The nature of the occupancy of a residential unit. A housing unit is considered "owner occupied" if the owner or co-owner lives in the unit, even if it is mortgaged or not fully paid for. A cooperative or condominium unit is "owner occupied" only if the owner or co-owner lives in it. All other occupied residential units are considered "renter occupied".

(97) "HUD Code." The construction standards promulgated by the U.S. Department of Housing and Urban Development (HUD), which govern the manufacture and construction of manufactured houses attached to mobile chassis pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974. After 1976, manufactured houses became HUD-certified which assured quality, durability, safety, and affordability.

(98) "Improvements." Any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, pedestrian ways, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.

(99) "Independent Senior Living with Services." A multiple family housing type with full facilities for self-sufficiency in each individual dwelling unit also known as a retirement village or community.

(100) "Indoor Recreation." Indoor commercial amusement services such as but not limited to: bowling alleys, skating rinks, billiard halls, stadium and sports arenas, movie theaters (excluding drive-in theaters), indoor health and fitness centers, climbing gyms, and other indoor recreational facilities.

(101) "Industrial Development." A planned industrial area designed specifically for industrial use and providing screen buffers, wide streets, turning movement and safety lane roadway improvements, where necessary.

(102) "Interior Decorating and Design Studio." A business which displays interior decorating and design merchandise, such as furniture, wallpaper, fabric, floor coverings and accessories as samples shown in the establishment which individuals may order from catalogues. The term "interior decorating and design studio" does not include the warehousing of interior decorating and design merchandise for on-site retail sale.

(103) "Junk or Salvage Yard." A place, building, enclosure, land, or combination thereof, where waste is stored. "Junk yard" or "salvage yard" includes areas where waste, scrap metal, used building materials, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, but excludes such uses taking place within a completely enclosed building. "Junk yard" or "salvage yard" also includes storage of two or more motor vehicles, not in running condition which are temporarily stored for sale or relocation; disassembled for the selling of parts, pieces, material, or other automobile elements; or demolished and processed.

(104) "Kennel. Any lot or premises on which four or more dogs are kept for any commercial purposes, including but not limited to daycare, boarding, breeding, and training.

(105) "Land." All land areas occupied by real property.

(106) "Land Area." The land area is a gross area calculation, including all land, including land under water.

(107) "Landowner in PURD." The unified ownership of a tract of land to include all of the following: the legal owner in fee simple of all or a portion of the land proposed to be included in a planned unit residential development; the absolute holder of an option or a contract to purchase; a lessee having an unexpired lease of not less than 40 years; and any other person having an enforceable proprietary interest in all or any portion of the land proposed to be included in a planned unit residential development.

(108) "Lot." A parcel of land consisting of a lot of record and any contiguous lots of record or contiguous portions of lots



of record, held in single or common ownership, located within a block and having its principal frontage upon a street. See Figure 4.

A. "Corner Lot." A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less. See Figure 4.

B. "Developed Lot." A lot occupied or intended for occupancy by a lawful use permitted by this Zoning Code, which contains a main building and any accessory buildings or uses.

C. "Flag or Panhandle Lot." A lot which has all of the following characteristics

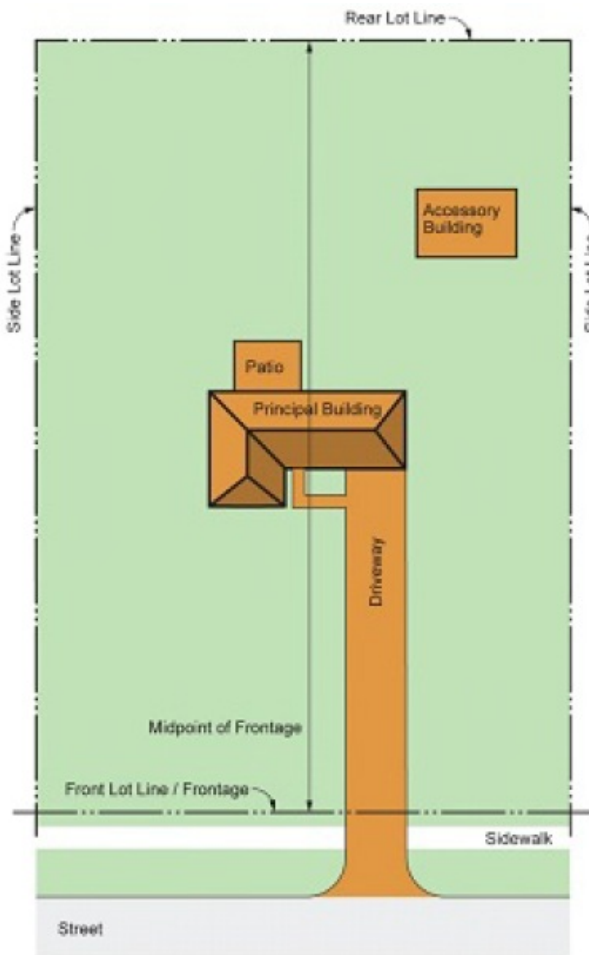
1. It has less than the required frontage or no frontage on a public street.

2. It is located behind one or more lots which have frontage on a public street.

3. Access to it is gained by an easement, license, corridor, alley, or a private road less than sixty-six feet in width off of or from a public street. See Figure 4.

D. "Interior Lot." A lot with only one (1) lot line fronting on a street. See Figure 4.

*Figure 4. Lot Terms*



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## Lot Terms

 Lot Coverage



E. "Lot Area." The total area within the lot lines.

F. "Lot Coverage." The ratio of enclosed ground floor area of all impervious surfaces (including buildings, parking areas, driveways, sidewalks, patios, and other impervious surfaces) on a lot to the horizontally projected area of the lot, expressed as a percentage. See Figure 4.

G. "Lot Depth." The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

H. "Lot Line." The lines demarking the boundary of a lot as described herein, see Figure 4:

(1) "Front Lot Line." In the case of an interior lot, is the lot line separating such lot from the street and, in the case of a corner lot, the owner may elect by statement on his plans either street boundary line as the front.

(2) "Rear Lot Line." The lot line opposite the front lot line regardless of its irregularity or direction, provided that it does not intersect therewith.

(3) "Side Lot Line." A lot line which is not a front or rear lot line. A lot line separating a lot from a street is an exterior side lot line. A lot line separating adjacent lots is an interior side lot line.

I. "Lot Width." The width of the lot measured at the required setback line.

J. "Through Lot/ Double Frontage Lot." An interior lot having a street line for both the front lot line and the rear lot line.

K. "Vacant lot." A lot that contains no buildings or structures.

(109) "Major Thoroughfare." An existing paved street having a right-of-way of at least sixty-six (66) feet and a Functional Classification of Collector or Arterial, as defined by the City Engineer.

(110) "Manufactured House." A residential structure assembled in a factory and moved to a site, in contrast to a structure that is constructed on the site. See "HUD Code," published under 24 CFR Part 3280, for additional usage.

(111) "Manufacturing." An establishment engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products and the blending of materials such as lubricating oils, plastics, resin, etc.

(112) "Marina." An establishment for the storage, maintenance and servicing of water craft, including docks and other structures and uses customarily incidental thereto.

(113) "Massage." The manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another.

(114) "Massage Business." A State licensed establishment or part of wherein private massage is practiced, used or made available as a principle use of the establishment.

(115) "Master Plan." The official Master Plan of the City of Battle Creek as adopted and amended over time.

(116) "Marihuana, Adult Use Establishment." A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the marijuana regulatory agency as authorized by the Michigan Regulation and Taxation of Marihuana Act (MRTMA), Initiated Law 1 of 2018, as amended, being MCL 333.27951 et seq.

A. "Marihuana Grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

B. "Marihuana Microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

C. "Marihuana Processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

D. "Marihuana Retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

E. "Marihuana Safety Compliance Facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

F. "Marihuana Secure Transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

(117) "Medical Marihuana Facilities." A state-licensed commercial entity operating pursuant to the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, as amended, being MCL 333.2701 et seq.

A. "Medical Marihuana Grower or Grow Facility." A licensee that is a commercial entity located in this State and licensed pursuant to the MMFLA that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

B. "Medical Marihuana Provisioning Center." A licensee and facility that is a commercial entity located in this State and licensed pursuant to the MMFLA that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act (MMA), as amended, being MCL 333.26421 et seq., will not be a provisioning center for purposes of the Licensing Act.

C. "Medical Marihuana Safety Compliance Facility." A licensee and facility that is a commercial entity and licensed pursuant to the MMFLA that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility.

D. "Medical Marihuana Secure Transporter." A licensee and facility that is a commercial entity located in this State and licensed pursuant to the MMFLA that stores marihuana and transports it between marihuana facilities for a fee.

E. "Processor and Medical Marihuana Processing Facilities." A licensee that is a commercial entity and facility located in this State and licensed pursuant to the MMFLA that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

(118) "Michigan Coordinate System." The system defined in the Michigan Coordinate Systems Act, Public Act 9 of 1964, as amended, being MCL 54.231 to 54.239.

(119) "Microbrewery." Any establishment that produces fewer than 15,000 barrels of beer annually for on-site consumption, take-out and distribution to wholesalers and/or restaurants, taverns and retail stores, and is open to the general public for sales and tours. Microbreweries shall have 75% or more of its beer served off-site.

(120) "Mobile Home." A factory assembled structure which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation, when connected to required utilities. See "Manufactured Home" for additional usage.

(121) "Mobile Home Commission." The rule-making body created by Public Act 96 of 1987, as amended, being MCL 125.2301 et seq.

(122) "Mobile Home Park." Any site containing required improvements and utilities for the long-term parking of mobile homes, which may include services and facilities for residents.

(123) "Motel." A building or group of buildings containing (a bed, closet and a bathroom) or rooms, which provides accommodations for transient persons. A unit may also contain a kitchenette or kitchen.

(124) "Multi-Family Dwelling Units." A building containing three or more dwelling units arranged either side by side or one above the other.

(125) "Museum." An establishment used for the storage and display of artifacts, memorabilia and works of art which are open to public viewing.

(126) "Natural State Buffer." An area wherein naturally occurring vegetation is maintained. Areas within a natural state buffer that may be disturbed by grading or construction shall be replanted with similarly occurring natural vegetation. Natural state buffers shall be exempted from Chapter 1450 "Property Maintenance Code"; however, no prohibited or restricted weeds identified pursuant to the Michigan Seed Law, Public Act 329 of 1965, as amended, being MCL 286.701 et seq., shall be replanted within a natural state buffer area.

(127) "Nightclub." An establishment for nighttime entertainment, typically serving drinks and offering music, and dancing.

(128) "Nonconforming Structure." A structure or building, the construction of which was lawfully established prior to the adoption or amendment of this Zoning Code that for any reason does not meet all of the applicable regulations contained in this Zoning Code or its amendments.

(129) "Nonconforming Use." A building or land lawfully occupied by a use at the time of passage of this Zoning Code (November 24, 2020), or an amendment thereto, which does not conform, after the passage of this Zoning Code, or an amendment thereto, with the use regulations of the district in which it is situated.

(130) "Off-Road Vehicle." A motor vehicle capable of cross-country travel, without the benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. The term includes but is not limited to, multi-wheel drive or low-pressure tire vehicles, motorcycles and related two-wheel vehicles and amphibious machines which derive motive power from a source other than muscle or wind.

(131) "Orchard." The establishment, care, and harvesting of a group of more than ten fruit or nut bearing trees.

(132) "Outdoor Recreation Uses." Recreation engaged in out of doors, most commonly in natural settings. Including but not limited to; baseball, soccer, basketball, nature trails, educational laboratories, etc.

(133) "Outdoor Storage." All or part of a lot that is used for the keeping of materials or products in an open, uncovered yard or in an unwallled building. Such materials shall include, but not be limited to, tractors, backhoes, heavy equipment, construction materials and other similar items. Parking of this equipment should be intermittent.

(134) "Outlot." When included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use. Any area for other uses shall be so stated on the plat.

(135) "Parcel." A continuous area or acreage of land which can be legally described.

(136) "Parking Space." An area enclosed in the main building or in an accessory building, or unenclosed, sufficient in size to store one standard automobile and, exclusive of a driveway or aisleway connecting the parking space with a street or alley, and permitting the satisfactory ingress and egress of an automobile.

(137) "Personal Service Establishment." An establishment or place of business primarily engaged in the provision of services of a personal nature, which are usually but not always recurrent in nature. Typical uses include, but are not limited

to, barber shops, beauty salons, beauty shops, tattoo parlors, photographic studios, dry cleaning and laundry pick-up stores, laundromats, catering, shoe repair, millinery shops, and tailor and dressmaker shops.

(138) "Pet Shop." A pet shop or pet store is a retail business which sells different kinds of animals to the public. A variety of animal supplies and pet accessories are also sold in pet shops.

(139) "Photocopy Service." A business that reproduces drawings, plans, maps or other documents by means of blueprinting or photocopying.

(140) "Plan." The proposal for the implementation of any development, including a plat of the subdivision, all covenants, grants of easement and other conditions relating to the use, location and mass of buildings, density of development, common open space and public facilities. The plan shall include such information as required by this chapter. The phrase "provisions of the plan," where used in these regulations, shall refer to those documents, written and graphic, referred to in this definition.

(141) "Planned Unit Development." A large-scale development to be constructed, usually in stages, involving a related group of residences and associated uses, planned as an entity, and which can be planned, developed and regulated as one land use unit, rather than as an aggregation of individual buildings on separate lots.

(142) "Planned Unit Residential Development or PURD." An area of land, consisting of not less than ten acres, controlled by a unified ownership, to be developed in the City of Battle Creek Master Plan as a single entity for a number of dwelling units and accessory uses incidental thereto as hereinafter provided, the plan for which may not correspond in lot size, type of dwelling unit, density, lot coverage or required open space to the regulations in any one residential district established by any other article of these regulations.

(143) "Planning Commission." The Planning Commission of the City as established under Public Act 33 of the Public Acts of 2008, as amended, being MCL 125.3811.

(144) "Plat." A map of a subdivision, an assessor's plat or a replat.

A. "Final Plat." A map of all or a part of the subdivision, prepared and certified by a licensed professional engineer or land surveyor in accordance with the Land Division Act (formerly the Subdivision Control Act), being Public Act 288 of 1967, as amended, being MCL 560.01 et. seq.

B. "Pre-Preliminary Plat." An informal plan or sketch drawn to scale and in sufficient detail to show existing features of a site and its surroundings and the general layout of a proposed subdivision.

C. "Preliminary Plat." A plan showing the preliminary layout of a subdivision in sufficient detail to allow review by the Planning Commission and other interested agencies.

(145) "Print Shop." A retail establishment which provides duplicating services using photocopy, blueprint or off-set printing equipment, which may also include the collating of booklets and reports.

(146) "Private Club." An establishment not open to the public and used for the meeting of a nonprofit organization of persons operated for the promotion and promulgation of common interests. The term "private club" does not include churches and missions.

(147) "Private Garden." An accessory use where the owner or tenant cultivates food crops and/or non-food crops primarily for personal use on the property they reside, or on vacant land not exceeding one acre of land.

(148) "Professional Office." One of the following; but is not limited to, an attorney's office, an architect's office, an engineer's office, an insurance office, an accountant's office and a real estate office, but not medical, dental or veterinary office, clinic or laboratory.

(149) "Proprietor." A person who may hold an ownership interest in land, whether such land is recorded or not.

(150) "Public Park." Any park owned and maintained by the City or other local form of government.

(151) "Public Utility." All persons providing gas, electricity, water, steam, communications, storm sewers, sanitary sewers, transportation or other services of a similar nature.

(152) "Public Sewer." A sewerage system as defined in Public Act 451 of 1994, as amended, being MCL 324.4101(h).

(153) "Public Water." A waterworks system, as defined in Public Act 451 of 1994, as amended, being MCL 324.5403(g).

(154) "Rainwater Catchment System." A method of catching rainwater runoff, including from the roof of a structure into rain gutters that channel into a rain barrel, drum, or cistern.

(155) "Recreational Vehicle." Include, but are not limited to boats and/or boat trailers, snowmobiles, all-terrain vehicles, travel trailers, campers, camping tents, motor homes, utility trailers and any other equipment designed to be used for a temporary dwelling for travel, recreation, and vacation or periodical use.

(156) "Religious Institution." A building that people regularly attend to participate in or hold religious services, meetings or other religious activities of any denomination.

(157) "Replat." The process of changing the boundaries of a recorded subdivision plat or part thereof or the map or plat that changes such boundaries. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior

boundaries of the outlot is not a replat.

(158) "Research and Development." Research, development and testing related to such fields as chemical, pharmaceutical, medical, bio-medical, liquid, crystal, telecommunication, software, electrical, transportation and engineering.

(159) "Residential Cluster Subdivision." A subdivision in which individual houses are grouped together and the remainder of the subdivision is undeveloped and reserved for the common enjoyment of residents of the subdivision as open space or recreation area.

(160) "Restaurant."

A. "Carry-Out Restaurant." A structure which is maintained, operated, and advertised or held out to the public as a place where the principal activity is food, confections, frozen dessert and beverage take-out service and which includes, as an accessory use, a dining or eating area which has seating for no more than twelve persons, where food and beverages may be selected and consumed within the structure.

B. "Drive-In Restaurant." A restaurant where, either by design or physical facilities or by service and/or packaging procedures, patrons are encouraged to consume their purchases while seated in their motor vehicles in the off-street parking area accessory to the business.

C. "Drive-Thru Restaurant." A structure or portion of a structure which is maintained, operated, and advertised or held out to the public as a place where food, confections, frozen dessert, and/or beverages are purchased by customers from a drive-up window while seated in their motor vehicle and where no consumption of such food or beverage shall take place anywhere on the site or within the structure.

D. "Full-Service Restaurant." A structure or portion of a structure which is maintained, operated, and advertised or held out to the public as a place where food, confections, frozen dessert and beverages are served and consumed at chairs and tables primarily within the structure.

E. "Limited Service Restaurant." Establishments whose patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to customers' locations.

(161) "Retail Sales." A business that sells commodities or goods in small quantities to the public for personal, household, or business consumption. Includes but not limited to: auction rooms, consignment shop, secondhand goods, monument sales, office equipment sales, blueprint, photostat and photo-copying establishments, air conditioning sales, electrical and lighting fixture sales, furniture upholstery and refinishing establishments, lawnmower sales, locksmith shops, plumbing and heating sales, radio and television sales, sign painting shops (no outside storage), antiques and collectibles, bakeries and catering.

(162) "Right of Way." Land reserved, used or to be used for a street, alley, walk easement or other public purpose.

(163) "Rooming and Boarding House." Any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein or therewith, cooking or kitchen accommodations for individuals leasing or renting rooms. In the case of single and two family dwellings the number of such bedrooms leased or rented to roomers shall not exceed three, unless such dwellings be made to comply in all respects with the provisions of the Housing Law of Michigan, Public Act 167 of 1917, as amended, being MCL 125.401 et seq., relating to multiple dwellings.

(164) "Runway." A defined area on an airport prepared for the landing and takeoff of aircraft along its length.

(165) "School." A public or private school offering education to students enrolled in kindergarten or one or more grades of one through twelve.

(166) "Second Hand Good." A piece of personal property that is being purchased by or otherwise transferred to a second or later end user.

(167) "Self-Storage Facility." An establishment renting units for storage space, usually on a short-term basis. Self-storage tenants include businesses and individuals.

(168) "Setback." Distance between lot line and structure.

(169) "Shelter." A facility providing temporary lodging and ancillary services, such as the provision of food, clothing or other services, to alleviate the suffering of indigent, needy, homeless or transient persons.

(170) "Sidewalk." A facility, placed within the right of way of existing streets, or a facility connecting with buildings, parking lots or other activities, having access to the street right of way for the purpose of providing safe and convenient movement of pedestrians.

(171) "Sight Distance." The minimum extent to unobstructed vision, on a horizontal plane, along a street from a point three and one-half feet above the centerline of such street.

(172) "Single Family Dwelling Unit Attached." A single dwelling that is attached to or shares a common vertical wall with one or more other dwellings.

(173) "Single Family Dwelling Unit Detached." A single dwelling unit not attached to any other dwelling or structure (except its own garage or shed). A detached single dwelling house open space on all sides, and has no dwellings either

above it or below it.

(174) "Sketch Plan." A plan or sketch drawn to scale showing the existing features of a site and its surroundings and the suggested layout of the proposed subdivision.

(175) "Small Winery." A licensed establishment that manufactures and sells at that establishment wine pursuant and subject to the requirements established by the State of Michigan for a small wine maker.

(176) "Solar Energy Facility." Any type of facility that converts sunlight into electricity.

(177) "Spirit." Any beverage which contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except for sacramental wine and mixed spirit drink.

(178) "State Licensed Residential Facilities."

A. "Adult Foster Care Facilities." A structure constructed for residential purposes that is licensed by the state pursuant to the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, as amended, being MCL 400.701, et seq.

1. "State Licensed Residential Facility, Adult Foster Care Family Home." A private residence with the approved capacity to receive at least three but not more than six adults to be provided with foster care. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

2. "State Licensed Residential Facility, Adult Foster Care Small Group Home." An adult foster care facility with the approved capacity to receive at least three but not more than twelve to be provided with foster care.

3. "State Licensed Residential Facility, Adult Foster Care Large Group Home." An adult foster care facility with the approved capacity to receive at least thirteen but not more than twenty adults to be provided with foster care.

B. "Child Care Facilities." As used in this Zoning Code, the following definitions shall apply to child care facilities:

1. "State Licensed Child Care Family Home." A private home in which one but fewer than seven minor children are received for care and supervision for compensation by the resident of the home for periods of less than twenty-four 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 child care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. A child care family home does not include an individual providing babysitting services for another individual. All family child care homes shall be registered with or licensed by the Michigan Department of Licensing and Regulatory Affairs or successor agency. The licensee shall be a member of the household and occupant.

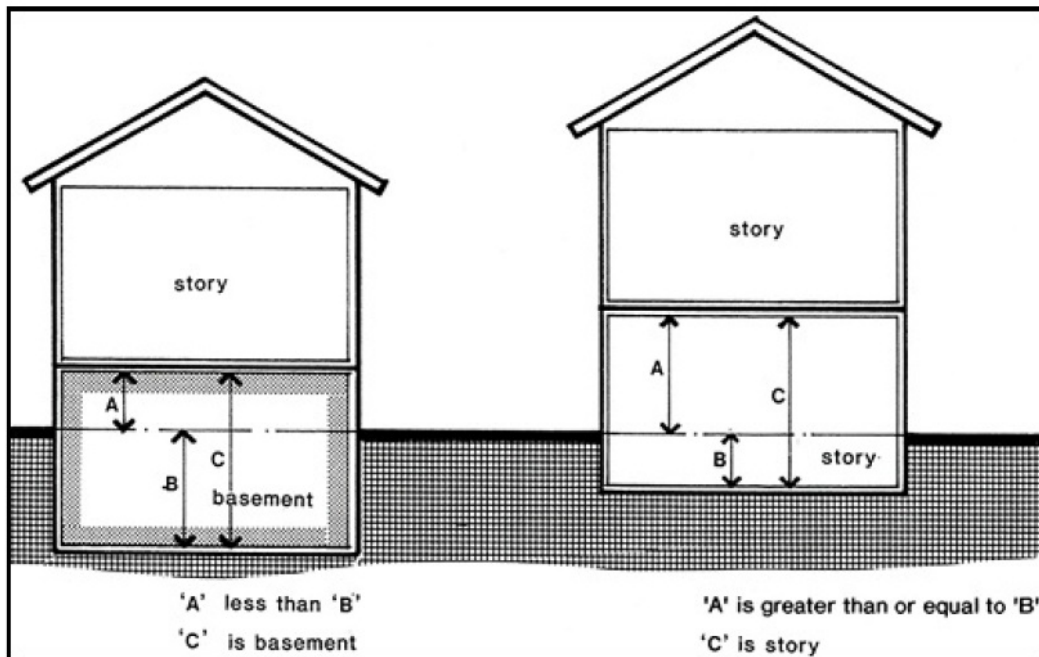
2. "State Licensed Child Care Group Home." A private home in which more than six but not more than twelve minor children are given care and supervision by the resident of the home for periods of less than twenty-four hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child 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. All group child care homes shall be registered with or licensed by the Michigan Department of Licensing and Regulatory Affairs or successor agency.

3. "Child Care Center." A facility, other than a private residence, receiving one or more children under thirteen years of age for care for periods of less than twenty-four hours a day, where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.

(179) "Story." That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. See Figure 5.

*Figure 5. Basement, Cellar, Story Illustration (same image as Figure 1 and Figure 3)*





(180) "Story, Half." A space under a sloping roof which has the line of intersection of the roof decking and the wall face not more than five feet above the top floor level, in which space not more than 60% of the floor area is finished off for use and which may be used for occupancy only in conjunction with and by the occupants of the floor immediately below.

(181) "Street." All property dedicated or intended for public or private street, highway, freeway or roadway purposes, or subject to a public easement therefor.

A. "Major Street." A street designated as a major street pursuant to the State Trunk Line Highway System, Public Act 51 of 1951, as amended, MCL 247.651 et seq. Roadways that serve as the primary streets within the city and connect areas of activity to one another. Major streets connect to freeways/expressways that serve regional and interstate traffic.

B. "Minor Street." A street designated as a minor street pursuant to the State Trunk Line Highway System, Public Act 51 of 1951, as amended, being MCL 247.651 et seq. A "Minor Street" includes a street supplementary to a secondary street intended to serve the local needs of the neighborhood and of limited continuity used primarily as access to abutting residential properties.

(182) "Structural Alteration." A change in the supporting members of a building, or structure, such as bearing walls or partitions, columns, beams or girders, or a substantial change in the roof or in the exterior walls except such alterations as may be required for the safety of the building or structure, and changes and alterations of the facade of a building.

(183) "Structure." Anything constructed or erected, the use of which requires a permanent location on the ground or which is attached to something having a permanent location on the ground, including, but not limited to, advertising signs, billboards, television receiving dishes, fences, tents, and pergolas.

(184) "Studio." A workplace for radio, television, music, dancing, interior decorating and theatrical instruction.

(185) "Subdivide." The partitioning or dividing of a parcel or tract of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease for more than one year, or of a building development, where the act of division creates five or more parcels of land, each of which is ten acres or less in area, or five or more parcels of land, each of which is ten acres or less in area and created by successive divisions within a period of ten years.

(186) "Subdivider." A person engaged in the subdividing of land under these Subdivision Regulations for themselves or for another.

(187) "Subdivision Control Act." Public Act 288 of 1967, as amended, being MCL 560.101 et seq., of the State of Michigan, now known as the "Land Division Act".

(188) "Surveyor." Either a land surveyor who is licensed in the State as a licensed land surveyor or a civil engineer who is licensed in the State as a licensed professional engineer.

(189) "Tattoo Parlor." A business having as its principal activity the application or placing, by any method, of designs, letters, scrolls, figures, symbols or other marks upon or under the human skin with ink or any other substance or method resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

(190) "Topographical Map." A map showing existing physical characteristics, with contour lines at sufficient intervals to permit the determination of proposed grades and drainage.

(191) "Tower." Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice or skeleton towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common carrier towers, wireless communication service towers, alternative tower structures, and the like. The term includes the structure and any support thereof.

(192) "Transitional and Supportive Residential Housing Facilities." A residential housing facility that is specifically established for persons seeking a place which provides onsite (and/ or offsite) transitional and/ or supportive services. The defining characteristics of this facility is that the residents be members of a target population that may be persons with low incomes who have one or more disabilities; that the facility provides a temporary, short- or long-term housing opportunity; and, that all residents within the facility share a bond and related purpose which may be associated with on-site or off-site services. Examples of target populations include: adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. Examples of shared bond of related services may be consist of recovering alcoholic, drug addiction, etc. This housing facility is not a State Licensed Residential Facility, Adult Foster Care, Group Home, or Rooming or Boarding House.

(193) "Tree Farm." Any parcel of land used to raise or harvest more than ten trees for wood products, Christmas Trees, transplanting, and/or where forest products are sold on-site or transported to market.

(194) "Turnabout." An area abutting an improved driveway used solely for intermittent parking, loading and unloading, turning around, washing or waxing a motor vehicle.

(195) "Unified Ownership." The proprietary interest of each and every person in a tract of land.

(196) "Urban Commercial Farm." Land used for the cultivation of food crops and/or non-food crops primarily for sale or profit by the owner, tenant, and/or employees of the owner.

(197) "Vehicle." A machine that transports people or cargo.

(198) "Vehicle Repair, Major." Any establishment where major repairs are performed on motor vehicles, including aircraft, watercraft, and semi-trucks. Major repairs include engine rebuilding, rebuilding or reconditioning of vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of vehicles, overhauling of engine requiring removal of cylinder head or crank case pan, steam cleaning and similar activities.

(199) "Vehicle Repair, Minor." Buildings or structures which are designed or used for furnishing fuel, lubricants, air, water and other operating commodities for motor vehicles, including aircraft and water craft, but excluding semi-trucks, and which has space and facilities for: 1) the storage of such fuel in underground tanks; or 2) the installation of such commodities on or in such vehicles, and the storage, minor repair or servicing of such vehicles, but which does not have a space and facilities for the major repair, bumping, painting, refinishing, overhauling, steam cleaning, rust proofing, or high speed washing of such vehicles.

(200) "Visitor Information Center." An establishment used for the dissemination of cultural, historic or tourist information.

(201) "Walk Easement." The right of way dedicated to public use, which crosses a block between streets to facilitate pedestrian access to adjacent streets and properties.

(202) "Warehouse." A building or part of a building used or intended to be used primarily for the storage of goods or chattels that are to be sold retail or wholesale from other establishments or sold wholesale from the same premises, for the storage of goods or chattels to be shipped on mail order, for the storage of equipment or materials to be used or installed at other establishments by the owner or operator of the warehouse, or for similar storage purposes.

(203) "Water Resources Commission." The Waterways Commission of the State of Michigan.

(204) "Wholesale." Business establishments that generally sell commodities in large quantities or by the piece to retailers, other wholesale establishments, or manufacturing establishments. The commodities are generally for further resale, for use in the fabrication of a product, or for use by a business service.

(205) "Wind Energy System." Any type of facility that converts wind into electricity.

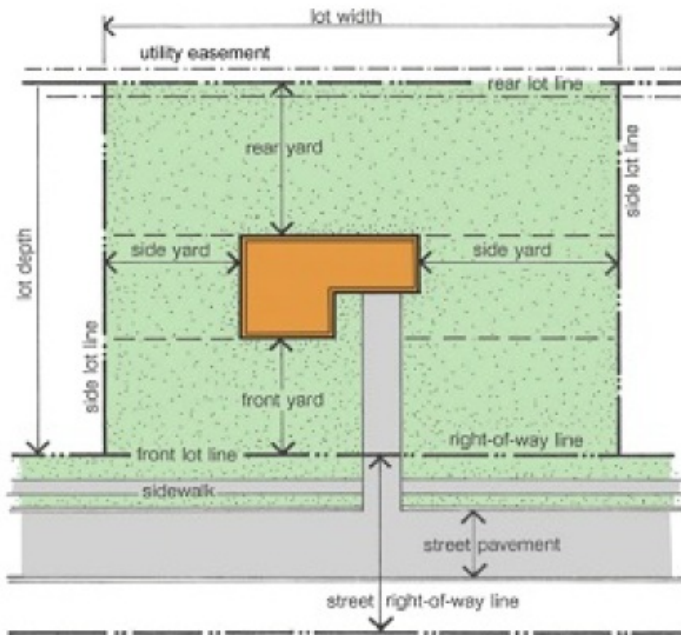
(206) "Wireless Communication Service." The transmission and receipt of radio signals by communications towers and antenna, which includes, without limitation, both cellular and personal communications services.

(207) "Yard. An open space that is on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and the main building shall be used.

A. "Front Yard." That area measured by the full width of the front lot line to a depth measured from such lot line to the first supporting member of the main structure. The first supporting member includes the main building or any projection thereof, other than the usual steps, entranceways, unenclosed balconies or open roofless porches. See Figure 6.

B. "Front Yards for Waterfront Lots." For the purpose of this Zoning Code, properties having frontage on a lake, river, creek or other waterway shall be required to meet front yard requirements along that water frontage and along any street frontage. In Figure 6, where "utility easement" is a water body, the rear yard shall be required to meet front yard requirements. This requirement also applies to side yards when water courses follow the side yard lot line.

*Figure 6. Yard Terms*



## Yard Terms

C. "Rear Yard." A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or a projection thereof, other than steps, unenclosed balconies or porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall, in all cases, be at the opposite end of the lot from the front yard. See Figure 6.

D. "Side Yard." A yard between the main building and the side line of a lot that extends from the front yard line to the rear yard line. See Figure 6.

(208) "Zoning Administrator or Their Designee." The Manager of Planning and Zoning, as well as any division or employee reporting to the Manager, which or who is charged with the responsibility for administering and enforcing this Zoning Code.

(209) "Zoning Code." Ordinance 10-2020, passed November 24, 2020, codified herein as Title Six of Part Twelve - the Planning and Zoning Code.

(210) "Zoning District." A section of the City for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

### (b) Sign Definitions.

(1) "Abandoned sign." A sign structure which does not have a panel, or has a blank panel, for 90 days or more.

(2) "Animated Sign." A sign that includes any action or motion of the sign or its message, copy or text. It includes signs or devices environmentally activated or motivated by wind, thermal changes or other natural environmental input, and includes spinners, pinwheels, pennant strings, and/or devices or displays that respond to naturally occurring external motivation.

(3) "Area of Sign." The entire area within a circle, triangle, parallelogram or any other shape which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

(4) "Banner Sign." A sign on paper, cloth, fabric or other flexible or combustible material of any kind that is attached flat either to a wall or temporarily to a permanent sign face. See Figure 7.

*Figure 7. Banner Sign Illustration*



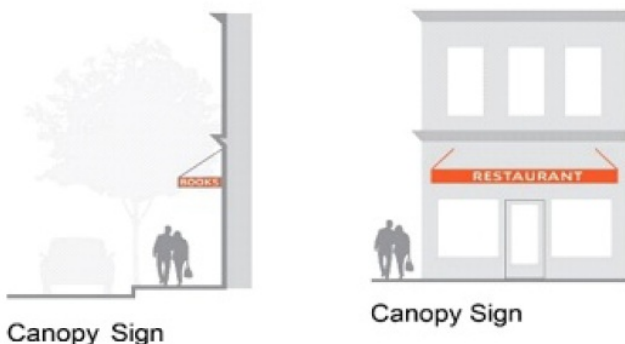
**Banner Sign**

(5) "Billboard." A sign intended to allow for visibility from high traffic volume roadways that is designed and constructed for the purpose of leasing the sign face.

(6) "Building Frontage." The linear length of any one side of a building.

(7) "Canopy." A permanent, roof-like shelter that extends from part or all of a building face or which can be a separate structure, and is constructed of some durable material such as metal, wood, glass, plastic or other synthetic derivative. See Figure 8.

*Figure 8. Canopy Sign Illustration*



**Canopy Sign**

**Canopy Sign**

(8) "Canopy sign." A sign attached to or constructed in or on a canopy. See Figure 8.

(9) "Changeable Copy Sign." A sign that includes any of the following:

A. "Automatic." An electronically or computer-controlled sign whose message, copy, or content consists of alphabetic or pictographic components or a combination thereof arranged on a display surface and changed by computer or other electronic means.

Such signs include displays using incandescent lamps, light emitting diodes, liquid crystal displays, or a flipper matrix; or

B. "Manual." A sign on which copy is changed manually, such as reader boards with changeable letters or pictorials.

(10) "Directional Sign." A sign that's intended to direct the flow of traffic, transmit parking information or convey similar such information.

(11) "Erected." Attached, altered, built, constructed, reconstructed, enlarged, or moved, but does not include copy changes on changeable copy signs.

(12) "Flashing sign." A sign which contains an intermittent, flashing, blinking, or traveling light source which includes signs that give the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source. They are considered to be flashing if they change more frequently than every 8 seconds.

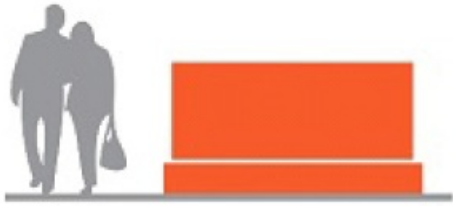
(13) "Freestanding Sign." A sign erected on a freestanding foundation, frame, mast, or pole and not attached to a building or structure.

(14) "Height of Sign." The vertical distance as measured from the lowest point of the natural grade at the base of the sign to the highest point of the sign.

(15) "Illuminated Sign." A sign that provides artificial light directly on or through any transparent or translucent material, from a source of light connected with such sign, or a sign illuminated by an external lighting source.

(16) "Monument Sign." A base-mounted, freestanding sign placed in the ground and not attached to any building or other structure. See Figure 9

Figure 9. Monument Sign Illustration



## Monument Sign

(17) "Multiprism Sign." A sign made of a series of multisided vertical panels that turn and stop or index to show a series of pictures or messages. A multiprism sign where the message changes more frequently than 2.5 seconds is a flashing sign.

(18) "Nonconforming Sign." A sign, which lawfully occupied a building or land at the effective date of this Zoning Code, or any amendment thereto, that does not conform to the regulations of the district in which it is located.

(19) "Permanent Sign." Any part of a sign or sign structure that require the use of tools or machinery for installation or removal regardless of the length of time the sign or sign structure is to remain.

(20) "Portable Sign." A temporary sign whose supporting structure is intended, by design or construction, to be moved easily and may be propelled by its own power or by another vehicle to which it may be attached. "Portable signs" are not permanently affixed to the ground or structure, and may or may not have wheels, changeable letters and/or hitches for towing.

(21) "Projecting Sign." A sign, which is perpendicularly attached to, and projects from, a structure or building frontage.

(22) "Public Right-of-Way." Area on, below, or above a public roadway, highway, street, alley or easement.

(23) "Roof Sign." A sign erected upon, against, or directly above the eaves line of a roof.

(24) "Sandwich Board Sign." A portable temporary sign or sign board that is freestanding and not permanently anchored or secured to either a building, structure, or the ground. Often used synonymously with "sidewalk signs," sandwich board signs include, but are not limited to, so called "A" frame, "T" shaped, or inverted "T" shaped stands.

(25) "Sidewalk Sign." A temporary sign designed to be placed on, but not affixed to, the public sidewalk.

(26) "Sign." A structure, device, light, letter, word, model, banner, balloon, pennant, insignia, billboard, emblem, logo, placard, poster, trade flag or representation, which is visible from a public place, including but not limited to, highways, streets, alleys, rear walls or public property, or is located on private property and exposed to the public. For the purposes of this Zoning Code, "sign" includes all sign support structures.

(27) "Substantially Alter." A change in a sign or sign structure, as differentiated from maintenance or repair, including a change in height, location, area, shape or material, except that which occurs in manual or automatic changeable copy signs, including the wording, style or size of the lettering.

(28) "Temporary Sign." A sign that can be installed and removed without any mechanical means or equipment.

(29) "Wall Sign." A sign directly attached to the exterior wall. See Figure 10.

Figure 10. Wall Sign Illustration



(30) "Window Display Sign." A sign which is attached to the exterior or interior surface of a window. See Figure 11.

Figure 11. Window Sign Illustration



Window Sign

(Ord. 10-2020. Passed 11- 24-20; Ord. 04-2021. Passed 4-13-21.)

## CHAPTER 1240

### Zoning Districts and Map

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- 1240.01 Districts established.
- 1240.02 Table of permitted uses.
- 1240.03 G Green District.
- 1240.04 AG Agricultural District.
- 1240.05 R-1R Single-Family Residential District.
- 1240.06 R-1A Single-Family Residential District.
- 1240.07 R-1B Single-Family Residential District.
- 1240.08 R-2 Two Family Residential District.
- 1240.09 R-3 Multiple Family Residential District.
- 1240.10 MFR High Density Multiple Family District.
- 1240.11 B-1 Corridor Commercial District.
- 1240.12 B-2 Regional Commercial District.
- 1240.13 T-3 Neighborhood Commercial District.
- 1240.14 T-4 Downtown Commercial District.
- 1240.15 T-5 Core Downtown Commercial District.
- 1240.16 I-1 Light Industrial District.
- 1240.17 I-2 Heavy Industrial District.
- 1240.18 S Spark District.
- 1240.19 Official zoning map and interpretation.
- 1240.20 District boundary uncertainties.
- 1240.21 Zoning districts.

#### **1240.01 DISTRICTS ESTABLISHED.**

In order to classify, regulate and restrict the location of trades, industries and buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity

of the use of lot areas, and to regulate and determine the areas of yards, courts and other open spaces within and surrounding such buildings, the City is hereby divided into districts, as follows:

- G Green District
- AG Agricultural District
- R-1R Single Family Residential District
- R-1A Single-Family Residential District
- R-1B Single-Family Residential District
- R-2 Two Family Residential District
- R-3 Multiple Family Residential District
- MFR High Density Multiple Family Residential District
- B-1 Corridor Commercial District
- B-2 Regional Commercial District
- T-3 Neighborhood Commercial District
- T-4 Downtown Commercial
- T-5 Core Downtown Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- S Spark District

(Ord. 10-2020.Passed 11-24-20.)

**1240.02 TABLE OF PERMITTED USES.**

The following table lists the permitted uses and special land uses in each zoning district. When a use is classified by square footage, the square footage listed refers to the gross square footage of a building and not the square footage of an individual tenant unit. A use classified by capacity, refers to the capacity established by the City Fire Inspector. Whenever a specific development standard is included for a particular use in the table below, any development must comply with the requirement of the referenced section in addition to all of the other applicable requirements of this Code. All development standards for specific uses are listed in 0 and in other areas of this Code. Additionally, any use that is a special land use must also comply with the standards of Section 1281.05.

	A	AG	R1-R	R1-A	R1-B	R-2	R-3	MFR	B-1	B-2	T-3	T-4	T-5	I-1	I-2	S	Use Standard
A	Accessory Use																
E	Existing Use																
P	Permitted Use																
S	Special Use																
USES																	
Residential Uses																	
Accessory Dwelling Unit				A/S	A/S	A/S	A	A			A					A	
Bed and Breakfast		S	S	S	S	S	P	P			P						Section 1251.08
Home Occupation	A	A	A	A	A	A	A										Section 1251.17
Multi-Family Dwelling Units							P	P			P	P	P			P	Section 1251.32
Personal-Scale Solar Energy Facility	A	A	A	A	A	A	A	A			A					A	Section 1251.36
Personal-Scale Wind Energy Facility	A	A	A	A	A	A					A					A	Section 1251.37
Rooming and Boarding Houses						P	P										Section 1251.41
Single Family Dwelling Unit Attached							P	P			P	P	E			P	
Single Family Dwelling Unit Detached	P	P	P	P	P	P	P	P	E	E	P	E	E	E	E	P	
State Licensed Child Care Family Home, 1-6 Children	A	A	A	A	A	A	A	A	A		A	A	A/S	A/S	A/S		Section 1251.43
State Licensed Child Care Group Home, 7-12 Children	A/S	A/S	A/S	A/S	A/S	A/S	A/S	A/S	S	S	A/S	S	S	S	S	A/S	Section 1251.44



State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 p.	A	A	A	A	A	A	A	A			A						Section 1251.45
State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 p.	A/S	A/S	A/S	A/S	A/S	A/S	A/S	A/S			A/S						Section 1251.46
State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 p.	A/S	A/S	A/S	A/S	A/S	A/S	A/S	A/S									Section 1251.46
Transitional and Supportive Home, 1-6 persons			A	A	A	A	A	A			A						
Transitional and Supportive Home, more than 6 persons			A/S	A/S	A/S	A/S	A/S	A/S			A/S						
Community Residential Facility and Group Homes							S	S	S								Section 1251.46
Two-Family Dwelling Units							P	P	P		P	P	S			P	
<b>Commercial Uses</b>																	
Adult Business									S					S	S		Section 1251.01
Agri-Tourism	S	S	S														
Arena/Theater									P								P
Artisan/Maker Space									P	P	S	P	P	P	P	P	
Assisted Senior Living							P	P									P
Automobile Car Wash Establishment									P	P				S	S		Section 1251.03
Automobile Repair									P					P	P		Section 1251.04
Automobile Service Station									S	P				P	P		Section 1251.05
Automobile or Vehicle Dealership									P					P			Section 1251.06
Banquet and Meeting Hall < 100 cap.	S						S	S	P	P	P	P	P				P
Banquet and Meeting Hall > 100 cap.	S						S	S	P	P		P	P				P
Bar, Tavern, or Saloon									S	P	S	P	P	A/S	A/S		P
Bookstore									P	P	P	P	P				P
Brewpub									P	P	S	P	P	P	P	P	
Catering Businesses									P	P	P	P	P				
Convalescent Home, nursing Home, or Home for the Aged							P	P	P	P	S	P	S	S	S		Section 1251.12
Distillery, Winery - w/ or w/o food	P	P	S						P	P	S	P	P	P	P	P	
Farm Equip. and Heavy Machinery Sales														P	P		
Financial Institutions									P	P	P	P	P	P	P	P	
Funeral Homes, Mortuaries, and Crematoriums									P	P	S	S		S			
Hospital > 20,000 s.f.							S	P	S		S		S	S			Section 1251.18
Hotel									P	S	P	P					P
Independent Senior Living with Services							P	P				S					P
Indoor Recreation	S								P	P	P	P	S				P
Kennels/Veterinarian	S	S	S						P	P				S			Section 1251.22
Marihuana: Adult-Use Marihuana Microbusiness									P	P	S			P	P		Section 1251.23 Section 1251.25 Section 1251.26

Marihuana: Adult-Use Marihuana Retailers										P	P	S	P	P	P	P		Section 1251.23 Section 1251.24 Section 1251.26
Marihuana: Medical Marihuana Provisioning Center										P	P	S	P	P	P	P		Section 1251.23 Section 1251.29 Section 1251.26
Medical or Dental Clinic < 20,000 s.f.										P	P	S	P	P			P	
Motel											P	S	P	P			P	Section 1251.33
Microbrewery										P	P	S	P	P	P	P	P	Section 1251.34
Nightclub										S	P	S	P	P	A/S	A/S	P	
Office < 5,000 s.f.										P	P	P	P	P	A	A	P	
Office 5,000 to 17,000 s.f.										P	P	S	P	P	A	A	P	
Office > 17,000 s.f.										S	P		P	P	A	A	P	
Outdoor Recreation/Private	P	S								P	P						S	Section 1251.35
Outdoor Recreation/Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 1251.35
Pawn Broker										P	P	S						
Personal Service Establishment										P	P	P	P	P			P	Section 1251.38
<b>Restaurant</b>																		
Carry-Out Restaurant										P	P	P	P	P	P	P	P	
Drive-In Restaurant										P	P		S		P	P	P	
Drive-Thru Restaurant										P	P		S		P	P		Section 1251.13
Full-Service Restaurant										P	P	P	P	P	P	P	P	
Limited Service Restaurant										P	P	P	P	P	P	P	P	
Retail Sales < 5,000 s.f.										P	P	P	P	P	S	S	P	
Retail Sales 5,000 to 17,000 s.f.										P	P	S	P	P	S	S	P	
Retail Sales > 17,000 s.f.										S	P		S	P	S	S	P	
Tree Farm	P	P																
Vehicle Repair, Major										S	S				P	P		Section 1251.50
Vehicle Repair, Minor										S	S				P	P		
<b>Industrial Uses</b>																		
Junk or Salvage Yard															S	S		Section 1251.21
Manufacturing															P	P		
Marihuana: Medical and Adult Use Marihuana Grow Operation															P	P		Section 1251.23 Section 1251.26 Section 1251.27
Marihuana: Medical and Adult Use Marihuana Processing Facility															P	P		Section 1251.23 Section 1251.26 Section 1251.28
Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility										P					P	P		Section 1251.23 Section 1251.26 Section 1251.30
Marihuana: Medical and Adult Use Marihuana Secure Transporter										P					P	P		Section 1251.23 Section 1251.26 Section 1251.31
Research and Development										S	P		S		P	P	P	

Self-Storage Facilities	S								S	S	S	S	S	S	S		Section 1251.42	
Transportation and Logistics									S	S				P	P	P		
Utility-Scale Solar Energy Facility		S	S						A	A				P	P		Section 1251.48	
Utility-Scale Wind Energy Facility		S	S												S		Section 1251.49	
Warehouse									S	S				P	P	P		
Wholesale									S	S				P	P	P		
<b>Other Uses</b>																		
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Section 1260.01
Adaptive Reuse	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	
Campground	S	S	S	S	S	S												Section 1251.09
Cemetery	S	S	S	S	S	S	S	S	S	S	S			S	S	S		Section 1251.10
Community Garden	P	P	P	P	P	P	P	P			P						P	Section 1251.11
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Farmer's Market	A/S	A/S											A/S	A/S	A/S		A/S	Section 1251.14
General and Specialized Farms, including crops and the raising and keeping of livestock. General and Specialized farms, including crops and the raising and keeping for profit of cattle, hogs, horses, ponies, sheep and similar livestock.	P	P	P															Section 1251.16
Government/Public Uses									P	p	P	P	P	p			P	Section 1251.15
Greenhouse/Nursery (Principal Use)	P	P	P							P				P			P	
Institutions of Higher Education	S	S	S	S	S	S	S	S	P	P	S	S	S	S	S	S		
Marinas	S										S						S	
Parking as a Principal Use										S		S	S	S	S	S		
Private K-12 Schools			S	S	S	S	S	S	P	P	S	S	S				S	
Private Garden	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Section 1251.39
Public K-12 Schools			P	P	P	P	P	P	P	P	P	P	P				P	
Public and private conservation areas and structures for the conservation of open space, water, soil, forest and wildlife resources	P	P																
Religious institutions	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P		Section 1251.40
Telecommunication Towers	Refer to Section 1251.47 to see where telecommunication towers are permitted																Section 1251.47	
Mobile Home Park Overlay District	Refer to Section 1250.05 for Mobile Home Park requirements																Section 1250.05	

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.03 G GREEN DISTRICT.**

(a) Purpose
-------------

This district is established for the following purposes:

- (1) To preserve and protect natural and man-made water areas, flood plains, marshes, and wetlands from development other than open spaces or recreational uses;
- (2) To preserve and protect agricultural districts, and/or wildlife habitats;
- (3) To limit residential and commercial development and encourage design that preserves natural environments;
- (4) To retain natural drainage patterns; and
- (5) To preserve and protect the values of distinctive, geologic, topographic, botanic, historic, or scenic areas.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Community garden (Section 1251.11)</li> <li>• Distillery, winery - with or without food</li> <li>• Essential services</li> <li>• General and specialized farms including crops and the raising and keeping livestock (Section 1251.16)</li> <li>• Greenhouse/nursery (principal use)</li> <li>• Home occupation (Section 1251.17)</li> <li>• Outdoor recreation/ private (Section 1251.35)</li> <li>• Outdoor recreation/ public (Section 1251.35)</li> <li>• Public and private conservation areas and structures for the conservation of open space, water, soil, forest and wildlife resources</li> <li>• Single family dwelling unit detached</li> <li>• Tree farm</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive reuse (Section 1250.04 (d))</li> <li>• Agri-tourism</li> <li>• Banquet and meeting hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and meeting hall &gt; 100 capacity (Section 1251.07)</li> <li>• Campground (Section 1251.09)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Farmers market (Section 1251.14)</li> <li>• General and specialized farms, including crops and the raising and keeping of livestock (Section 1251.16)</li> <li>• Indoor recreation</li> <li>• Institutions of higher education</li> <li>• Kennels (Section 1251.22)</li> <li>• Marinas</li> <li>• Religious institutions (Section 1251.38)</li> <li>• Self-storage facilities (Section 1251.42)</li> </ul>
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.</p>	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory buildings (Section 1260.01)</li> <li>• Farmers market (Section 1251.14)</li> <li>• Home occupation (Section 1251.17)</li> <li>• Personal-scale solar energy facility (Section 1251.36)</li> <li>• Personal-scale wind energy facility (Section 1251.37)</li> <li>• Private gardens</li> <li>• State licensed child care family home, 1-6 children (Section 1251.43)</li> <li>• State licensed child care group home, 7-12 children (Section 1251.44), with SLU approval</li> <li>• State licensed residential facility, adult foster care family home, 1-6 persons (Section 1251.45)</li> <li>• State licensed residential facility, adult foster care small group home, 7-12 persons (Section 1251.46), with SLU approval</li> <li>• State licensed residential facility, adult foster care large group home, 13-20 persons (Section 1251.46, with SLU approval)</li> </ul>

(e) Dimension Regulations	
Lot Standards	G
Minimum Lot Area (sq. ft.)	43,560
Minimum Lot Width (ft.)	150
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	15
Maximum Building Height	35 feet, 2.5 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

**1240.04 AG AGRICULTURAL DISTRICT.**

(a) Purpose
<p>The AG Agricultural District is intended to be composed of typically rural areas used predominantly for general farming operations. Although urban development is occurring at a substantial rate in the City, agriculture remains an important economic activity, and in the proper interest of the welfare of present and future residents, it is considered necessary to conserve an effective environment for stable, productive agricultural operations.</p> <p>The regulations of this chapter, therefore, are designed for the following purposes:</p> <ol style="list-style-type: none"> <li>(1) To protect and stabilize the essential characteristics of these areas;</li> <li>(2) To minimize conflicting land uses detrimental to farm enterprises; and</li> <li>(3) To exclude development which requires highway, drainage and other public utilities and facilities in excess of those required by agricultural uses.</li> </ol>

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Community Garden (Section 1251.11)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Essential Services</li> <li>• General and specialized farms, including crops and the raising and keeping of livestock (Section 1251.16)</li> <li>• Greenhouse / Nursery (Principal Use)</li> <li>• Outdoor Recreation/ Private (Section 1251.35)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Agri-Tourism</li> <li>• Bed and Breakfast (Section 1251.08)</li> <li>• Campground (Section 1251.09)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Farmers Market (Section 1251.14)</li> <li>• Institutions of Higher Education</li> <li>• Kennels (Section 1251.22)</li> <li>• Religious Institutions (Section 1251.38)</li> </ul>

Permitted Uses (cont'd)	Special Land Uses (cont'd)
<ul style="list-style-type: none"> <li>• Public and private conservation areas and structures for the conservation of open space, water, soil, forest and wildlife resources</li> <li>• Single Family Dwelling Unit Detached</li> <li>• Tree Farm</li> </ul>	<ul style="list-style-type: none"> <li>• Utility-Scale Solar Energy Facility (Section 1251.50)</li> <li>• Utility-Scale Wind Energy Facility (Section 1251.51)</li> </ul>
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Farmers Market (Section 1251.14)</li> <li>• Home Occupation (Section 1251.17)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.37)</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> <li>• State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.45)</li> <li>• State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval</li> <li>• State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval</li> </ul>

(e) Dimension Regulations	
Lot Standards	AG
Minimum Lot Area (sq. ft.)	3 acres
Minimum Lot Width (ft.)	150
Maximum Percent of Building Coverage	NL

Front Yard Setback (ft.)	(C)
Rear Yard Setback (ft.)	(C)
Side Yard Setback (ft.)	(C)
Maximum Building Height	35 feet, 2.5 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.05 R-1R SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Purpose
It is the purpose of this Section is to establish a district composed of residential properties of a semi-rural character that includes areas of the City presently without water and sewerage services and likely to remain without such services, in whole or in part, indefinitely. The R-1R Single-Family Rural Residential District includes existing low-density one-family properties, as well as areas within which such developments appear both likely and desirable.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Community Garden (Section 1251.11)</li> <li>• Essential Services</li> <li>• General and specialized farms including crops and the raising and keeping livestock (Section 1251.16)</li> <li>• Greenhouse / Nursery (Principal Use)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Public K-12 Schools</li> <li>• Single Family Dwelling Unit Detached</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Agri-Tourism</li> <li>• Bed and Breakfast</li> <li>• Campground (Section 1251.09)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> <li>• Kennels (Section 1251.22)</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Utility-Scale Solar Energy Facility ((Section 1251.50))</li> <li>• Utility-Scale Wind Energy Facility (Section 1251.51)</li> </ul>
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses.
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Home Occupation (Section 1251.17)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.37)</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> <li>• State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval</li> <li>• State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval</li> <li>• Transitional and Supportive Home, 1-6 persons</li> <li>• Transitional and Supportive Home, More than 6 persons, with SLU approval</li> </ul>

(e) Dimension Regulations	
Lot Standards	R-1R
Minimum Lot Area (sq. ft.)	30,000
Minimum Lot Width (ft.)	120

Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	35
Side Yard Setback (ft.)	15
Maximum Building Height	35 feet, 2.5 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Am. Ord. 04- 2021. Passed 4-13-21.)

**1240.06 R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Purpose
The R-1A district is intended for areas of primarily single-family detached residential properties of a semi-suburban to suburban, low-density character, usually served by City water and sewer.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Community Garden (Section 1251.11)</li> <li>• Essential Services</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Public K-12 Schools</li> <li>• Single Family Dwelling Unit Detached</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Bed and Breakfast (Section 1251.08)</li> <li>• Campground (Section 1251.09)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.37)</li> <li>• Religious Institutions (Section 1251.38)</li> </ul>
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit, with SLU approval</li> <li>• Home Occupation (Section 1251.17)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> <li>• State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.45)</li> <li>• State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval</li> <li>• State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval</li> <li>• Transitional and Supportive Home, 1-6 persons</li> <li>• Transitional and Supportive Home, More than 6 persons, with SLU approval</li> </ul>

(e) Dimension Regulations	
Lot Standards	R-1A
Minimum Lot Area (sq. ft.)	7,500
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	30
Rear Yard Setback (ft.)	35



Side Yard Setback (ft.)	8
Maximum Building Height	35 feet, 2.5 stories
Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.	

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.07 R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Purpose
The R-1B district is intended for areas of primarily single-family detached residential properties of a suburban, medium-density character. This district includes those areas which are serviced by City water and sewer.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Community Garden (Section 1251.11)</li> <li>• Essential Services</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Public K-12 Schools</li> <li>• Single Family Dwelling Unit Detached</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Bed and Breakfast (Section 1251.08)</li> <li>• Campground (Section 1251.09)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.37)</li> <li>• Religious Institutions (Section 1251.38)</li> </ul>
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit, with SLU approval</li> <li>• Home Occupation (Section 1251.17)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> </ul>

<ul style="list-style-type: none"> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> <li>• State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.45)</li> <li>• State Licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval</li> <li>• State Licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval</li> <li>• Transitional and Supportive Home, 1-6 persons</li> <li>• Transitional and Supportive Home, More than 6 persons, with SLU approval</li> </ul>
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(e) Dimension Regulations	
Lot Standards	R-1B
Minimum Lot Area (sq. ft.)	5,000
Minimum Lot Width (ft.)	50
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	30
Side Yard Setback (ft.)	6
Maximum Building Height	35 feet, 2.5 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.08 R-2 TWO FAMILY RESIDENTIAL DISTRICT.**

(a) Purpose
The R-2 district is intended for areas of a mix of single- and two-family residential properties of an urban, medium-density character. Limited commercial uses which tend to complement residential areas should be expected. This district includes street and utility elements expected in an urban setting. Further, this district provides a buffer between single-family and multifamily neighborhoods.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Community Garden (Section 1251.11)</li> <li>• Essential Services</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Public K-12 Schools</li> <li>• Rooming and Boarding Houses, not to exceed 4 boarders (Section 1251.41)</li> <li>• Single Family Dwelling Unit Detached</li> <li>• Two-Family Dwelling Units</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Bed and Breakfast (Section 1251.08)</li> <li>• Campground (Section 1251.09)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Institutions of Higher Education</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Private K-12 Schools</li> </ul>
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit, with SLU approval</li> <li>• Home Occupation (Section 1251.17)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.37), with SLU approval</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> <li>• State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.45)</li> <li>• State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval</li> <li>• State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval</li> <li>• Transitional and Supportive Home, 1-6 persons</li> <li>• Transitional and Supportive Home, More than 6 persons, with SLU approval</li> </ul>

(e) Dimension Regulations	
Lot Standards	R-2
Minimum Lot Area (sq. ft.)	5,000
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25
Side Yard Setback (ft.)	5
Maximum Building Height	35 feet, 2.5 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.09 R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT.**

**(a) Purpose**

The R-3 district is intended for high-density multifamily family developments located in suburban and urban areas, and commercial development with relatively low intensities that often complement residential neighborhoods. Further, this district supports housing styles of mid- and high-level buildings consisting of garden apartments, and townhome condominiums. High density of this district is intended to support nearby commercial districts, and provide a transition between commercial and mid-density districts.

**(b) Permitted Uses**

- Assisted Senior Living (Section 1251.02)
- Bed and Breakfast (Section 1251.08)
- Community Garden (Section 1251.11)
- Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)
- Essential Services
- Independent Senior Living with Services (Section 1251.20)
- Multi-Family Dwelling Units (Section 1251.32)
- Outdoor Recreation/ Public (Section 1251.35)
- Public K-12 Schools
- Rooming and Boarding Houses, up to ten boarders (Section 1251.41)
- Single Family Dwelling Unit Attached
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units

**(c) Special Land Uses**

- Adaptive Reuse (Section 1250.04 D)
- Banquet and Meeting Hall < 100 capacity (Section 1251.07)
- Cemetery (Section 1251.10)
- Institutions of Higher Education
- Private K-12 Schools
- Religious Institutions (Section 1251.38)

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

**(d) Accessory Uses**

- Accessory Buildings (Section 1260.01)
- Accessory Dwelling Unit
- Home Occupation (Section 1251.17)
- Personal-Scale Solar Energy Facility (Section 1251.36)
- Private Gardens
- State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)
- State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.45)
- State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval
- State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval
- Transitional and Supportive Home, 1-6 persons
- Transitional and Supportive Home, More than 6 persons, with SLU approval

**(e) Dimension Regulations**

Lot Standards	R-3
Minimum Lot Area (sq. ft.)	2,900

Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	25
Front Yard Setback (ft.)	25 (F)
Rear Yard Setback (ft.)	25 (F)

Side Yard Setback (ft.)	5 (F)
Maximum Building Height	45 feet

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.10 MFR HIGH DENSITY MULTIPLE FAMILY DISTRICT.**

(a) Purpose
The MFR High Density Multiple Family District is intended to accommodate new types of diversified residential developments of high densities, usually requiring a large tract of unplatted land. The types of residential structures include garden apartments, terrace apartments and row housing units and those special types of housing structures similar in character and density to multiple family housing.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Assisted Senior Living (Section 1251.02)</li> <li>• Bed and Breakfast (Section 1251.08)</li> <li>• Community Garden (Section 1251.11)</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Essential Services</li> <li>• Independent Senior Living with Services (Section 1251.20)</li> <li>• Medical or Dental Clinic &lt; 20,000 s.f.</li> <li>• Multi-Family Dwelling Units (Section 1251.32)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Public K-12 Schools</li> <li>• Single Family Dwelling Unit Attached</li> <li>• Single Family Dwelling Unit Detached</li> <li>• Two-Family Dwelling Units</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and Meeting Hall &gt; 100 capacity (Section 1251.07)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> <li>• Religious Institutions (Section 1251.38)</li> </ul>
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit</li> <li>• Home Occupation (Section 1251.17)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> <li>• State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons (Section 1251.45)</li> </ul>

- State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons (Section 1251.46), with SLU approval
- State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons (Section 1251.46), with SLU approval

(e) Dimension Regulations

Lot Standards	MFR
Minimum Lot Area (sq. ft.)	2,170 (D), (E)
Minimum Lot Width (ft.)	120
Maximum Percent of Building Coverage	30
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	20
Side Yard Setback (ft.)	20
Maximum Building Height	45 feet, 4 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020.Passed 11-24-20.)

**1240.11 B-1 CORRIDOR COMMERCIAL DISTRICT.**

(a) Purpose

The B-1 Corridor Commercial District is established to accommodate those retail and business service activities that serve the whole community and the metropolitan region. Such activities require land and structure uses that are typically compact and densely grouped, generating a large volume of pedestrian and vehicular traffic. It is the purpose of these regulations to permit the establishment of a wide variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Arena/Theater</li> <li>• Artisan/Maker Space</li> <li>• Automobile Car Wash Establishment (Section 1251.03)</li> <li>• Automobile or Vehicle Dealership (Section 1251.06)</li> <li>• Automobile Repair (Section 1251.04)</li> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and Meeting Hall &gt; 100 capacity (Section 1251.07)</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Adult Business (Section 1251.01)</li> <li>• Automobile Service Station (Section 1251.05)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Cemetery (Section 1251.10)</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Nightclub</li> <li>• Office &gt; 17,000 s.f.</li> <li>• Research and Development</li> <li>• Retail Sales &gt; 17,000 s.f.</li> <li>• Self-Storage Facilities (Section 1251.42)</li> </ul>

(b) Permitted Uses (Cont'd)	(c) Special Land Uses (Cont'd)
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<ul style="list-style-type: none"> <li>• Bookstore</li> <li>• Brewpub</li> <li>• Catering Businesses</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Drive-In Restaurant</li> <li>• Drive-Thru Restaurant (Section 1251.13Section 1251.12)</li> <li>• Essential Services</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Funeral Homes, Mortuaries, and Crematoriums</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Indoor Recreation</li> <li>• Institutions of Higher Education</li> <li>• Pawn Broker</li> <li>• Private K-12 Schools</li> <li>• Public K-12 Schools</li> <li>• Kennels/Veterinarian (Section 1251.22)</li> <li>• Limited Service Restaurant</li> <li>• Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.23) (Section 1251.25)</li> <li>• Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility (Section 1251.23) (Section 1251.30)</li> <li>• Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.23) (Section 1251.31)</li> <li>• Medical or Dental Clinic 5,000 - 20,000 s.f.</li> <li>• Medical or Dental Clinic &lt; 5,000 s.f.</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Outdoor Recreation/ Private (Section 1251.35)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Personal Service Establishment (Section 1251.38)</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Vehicle Repair, Minor</li> </ul>	<ul style="list-style-type: none"> <li>• Transportation and Logistics</li> <li>• Vehicle Repair, Major (Section 1251.52)</li> <li>• Warehouse</li> <li>• Wholesale</li> </ul>
<p>Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.</p>	

(d) Existing Uses
<ul style="list-style-type: none"> <li>• Single Family Dwelling Unit Detached</li> </ul>

(e) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• Utility-Scale Solar Energy Facility (Section 1251.50)</li> </ul>

(f) Prohibited Uses	
<ul style="list-style-type: none"> <li>• Sale, rental or display of motor vehicles, trailers or boats; and</li> <li>• Manufacturing and processing establishments not selling their entire output at retail on the premises.</li> </ul>	

(g) Dimension Regulations	
Lot Standards	B-1
Minimum Lot Area (sq. ft.)	2,900
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	20
Rear Yard Setback (ft.)	15 (H)
Side Yard Setback (ft.)	15 (G)
Maximum Building Height	45 feet, 3 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.12 B-2 REGIONAL COMMERCIAL DISTRICT.**

(a) Purpose
<p>The B-2 Regional Commercial District is established to accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic. It is the purpose of these regulations to permit the establishment of a limited variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques as may develop, particularly where the use of motor vehicles is involved. In order to utilize the full potential effectiveness of this District, certain functions that would operate more effectively in other districts and that would interfere with the general business effectiveness of this District have been intentionally excluded.</p>

(b) Permitted Uses	(c) Special Land Uses
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<ul style="list-style-type: none"> <li>• Arena/Theater</li> <li>• Artisan/Maker Space</li> <li>• Automobile Car Wash Establishment (Section 1251.03)</li> <li>• Automobile or Vehicle Dealership (Section 1251.06)</li> <li>• Automobile Repair (Section 1251.04)</li> <li>• Automobile Service Station (Section 1251.05)</li> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and Meeting Hall &gt; 100 capacity (Section 1251.07)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Bookstore</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Catering Businesses</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Drive-In Restaurant</li> <li>• Drive-Thru Restaurant (Section 1251.13)</li> <li>• Essential Services</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Funeral Homes, Mortuaries, and Crematoriums</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Greenhouse / Nursery (Principal Use)</li> <li>• Hotel (Section 1251.19)</li> <li>• Indoor Recreation</li> <li>• Institutions of Higher Education</li> <li>• Kennels/Veterinarian (Section 1251.22)</li> <li>• Limited Service Restaurant</li> <li>• Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.23) (Section 1251.25)</li> <li>• Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility (Section 1251.23) (Section 1251.30)</li> <li>• Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.23) (Section 1251.31)</li> <li>• Medical or Dental Clinic 5,000 - 20,000 s.f.</li> <li>• Medical or Dental Clinic &lt; 5,000 s.f.</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Motel (Section 1251.33)</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Assisted Senior Living (Section 1251.02)</li> <li>• Cemetery (Section 1251.10)</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Parking as a Principal Use</li> <li>• Self-Storage Facilities (Section 1251.42)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44)</li> <li>• Transportation and Logistics</li> <li>• Vehicle Repair, Major (Section 1251.52)</li> <li>• Warehouse</li> <li>• Wholesale</li> </ul>
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<ul style="list-style-type: none"> <li>• Nightclub</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Office &gt; 17,000 s.f.</li> <li>• Outdoor Recreation/ Private (Section 1251.35)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Pawn Broker</li> <li>• Personal Service Establishment (Section 1251.38)</li> <li>• Private K-12 Schools</li> <li>• Public K-12 Schools</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Research and Development</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Retail Sales &gt; 17,000 s.f.</li> <li>• Vehicle Repair, Minor</li> </ul>	
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Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

**(d) Existing Uses**

- Single Family Dwelling Unit Detached

**(e) Accessory Uses**

- Accessory Buildings (Section 1260.01)
- Private Gardens
- Utility-Scale Solar Energy Facility (Section 1251.50)

**(f) Dimension Regulations**

Lot Standards	B-2
Minimum Lot Area (sq. ft.)	25,000
Minimum Lot Width (ft.)	150
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	35
Rear Yard Setback (ft.)	20
Side Yard Setback (ft.)	20
Maximum Building Height	50 feet, 3 stories

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-2021.)

**1240.13 T-3 NEIGHBORHOOD COMMERCIAL DISTRICT.**

**(a) Purpose**

The T-3 Neighborhood Commercial District is intended to establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.

<b>(b) Permitted Uses</b>	<b>(c) Special Land Uses</b>
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<ul style="list-style-type: none"> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Bed and Breakfast (Section 1251.08)</li> <li>• Bookstore</li> <li>• Carry-Out Restaurant</li> <li>• Catering Businesses</li> <li>• Community Garden</li> <li>• Essential Services</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Indoor Recreation</li> <li>• Limited Service Restaurant</li> <li>• Medical or Dental Clinic &lt; 5,000 s.f.</li> <li>• Multi-Family Dwelling Units (Section 1251.32)</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.51)</li> <li>• Personal Service Establishments (Section 1251.38)</li> <li>• Public K-12 Schools</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Single Family Dwelling Unit Attached</li> <li>• Single Family Dwelling Unit Detached</li> <li>• Two-Family Dwelling Units</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Artisan/Maker Space</li> <li>• Bar, Tavern, or Saloon</li> <li>• Brewpub</li> <li>• Cemetery</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Farmers' Market (Section 1251.14)</li> <li>• Funeral Homes, Mortuaries, and Crematoriums</li> <li>• Hotel</li> <li>• Institutions of Higher Education</li> <li>• Pawn Broker</li> <li>• Private K-12 Schools</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.23) (Section 1251.25)</li> <li>• Marinas</li> <li>• Medical or Dental Clinic &lt; 20,000 s.f.</li> <li>• Microbrewery</li> <li>• Motel (Section 1251.19)</li> <li>• Nightclub</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Self-Storage Facilities (Section 1251.42)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44)</li> </ul>
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Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

(d) Accessory Uses	
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit</li> <li>• Farmers Market (Section 1251.14)</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> <li>• Transitional and Supportive Home, 1-6 persons</li> <li>• Transitional and Supportive Home, More than 6 persons, with SLU approval</li> </ul>	

(e) Dimension Regulations	
Lot Standards	T-3
Minimum Lot Area (sq. ft.)	2,900 (D)
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	40
Front Yard Setback (ft.)	30
Rear Yard Setback (ft.)	20 (H)
Side Yard Setback (ft.)	10 (G)
Maximum Building Height	36 feet, 3 stories
Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.	

**1240.14 T-4 DOWNTOWN COMMERCIAL DISTRICT.**

(a) Purpose
The T-4 Downtown Commercial is established to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Artisan/Maker Space</li> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and Meeting Hall &gt; 100 capacity (Section 1251.07)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Bookstore</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Catering Businesses</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Drive-In Restaurant</li> <li>• Drive-Thru Restaurant (Section 1251.13)</li> <li>• Farmers' Market (Section 1251.14)</li> <li>• Funeral Homes, Mortuaries, and Crematoriums</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Independent Senior Living with Services (Section 1251.20)</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> </ul>

(b) Permitted Uses (Cont'd)	(c) Special Land Uses (Cont'd)
<ul style="list-style-type: none"> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Essential Services</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Hotel (Section 1251.19)</li> <li>• Indoor Recreation</li> <li>• Limited Service Restaurant</li> <li>• Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Medical or Dental Clinic 5,000 - 20,000 s.f.</li> <li>• Medical or Dental Clinic &lt; 5,000 s.f.</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Motel (Section 1251.19)</li> <li>• Multi-Family Dwelling Units (Section 1251.32)</li> <li>• Nightclub</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Office &gt; 17,000 s.f.</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Personal Service Establishments (Section 1251.38)</li> <li>• Public K-12 Schools</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Single Family Dwelling Unit Attached</li> <li>• Two-Family Dwelling Units</li> </ul>	<ul style="list-style-type: none"> <li>• Parking as a Principal Use</li> <li>• Research and Development</li> <li>• Retail Sales &gt; 17,000 s.f.</li> <li>• Self-Storage Facilities (Section 1251.42)</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44)</li> </ul>

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

(d) Existing Uses
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- Single Family Dwelling Unit Detached

- (e) Accessory Uses
- Accessory Buildings (Section 1260.01)
  - Accessory Dwelling Unit
  - Farmers Market (Section 1251.14)
  - Private Gardens
  - State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)

(f) Dimension Regulations

Lot Standards	T-4
Minimum Lot Area (sq. ft.)	2,900 (D)
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	NL
Rear Yard Setback (ft.)	NL
Side Yard Setback (ft.)	NL
Maximum Building Height	NL

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Am. Ord. 04- 2021. Passed 4-13-21.)

**1240.15 T-5 CORE DOWNTOWN COMMERCIAL DISTRICT.**

(a) Purpose

The T-5 Core Downtown Commercial District is established to revitalize commercial areas which, through business relocation, substantial change in surrounding uses, changes in the market, or a combination thereof, require the orderly placement of business establishments to provide the maximum use of buildings to accommodate and respond to changes in vehicular and pedestrian traffic flow. To permit the full potential of this District, certain uses which would interfere with the general effectiveness of this District have been intentionally excluded, and uses permitted herein are intended to be strictly limited in their definition. Further, to promote uses that support a walkable downtown environment, mix of uses within a single building, and uses that create activity throughout the day and week.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Artisan/Maker Space</li> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and Meeting Hall &gt; 100 capacity (Section 1251.07)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Bookstore</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Catering Businesses</li> <li>• Distillery, Winery - w/ or w/o food</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Farmers' Market (Section 1251.14)</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Indoor Recreation</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> <li>• Parking as a Principal Use</li> <li>• Self-Storage Facilities (Section 1251.42)</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> </ul>

(b) Permitted Uses (Cont'd)	(c) Special Land Uses (Cont'd)
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<ul style="list-style-type: none"> <li>• Essential Services</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Hotel (Section 1251.19)</li> <li>• Limited Service Restaurant</li> <li>• Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Medical or Dental Clinic 5,000 - 20,000 s.f.</li> <li>• Medical or Dental Clinic &lt; 5,000 s.f.</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Motel (Section 1251.19)</li> <li>• Multi-Family Dwelling Units (Section 1251.32)</li> <li>• Nightclub</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Office &gt; 17,000 s.f.</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Personal Service Establishments (Section 1251.38)</li> <li>• Public K-12 Schools</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Retail Sales &gt; 17,000 s.f.</li> </ul>	<ul style="list-style-type: none"> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44)</li> <li>• Two-Family Dwelling Units</li> </ul>
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Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses. Refer to Section 1250.04, Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

(d) Existing Uses
<ul style="list-style-type: none"> <li>• Single Family Dwelling Unit Attached</li> <li>• Single Family Dwelling Unit Detached</li> </ul>

(e) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit</li> <li>• Farmers Market (Section 1251.14)</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43)</li> </ul>

(f) Dimension Regulations	
Lot Standards	T-5
Minimum Lot Area (sq. ft.)	2,900 (D)
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	NL
Rear Yard Setback (ft.)	NL
Side Yard Setback (ft.)	NL
Maximum Building Height	NL

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

**1240.16 I-1 LIGHT INDUSTRIAL DISTRICT.**

(a) Purpose
<p>The I-1 Light Industrial District is intended to accommodate those industrial uses that generate noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is established as one in which the principal use of the land is for industrial activities wholly compatible with all other uses permitted in this District, commercial establishments not engaging in retail sales and service establishments which, if doing retail business, are of the type not generally requiring the customer to call at the place of business.</p>

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Artisan/Maker Space</li> <li>• Automobile or Vehicle Dealership (Section 1251.06)</li> <li>• Automobile Repair (Section 1251.04)</li> <li>• Automobile Service Station (Section 1251.05)</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Drive-In Restaurant</li> <li>• Drive-Thru Restaurant (Section 1251.13)</li> <li>• Essential Services</li> <li>• Farm Implements and Heavy Machinery Sales</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Greenhouse / Nursery (Principal Use)</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Adult Business (Section 1251.01)</li> <li>• Automobile Car Wash Establishment (Section 1251.03)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Cemetery (Section 1251.10)</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Funeral Homes, Mortuaries, and Crematoriums</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Institutions of Higher Education</li> <li>• Junk or Salvage Yard (Section 1251.21)</li> <li>• Kennels (Section 1251.22)</li> <li>• Nightclub</li> <li>• Parking as a Principal Use</li> <li>• Retail Sales &lt; 5,000 s.f.</li> </ul>

(b) Permitted Uses (Cont'd)	(c) Special Land Uses (Cont'd)
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<ul style="list-style-type: none"> <li>• Limited Service Restaurant</li> <li>• Manufacturing</li> <li>• Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.23) (Section 1251.25)</li> <li>• Marihuana: Adult-Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Medical and Adult Use Marihuana Grow Operation (Section 1251.23) (Section 1251.27)</li> <li>• Marihuana: Medical and Adult Use Marihuana Processing Facility (Section 1251.23) (Section 1251.28)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility (Section 1251.23) (Section 1251.30)</li> <li>• Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.23) (Section 1251.31)</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Research and Development</li> <li>• Transportation and Logistics</li> <li>• Utility-Scale Solar Energy Facility (Section 1251.50)</li> <li>• Vehicle Repair, Major (Section 1251.52)</li> <li>• Warehouse</li> <li>• Wholesale</li> </ul>	<ul style="list-style-type: none"> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Retail Sales &gt; 17,000 s.f.</li> <li>• Self-Storage Facilities (Section 1251.42)</li> </ul>
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Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

(d) Existing Uses
• Single Family Dwelling Unit Detached

(e) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Bar, Tavern, or Saloon Nightclub</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Office &gt; 17,000 s.f.</li> <li>• Private Gardens</li> <li>• State Licensed Child Care Family Home, 1-6 Children (Section 1251.43), with SLU approval</li> <li>• State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval</li> </ul>

(f) Dimension Regulations	
Lot Standards	I-1
Minimum Lot Area (sq. ft.)	2,900
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25 (H)
Side Yard Setback (ft.)	(G)
Maximum Building Height	NL



Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.17 I-2 HEAVY INDUSTRIAL DISTRICT.**

**(a) Purpose**

The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road and/or railroad and public and utility services.

(b) Permitted Uses	(c) Special Land Uses
<ul style="list-style-type: none"> <li>• Artisan/Maker Space</li> <li>• Automobile Repair (Section 1251.04)</li> <li>• Automobile Service Station (Section 1251.05)</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Drive-In Restaurant</li> <li>• Drive-Thru Restaurant (Section 1251.13)</li> <li>• Essential Services</li> <li>• Farm Implements and Heavy Machinery Sales</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Kennels (Section 1251.22)</li> <li>• Limited Service Restaurant</li> <li>• Manufacturing</li> <li>• Marihuana: Adult-Use Marihuana Microbusiness (Section 1251.23) (Section 1251.25)</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive Reuse (Section 1250.04 D)</li> <li>• Adult Business (Section 1251.01)</li> <li>• Automobile Car Wash Establishment (Section 1251.03)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Cemetery (Section 1251.10)</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (Section 1251.12)</li> <li>• Hospital &gt; 20,000 s.f. (Section 1251.18)</li> <li>• Institutions of Higher Education</li> <li>• Junk or Salvage Yard (Section 1251.21)</li> <li>• Nightclub</li> <li>• Parking as a Principal Use</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Retail Sales &gt; 17,000 s.f.</li> </ul>

(b) Permitted Uses (Cont'd)	(c) Special Land Uses (Cont'd)
<ul style="list-style-type: none"> <li>• Marihuana: Adult - Use Marihuana Retailers (Section 1251.23) (Section 1251.24)</li> <li>• Marihuana: Medical and Adult Use Marihuana Grow Operation (Section 1251.23) (Section 1251.27)</li> <li>• Marihuana: Medical and Adult Use Marihuana Processing Facility (Section 1251.23) (Section 1251.28)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (Section 1251.23) (Section 1251.29)</li> <li>• Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility (Section 1251.23) (Section 1251.30)</li> <li>• Marihuana: Medical and Adult Use Marihuana Secure Transporter (Section 1251.23) (Section 1251.31)</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Research and Development</li> <li>• Transportation and Logistics</li> <li>• Utility-Scale Solar Energy Facility (Section 1251.50)</li> <li>• Vehicle Repair, Major (Section 1251.52)</li> <li>• Warehouse</li> <li>• Wholesale</li> </ul>	<ul style="list-style-type: none"> <li>• Self-Storage Facilities (Section 1251.42)</li> <li>• Utility-Scale Wind Energy Facility (Section 1251.51)</li> </ul>

Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.

- (d) Existing Uses
- Single Family Dwelling Unit Detached

- (e) Accessory Uses
- Accessory Buildings (Section 1260.01)
  - Bar, Tavern, or Saloon
  - Carry-Out Restaurant
  - Nightclub
  - Office < 5,000 s.f.
  - Office 5,000 to 17,000 s.f.
  - Office > 17,000 s.f.
  - Private Gardens
  - State Licensed Child Care Family Home, 1-6 Children (Section 1251.43), with SLU approval
  - State Licensed Child Care Group Home, 7-12 Children (Section 1251.44), with SLU approval

(f) Dimension Regulations

Lot Standards	I-2
Minimum Lot Area (sq. ft.)	2,900
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	25
Rear Yard Setback (ft.)	25 (H)
Side Yard Setback (ft.)	25 (G)
Maximum Building Height	NL

Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.18 S SPARK DISTRICT.**

(a) Purpose

The S Spark District is intended to encourage and facilitate redevelopment by implementing the following mixed-use policies:

- (1) Mix of Land Compatible Land Uses. Permit a range of compatible land uses, such as residential (from single-family to multi-family), public, institutional, office, retail, personal services use, and appropriate general business uses.
- (2) Walkability. Create a walkable, pedestrian-oriented development that does not conflict with motorized traffic.
- (3) Building Location and Site Design. Ensure that buildings have a strong relationship to the street by requiring development to be human-scale through appropriate building location and site design, including developing areas that include civic spaces and pedestrian amenities and requiring on-street parking along interior streets.
- (4) Use of Buildings. Allow compatible mixed uses to be located in a single building.

(b) Permitted Uses	(c) Special Land Uses
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<ul style="list-style-type: none"> <li>• Adaptive Rehabilitation</li> <li>• Arena/Theater</li> <li>• Artisan/Maker Space</li> <li>• Assisted Senior Living (Section 1251.02)</li> <li>• Banquet and Meeting Hall &lt; 100 capacity (Section 1251.07)</li> <li>• Banquet and Meeting Hall &gt; 100 capacity (Section 1251.07)</li> </ul>	<ul style="list-style-type: none"> <li>• Cemetery (Section 1251.10)</li> <li>• Institutions of Higher Education</li> <li>• Private K-12 Schools</li> <li>• Kennels (Section 1251.22)</li> <li>• Marinas</li> <li>• Outdoor Recreation/ Private (Section 1251.35)</li> <li>• Parking as a Principal Use</li> </ul>
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(b) Permitted Uses (Cont'd)	
<ul style="list-style-type: none"> <li>• Bar , Tavern , or Saloon</li> <li>• Bookstore</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Community Garden (Section 1251.09)</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Drive-In Restaurant</li> <li>• Essential Services</li> <li>• Farmers' Market (Section 1251.14)</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Government/Public Uses (Section 1251.15)</li> <li>• Greenhouse / Nursery (Principal Use)</li> <li>• Hotel (Section 1251.19)</li> <li>• Independent Senior Living with Services (Section 1251.20)</li> <li>• Indoor Recreation</li> <li>• Limited Service Restaurant</li> <li>• Medical or Dental Clinic &lt; 20,000 s.f.</li> <li>• Microbrewery (Section 1251.34)</li> <li>• Motel (Section 1251.33)</li> <li>• Multi-Family Dwelling Units (Section 1251.32)</li> <li>• Nightclub</li> <li>• Office &lt; 5,000 s.f.</li> <li>• Office 5,000 to 17,000 s.f.</li> <li>• Office &gt; 17,000 s.f.</li> <li>• Outdoor Recreation/ Public (Section 1251.35)</li> <li>• Personal Service Establishments (Section 1251.38)</li> <li>• Public K-12 Schools</li> <li>• Religious Institutions (Section 1251.38)</li> <li>• Research and Development</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Retail Sales &gt; 17,000 s.f.</li> <li>• Single Family Dwelling Unit Attached</li> <li>• Single Family Dwelling Unit Detached</li> <li>• Transportation and Logistics</li> <li>• Two-Family Dwelling Units</li> <li>• Warehouse</li> <li>• Wholesale</li> </ul>	
Refer to Section 1230.06 for definitions of uses and refer to Chapter 1251 for development standards for specific uses.	

(d) Accessory Uses
<ul style="list-style-type: none"> <li>• Accessory Buildings (Section 1260.01)</li> <li>• Accessory Dwelling Unit</li> <li>• Farmers Market (Section 1251.14)</li> <li>• Personal-Scale Solar Energy Facility (Section 1251.36)</li> <li>• Personal-Scale Wind Energy Facility (Section 1251.37)</li> <li>• Private Gardens</li> </ul>

(e) Dimension Regulations	
Lot Standards	S
Minimum Lot Area (sq. ft.)	2,900
Minimum Lot Width (ft.)	60
Maximum Percent of Building Coverage	NL
Front Yard Setback (ft.)	NL
Rear Yard Setback (ft.)	NL
Side Yard Setback (ft.)	NL
Maximum Building Height	NL
Footnotes: Refer to Chapter 1241 wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses. All development in the S District is eligible for administrative approval subject to the discretion of the Zoning Administrator.	

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1240.19 OFFICIAL ZONING MAP AND INTERPRETATION.**

The boundaries of the districts are shown upon the map which is made a part of this Zoning Code, which map is designated as the "Official Zoning Map." Such map and all the notations, references and other information shown thereon are a part of this Zoning Code and have the same force and effect as if they were fully set forth or described herein.

Where, due to the scale, illegibility or detail of the map, there is uncertainty, contradiction or conflict as to the location of a district boundary, the interpretation of the exact location of such boundary shall be determined by the Zoning Board of Appeals.

(Ord. 10-2020. Passed 11-24-20.)

**1240.20 DISTRICT BOUNDARY UNCERTAINTIES.**

Where uncertainty exists or arises with respect to the boundaries of the various districts as shown on the zoning district map accompanying and made a part of this zoning ordinance in its original form, the following rules apply:

(a) The district boundaries are either streets, alleys, rights of way or watercourses, unless otherwise shown. Where such districts are bounded approximately by streets, alleys, rights of way or watercourses, the same shall be construed to be the boundaries of the districts unless such boundaries are fixed by dimensions as shown on the map.

(b) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines. Where such districts are bounded approximately by lot lines, the lot lines shall be construed to be the boundaries of the districts, unless the boundaries are fixed by dimensions as shown on the map.

(c) In any determined by the use of the scale appearing on the map, unless the same are indicated by dimensions as shown on the map.

(Ord. 10-2020. Passed 11-24-20.)

**1240.21 ZONING DISTRICTS.**

(a) Conformity with District Regulations Required Except as hereinafter provided:

(1) No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or lane be used, except for a purpose permitted in the district in which the building or land is located.

(2) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for the district in which the building is located.

(3) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the yard and lot area regulations of the district in which the building is located.

(4) No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of the district in which such building is located, except for as otherwise allowed in Chapter 1270.

(5) No building or structure shall be enlarged or altered and no use of a premises shall be changed in any way which increases its nonconformity, except for as otherwise allowed in Chapter 1270.

(6) The minimum yards, parking spaces and other open spaces, including the lot area per family, required by this

Zoning Code for each and every building existing at the time of passage of this Zoning Code (November 24, 2020) or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Code.

(7) Every building hereinafter erected or structurally altered shall be on a lot, provided that a lot may be subdivided or a series of lots may be increased in number and decreased in size, so long as each new lot is not less than 100 feet in depth and in conformity with the width requirements of 0. In no case shall there be more than one main building on one lot unless otherwise provided in this Zoning Code.

(b) Essential Services. Essential services shall be permitted as authorized and regulated by law and ordinances of the City. It is the intention of this Zoning Code to exempt such essential services from the application of this Zoning Code.

(c) Land Under Water; Streets. All areas within the City which are under water or a public right-of-way and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water or right-of-way area. If the water or right-of-way area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water or right-of-way area in a straight line until they meet the other district.

(d) Annexed Land.

(1) Whenever any areas are annexed to the City, one of the following conditions shall prevail:

A. All lots, tracts or land which may hereafter be annexed to the City shall be classified as being in whichever district as most clearly conforms to the zoning that existed in the annexed area. Such classifications shall be recommended by the Planning Commission to the City Commission and the City Commission shall approve the same by resolution.

B. If any lot, tract or land is not subject to zoning at the time of annexation, it shall be classified as R-1A Single-Family whenever the land is vacant and otherwise shall be classified into whatever district of this Zoning Code most closely conforms to the existing use of the annexed area. Such classification shall be approved in the same manner as described for property that is zoned when annexed.

(2) In all cases, there shall be a public hearing, within a reasonable time after annexation, on the question of a permanent zoning classification. The hearing before the Planning Commission and the subsequent action by the City Commission shall follow the procedure to establish amendments in accordance with Section 1281.01(c).

(e) Vacation of Streets. Whenever any street, alley or other public way is vacated by official action of the City Commission or by the courts, the zoning district adjoining each side of such street, alley or other public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

(f) Uses Not Specifically Mentioned. The City Zoning Administrator or their designee shall have the power to classify a use which is not specifically mentioned in this Zoning Code, along with a comparable permitted or prohibited use for the purpose of the use regulations in any district. The City Zoning Administrator or their designee may refer these appeals to the Zoning Board of Appeals.

(Ord. 10-2020.Passed 11-24-20.)

## CHAPTER 1241

### Schedule of Regulations

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- 1241.01 Statement of purpose.
- 1241.02 Schedule of regulations.
- 1241.03 Footnotes to schedule of regulations.
- 1241.04 Height requirements.
- 1241.05 Lot area and width requirements.
- 1241.06 Single family residential siting requirements.
- 1241.07 Yard requirements.

#### **1241.01 STATEMENT OF PURPOSE.**

The purpose of this Chapter is to provide area, height, and placement regulations for districts established by this Zoning Code.

(Ord. 10-2020.Passed 11-24-20.)

#### **1241.02 SCHEDULE OF REGULATIONS.**

Unless otherwise provided in this Zoning Code, area, height and placement regulations under this Zoning Code shall be in accordance with the schedule of regulations in the table and footnotes below.

Schedule of Regulations								
Zoning District	Lot Area, Lot Width, and Building Coverage Requirements (A)			Minimum Yard Setbacks			Maximum Building Height	
	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)	Maximum Percent of Building Coverage	Front (ft.) (B)	Side (ft.) (C)	Rear (ft.)	Feet	Stories
Schedule of Regulations								
Zoning District	Lot Area, Lot Width, and Building Coverage Requirements (A)			Minimum Yard Setbacks			Maximum Building Height	
	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)	Maximum Percent of Building Coverage	Front (ft.) (B)	Side (ft.) (C)	Rear (ft.)	Feet	Stories
G, Green District	43,560	150	NL	35	15	35	35	2.5
AG, Agricultural District	130,680	150	NL	(C)	(C)	(C)	35	2.5
R-1R, Single Family Residential District	30,000	120	NL	35	15	35	35	2.5
R-1A, Single Family Residential District	7,500	60	30	30	8	35	35	2.5
R-1B, Single Family Residential District	5,000	50	30	25	6	30	35	2.5
R-2, Two Family Residential District	5,000	60	25	25	5	25	35	2.5
R-3, Multiple Family Residential District	2,900	60	25	25 (F)	5 (F)	25 (F)	45	4
MFR, High Density Multiple Family District	2,170 (D), (E)	120	30	35	20	20	45	4
B-1, Corridor Commercial District	2,900	60	NL	20	15 (G)	15 (H)	45	3
B-2, Regional Commercial District	25,000	150	NL	35	20	20	50	3
T-3, Neighborhood Commercial District (Section 1241.03 (i))	2,900 (D)	60	40	30	10 (G)	20 (H)	36	3
T-4, Downtown Commercial, Community Services, Community Open Space and Recreation (Section 1241.03(i))	2,900 (D)	60	NL	NL	NL	NL	NL	NL
T-5, Downtown Commercial District (Section 1241.03(i))	2,900 (D)	60	NL	NL	NL	NL	NL	NL
I-1 Light Industrial District	2,900	60	NL	25	25 (G)	50 (H)	NL	NL
I-1, Heavy Industrial District	2,900	60	NL	25	25 (G)	50 (H)	NL	NL
S, Spark District	2,900	60	NL	NL	NL	NL	NL	NL

Footnotes: Refer to Section 1241.03 wherever a lower case footnote is referenced or Section 1241.07 wherever an upper case footnote is referenced in parentheses after one of the design regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to Chapter 1251 for dimensional regulations for specific uses.

### 1241.03 FOOTNOTES TO SCHEDULE OF REGULATIONS.

- (a) Whenever a lot has less area or width than required in this chapter, but was a lot of record at the time of the adoption of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020), such lot may be occupied by any of the uses permitted in the district in which it is located. The use must meet all of the other requirements of this Zoning Code.
- (b) In R Districts, where required front yards exceed twenty-five feet, only one front yard in excess of twenty-five feet shall be required, except that south of I-94 on lots fronting on Beckley Road or Capital Avenue, S.W., all such front yards shall be a minimum of fifty feet.
- (c) Thirty-five feet to dwelling only.
- (d) The maximum residential density allowed in the MFR High Density Multiple Family District and the T-3 Neighborhood Commercial District shall not exceed twenty units per acre. There is no residential density limit in the T-4 and T-5 Districts. However, all other dimensional regulations in those districts shall apply.
- (e) No new MFR High Density Multiple Family District may be established having an area of less than twenty acres.
- (f) Provided that the front and rear yards are increased by one foot for each foot of building height exceeding thirty-five feet, and that the side yards are increased over the minimum requirement by one foot for each two feet of building height over thirty-five feet.
- (g) No side yard shall be required, except that a side yard shall be provided on the side of a lot or tract adjoining a residential use or district. If an alley separates such a lot from a residential use or district, no side yard shall be required.
- (h) A rear yard shall be required only upon that portion of a lot or tract abutting on a residential district or adjacent to a residential use. Where a rear yard abuts an alley, the width of one-half of the alley may be considered part of the required

yard.

(i) The schedule of regulations is intended to be complementary with the requirements of Section 1250.04, Form-Based Development Standards; however, in any instance where there is apparent conflict the provisions of Section 1250.04 shall control.

(Ord. 10-2020.Passed 11-24-20.)

#### **1241.04 HEIGHT REQUIREMENTS.**

(a) Exceptions and Modifications.

(1) Chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, solariums, steeples, penthouses, stacks, stage towers, scenery lofts, tanks, water towers, ornamental towers and spires, wireless, television or radio towers and necessary mechanical appurtenances shall not be included in determining the height or number of stories of a building.

(2) The limitation on the number of stories shall not apply to buildings used exclusively for storage purposes, provided that such buildings do not exceed the height permitted in the district in which they are located.

(b) Airport Height Restrictions. Additional height limitations exist in areas designated on the official zoning map within approach zones at the Battle Creek Executive Airport at Kellogg Field. These restrictions are further delineated in Section 1250.03.

(Ord. 10-2020.Passed 11-24-20.)

#### **1241.05 LOT AREA AND WIDTH REQUIREMENTS.**

(a) Exceptions.

(1) Two or more parcels, lots of record or platted lots, when contiguous and held in common ownership, shall be treated as a single lot for purposes of this Zoning Code, provided that such lots are located in the same district.

(2) Where a single lot of record, platted lot or parcel of land is within two or more zoning districts, it may be treated as two or more lots for purposes of this Zoning Code, provided that each portion has the required frontage on a street or place and meets all of the other standards for the district in which it is located.

(3) Where a lot of record on the effective date of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020) is less than fifty feet in width, the required side yard may be reduced to 10% of the width of the lot, provided that no side yard is less than four feet.

(4) More than one main multiple dwelling or commercial or industrial building may be located upon a lot, provided that such building conforms to all yard requirements for the district in which the lot is located.

(5) For purposes of this Zoning Code, the width of a lot shall be determined to be the width at the required front yard setback line.

(b) Prohibition of Flag Lots. The creation of flag or panhandle lots is prohibited.

(Ord. 10-2020.Passed 11-24-20.)

#### **1241.06 SINGLE FAMILY RESIDENTIAL SITING REQUIREMENTS.**

(a) Purpose and Application. This chapter is necessary in order for the City to more specifically address the special requirements and regulations associated with the on-site placement of manufactured housing to assure favorable comparison with site-built housing. However, it shall apply to all single-family dwellings.

(b) Location. The siting of a single-family dwelling may occur on any lot located in a district that permits such use, provided the dwelling meets the requirements established for that particular district and the requirements of this chapter.

(c) General Requirements.

(1) A single-family dwelling shall have a minimum first floor area of 450 square feet, with a core area of living space of not less than 250 square feet, having a minimum width of twenty feet on the shortest side and a minimum internal height of seven and one-half feet.

(2) The building shall be located and constructed so as to meet the minimum off-street parking and loading requirements set forth in Chapter 1261, and conform to the Schedule of Regulations set forth in Chapter 1241, if located in an R District, any accessory buildings and uses shall meet the residential district requirements set forth in Section 1260.01.

(3) Construction of site-built and manufactured houses without mobile chassis shall be in compliance with the latest adopted Building Code of the City. Manufactured houses with mobile chassis, shall meet the requirements of the HUD Code.

(4) The dwelling shall be attached to a permanent foundation as required in the latest adopted Building Code of the City. Manufactured houses shall be supported and anchored as required by the latest adopted Building Code of the City, or as required by the Michigan Mobile Home Commission rules.



(5) When setting on a permanent foundation, wheels shall be removed from manufactured houses so equipped, and the screening of the towing mechanism, undercarriage or chassis shall be done with non-load bearing, fire-resistant skirting materials of similar or the same composition as the home's outside surface. Such screening shall be installed in a manner so as to resist damage under normal weather conditions, shall be vented and shall have an access panel provided for in accordance with the Michigan Mobile Home Commission rules.

(6) The dwelling shall be connected to a public sanitary sewer system if such exists within 200 feet of the structure or, if no public sewer is so available, a private septic tank may be established if it is approved by the County Health Department. The dwelling may be connected to a public water system if such is available, or to a private well approved by the County Health Department.

(7) Additions to dwellings shall be built in conformity with the latest adopted Building Code of the City, and shall be constructed with similar materials, be similar in appearance and be of similar quality of workmanship as in the original structure.

(8) Dwellings must include storage area, either in the basement, in an attic area, in closet areas or in a separate fully enclosed structure. Such storage area shall be at least 5% of the total square footage of interior living area of the dwelling or 525 cubic feet, whichever is less.

(9) Sixty percent of the roof configuration shall be a minimum of 2.5 inches per every twelve inches of run-slope and shall meet or exceed all applicable roof snow load and strength requirements.

(d) Design Standards.

(1) The dwelling shall be aesthetically compatible in design and appearance with adjacent existing residential buildings. Aesthetic compatibility shall not be construed to prohibit innovative design concepts involving, nor limit such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

(2) The aesthetic compatibility of design and appearance shall be determined by the Zoning Administrator upon review of the plans submitted for a particular dwelling.

(3) Determination of incompatibility of a particular dwelling may be appealed by an aggrieved party to the Zoning Board of Appeals within a period of fifteen days of the receipt of notice of the Zoning Administrator's decision.

(e) Exemption for Mobile Home Parks. The provisions of this chapter shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by State or Federal law.

(Ord. 10-2020.Passed 11-24-20.)

## **1241.07 YARD REQUIREMENTS.**

(a) Building Projections. Every part of a required yard shall be open to the sky and unobstructed by a building, except for the following may project into required yards:

(1) Accessory buildings as permitted in Section 1260.01.

(2) The ordinary projection of sills, belt courses, cornices, eaves and ornamental features not exceeding twelve inches.

(3) Permanent awnings projecting not more than four feet into a required yard and not extending more than twelve inches in width beyond a door or window opening. No such awning shall exceed six feet in length.

(4) Terraces, uncovered porches, wheelchair ramps and ornamental features which do not rise more than four feet above the ground.

(b) Front Yards.

(1) Lots having frontage on a lake, brook, stream, river or other watercourse shall be provided with a required front yard on this water frontage, as well as that which might be required on any street frontage as specified for the district in which it is situated.

(2) On corner lots, a front yard shall be required along each street.

(3) Interior lots having a frontage on two streets shall be provided with the required front yard on both streets.

(4) Where front yards have been established, or may be required on each of two intersecting streets, there shall be a front yard on each street side of a corner lot, with the following exceptions:

A. In R Districts, where required front yards exceed twenty-five feet, only one front yard in excess of twenty-five feet shall be required, except that south of I-94 on lots fronting on Beckley Road or Capital Avenue, S.W., all such front yards shall be a minimum of fifty feet.

B. The width of the principal building located on a lot of record need not be reduced to less than twenty-five feet when the owner of record can show that the ownership and control of any adjacent lot or lots of record are by another person.

(5) Where 40% or more of frontages on the same side of a street between intersecting streets are developed with buildings that have a front yard greater or less in depth than otherwise required by this chapter, new buildings shall be erected no closer to the street than the average front yard so established by the existing buildings on both sides of the lot to



be used, except that this subsection shall not apply south of I-94 to lots fronting Beckley Road or Capital Avenue, S.W.

(6) Where alleys separate lots, the width of the alley shall not be considered in the computation of frontage, nor shall the alley be considered an intersecting street.

(7) No storage or parking of vehicles is permitted on any portion of a required front yard in any R District or T-3 District, except as such parking or storage may intermittently occur on legally authorized driveways and as otherwise may be permitted in this Zoning Code.

(c) Side Yards.

(1) For the purpose of the side yard regulations, a two-family or multiple dwelling may be considered as one building occupying one lot.

(2) Whenever the wall of any building adjoining a side yard within any Single-Family or Two-Family Residential District exceeds a length of fifty feet, the width of the side yard shall be increased by one foot for each ten feet of wall length in excess of fifty feet.

(d) Exceptions for Commercial and Industrial Districts.

(1) Parking shall be permitted in the required front yard in any B-1, B-2, I-1 or I-2 District.

(2) Whenever a commercial or industrial district adjoins an R District or a residential use, no off-street parking required for the commercial or industrial development shall be located within the required yard within fifty feet from the residential structure or the R District boundary.

(3) Fences of a concealment type, either by material or planting, shall be erected on the common lot line whenever such lot line separates a Commercial or Industrial District from an R District or a residential structure. Such fence shall be installed concurrently with the commercial or industrial use of the land or building. The height of such fence shall conform to the requirements of Section 1260.02 (E).

(Ord. 10-2020.Passed 11-24-20.)

## CHAPTER 1250

### Supplemental Zoning District Standards

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1250.01 Planned unit residential developments.

1250.02 Subdivision regulations.

1250.03 Airport Approach Overlay Zoning District.

1250.04 Form-based development standards for the T-3, T-4, and T-5 districts.

1250.05 MHP-OD Mobile Home Park Overlay District.

#### 1250.01 PLANNED UNIT RESIDENTIAL DEVELOPMENTS.

(a) Purpose; Intent. As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of this Zoning Code through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. A planned unit residential development (PURD) is intended to provide a means by which land can be developed or redeveloped with innovation and creativity. A PURD accommodates the objectives of the City of Battle Creek's Comprehensive Plan, while allowing some deviation from the strict application of use and bulk regulations which may otherwise create hardship or complications for development. This chapter is intended to grant such flexibility through the special use permit process of public hearings. The objectives of PURD's are as follows:

(1) To stimulate creative approaches to the development of land;

(2) To provide for the more efficient use of land;

(3) To preserve natural features and resources and provide for open spaces;

(4) To develop new approaches to the living environment through variety in type, design and the layout of residential structures; and

(5) To accommodate diversification and variation in the relationship in uses, structures, open spaces and structural heights in projects conceived as a cohesive development consistent with the Comprehensive Plan.

(b) Minimum Land Area. PURDs shall be developed having a computed area of not less than three acres.

(c) Permitted Uses.

(1) Generally. In addition to the uses that might otherwise be permitted in the underlying zoning district, the uses in a PURD may include, and shall be limited to:

- A. Dwelling units in detached, semidetached, attached or multistoried structures, or any combination thereof; and
- B. Recreational amenities primarily intended for use by residents of the PURD.

(2) Nonresidential uses permitted. Nonresidential uses of a religious, commercial, office or recreational character may be permitted under requirements established in this chapter, but only according to the following:

- A. If the PURD includes from one to fifty dwelling units, 75% of said dwelling units must possess a certificate of occupancy prior to any nonresidential construction.
- B. If the PURD contains fifty-one or more dwelling units, 50% of said dwelling units must possess a certificate of occupancy prior to any nonresidential use construction.
- C. In no instance may the total footprint area of any nonresidential structure in a PURD be more than 5% of the total area of all footprints of all structures in such development.
- D. Except for office uses, no single establishment shall be greater than 5,000 square feet in floor area, and all business must be conducted within an enclosed building.
- E. To the maximum extent possible, the design and architecture of nonresidential uses shall conform to the character and architecture of the surrounding area.
- F. The only nonresidential uses permitted within a PURD are:
  - 1. Assisted senior living;
  - 2. Independent senior living with services;
  - 3. Office;
  - 4. Outdoor recreation/ public;
  - 5. Personal service establishments;
  - 6. Public K-12 schools;
  - 7. Religious institutions;
  - 8. Retail sales;
  - 9. State licensed child care family home, 1-6 children.
- G. Nonresidential uses identified as being permitted in a PURD may be specifically and selectively authorized as to type and size only when integrated by design as an accessory element of the project, and only when located in an area of the total site having frontage on a major street.
- H. Ingress and egress to the nonresidential areas of a PURD shall be accessed from major thoroughfares and not the surrounding local residential streets.
- I. Nonresidential structures shall not be located closer than within 350 feet of the property line of any existing developed residential use.
- J. Parking areas dedicated for nonresidential structures shall not be located closer than 200 feet from the property line of any existing developed residential use, and must be landscaped with plantings to prevent headlight intrusion onto adjacent residential premises.
- K. Nonresidential structures shall not be taller than thirty-five feet in height.
- L. One freestanding sign to identify aggregate nonresidential uses shall be permitted, with a total maximum display area of not more than 100 square feet. The sign may not be located closer than 200 feet from the nearest property line of any existing residentially developed property.
- M. The general theme, plan and location of all signs within the planned unit development shall be submitted with the preliminary site plan.

(d) Standards and Criteria.

(1) Professional design requirements. A plan submitted for consideration as a PURD in the City must certify that the design has been prepared by at least one of the following:

- A. An architect licensed by the State of Michigan;
- B. A landscape architect licensed by the State of Michigan;
- C. A land surveyor licensed by the State of Michigan;
- D. A professional community planner licensed by the State of Michigan;

- E. A planner holding membership in the American Institute of Certified Planners; or
- F. A civil engineer licensed by the State of Michigan.

(2) Conformity with general standards. A plan shall be consistent with the following general standards for use of land, the use, type, mass, design and location of buildings, the density and/or intensity of use, the common open space and the public facilities of the site.

- A. The plan may provide for variety in the design of house types, including attached or detached residential structures.
- B. The site coverage of buildings and structures shall not exceed one-third of the total computed area of the PURD.
- C. No structure shall be greater than fifty feet in height.
- D. Any plan that does not propose to increase the number of dwelling units per acre otherwise permitted on the property shall be prima facie qualified for tentative approval insofar as density of use is concerned.
- E. The housing tenure or type of a residential development shall not be a determining factor in consideration for approval. Residential uses may include units proposed for home ownership or condominium sale, or units available for contract rental.

(3) Permitted density.

A. The permitted number of dwelling units shall be computed as follows: total land area divided by the minimum lot area for the underlying zoning district as identified in Chapter 1241 equals the number of dwelling units permitted. The quotient of this formula shall be rounded down to the next lower whole number.

B. A density bonus, or an allowable increase in overall density, shall be as follows:

1. A plan may provide for a greater number of dwelling units than would be permitted by the regulations otherwise applicable to the zone in which the development is located, determined according to the following formula:

- a. If more than two-thirds of the development contains detached buildings each containing only one or two dwelling units, and/or town house or similar one-family attached buildings, each attached cluster containing no more than four dwelling units, the project would be entitled to a 10% density bonus;
- b. If additional open space, beyond that required, is provided and is to be used as a public park or playground of not less than one acre, and which is free and open to the public with no obstructions or restrictions on use, the project would be entitled to a 5% density bonus; or
- c. If more than 25% of the acreage for the total site is identified as common open space, the project would be entitled to a 5% density bonus.
- d. These bonuses are cumulative, and if a project meets or exceeds all of these standards, the project would be entitled to a 20% density bonus.

2. The landowner has the burden of showing that such excess will not have an undue and adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The Planning Commission, in making a determination of the reasonableness of the increase in the permitted dwelling units per acre, shall recognize that increased density can be compensated for by additional private amenities and by increased efficiency in public services to be achieved by (1) the amount, location and proposed use of common open space; and (2) the location, design and type of dwelling units. The Planning Commission shall, in its determination, also consider the physical characteristics of the site which may make increased densities appropriate or inappropriate in the particular location.

(4) Covenants and easements. The plan may contain such proposed covenants, easements and other provisions relating to the mass location and density of such residential units, nonresidential uses and public facilities as are necessary for the welfare of the PURD and are consistent with the best interests of the entire City. Such covenants, easements and other provisions, if part of the plan as finally approved, may be modified, enforced, removed or released only in accordance with Section 1250.01(i).

(5) Phasing of development. The City Commission may, upon the recommendation of the Planning Commission, allow divisible geographic sections of the entire parcel to be developed in phases as a PURD, and shall in such instances specify anticipated periods within which development of each section will be commenced, and may permit in each section deviations from the number of dwelling units per acre established for the entire PURD, provided that such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre permitted for the entire PURD is not affected. The period of the entire development and the commencement date for each section thereof may be modified from time to time by the City Commission upon the showing of good cause for such action by the landowner.

(6) Infrastructure, streets and utilities. The uniqueness of each proposal for a PURD requires that the specifications for the width and surfacing of streets, rights-of-way for public utilities, curbs, gutters, sidewalks, street lighting, public parks and playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modifications from the requirements established in Section 1250.02 Subdivision Regulations. The City Commission may waive or modify any of the requirements of this section where the City Commission finds, upon the recommendation of the Planning Commission, that granting such waiver or modification of any requirement is consistent with the interests of the entire City.

(7) Common open space, setbacks and buffers.

A. At least 25% of the land area within any PURD shall be identified as common open space.

B. In addition to the building setback requirements otherwise applicable for the zone in which the tract is located, no structure or parking area providing more than four parking spaces shall be within seventy-five feet of the property lines of any abutting platted subdivision.

C. A natural state buffer of fifteen feet shall be maintained along the property line abutting a platted subdivision unless otherwise recommended by the Planning Commission.

(8) Off-street parking. All parking within a PURD shall be provided at a rate of not less than two spaces per dwelling unit.

(9) Landscaping. The type, size and location of trees and shrubs shall be indicated on the plan. Within the area developed for residential use, there shall be at least twice as many shade or ornamental trees as there are ground level dwelling units. Existing planting may be acceptable as required planting to the extent that it is compatible in every respect with the landscape plan.

(e) Application for Tentative Approval.

(1) An application for tentative approval shall include the following information:

A. The location and size of the area proposed to be developed.

B. Proof of all of the landowner's ownership interest in the land to be developed.

C. The density of land use to be allocated to parts of the area to be developed.

D. The location, function, ownership and method of maintenance of common open space.

E. The use, height, mass and location of buildings.

F. General locations of all streets, sidewalks, water supply, sanitary waste, storm water and refuse disposal.

G. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of land and buildings, including proposed easements for public utilities.

H. The provision for parking of vehicles, the location and width of proposed streets and public ways and the relationship of proposed streets and other public facilities to similar public facilities in proximity to the proposed PURD.

I. The required modifications in the regulations otherwise applicable to the subject property.

J. In the case of plans for developments to be carried out over a period of years, a schedule listing the time periods within which applications for final approval of all parts of the PURD are intended to be filed.

K. Elevation drawings showing exterior views and describing the building materials of the proposed structures within the development.

L. A PURD may provide for private streets; however, no private street will be accepted for later dedication to the public use unless these streets are designed and constructed to City standards as approved by the City Engineer.

M. A topographic map or aerial photograph of the site.

(2) Every application for tentative approval shall be delivered to the staff of the Planning Division for its review and report to the Planning Commission. As part of the review, the staff of the Planning Division shall carry out consultations considered necessary on said application with the Fire, Traffic, Public Works and other City or County Departments. The Planning Division staff report shall be forwarded to the applicant not less than five business days before the appointed date of the public hearing.

(3) Along with other information required for submittal for tentative approval, the applicant must provide a written explanation addressing each of the criteria identified in Section 1281.05(c), upon which the Planning Commission will base its recommendation.

(4) Reservation of public open spaces may be required where deemed necessary by the Planning Commission for preservation of historic sites and scenic areas for a particular type of development proposed in a PURD, but not anticipated in the Comprehensive Plan.

(5) Creation of buffer areas may be required by the Planning Commission in areas where they are desirable to separate and protect residential developments from adjacent commercial developments, highways, streets, railroads, or any other use.

(6) It is recommended that an applicant for a PURD consult with the staff of the Planning Division prior to submittal of an application for tentative approval. The applicant is strongly encouraged to meet with the Neighborhood Planning Council for the area in which the project is located, and all neighbors surrounding such project to seek input and resolve any potential conflicts, prior to the public hearing before the Planning Commission.

(7) A report of the comments or any action taken by the Neighborhood Planning Council will be included and made a part of the Planning Division's staff report and analysis prepared for the Planning Commission.

(f) Public Hearing.

(1) Public hearings and notice requirements shall comply with the provisions of the Michigan Zoning Enabling Act, Public 110 of 2006, as amended, being MCL 125.3101 et seq. (Refer to Section 1281.01(c), Section 1281.02).

(2) Within ninety days after the submission of an application for tentative approval, a public hearing on said application shall be held by the Planning Commission.

(g) Tentative Approval.

(1) The Planning Commission shall, within thirty days following the conclusion of the public hearing provided for in Section 1281.01(c), Section 1281.02, recommend to the City Commission to:

- A. Grant tentative approval of the plan as submitted;
- B. Grant tentative approval subject to specified conditions not included in the plan as submitted; or
- C. Deny tentative approval of the plan.

(2) Failure on the part of the Planning Commission to act within the prescribed period of time shall be deemed to be a recommendation to the City Commission to grant tentative approval of the plan as submitted unless the prescribed period of time is extended in writing by the landowner.

(3) In the event tentative approval is recommended to the City Commission, either of the plan as submitted or with conditions, the Planning Commission shall, as part of its recommendation, stipulate the drawings, specifications, comments, easements and conditions and recommend the necessity for a bond to insure completion of required public improvements, and then may stipulate the form and amount of such bond that shall be included with the application for final approval.

(h) Status of Plan After Tentative Approval.

(1) Within five business days after the adoption of the resolution by the City Commission, notice of approval, together with one certified copy of the plan, shall be mailed to the landowner or the landowner's agent by the City Clerk.

(2) Tentative approval of a plan shall be valid for one year from the date of City Commission approval.

(3) In the event that a plan is given tentative approval and thereafter, but prior to final approval, the landowner elects to abandon said plan or shall fail to submit an application or applications for final approval within the required time period, the tentative approval shall be deemed revoked, and such action shall be noted in the records of the City Clerk.

(4) For good cause shown, and upon written application, the City Commission may extend the period of approval for a PURD for a period up to six months. The request for an extension shall be submitted at least thirty days prior to the expiration date of the original approval resolution.

(i) Application for Final Approval.

(1) An application for final approval may be filed for all of the land included in a plan or for part thereof. Said application shall be filed with the Planning Division within one year of the original approval of the tentative plan or any extension thereof. The application shall be submitted not less than thirty days prior to the regular monthly meeting of the Planning Commission at which the application is to be considered. The application shall include such drawings, construction plans, specifications, covenants, easements and conditions and form of bond as were required in the grant of tentative approval. In accordance with the schedule proposed in the application for tentative approval, the landowner may elect to have final approval of only a section or sections of the land included in the plan and may delay, within the time authorized by the tentative approval, application for the final approval of other sections. An application for final approval shall include a nonrefundable fee as identified in the "Fee, Bond and Insurance Schedule," as adopted from time to time by the City Commission pursuant to Section 802.24 of these Codified Ordinances.

(2) If a plan submitted for final approval is in substantial compliance with the plan given tentative approval, a public hearing on an application for final approval of the plan or section thereof shall not be required.

(3) A plan submitted for final approval shall be considered to be in substantial compliance with the plan given tentative approval, provided that any modification by the landowner of the plan tentatively approved complies with the requirements of Section 1250.01(d) and does not (1) increase the proposed gross residential density or intensity of use more than 10%, provided that the maximum density permitted by the prescribed formula shall not be exceeded; (2) involve a reduction of the area allocated for common open space; (3) increase by more than 10% the floor area proposed for nonresidential use; or (4) increase by more than 5% the total site coverage by buildings.

(4) Prior to consideration of the final plan by the Planning Commission, the Department of Public Works staff shall review the plan and the accompanying construction plans to determine the plan's conformance to engineering specifications and improvements proposed in the tentative plan. Planning Division staff shall also review the final plan and determine its conformance or nonconformance with the lot layout, street design and other proposals contained in the plan granted tentative approval. Both Departments shall certify in writing approval or disapproval of the final Plan for consideration by the Planning Commission.

(5) A public hearing need not be held to consider modification in the location and design of streets, water supply facilities, storm water drainage or sanitary sewers.

(6) Although a public hearing shall not be held on an application for final approval of a plan when said plan as submitted for final approval is in substantial compliance with the plan as tentatively approved, the burden shall nevertheless be upon the landowner to show good cause for any variation between the plan as tentatively approved and the plan as submitted for final approval.

(7) When a final plan is in substantial compliance with the tentative plan previously approved by the City Commission, the Planning Commission shall prepare a report on the recommendations to the City Commission. The Secretary of the Planning Commission shall sign the plan indicating the Commission's approval of the same. The signed copies and recommendations shall then be transmitted to the City Commission. A copy of the Planning Commission report shall be retained in the files of the Planning Commission. The City Commission shall review the final plan and report of the Planning Commission at a City Commission meeting held within fourteen days of receipt of the report and recommendation from the Planning Commission, and approve or disapprove the final plan within thirty days.

(8) In the event that the plan as submitted for final approval is not in substantial compliance with the plan as given tentative approval, the staff of the Planning Division shall, within fifteen days of the date the application for final approval is submitted, so notify the landowner in writing, setting out the particular ways in which the plan is not in substantial compliance with the plan as tentatively approved.

(j) Fees. A tentative plan submitted for consideration by the Planning Commission shall include a nonrefundable fee for a special use permit as determined from time to time by the City Commission and set forth in the "Fee, Bond and Insurance Schedule", pursuant to Section 802.24 of these Codified Ordinances.

(k) Design Standards. A PURD submitted under this chapter shall comply with the design and improvement standards and requirements identified under Section 1250.02(f) and Section 1250.02(g) of this Planning and Zoning Code.

(l) Variations.

(1) Variances, exceptions and/or modifications of design and improvement requirements, or dimensional or use standards, may be made by the City Commission in specific cases where it is deemed that conditions justify such variance.

(2) Applications for variances to the design requirements shall be made in writing at the time the tentative plan is filed for consideration with the Planning Division. The application for a variance shall state fully the grounds for the variance and all facts relied upon by the petitioner.

(m) Responsibility for Plans. It shall be the responsibility of the landowner of every proposed PURD to have prepared, by a registered engineer, a complete set of construction plans, including profiles, contours (topography), cross sections, specifications and other supporting data for required public streets, utilities and other facilities, for the area covered within each phase of the development. This requirement is not intended to require complete engineering plans for the entire development prior to receiving final approval; however, no new phase of the development may commence prior to detailed engineering plans being submitted for that phase, nor prior to the Engineering Department granting approval to those plans. All construction plans shall be prepared in accordance with the public improvement standards or specifications set forth in Section 1281.04 Site Plan Review.

(n) Contracts for Public Improvements. The City Commission, before giving approval to the final plan, shall require that a contract with the landowner be drawn up, approved, and signed to ensure performance of the conditions which will lead to the completion of all required public improvements deemed to be necessary.

(o) Performance Bonds and Guarantees of Completion of Improvements

(1) The City Commission may, as a condition of approval of a PURD, require a cash bond, certified check, a surety bond, an irrevocable letter of credit, or an escrow fund covering the estimated cost of improvements for the completion of each final approved phase of the development. If a bond is required, it shall be in a form approved by the City Attorney, in a sum of 100% of the estimated cost of the work for each phase, and conditioned upon the faithful performance of the work within the time specified. If required, then it shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require the deposit of the performance guarantee until it is prepared to issue the permit. The City shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

(2) In the case where the landowner shall fail to complete the required public improvement work within such time period as required by the conditions or guarantee as outlined above, the City Commission may proceed to have such work completed and reimburse itself for the cost thereof by appropriating the cash deposit, certified check or surety bond, or by drawing upon the letter of credit, or escrow fund, or shall take the necessary steps to require performance by the bonding company.

(p) Common Open Spaces.

(1) The amount and location of common open space shall be consistent with the declared function of the common open space as set forth in the application for a PURD and the landowner shall be responsible for the maintenance of the common open space in a manner acceptable to the City. Not less than 25% of the land area in any PURD shall be identified as common open space. Vehicular or pedestrian access shall be provided to all common open space in a manner consistent with the purpose and use of such open space.

(2) The common open space may not be used for buildings, public or private rights-of-way, or required parking for residential units. The common open space shall be designed for the benefit and enjoyment of all residents of the PURD, as

well as to protect any environmentally sensitive lands. Not more than 50% of the common open space may consist of land that is difficult to utilize, such as wetlands or steep slopes, defined as greater than or equal to 25% slopes.

(3) The City may for its own interests accept the dedication of common open space within a PURD for public use and benefit; however, the City shall not, as a condition of approval, require that the land proposed for open space be set aside for public use and benefit.

(4) In the event that the common open space is allowed to deteriorate or is not maintained in a condition consistent with the plan as approved by the City, then and in such event the City shall adopt the following course of action:

A. In the event that the landowner, or any successive landowner, shall at any time after establishment of the PURD fail to maintain the common open space in reasonable order and condition in accordance with the plan, the City may serve written notice upon the landowner setting forth the manner in which he or she has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within fifteen days of notification. If just cause is demonstrated, the City may modify the terms of the original notice as to the deficiencies and may grant an extension of fifteen days within which they shall be corrected. If the deficiencies set out in the original notice or in the modifications thereof shall not be corrected within said thirty days or any extension thereof, the City, in order to preserve the taxable values of the properties within the PURD and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the landowner. Before the expiration of said year, the City shall, upon its initiative or upon the request of the organization previously responsible for the maintenance of the common open space, call a public hearing, upon notice to such organization, or to the residents of the PURD, to be held by the City, at which hearing such organization or the residents of the PURD shall show cause why such maintenance by the City shall not, at the election of the City, continue for a succeeding year. If the City shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the City shall cease to maintain said common open space at the end of said year. If the City shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, the City may, at its discretion, continue to maintain said common open space during the next succeeding year and subject to a similar hearing and determination in ensuing years.

B. The cost of such maintenance by the City shall be assessed against the properties within the PURD that have a right of enjoyment of said common open space, and shall become a tax lien on said properties. The City, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice in the office of the City Assessor of such lien upon the properties affected within the PURD.

(q) Recording Prerequisites Planned Unit Residential Developments No PURD located within the City shall be received or recorded by the County Register of Deeds until it has received final approval and been signed by the Planning Commission and the City Commission.

(r) Penalty.

(1) Whoever violates or fails to comply with the provisions of this chapter is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided by Section 202.98.

(2) Nothing in this section shall preclude or abrogate the availability to the City of any other remedy available at law or in equity to prevent or remedy a violation of any of the provisions of this chapter.

(Ord. 10-2020.Passed 11-24-20.)

## **1250.02 SUBDIVISION REGULATIONS.**

(a) General Provisions.

(1) Short title. This Section of these Codified Ordinances shall be known and may be cited as the "City of Battle Creek Subdivision Control Ordinance" or the "Subdivision Regulations."

(2) Purpose and intent. The purpose of these Subdivision Regulations is to regulate and control the subdivision of land within the City in order to promote the safety, public health and general welfare of the community. These Regulations are intended to:

- A. Provide for the orderly growth and harmonious development of the community;
- B. Ensure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions and public facilities;
- C. Provide for individual property lots of maximum utility and livability;
- D. Ensure adequate provision for water, drainage and sanitary sewer facilities and other health requirements; and
- E. Make provision for adequate recreational areas, school sites and other public facilities.

(3) Authority. These Subdivision Regulations are enacted pursuant to the statutory authority granted by the Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101 et seq., and the Certification of City and Village Plats Act, Public Act 222 of 1943, as amended, being MCL 125.51 et seq.

(4) Interpretation; Conflict of Laws. These Subdivision Regulations shall not apply to any lot forming a part of a subdivision created and recorded prior to the effective date of these Regulations (Ordinance 10-2020, adopted on November 24, 2020), except for further dividing of existing lots, nor is it intended by these Regulations to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, covenant or other private agreements, or with restrictive covenants running with the land to which the City Commission is a party. Where these Regulations impose a greater restriction upon land than is imposed or required by an existing provision of any other ordinance of the City Commission, these Regulations shall control.

(5) Amendments; Repeals.

A. The City Commission may, from time to time, amend, supplement or repeal any of the provisions of any of these Subdivision Regulations.

B. A proposed amendment, supplement or repeal may be originated by the City Commission or the Planning Commission or by petition. Any proposal not initiated with the Planning Commission shall be referred to it for a report thereon before any action is taken on the proposal by the City Commission.

(6) Separability. Should any section, clause or provision of these Subdivision Relations be declared by the courts to be invalid, the same shall not affect the validity of these Subdivision Regulations as a whole or any part thereof other than the part so declared to be invalid.

(b) Administration, Enforcement and Penalty.

(1) Authority of Planning Commission.

A. These Subdivision Regulations shall be administered by the Planning Commission by authority granted in the City Charter and in accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, being MCL 125.3801 et seq., and the Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101.

B. The Planning Commission may recommend to the City Commission provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.105. The Planning Commission may proceed under this subsection on its own initiative or upon the request of the City Commission.

C. Before recommending an ordinance or rule as described in subsection B. above, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than fifteen days before the hearing by publication in a newspaper of general circulation within the City.

(2) Prerequisites for recording subdivisions. The Planning Commission shall review and make recommendations on plats before action by the City Commission under section 112 of the Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.112. No subdivision located within the City shall be received or recorded by the County Register of Deeds until such subdivision has received final approval and been signed by the Planning Commission and the City Commission.

(3) Penalty; equitable remedies.

A. A person who violates or fails to comply with any of the provisions of these Subdivision Regulations is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

B. Nothing contained in these Subdivision Regulations or in Section 202.98 shall prevent the Planning Commission, the City Commission or any other public official or private resident from taking such lawful action as is necessary to prevent or remedy a violation of any of the provisions of these Subdivision Regulations.

(c) Subdividing and Platting Requirements.

(1) Subdivision of land; surveys and plats.

A. Any division of land which results in a subdivision shall be surveyed and a plat thereof shall be submitted, approved and recorded as required by these Subdivision Regulations.

B. Plats of retracement or boundary surveys made by a department or agency of the United States or of State owned lands made by a department or agency of the State for the retracement and division of public lands in accordance with the survey instructions issued by the United States Department of the Interior, may be recorded with the Register of Deeds of the county in which the lands represented on such plats are situated and need not comply with the Land Division Act and this section, except that the plat size shall be as provided in the Land Division Act.

C. A survey and plat shall be made when any amendment, correction alteration or revision of a recorded plat is ordered by a Circuit Court.

D. Urban renewal plats authorized by the governing body of a municipality, as provided in the Blighted Area Rehabilitation Act, Public Act 344 of 1945, as amended, being MCL 125.71 et seq., shall conform to these Subdivision Regulations.

(2) Replats; vacation required; exceptions. A replat of all or any part of a recorded subdivision plat shall not be approved or recorded unless proper court action has been taken to vacate the original plat or the specific part thereof, with the following exceptions:



A. When all the owners of lots which are to be part of the replat agree in writing thereto and record the agreement with the Register of Deeds, together with proof that notice has been given to the abutting property owners by certified mail, and the governing body of the municipality in which the land included in the recorded plat is situated has adopted a resolution or other legislative enactment vacating all areas dedicated to public use within the proposed replat;

B. When the Assessor's plats are made, approved and recorded as provided in the Land Division Act; and

C. When the urban renewal plats are authorized by the governing body of the Municipality, as provided in Act 344 of the Public Acts of 1945, as amended. Roads, streets, alleys and other public places shall be vacated in accordance with the provisions of law.

(d) Procedures for Submission of Plats.

(1) Pre-application contact. The purpose of the pre-application stage is to provide the subdivider with an opportunity to avail themselves of the advice and assistance of the Planning Division and the many agencies involved in subdividing, before the preparation of the preliminary plat and its submission for approval, in order to save himself time and money and to make the most of his opportunities. Nothing in this section shall be so construed as to require any application contact. A subdivider may elect to begin subdividing by submitting a primary plat in accordance with Section 1250.02 (d) (2) A.

(2) Preliminary plat procedures. Before making or submitting a final plat for approval, the subdivider shall make a preliminary plat and submit copies to authorities as provided in the Land Division Act.

A. Copies of preliminary plat.

1. The subdivider shall submit four copies of the preliminary plat and other data to the City Clerk, one of which shall be on reproducible material.

2. The City Clerk shall cause the submitted copies of the plat to be forwarded to the Planning Commission for its study and approval. The Planning Commission shall advise the City Commission of its recommendation concerning the preliminary plat.

3. The Planning Commission shall function to coordinate the requirements of all other City departments for inclusion in the plan, by distributing the plan to those related departments involved in providing public services as may be deemed necessary to any given plan. The Planning Commission, in its report to the City Commission, shall advise the City Commission of these elements of the plan.

B. Abstract of title. The subdivider shall submit an abstract of title, certified to the date of the proprietor's certificate, which establishes the recorded ownership interest of all parties of interest and which is accompanied by an attorney's opinion based on such abstract as to the ownership and marketability of title to the land or, in the alternative, the subdivider shall provide a certificate of title insurance.

C. Notice of hearing. The Planning Commission shall not take action on a proposed plat without affording an opportunity for a public hearing. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than fifteen days before the date of the hearing, notice of the date, time, and place of hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the City of Battle Creek. Similar notices shall be mailed to the owners of land immediately adjoining the proposed platted land.

D. Approval of Planning Commission. The Planning Commission shall recommend to approve, approve with conditions, or disapprove the plat within sixty-three days after the referral thereof to it. If applicable standards under the Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.101 et seq., and this chapter or published rules governing the subdivision of land authorized under section 105 of that act, MCL 560.105, are met, then the Planning Commission shall recommend approval of the plat. If the Planning Commission fails to act within the required period, then such plat shall be deemed to have been recommended for approval, and a certificate to that effect shall be issued by the Planning Commission upon request of the proprietor. The proprietor, however, may waive this requirement, in writing, and consent to an extension of such period. The grounds for any recommendation of disapproval of a plat shall be stated in the records of the Planning Commission.

E. Tentative approval.

1. The City Commission, within thirty days from the date of the Planning Commission action, shall tentatively approve and note its approval on the copy of the preliminary plat to be returned to the subdivider or set forth in writing its reasons for rejection and requirements for tentative approval.

2. Tentative approval, under this section, shall confer upon the subdivider, for a period of one year from its date, approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended if applied for by the subdivider and granted by the governing body in writing.

F. Preliminary approval.

1. After tentative approval of the preliminary plat by the City Commission, the subdivider shall:

a. Submit copies of the preliminary plat to all public agencies, as required by the Land Division Act Subdivision Control Act;

b. Submit a list of all such authorities to the City Clerk, certifying that the list shows all authorities as required by

the Land Division Act; and

c. Submit all approved copies to the City Clerk, after all necessary approvals are obtained.

2. The City Commission, after receipt of the necessary approved copies of the preliminary plat and after a report from the Planning Commission certifying that all conditions and requirements imposed upon the plat at the time of tentative approval have been complied with, shall, within twenty days of receipt of the necessary data, consider and review the preliminary plat.

G. Effective period of approval. The granting of preliminary approval by the City Commission shall be for two years from the date of approval. Failure on the part of the subdivider to proceed under the provisions of these Subdivision Regulations, in accordance with final plat procedures within this two-year period, shall result in the automatic withdrawal of the preliminary approval. If any portion of a preliminary plat has been finally platted, the same shall constitute an automatic extension for two years. In order to reinstate the preliminary plat, the subdivider must again proceed through the pre-application and preliminary plat preparation and submittal states, in accordance with these Subdivision Regulations, provided, however, that the City Commission may make exception hereto and grant an extension.

H. Model homes. Construction of up to four model homes in a new subdivision is permitted, but only under the following conditions:

1. The model shall be constructed on proposed lots and in accordance with all conditions or regulations which would be in effect if the final plat were recorded.

2. The final plat has been submitted to the Planning Commission for approval.

3. No certificates of occupancy shall be issued until such time as the plat has been recorded and all utilities and improvements have been installed and accepted by the City.

(3) Final plat: application procedures and approval. The final plat shall conform substantially to the preliminary plat as approved by the Planning Commission. If desired by the subdivider, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided that the approved preliminary plat comprises more than twenty-five single or two-family lots or ten acres, whichever is less, or, in the case of a multifamily, commercial or industrial development, more than ten acres. The final plat shall conform to the provisions of the Land Division Act.

A. Submittal. Prior to filing the final plat with the City Clerk for transmittal to the City Commission, the subdivider shall submit to the Planning Commission a written application for approval of the plat along with five copies of the final plat and one set of the final construction plans, drawn on linen or mylar (if the plans are to be drawn by the developer's engineer), and two copies of any landscaping plans as may be required. Such application shall be submitted not less than ten days prior to the regular monthly meeting of the Planning Commission at which the application is to be considered.

B. Review. Prior to consideration of the final plat by the Planning Commission, the City Engineer shall review the plat and the accompanying construction plans to determine their conformity to engineering specifications and improvement plans proposed in the preliminary plat. The Planning Division shall also review the final plat application and determine its conformity or nonconformity with the lot layout, street design and other proposals contained in the approved preliminary plat. The City Engineer and the Planning Division shall certify their approval or disapproval of the plat, in writing, and submit it to the Planning Commission for its consideration.

C. Approval.

1. If the final plat is in substantial agreement with the preliminary plat previously approved by the Planning Commission, the Planning Commission shall prepare a report on its recommendations to the City Commission. The Secretary of the Planning Commission shall sign the plat indicating the Planning Commission's approval of the plat. The signed copies and recommendations shall then be transmitted to the City Commission. A copy of the Planning Commission's report shall be retained in the files of the Planning Commission.

2. If the final plat does not conform to the street arrangement and other aspects of the approved preliminary plat, or to preliminary utility and facility plans, the Planning Commission shall prepare a report to the City Commission setting forth the points at which the plat fails to conform to the approved preliminary plat and recommending to the City Commission that it disapprove the plat until the Planning Commission's objections have been overcome. The plat and the accompanying report shall be forwarded immediately to the City Commission. A copy of the report shall be retained in the files of the Planning Commission.

3. A plat approved by the City Commission and recorded under section 172 of the Land Division Act, Public Act 288 of 1967, as amended, being MCL 560.172, shall be considered an amendment to the master plan and a part thereof. The approval of the final plat by the City Commission does not constitute or effect public acceptance of any street, rights of way, easements, or other open space shown upon the plat.

(4) Fees. When the preliminary plat is submitted to the City Clerk pursuant to Section 1250.02(d)(2)F., the subdivider shall deposit a filing fee as set forth in the fee schedule enacted from time to time by the City Commission.

(5) City Commission approval. The City Commission shall review the final plat and the report the Planning Commission at a City Commission meeting held within fourteen days of receipt and approve or disapprove the final plat within twenty days of the filing of the plat with the City Clerk by the Planning Commission, in accordance with Section 1250.02 (d)(3)C. If approved, the plat shall then follow the procedures set forth in the Land Division Act.

(6) Performance contract for public improvements.

A. The City Commission, before giving approval to the final plat, shall require that a contract with a subdivider be drawn up, approved and signed to ensure performance of the conditions which will lead to the completion of all required public improvements. To ensure performance of such contract, the City Commission may require financial security as provided in Section 1250.02(g)(8).

B. The subdivider may elect to install or cause to be installed, prior to the approval of the final plat, all or part of the required public improvements. In such case, the subdivider shall, at the time of final plat approval, provide financial security for any remaining public improvement obligations.

C. Any improvements made to the property by the subdivider shall be inspected by the Municipality for conformity with Municipal standards. Such inspections shall be charged against the subdivider. These charges shall be paid in full prior to the final plat approval.

(7) Submission of final plats to the County Plat Board After the final approval of the final plat has been given by the Planning Commission and the City Commission, the City Clerk shall forward one copy, on mylar, of the final plat, together with the required fee, to the County Plat Board.

(e) Specifications for Plans and Plats.

(1) Minimum information required in pre-application stage

A. Since the pre-application stage is established to encourage subdividers to determine the procedures and requirements of various agencies concerned with platting prior to the expenditure of funds for plat preparation, only a minimum amount of information is needed. The required minimum information to be submitted is as follows:

1. Adequate information to locate the proposed subdivision;
2. The relationship of the proposed plat to the surrounding area;
3. The location of uses other than residential which are ancillary to the development;
4. The general topographic characteristics of the area;
5. The location of proposed utilities and methods of refuse collection; and
6. Any other information the proprietor may consider necessary.

B. The pre-application stage should be considered as an administrative procedure which is separate from these Subdivision Regulations and which may be utilized at the discretion of the proprietor.

(2) Contents of preliminary plat; preliminary engineering plans

A. The preliminary plat shall be at a scale of not smaller than 200 feet to one inch.

B. The following information shall be shown on or submitted with the preliminary plat:

1. The title of the proposed subdivision;
2. The name, address and telephone number of the proprietor or subdivider and the name, address, telephone number and seal of the surveyor or engineer preparing the plat;
3. The names of adjoining subdivisions;
4. The location of the subdivision, giving the number of the section, township and range, and the name of the township, county and State;
5. A map indicating plans for the development of the entire area, if the proposed plat is a portion of a larger holding intended for subsequent development;
6. The location map showing the relationship of the proposed plat to the surrounding area, which shall include the names of adjacent subdivisions; the layout of streets, indicating street names; right-of-way widths and connections with adjoining platted streets; widths and locations of alleys, easements and public walkways adjacent to or connecting with the proposed subdivision; and the layout and dimensions of lots adjacent to the proposed subdivision;
7. Lot lines and the total number of lots in each block or other portion;
8. Streets, street names, rights of way and roadway widths;
9. Other rights of way or easements, showing location, width and purpose, as available;
10. Existing topography at two-foot contour intervals, showing all existing natural features and proposed extensive grading and landfilling, with all topographic data relating to United States Geological Survey data;
11. The location of the floodplain according to the City Engineer, the U.S. Army Corps of Engineers or the Waterways Commission, if the plat includes or is adjacent to lands that may be flooded;
12. Proposed and existing storm and sanitary sewers, water supply and methods of refuse disposal;

13. All existing structures and other physical features which would influence the layout and design of the subdivision;

14. Proposed sites, if any, for multifamily dwellings, shopping centers, churches, industries and other nonpublic uses, exclusive of single-family dwellings;

15. A legend indicating the total acreage contained within the plan and the total acreage and percentage in lots, road allowances, parks and other uses;

16. Any sites proposed for parks, playgrounds, schools or other public uses;

17. The date, north arrow and graphic scale;

18. The existing zoning of the proposed subdivision and adjacent tracts;

19. The location of the last flood of record according to the City Engineer, the Waterways Commission, the U.S. Army Corps of Engineers or a like source, if the plat includes or is adjacent to such flooded lands;

20. Plans and specifications of the soil erosion and sedimentation control measures in accordance with standards and specifications of the Natural Resources and Environmental Protection Act, Public Act 347 of 1972, as amended, being MCL 324.101 et. seq. and rules established thereunder; and

21. A site report from the Health Department for a subdivision that will not be served by public water and sewers. The information listed therein, which is not required elsewhere in these Subdivision Regulations, shall be submitted as part of the application for preliminary plat approval.

C. Preliminary engineering plans may be submitted for street, sewer and other public improvements required by these Regulations. These plans shall contain enough information and detail to enable the City Engineer and other responsible agencies to make a preliminary determination as to the conformity of the proposed improvements.

(3) Final plat; final engineering plans. The preparation of a final plat shall be in accordance with the Land Division Act. Final engineering plans, profiles, cross-sections and specifications for improvements required to be installed by these Subdivision Regulations shall meet the specifications established by the City Engineer or the minimum specifications provided by the respective agencies as required in Section 1250.02 (d)(3)A. Such final engineering plans shall accompany the final plat.

(f) Design Standards.

(1) Conformity to the master plan. The proposed subdivision and its ultimate use shall be in conformity with the master plan, as adopted, and shall not encroach upon any area designated in such plan for future public use.

Where such conflict appears and the land in question is otherwise suitable for subdividing, the City Commission, or in the case of a school site, the Battle Creek Public Schools or the Lakeview Public Schools, in its tentative consideration, shall decide whether or not to implement such plan. If the City Commission or a Board of Education elects to implement such plan, it shall declare its intent to purchase the land within ninety days and shall accomplish the acquisition within two years.

Land which the Planning Commission has found to be unsuitable for subdivision development due to flooding, poor drainage, soil conditions or other features which are likely to be harmful to the health, safety and welfare of future residents shall not be subdivided unless satisfactory methods of correction are formulated by the subdivider and approved by the Planning Commission.

A street; square, park, playground, public way, ground or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a City master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the Planning Commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the Planning Commission. The Planning Commission shall submit its reasons for approval or disapproval to the City Commission. If the Planning Commission disapproves, then the City Commission may overrule the Planning Commission by a vote of not less than 2/3 of its entire membership. If the Planning Commission fails to act within thirty- five days after submission of the proposal to the Planning Commission, then the project shall be considered to be approved by the Planning Commission.

(2) Floodplain development.

A. No building shall be located on any portion of a lot lying within the floodplain, unless approved in accordance with the rules of the State Waterways Commission.

B. The natural floodplain may be altered if its original discharge capacity is preserved and the stream flow is not revised so as to affect the riparian rights of other owners.

C. Alteration of any floodplain area shall be based upon a plan approved by the Planning Commission and the State Waterways Commission.

(3) Streets right-of-way.

A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety and in their appropriate relation to

the proposed uses of the land to be served by such streets.

B. Street right-of-way widths shall be designed in conformance with current design policy guidance and standards published by the American Association of State Highway Transportation Officials (AASHTO), the National Association of City Transportation Officials (NACTO), or the Federal Highway Administration (FHWA).

C. Street right-of-way easements may be required to ensure adequate access, utility service, circulation and parking in subdivisions.

D. Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional width for the existing street may be required in conformity with the standards outlined in subsection (f)(3)B. hereof.

E. If the City Commission deems that additional rights of way is necessary, it shall enter into an agreement to purchase the land within ninety days and shall accomplish the acquisition within two years, except for expressways and freeways.

F. Dedication of expressway and freeway rights of way shall not be required. These rights-of-way may be reserved for public acquisition in accordance with the Certification of City and Village Plats Act, being Act 222 of the Public Acts of 1943, as amended, being MCL 125.51.

G. Local streets shall be so arranged as to discourage their use by through traffic. Curvilinear street design is recommended for residential streets to discourage excessive speeds and to provide attractive vistas.

H. The street arrangement in a subdivision shall provide for the continuation of existing streets in surrounding areas and shall provide for suitable access to adjoining unplatted areas.

I. Where a proposed subdivision abuts or contains a major street, or arterial, the Planning Commission may require marginal access streets, reverse frontage lots containing a ten-foot nonaccess reservation with screen plantings along the rear property line or such other treatment as may be necessary for the adequate protection of residential properties and the separation of through and local traffic.

J. Intersections on major or minor arterial streets shall be located not less than 650 feet apart, measured from centerline to centerline, unless the approved design allows for a lesser distance.

K. Where a proposed subdivision abuts or contains a railroad right of way, expressway or other limited access highway, the Planning Commission may require a street approximately parallel to and on each side of such right of way at a distance suitable for the appropriate use, with due regard for the requirements of approach grades for future bridge or grade separations.

L. Street intersections with centerline offsets of less than 125 feet are prohibited, except as provided in Section 1250.02(g)(9) and Section 1250.02(g)(10).

M. There shall be no private streets, lanes or ways platted in any subdivision, except under the special design considerations mentioned in Section 1250.02(g)(9).

N. Half streets are prohibited, except where unusual circumstances make it essential to the reasonable development of a tract, in conformity with these Subdivision Regulations, and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.

O. Dead-end streets are prohibited, except those designed as permanent cul-de-sacs or those required for future access to adjacent unplatted property. Temporary turnaround arrangements for dead-end streets which will be extended in the future may be required by the Planning Commission.

P. Cul-de-sac streets shall be no longer than 600 feet and shall contain, at the closed end, a turn-around having an outside road pavement diameter of not less than 100 feet and a street property line diameter of not less than 130 feet. Special consideration shall be given to longer cul-de-sac streets under unusual conditions.

Q. Centerline street grades shall not be greater than 5% or less than 0.5%, except as provided in Section 1250.02(g)(9) and Section 1250.02(g)(10).

R. To ensure adequate sight distance, horizontal and vertical curves shall conform to current design policy guidance and standards published by the American Association of State Highway Transportation Officials (AASHTO), the National Association of City Transportation Officials (NACTO), or the Federal Highway Administration (FHWA).

S. Streets shall intersect one another at right angles or as nearly at right angles as conditions permit. No street shall intersect another at an angle of less than eighty degrees.

1. "T" intersections of minor streets are to be encouraged.

2. Multiple intersections involving the junction of more than two streets are prohibited.

3. No minor street intersecting with a major street or thoroughfare shall have a tangent section of the centerline less than fifty feet in length starting at the property line of the major street.

T. No street names shall be used which will duplicate or be confused with the names of existing streets within the area of jurisdiction of these Subdivision Regulations. Street and subdivision names and house numbers shall be subject to the

approval of the City Assessor.

(4) Alleys, crosswalk and pedestrian ways

A. Dead-end alleys are prohibited.

B. Crosswalks, pedestrian ways or utility easements may be required where, in the judgment of the Planning Commission, they are necessary to provide for safe and convenient access to schools, parks, shopping centers, other community facilities or utility extensions.

(5) Easements; retention of one-foot reserves

A. Easements shall be provided along rear, side and front lot lines as necessary for utility services.

B. Where a proposed subdivision is traversed by a watercourse, drainage way channel or stream, a drainage easement shall be provided in accordance with the requirements of the City Engineer. Such easement shall be shown on the final plan.

C. When a subdivision provides the entire road allowance width and has lots on only one side, the subdivider shall be permitted to retain a one-foot reserve, which reserve shall be released to the City when the respective abutting property owners agree to pay to the subdivider fifty percent of the costs of the services that normally would have been required had such owners been parties to the subdivision. Such costs shall be paid at an interest rate equal to the real estate market rate prevailing at the time of installation of services and the development of the road. In the event of a dispute, the City Commission shall be the final arbitrator.

(6) Lot dimensions and locations; flag lots

A. The lot size, width, depth, shape and orientation shall conform to the provisions of the Zoning Code for the particular district in which the subdivision is located.

B. Every lot shall abut upon and have permanent access to a public street, provided that in subdivisions designed under conditions specified in Section 1250.02(g)(9), this requirement may be modified or waived by the Planning Commission.

C. Side lot lines shall be at approximately right angles or radial to the street right-of-way lines.

D. The creation of flag lots is prohibited.

(7) Lot divisions. Lots, outlots and other parcels of land in a recorded plat may be divided for the purposes of sale or lease for building development, provided that the same is approved by the Planning Commission.

A. Procedures. Application for lot divisions shall be submitted in writing to the Planning Division and shall be accompanied by a sketch drawn to scale showing the original lot, the proposed division, all pertinent dimensions and the proposed legal description.

B. Conformity to minimum size. The proposed divisions shall not create lots which would be less than the minimum size required by these Subdivision Regulations.

C. Violations. Violation of this section shall be sufficient cause for denial of an application for a building permit.

(8) Natural features. The Planning Commission, wherever possible, shall require the preservation of all-natural features which add value to the proposed subdivision and the community at large, such as large trees, groves of trees, watercourses, vistas, historic spots and features, wildlife habitats, ecological areas and similar irreplaceable assets. The location, nature and extent of such features should be identified in the initial procedures stage and shall be made a part of subsequent plats to the greatest possible extent. The preservation of such features may be made a condition of tentative approval of the preliminary plat.

(9) Uninhabitable areas. Lands subject to flooding or otherwise deemed uninhabitable in their natural state shall not be platted for residential use, or for any other use that might create a danger to health, safety or property, or that might increase the flood hazard within or outside the subdivision. Such lands shall be set aside for recreational use or shall be retained in their natural state as open space. However, such lands maybe platted and developed if features making the land uninhabitable can reasonably be removed without destruction of adjacent or nearby property or desirable natural features of the land, and if approval is obtained from all the plat approval authorities required to review plats under the Land Division Act and these Subdivision Regulations. Areas of land within the proposed subdivision which lie either wholly or partly within the floodplain of a river, stream, creek or lake, or any other areas which are subject to flooding by storm water, shall be clearly shown on the preliminary plat and the final plat.

(10) Public sites and open spaces. Where a site for a park, playground, playfield, school, library, fire station or other public use is deemed necessary by the Planning Commission to fulfill the objectives of the Master Plan, the Planning Commission may recommend the reservation of such areas within the subdivision. Upon determination by the respective public agency that space for the public facility is required, the agency involved shall, within ninety days, enter into an agreement to purchase the site. Acquisition of the site shall be accomplished within two years.

(11) Variances. Variations, exceptions and/or modifications of these design requirements may be made by the City Commission, in specific cases, where it is deemed that conditions justify such a variance. An application for a variance to the design requirements outlined in this chapter shall be made in writing at the time the preliminary plat is filed for consideration

with the City Clerk. Such application shall state fully the grounds for the variance and all facts relied upon by the petitioner.

(g) Improvements.

(1) Preparation of construction plans. The subdivider of every proposed subdivision shall have prepared, by a registered engineer, a complete set of construction plans, including profiles, contours (topography), cross-sections, specifications and other supporting data, for the hereinafter required public streets, utilities and other facilities. All construction plans shall be prepared in accordance with the public improvement standards or specifications contained in this chapter.

(2) Monuments. Monuments shall comply with the requirements of the Land Division Act.

(3) Required public improvements. All subdivisions shall be improved with the following public improvements, in accordance with the following conditions and specifications:

A. Streets and alleys. Full street improvements, including adequate subgrade preparation, hard surfacing, curbs and gutters, shall be required in every subdivision, in conformity with the construction standards of the City Engineer. The minimum standards for such street improvements are as follows:

1. Surfacing. The finished roadway surface shall be either bituminous or portland cement concrete, installed in conformity with the specifications of the City Engineer.

2. Width. Minimum street surfacing widths shall be designed in conformance with current design policy guidance and standards published by the American Association of State Highway Transportation Officials (AASHTO), the National Association of City Transportation Officials (NACTO), or the Federal Highway Administration (FHWA).

3. Curb and gutters. Concrete curbs and gutters of a type approved by the City Engineer shall be provided for all streets within each subdivision and along all streets that border on the subdivision.

4. Islands and boulevards. Where the subdivider proposes boulevard streets and/or street islands in the street pattern, the subdivider shall have suitable plans made for landscaping these areas. All such landscape plans shall be approved as to height, size and type of plant material by the Department of Parks and Recreation and shall be reviewed by the Traffic Engineer before construction by the subdivider. The City will accept the responsibility of living materials only after one year of growth.

5. Signs. Street signs of a type approved by the City Engineer shall be installed identifying the names of all streets at every intersection. If the subdivider wishes to erect a type of sign other than that used by the City as its standard, they may do so with the consent of the Planning Commission, at their expense, for the installation, maintenance and replacement of such sign off of the street right-of-way.

B. Sidewalks and walk easements. Concrete sidewalks shall be installed by the subdivider along each side of all streets within the subdivision at the time of street development, and along the side of all streets that border on the subdivision, in accordance with the specifications of the City Engineer. Walk easements, where required, shall have a four and one-half foot paving width centered within the required twelve-foot public easement.

C. Alleys. Where permitted, alleys shall be paved to their full width with concrete or bituminous materials and drained in accordance with the specifications approved by the City Engineer.

D. Street Trees. Street trees shall be required in each subdivision of a type, size and location as specified by the City Engineer. If, in the opinion of the City Engineer, lot trees of suitable species are located to give proper benefit to the street, this requirement may be waived.

(4) Water. A public water system containing supply lines, fire hydrants, valves and other water system appurtenances shall be constructed in conformity with the requirements of the City Engineer.

(5) Sanitary sewers. A public sanitary sewerage system shall be constructed and the sewer size, grade and other appurtenances of the system shall be in conformity with the requirements of the City Engineer.

(6) Storm sewers. A storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts and other necessary appurtenances, is required and shall be constructed in conformity with the requirements of the City Engineer.

A. Natural water drainage ways. All-natural water drainage ways shall be preserved at their natural gradient, unless otherwise determined by the City Engineer.

B. Grading. All lots shall be finish graded so that all storm water drains therefrom.

(7) Optional public improvements.

A. Street lights. Street lights shall be of a type and design approved by the City Engineer.

B. Landscaping. Landscape plants, fences for screening or other suitable landscape treatment may be made by the subdivider within required buffer areas, parks or other open spaces where they desire to protect their development from the detrimental effects of adjacent expressways, major streets, railroads or other land uses. Landscape plans shall be indicated on the subdivider's improvement plans and are subject to the approval of the Planning Division and the City Engineer.

(8) Guarantee of completion of public improvements

A. Financial guarantee arrangements and exceptions. As a condition of final plat approval, if prior to the actual installation of those public improvements which the City has determined to be the responsibility of the subdivider, the subdivider shall, pursuant to the Land Division Act, provide financial security. The subdivider may elect one of the following:

1. Performance bond. A performance or surety bond to cover the cost of the contemplated improvements, as estimated by the City or its agents, shall be filed with the City Clerk. Such bond shall specify the time period in which the improvements are to be completed and shall be with an acceptable bonding company authorized to do business in the State.

2. Escrow fund. Cash or a certified check sufficient in amount to cover the cost of the contemplated improvements, as estimated by the City or its authorized agents, shall be deposited with the City Treasurer. The escrow deposit shall be for the estimated time period necessary to complete the required improvements.

3. Irrevocable letter of credit. An irrevocable letter of credit shall be issued by a bank authorized to do business in the State, in an amount to cover the cost of the contemplated improvements, as estimated. The City Commission shall rebate or release to the proprietor, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project.

B. Failure of subdivider to complete improvements. If the subdivider fails to complete the required public improvements work within such time period as is required by the conditions or guarantees as outlined above, the City Commission may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check or surety bond or by drawing upon the letter of credit, or shall take the necessary steps to require performance by the bonding company.

(9) Commercial subdivisions. Where commercial developments for retail sales, wholesale sales, business services, offices and similar establishments fall within the definition of subdivision as set forth in the Land Division Act, such development shall conform to these Subdivision Regulations, except for modifications provided in this section. The development shall conform to all Zoning Code requirements.

A. Streets. Streets shall conform to Section 1250.02(f)(3). All streets in a commercial subdivision shall be paved and shall have curbs and gutters and underground storm drainage. Streets shall be designed and constructed to adequately handle track traffic. Curb side parking and loading shall not be provided for, nor permitted on, any street in a commercial subdivision. No backing or similar maneuvering of vehicles to enter or leave a parking or loading space shall be permitted or provided for on a commercial subdivision street. Such movements shall be adequately provided for on each lot.

B. Ingress and egress. Entry drives for the subdivision shall be located and designed so as not to create congestion or hazardous conditions on public streets serving the subdivision. Driveways from parking and/or loading areas shall intersect subdivision streets at a distance from street intersections that is large enough to permit the safe and convenient maneuvering of vehicles, including trucks.

C. Blocks. Blocks shall be designed to meet the needs of the commercial uses that will occupy the subdivision. However, block sizes shall meet the requirements of fire protection, snow removal and other service and emergency vehicles.

D. Lots. Lots shall conform to Zoning Code provisions. Lots in a commercial subdivision shall have access from subdivision or frontage streets and shall not open directly onto an arterial or other heavily traveled street.

E. Sidewalks. Sidewalks and pedestrian ways are required in commercial subdivisions, except where the Planning Commission determines that such facilities are not required for the safety and convenience of pedestrians within or around the subdivision.

F. Greenbelts. A greenbelt area, at least fifty feet wide and landscaped, shall be provided along the perimeter of a commercial subdivision where such a subdivision is adjacent to a residential area. The Commission may require the provision of a fence, wall or screen if it determines such is necessary to protect the adjacent areas from litter, trespass and other nuisances. Any intended future expansion of the commercial development should be shown on the preliminary plat submitted for tentative approval.

(10) Industrial Subdivisions. Where industrial developments, consisting of, but not limited to, manufacturing establishments, trucking and warehouse facilities and similar activities, fall within the definition of subdivision as set forth in the Land Division Act, such development shall conform to these Subdivision Regulations, except for modifications provided for in this section. The development shall conform to all Zoning Code requirements.

A. Streets. Streets shall conform to Section 1250.02(f)(3). All streets in an industrial subdivision shall be paved according to standards suitable for heavy trucking activities. All streets shall have concrete curbs and gutters with enclosed underground storm drainage.

Streets within the park shall be designed and constructed to easily and conveniently accommodate the movement of large trucks. Street grades shall not exceed five percent and shall follow the land contours longitudinally. Street intersections shall have a minimum curb radius of twenty-five feet.

B. Off-street parking and loading. Parking and loading on all streets in the industrial district shall be prohibited. Adequate parking and loading areas, and space necessary for maneuvering of trucks in loading and unloading operations, shall be provided on each site. Layouts which permit the use of streets for turn-around and other maneuvers shall not be acceptable.

C. Ingress and egress. Entry drives for the subdivision shall be located and designed so as not to create congestion



or hazardous conditions on public streets serving the subdivision. Driveways from parking and/or loading areas shall intersect subdivision streets at a distance from street intersections that is large enough to permit the safe convenient maneuvering of all vehicles, including semi-tractor/trailers.

Normally, streets within the park shall not be extended to the boundaries of adjacent existing or potential residential areas or connected to streets intended for predominantly residential traffic. Streets within the subdivision shall be laid out so as to prohibit through traffic.

D. Greenbelts. A greenbelt area, at least fifty feet in width and landscaped, shall be required along the side and rear property lines of an industrial subdivision where such lines abut a residential, agricultural, institutional or commercial area. The Planning Commission may require the provision of a fence, wall or screen if it determines such is necessary to protect the adjacent areas and/or the industrial park from litter, trespass and other nuisances.

E. Future expansion. Any intended future expansion of the industrial development should be shown on the preliminary plat as submitted for tentative approval.

F. Proprietary interest. The proprietor's continuing interest, if any, in the subdivision shall be clearly described.

(11) Soil erosion and sediment control. Since considerable erosion can take place prior to the construction of houses, buildings, facilities and features in a subdivision, the various plats for a subdivision shall contain proposed erosion and sediment control measures. The measures shall be incorporated into the final construction drawings. Erosion and sediment control measures shall conform to the standards and specifications of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, being MCL 324.101 et seq. and rules established thereunder.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### **1250.03 AIRPORT APPROACH OVERLAY ZONING DISTRICT.**

(a) Short Title. This Section may be referred to and cited as the "the Airport Approach Overlay Zoning District Ordinance of the City of Battle Creek" or just "the Airport Approach Overlay Zoning Ordinance."

(b) Purpose. It is hereby found that an obstruction has the potential for endangering lives and property of users of the Battle Creek Executive Airport at Kellogg Field and the property of occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Battle Creek Executive Airport at Kellogg Field; and that an obstruction may reduce the size of areas available for the landing, take-off and maneuvering of aircraft, thus tending to destroy or impair the utility of Battle Creek Executive Airport at Kellogg Field and the public investment therein. Accordingly, it is declared that:

(1) The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Battle Creek Executive Airport at Kellogg Field.

(2) It is necessary in the interest of the public health, safety and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.

(3) The prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of police power, without compensation.

(c) Enabling legislation. This chapter is adopted in accordance with the requirements of Public Act 23 of 1950, as amended, and in conformity with the section 203 of the Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3203.

(d) Land Use and Height Regulations. Any development of property located in the Airport Approach Overlay District shall comply with use and height restrictions as adopted in the Airport Approach Plan, including any subsequent revisions, by the Michigan Department of Transportation, Aeronautics Division, for the Airport. This plan is composed of two maps and one explanatory sheet, including the:

(1) FAA Part 77 Surface Map which details the maximum allowable height for buildings and structures in the Airport Approach Overlay Zoning District.

(2) MDOT Bureau of Aeronautics land use zoning map for the airport which outlines accident safety zones on and surrounding the airport where land use planning and regulatory measures will be applied.

(3) Accident safety zones, land use guidelines and planning strategies for new development which describe specific land use characteristics, land use guidelines and land use planning strategies for each accident safety zone.

(e) Nonconforming Uses. The regulations prescribed in this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to such effective date.

(f) Variances. Any person desiring to erect or increase the height of any structure, permit the growth of any tree or use property not in accordance with the regulations prescribed in this chapter may apply to the Zoning Board of Appeals for a variance from such regulations. Such a variance shall be allowed only when it is found that a literal application or enforcement of the regulations will result in practical difficulty and that the relief granted will not be contrary to the public

interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this chapter. Additionally, no application for such a variance may be considered by the Board unless a copy of the application has been furnished to the Airport Director of the City for advice as to aeronautical effects of the variance. If the Director does not respond to the application within fifteen days after receipt, the Board may act on its own to grant or deny such variance.

(Ord. 10-2020.Passed 11-24-20.)

#### **1250.04 FORM-BASED DEVELOPMENT STANDARDS FOR THE T-3, T-4, AND T-5 DISTRICTS.**

(a) Statement of Purpose. The purpose of the form-based development option is to create clear and simple regulations on the design of new development or redevelopment within and leading to the traditional downtown districts of the City including the T-3 Neighborhood Commercial District, T-4 Downtown Commercial District, and the T-5 Core Downtown Commercial District. The regulations of this section require development to have a physical form that complements the historic nature of existing development in the downtown Battle Creek and surrounding areas included in the T-3, T-4, and T-5 districts. Specifically, these regulations encourage a pedestrian friendly and walkable character, permit a mixture of land uses; encourage streets that serve the needs of pedestrians, bicycles, and motorized vehicle traffic equitably; encourage places for informal social activity and recreation in the downtown area; and encourage building frontages that define the public space of streets. With proper physical form, a building can accommodate a wide range of uses without generating undue impact on neighboring properties or the downtown as a whole.

It is further the purpose of the Form-Based Development Standards to:

- (1) Create a core downtown area that maintains the traditional physical form of a historic city downtown.
- (2) Create a unique, historic, walkable mixed-use developments including residential, retail, entertainment, office, and other compatible uses.
- (3) Promote the orderly development, redevelopment, and continued maintenance of Battle Creek's central business district.
- (4) Encourage shared parking areas throughout the downtown area rather than requiring each individual property owner to provide physical parking space on their property.
- (5) Create quantitative and qualitative building design guidelines that ensure new development is compatible with the historic character existent in downtown.
- (6) Ensure buildings create a solid streetwall that helps to define streets as public spaces.
- (7) Ensure that permitted uses complement each other in terms of character and location, and to ensure that uses in the T-3, T-4, T-5 districts do not have an adverse impact on the overall economic and social vitality of the downtown area, street capacity, public utilities or services, or the overall image and function of the district.
- (8) Prevent automobile-oriented development from eroding or destroying the character of the downtown area.
- (9) Encourage harmonious residential infill and adaptive reuse of noteworthy buildings to provide a mix of housing types, unit sizes, and compatible uses within walking distance of Battle Creek's historic downtown area.
- (10) Encourage accessible housing options in the downtown area.

(b) Existing development in the T-3, T-4, and T-5 districts

(1) Expansions of developed sites.

A. Less than 25% of existing condition. Any development activity on a developed site that would increase the floor area of the existing building or the area of existing site improvements by less than 25% need not comply with the requirements of this section. However, any new building area or site improvements should result in the site being more compliant, and shall not result in the site being less compliant with the requirement of this section.

B. More than 25% of existing condition. Whenever a building or site improvement expansion of greater than 25% of the floor area of the existing condition is proposed, the improvement activity shall comply with the requirements of this section.

C. Expansions measured cumulatively. For the purposes of determining compliance with this section, expansions shall be measured cumulatively, with the baseline being the building area and improved site area that existed at the date of adoption of this Zoning Code.

(2) Redevelopment. Redevelopment of existing buildings shall comply with the Architectural Standards for Adaptive Reuse, Section 1250.04(d).

A. Whenever 50% or less of the existing building will be demolished or replaced, the development activity need not comply with the requirements of this section. However, any site layout or building design changes that may occur as a result of the development activity should result in the site being more compliant with the requirements of this section.

B. Whenever more than 50% of an existing building will be demolished or replaced, the development activity shall comply with all of the requirements of this section.

(c) Waiver of Requirements.

(1) Purpose and limitations. For an activity in the T-3, T-4, and T-5 districts, the Zoning Administrator may grant a waiver from certain dimensional requirements contained in this section. Regulations that may be altered through the waiver process are described in the various sections of this section, along with the specific parameters by which the regulation may be altered.

Waivers are separate and distinct from dimensional variances in that they are limited in their bounds and are intended to permit reasonable use of property where the strict application of the requirements of this section would not further the public purpose, and a relaxed or altered dimensional standard will still meet the intent and purpose of the T-3, T-4, and T-5 districts.

Whenever a regulation may be altered through the waiver process, specific bounds are listed within which the waiver must be maintained. If an alteration to a dimensional requirement is requested that is greater than that listed in this section, the applicant must obtain a variance following the procedures and review standards Section 1280.03, Zoning Board of Appeals.

(2) Application and review procedures. The applicant shall clearly identify all requested waivers on the application and site plan. The reviewing authority shall evaluate the requested waivers and approve, approve with conditions, or deny the waiver request. In evaluating a waiver request, the reviewing authority shall take into account the following considerations:

- A. Approval of the waiver will not result in development that is incompatible with or will negatively impact existing or potential future development in the vicinity of the property to be developed.
- B. The requested waiver is consistent with the intent and purpose of this section.
- C. The waiver will result in a superior development when compared with what could be achieved through the strict application of the requirements of this section.
- D. A lesser waiver will not accomplish the same purpose as the requested waiver.
- E. The waiver will not negatively impact the potential of adjacent parcels to develop according to the requirements of this section.

(3) Waivers from building design standards for new construction and adaptive reuse The Zoning Administrator may waive the above requirements finding all of the following standards have been met:

- A. The architectural design of the proposed structure is consistent with the character of the surrounding area.
- B. The architectural design otherwise meets the building design standards for adaptive reuse in the T-3, T-4, T-5 districts.
- C. The project brings the site more into compliance with the building design standards for new construction and purpose of the T-3, T-4, T-5 Districts.

(d) Architectural Standards for New Construction and Adaptive Reuse

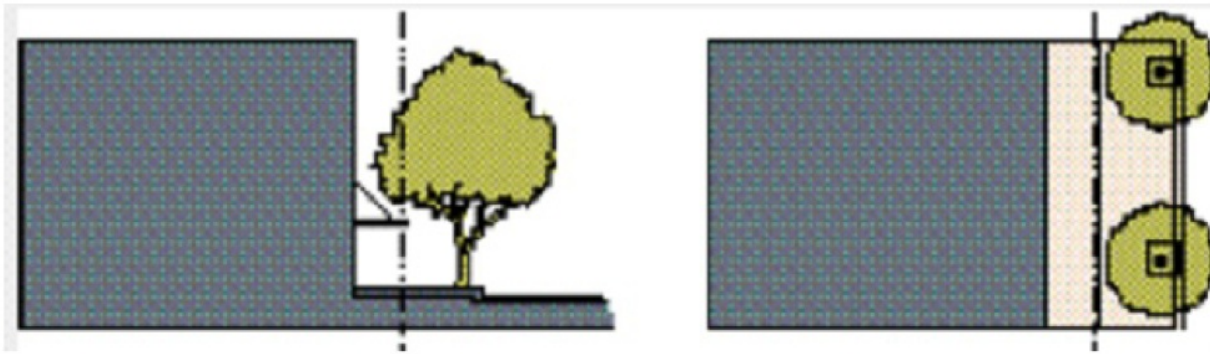
(1) Frontage requirements. Buildings in the T-3, T-4, and T-5 Districts shall comply with the following requirements, in addition to any applicable requirements of Section 1241.02, Schedule of Regulations. The requirements of this section and Section 1241.02 are intended to be complimentary; however, in any instance where there is an apparent conflict, the provisions of this section shall control.

A. Private frontage. The private frontage is the area between the right-of-way and the principal building façade. Buildings must contain architectural elements consistent with one of the following four private frontages. Each frontage is designed to be consistent with some or all of the uses permitted in the T-3, T-4, and T-5 Districts. A sidewalk shall connect each entrance into a private building to the parking area and to the public right-of-way sidewalk.

Note that the following table includes specific dimensional requirements for each of the frontages. Unless otherwise noted, the dimensional requirements are in addition to any other dimensional requirement of this Section.

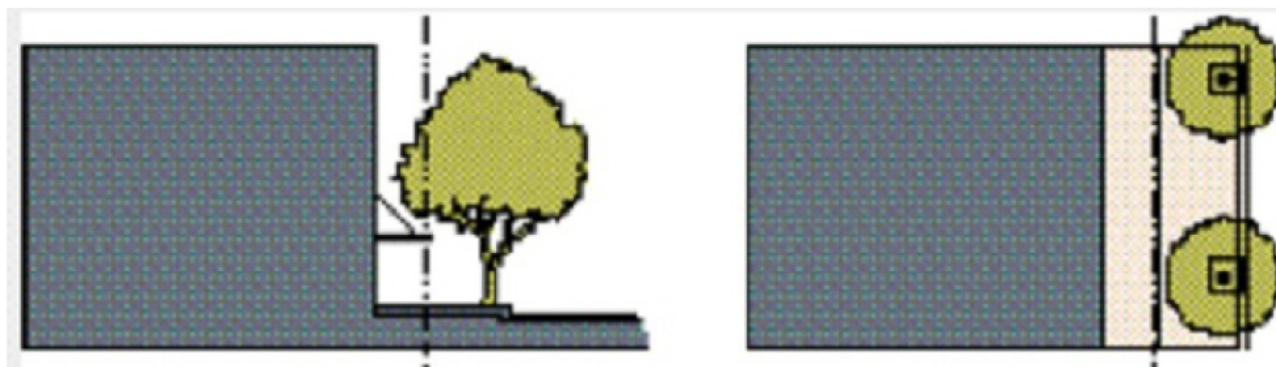
<b>FRONTAGE TYPE</b>	<b>WHERE PERMITTED</b>	<b>DIMENSIONAL REQUIREMENTS</b>
<b>Shopfront.</b> A frontage where the building facade is located close to the front lot line with the building entrance at sidewalk grade. This frontage type is suitable for nonresidential uses on the first floor.	T-3 T-4 T-5	The building shall be set back a maximum of 5 feet from the front lot line.

Shopfront illustration:



<p><b>Courtyard.</b> A frontage where a portion of the building facade is close to the front lot line with a portion set back. The courtyard may accommodate tree plantings or a vehicle drop-off area. This frontage is suitable for any building use.</p>	<p>T- 3 T- 4 T- 5</p>	<p>The building shall be set back a maximum of 5 feet from the front lot line. The courtyard area shall be considered part of the front building facade for the purposes of determining compliance with the requirements of the required setback.</p>
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Courtyard Illustration:



<p><b>Stoop.</b> A frontage where the first floor is elevated from the sidewalk to provide privacy for first floor windows. The entrance is usually from an exterior stair and landing. This frontage is suitable for ground-floor residential use.</p>	<p>T- 3 T- 4</p>	<p>The building shall be set back a minimum of 7 feet from the front lot line. The stoop or porch area shall be set back a minimum of 2 feet from the front lot line.</p>
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Stoop Illustration:





<p><b>Lawn.</b> A frontage where the building is set back from the street with a landscaped front yard area. This frontage is suitable for any building use.</p>	<p>T- 3 T- 4</p>	<p>The building shall be set back a minimum of 10 feet from the front lot line. Unenclosed front porches shall be set back a minimum of 5 feet from the front lot line.</p>
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Lawn Illustration:



(2) **Minimum height.** The minimum building height in the T-3, T-4, T-5 Districts is twenty feet. All buildings shall have the appearance of being at least two-story buildings.

(3) **Base, middle, and cap.** All buildings shall incorporate a base, middle, and cap, as is applicable.

A. **Base.** The base shall include an entryway with transparent windows and a horizontal molding or reveal placed between the first and second stories or over the second story. The molding or reveal shall have a depth of at least two inches and a height of at least four inches. If a one-story building is proposed, the molding or reveal is not required.

B. **Middle.** The middle may include buildings and/or balconies that are located between the reveal and the cap area.

C. **Cap.** The cap includes the area from the top floor to the roof of the building, and shall include a cornice or roof overhang.

(4) **Alignment.** Windowsills, moldings, and cornices shall align with those of adjacent buildings. The bottom and top line defining the edge of the windows (the "windowsill alignment") shall not vary more than two feet from the alignment of surrounding buildings. If the adjoining buildings have windowsill alignments that vary by more than two feet from one another, the proposed building shall align with one of the adjoining buildings. This requirement may be waived, see Section 1250.04(c).

(5) **Building materials.** Buildings in the T-3, T-4, T-5 Districts shall comply with the following building material requirements:

A. **Primary building materials.** Durable natural building materials such as brick, stone, exposed logs or timber, and other similar materials are preferred primary building materials in the T-3, T-4, T-5 Districts. Split-face block and fiber cement board (including Hardie board or boral siding) panels or siding are permitted materials. Concrete block or similar masonry units are prohibited as a primary building material unless covered with a veneer of natural building materials. Primary building materials shall be used on a minimum of 60% of the facade area of the building (excluding doors and windows).

B. **Accent building materials.** Accent materials may be used on up to 30% of the facade area of the building (excluding doors and windows). Acceptable accent materials include those listed above in (c)(5)A. and decorative precast concrete block, metal, fiber cement, stucco and glass. Non-durable building materials such as EIFS may be used as accent building materials on up to ten percent of the total wall area of any facade, but may not be used on the ground floor facade.

C. **Waiver.** This requirement may be waived, see Section 1250.04(c).

(6) **Ground floor design.**

A. **Building entrance(s).** All buildings shall have their principal entrance or entrances open onto a street, sidewalk, or public space. The principal building entrance shall not open onto a parking lot, although a secondary or subordinate entrance may be provided to a parking lot.

B. **Entryway alignment.**

1. **Nonresidential uses.** For all buildings in the T-3, T-4, T-5 Districts and buildings with nonresidential uses on the first floor, the ground floor of the principal entrance shall align with the elevation of the adjacent sidewalk. Sunken terraces or stairways to a basement shall not constitute principal entrances to a building for the purposes of this section. It is not the intent of this section to preclude the use of below or above grade entryways, provided that such entryways are secondary, not principal entrances.

2. Residential and live/work uses. For first-floor residential and live/work uses in the T-3, T-4, T-5 Districts, the ground floor of the building (and consequently the principal entrance as well) may be raised up to thirty-six inches above the elevation of the adjacent sidewalk. This is intended to create greater privacy for first floor residential uses by elevating windows above the view of passing pedestrians.

(7) Windows and entryways. The following requirements apply to facades of buildings facing a public street or public space such as a plaza or square.

A. Windows. Windows above the ground floor shall have a height to width ratio of at least 2:1.

B. Ground floor facade transparency. All buildings with first floor nonresidential uses shall maintain transparency for at least 70% of the first-floor facade area between two and eight feet above grade level. Doors and windows provide transparency.

1. All windows shall use transparent, non-reflective glass.

2. Areas of solid wall shall not exceed a length of twenty feet.

(8) Recessed entrances encouraged. Doors are encouraged to be recessed into the face of the building to create a sense of entry and to add variety to the streetscape.

(9) Encroachments. The following building elements may encroach into a public right-of-way or setback area.

A. Balconies. Balconies on upper stories may encroach up to six feet into any required setback area and up to four feet into any right-of-way area.

B. Stoops. Unenclosed and uncovered front stoops may encroach up to five feet into a front yard setback area, provided that the stoop maintains a minimum setback of five feet from any right-of-way line.

C. Awnings.

(1) Ground-story awnings may encroach up to six feet from the face of the building into the setback area, or into the right-of-way area in the T4 and T5 District.

(2) Awnings shall have a minimum of eight feet of clear space between the sidewalk and the bottom of the awning or any support structure, and shall not exceed a height of twelve feet to the highest point of the canopy.

(3) If the awning encroachment of six feet would interfere with the placement of street lighting or street trees, the awning projection shall be reduced to resolve the conflict.

(10) Awnings shall be constructed out of fabric, and may not be internally illuminated. Metal or other materials may be used for awnings if a waiver is approved per Section 1250.04 (c).

A. Bay windows. Bay windows on the ground story may encroach up to three feet into any setback area, but may not encroach into a right-of-way area. Bay windows on upper floors may encroach up to three feet into any setback or right-of-way area.

B. Eaves. Roof eaves may encroach up to three feet into any setback or right-of-way area.

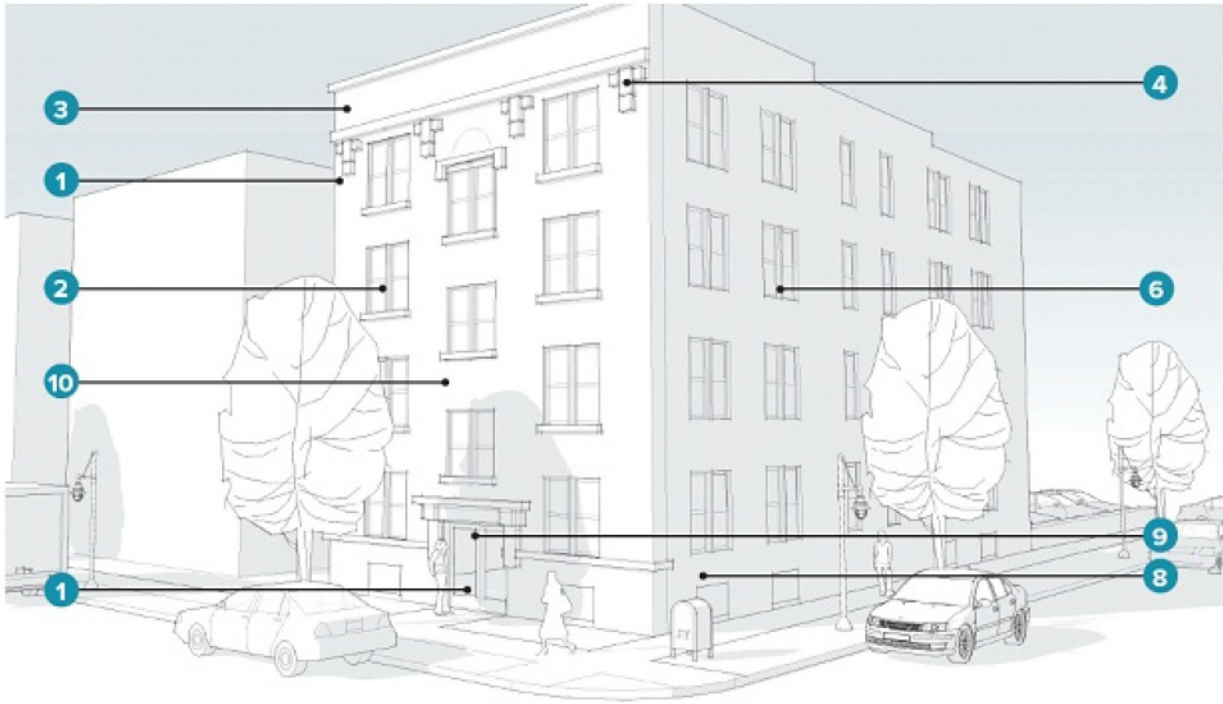
(11) Service areas. All service areas, including utility access, above ground equipment and dumpsters shall be located in side or rear yards and shall be screened from view from any street.

(12) Mechanical and utility equipment. Mechanical equipment, electrical and gas meter and service components, and similar utility devices (whether ground level, wall mounted, or roof mounted) shall be screened from view from the front property line. Exterior screening materials shall be the same as the predominant exterior materials of the principal building.

(e) Building Type Standards for New Construction. New construction in the T-3, T-4, and T-5 Districts must conform to architectural and dimensional standards of the following building types.

(1) Apartments. A medium sized building that contains five to ten dwelling units either side-by-side or stacked between two floors. There can be one shared entry or individual entries facing the street.

*Figure 12. Apartments*



Illustrated Design Standards:

1. Traditional building façade treatments (including masonry reliefs and/or motifs) and main entrances located along street of building address. and along any adjacent street right-of-way on corner lots.

2. Opaque façade through which window and door openings appear to have been "punched" as through paper in a ring binder.

3. Building cornice (at top of building) of substantial height and decoration.

4. Minimum one horizontal molding or accent material projection dividing the façade into layers.

5. Pattern of solids and voids generated by the vertical and horizontal alignment of windows and doors in repeating sizes.

6. Window groupings encouraged, with groups of up to three allowable.

7. Main entrances at grade for accessibility, working in conjunction with interior lobby or vestibule and elevator(s).

8. Ground floor units (finished floor) thirty-six inches to forty-two inches above grade.

9. Main entrance articulation.

10. Prominent sills and/or heads required for windows located along facades (discouraged along other exterior walls).

11. Parking lots permitted only in the rear yard. Parking lots may be permitted in the side yard for larger projects with multiple buildings and multiple parking lots. No building entrances from side parking lots allowable.

12. Building façade treatments are required on building facades fronting on a public street, alley, or right-of-way.

13. Floor to floor heights limited to twelve feet.

(2) Carriage house/accessory dwelling unit. Also considered an accessory structure, a carriage house is a small building located in the rear of a residential lot and can contain a small dwelling unit or similar use. They are often above a garage but can also be at ground level.

Figure 13. Carriage House/ADU



Illustrated Design Standards:

1. Small, traditionally-styled residential garage form containing one residential unit, indoor parking, or one residential unit above indoor parking. Ground floor finish floor twenty-four inches to thirty six inches above grade (if not above parking).
2. Opaque façade through which window and door openings appear to have been “punched” as through paper in a ring binder (garage doors excepted).
3. Window groupings encouraged, with groups of up to three allowable.
4. Residential entrance articulation and indoor stairway (stairway if more than one story).
5. Floor to floor heights limited to ten feet six inches.
6. Must be located in a rear yard or in a secondary front yard located along an alley.
7. Garage door openings, garage doors, garage door window panes, and garage door panels must all be square or rectangular. Door panels and window panes must be oriented vertically.
- (3) Single family/duplex/triplex (stacked or adjacent) A small or medium sized building with one, two, or three dwelling units that may be stacked vertically or attached horizontally.

Figure 14 . Single Family/ Duplex/ Triplex (Stacked or Adjacent)





Illustrated Design Standards:

1. Traditionally-styled single-family house form containing one to three residential units with a main entrance at the front façade. Stacked duplex and triplex entrances may have separate doors or share a vestibule. Horizontal adjacent duplex and triplex units shall have their own independent main entrance on the front façade and may have alternate or service entrances along the sides and/or back.

2. Finished floor located twenty-four inches to thirty inches above grade.

3. Opaque exterior walls through which window and door openings appear to have been “punched” as through paper in a ring binder.

4. Pattern of solids and voids generated by the vertical and horizontal alignment of windows and doors in variously repeating sizes.

5. Window groupings encouraged, with groups of up to three allowable.

6. Building overhangs commensurate with style of architecture.

7. Ground floor twenty-four inches to thirty inches above grade.

8. Min. six feet six inches deep front porch maximum thirty inches above grade with optional decorative rail twenty-eight inches to thirty-six inches above porch floor.

9. Floor to floor heights limited to ten feet six inches.

10. Parking lots permitted only in the rear yard. Parking lots may be permitted in the side yard for larger projects with multiple buildings and multiple parking lots. No building entrances from side parking lots allowable.

(4) Fourplex/four-family dwelling unit. A medium sized building that contains four dwelling units split up two on the ground floor and two above, with a shared door facing the street.

Figure 15 . Fourplex/Four- Family Dwelling Unit.



Illustrated Design Standards:

1. Traditional building façade treatments (including masonry reliefs and/or motifs) and main entrances located along street of building address and along any adjacent street right-of-way on corner lots.
2. Opaque exterior walls through which window and door openings appear to have been “punched” as through paper in a ring binder.
3. Building cornice must have the most prominent shadow line.
4. Minimum one additional horizontal molding or accent material projection dividing the building into layers, or creating water table expression on ground floor level.
5. Pattern of solids and voids generated by the vertical and horizontal alignment of windows and doors in repeating sizes.
6. Window groupings encouraged, with groups of up to three allowable.
7. Main entrances at grade for accessibility, working in conjunction with interior lobby or vestibule and lift or ramp servicing first floor units.
8. Ground-floor units finish floor-elevation thirty-six inches to forty-two inches above grade.
9. Main entrance articulation.
10. Prominent sills and/or heads required for windows located along facades.
11. Parking lots permitted only in the rear yard. Parking lots may be permitted in the side yard for larger projects with multiple buildings and multiple parking lots. No building entrances from side parking lots allowable.
12. Floor to floor heights limited to ten feet six inches.

(5) Live/work unit. A small to medium sized building that contains a ground floor office, service, or retail space with a dwelling unit above or behind it. The building can be attached or detached, and both the living and working space are owned or rented by one user.

Figure 16. Live/Work Unit



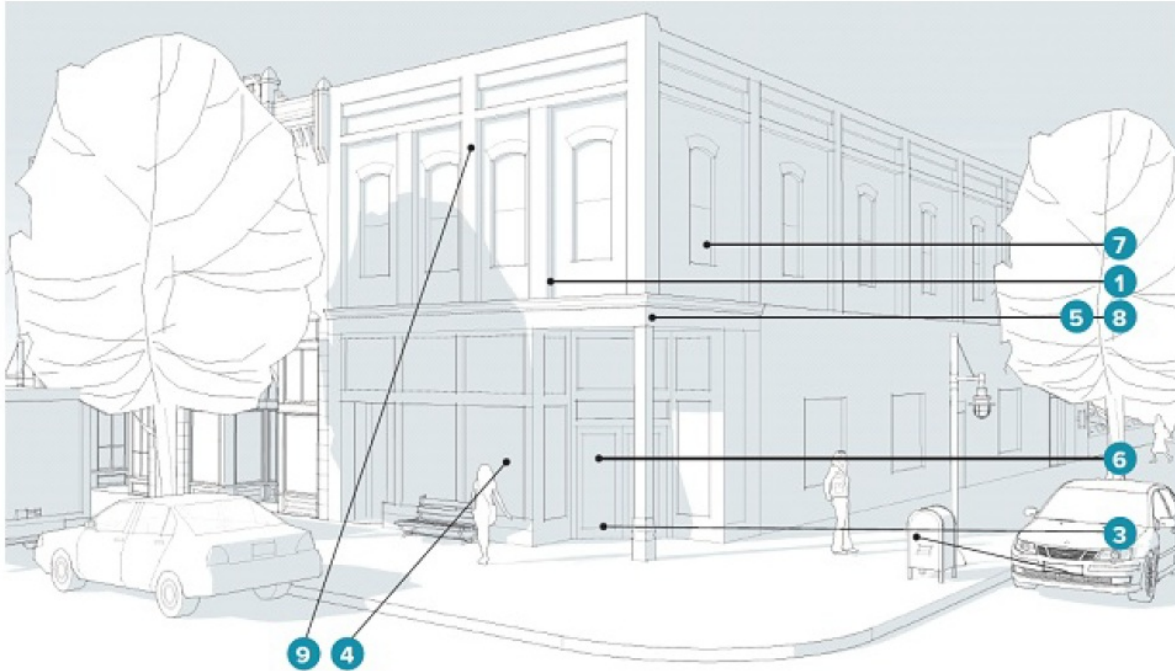
#### Illustrated Design Standards:

1. Ground floor elevated thirty inches to forty-two inches above average grade at front of building with interior lift for accessibility (Type A). Main level may be accessible at grade with plate glass storefront (Type B) or if building is setback from right-of-way line minimum seven feet zero inches (Type C).
2. Traditional building façade treatments and main business entrances are required along streets of corresponding building addresses and corresponding right-of-way lines. Side and rear entrances shall be subordinate to the main entrance and allowed along a right-of-way line of intersecting streets only or a rear parking lot. Storefront main entrance at corner may substitute for that listed above (see Mixed-Use Building).
3. Main business entrance doors must remain unlocked during business hours.
4. Open, plate-glass shopfronts (Type B) encouraged at ground-floor level along street of building address, with façade supported above by columns and beams and extending for a distance of twelve feet to fourteen feet around building corners at intersecting streets.
5. Plate glass material beginning fifteen inches to eighteen inches above finished grade (top of sidewalk) and extending to underside of beam, with alternate leaded or stained-glass transoms minimum eight feet zero inches above finish grade.
6. Sign band and/or secondary cornice to be integral with any shopfronts, and located above plate glass shopfronts or transoms (Type B).
7. At-grade doorways to be recessed (see numerical parameters below).
8. Opaque exterior walls, through which all window openings appear to have been “punched” (such as through paper in a ring binder), with such windows recessed into the façade, reinforcing this intended effect (except at shopfronts, which are to have plate glass column to column).
9. Building cornice (at top of building) casting tallest horizontal shadow upon building façade. Must be the most prominent shadow line (aside from those cast individually by awnings above shopfronts).
10. Phasing of site development to be coordinated with individual units (each sixteen feet to twenty-five feet in width), any first unit developed front to back for a minimum distance of twenty-five feet before development of any adjacent unit is to begin. Adjacent and subsequent units to be developed front to back in a similar manner. Eight units per building maximum.
11. Pattern of solids and voids, coordinated within structural bays, generated by the vertical and horizontal alignment of rectangular windows and doors in repeating sizes. Full and segmented arches allowable atop rectangular windows in these locations (shopfronts excepted).
12. Window groupings allowable.
13. Open-ended, canvas, sloped awnings above shopfront windows. (Type B).
14. Decorative sills and/or headers required on windows located along exterior walls (shopfronts excepted).

15. Parking lots permitted only in the rear yard.
16. Floor to floor heights limited to fifteen feet.
17. Flat roof required.

(6) **Mixed-use/commercial building.** A small to medium sized building that contains ground floor commercial space with dwelling units and/or commercial space above. Any number of dwelling units can be incorporated based on the desired level of density. Typically, there is one shared door for residential access facing the street.

Figure 17. Mixed- Use Building .



Illustrated Design Standards:

1. Traditional building façade treatments (as well as main business entrances) to be located along streets of corresponding building addresses and corresponding to right-of-way lines. Side and rear entrances shall be subordinate to the main entrance and allowed along a right-of-way line of intersecting streets only or a rear parking lot. Storefront main entrance at corner may substitute for that listed above (see Mixed-Use Building).
2. Main entrance doors must remain unlocked during business hours.
3. Main level accessible at grade.
4. Open, plate-glass shopfronts (curtain walls), located at ground-floor level along street of building address, with façade supported above by columns and beams and extending for a distance of one structural bay around building corners at intersecting streets. Plate glass material beginning fifteen inches to eighteen inches above finish grade (top of sidewalk) and extending to underside of beam, with alternate leaded or stained-glass transoms minimum eight feet zero inches above finish grade.
5. Sign band and/or secondary cornice integral with shopfronts and above plate glass and/or transoms. (Such cornice may be used to satisfy the one horizontal molding or accent material band projection requirement).
6. Recessed doorways located within shopfronts (see numerical parameters below).
7. Opaque exterior walls above ground floor, through which window openings appear to have been “punched” (such as through paper in a ring binder), with such windows recessed into the façade, reinforcing this intended effect.
8. Minimum one additional horizontal molding or accent material band projection, casting a secondary horizontal shadow line, dividing the façade into layers. This feature is accepted on Art Deco-style buildings.
9. Vertical façade projections (corresponding to structural columns) casting vertical shadows on façade and articulating regular structural bays, each 20 feet to thirty feet in width.
10. Phasing of site development to be coordinated with structural bays, any first bay developed front to back for a minimum distance of twenty feet before development of any adjacent bay is to begin. Adjacent and subsequent bays to be developed front to back in a similar manner.
11. Pattern of solids and voids above ground floor, coordinated within structural bays, generated by the vertical and



horizontal alignment of rectangular windows and doors in repeating sizes. Full and segmented arches allowable atop rectangular windows in these locations.

12. Radii of arches on segmented-arch windows must equal widths of corresponding windows.
13. Arched building tops prohibited.
14. Window groupings allowable above ground floor, corresponding to structural bays.
15. Open-ended, canvas, sloped awnings above shopfront windows.
16. Decorative sills and/or headers required on upper-floor windows located along façades.
17. Sides and backs of buildings not regulated by this code, except at corners (as illustrated here).
18. Building façade treatments optional along intersecting streets.
19. Towers, sculptures, and other characteristic forms and/or focal points encouraged (not illustrated).
20. Characteristic forms echoed or repeated within structural bays.
21. Parking lots permitted only in the rear yard.
22. Floor to floor heights limited to fifteen feet.

(7) Townhome/rowhouse. A small to medium sized building that contains side-by-side attached single family dwelling units. Typically, two to eight units make up a building, all with individual entrances facing the street.

Figure 18. Townhome/Rowhouse.



Illustrated Design Standards:

1. Residential units existing side-by side within building enclosure with each unit extending from foundation to roof.
2. Parking at rear or within building at ground floor with parking entrance at rear of building.
3. Side parking lots prohibited.
4. Opaque exterior walls through which window and door openings appear to have been “punched” as through paper in a ring binder.
5. Pattern of solids and voids generated by the vertical and horizontal alignment of windows and doors in variously repeating sizes.
6. Window groupings encouraged, with groups of up to three allowable.
7. Ground floor (finished floor) twenty-four inches to thirty inches above grade.
8. Min. six feet six inches deep required front porch maximum thirty inches above grade with decorative rail twenty eight inches to thirty-six inches above porch floor (porches may be individual or shared and continuous across front of

building).

9. Individual main entrance articulation. Porch may be shared (entrances may have separate doors or share a vestibule).

10. Floor to floor heights limited to ten feet six inches.

(8) Schedule of regulations by building types. The following dimensional standards by building type shall apply to new construction in the T-3, T-4, and T5 districts. When in conflict with Section 1241.02, these regulations shall prevail.

<b>SCHEDULE OF REGULATIONS BY BUILDING TYPE</b>				
<b>Building Type</b>	<b>Front Setback</b>	<b>Side Setback (adjacent to private lot)</b>	<b>Side Setback (adjacent to ROW line)</b>	<b>Rear Setback</b>
<b>SCHEDULE OF REGULATIONS BY BUILDING TYPE</b>				
<b>Building Type</b>	<b>Front Setback</b>	<b>Side Setback (adjacent to private lot)</b>	<b>Side Setback (adjacent to ROW line)</b>	<b>Rear Setback</b>
Single Family/ Adjacent / Stacked Duplex & Triplex	> 20' (a)	10'	7' to 12'	10'
Fourplex	10' (b)	7'	4' to 7'	0'
Rowhouse	20' (c)	7'	4' to 6'	10' (d)
Small Apartment Building	10' (e)	7'	7'	0'
Carriage House/Accessory Dwelling Unit	10' (f)	3'	3'	10' (d)
Live-Work Building	0' (g)	0'	0'	0'
Mixed- Use/Commercial Building	0' (h)	0'	0'	0'

(a) Setback shall match mean setback of existing residential buildings along block frontage, 20'. If mean existing setback is < 20', then setback of new building shall default to 20'. Porches may encroach 12' into required front setbacks.

(b) Setback shall match that of an adjacent residential building on the principal frontage, 35'. If adjacent building(s) is set back > 35', then setback of new building shall default to 10'.

(c) Setback shall match that of an adjacent residential building on the principal frontage, 35'. If adjacent building(s) is set back > 35', then setback of new building shall default to 20'. Porches or porticos may encroach 9' into required front setbacks.

(d) Rear setback is 4' from alley easements.

(e) Setback shall match that of an adjacent residential building on the principal frontage, 35'. If adjacent building(s) is set back > 35', then setback of new building shall default to a distance 10'. Porches or porticos may encroach 9' into required front setbacks. Entrance canopies on large apartment buildings may extend into right of way over sidewalk.

(f) From main building on parcel.

(g) See building type regulations.

(h) Required build-to line.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1250.05 MHP-OD MOBILE HOME PARK OVERLAY DISTRICT.**

(a) Purpose. The purpose of this chapter is to establish an overlay district zoning designation for mobile home parks in the city so as to establish specific areas within the city where mobile home parks shall be permitted by right as a supplement to the use permitted by one of the other zoning districts established by this Zoning Code and indicated on the zoning map, which shall be referred to as the "underlying district."

(b) Definitions. As used in this chapter:

(1) "Mobile home" means a structure transportable in one or more sections which is built on a chassis and designed to

be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in such structure.

(2) "Mobile Home Commission" means that body created pursuant to the Mobile Home Commission Act, Public Act 96 of 1987, as amended, being MCL 125.2301 et seq., with the authority to promulgate rules and standards for mobile home parks.

(3) "Mobile home park" means a parcel or tract of land under the control of a person, upon which parcel or tract three 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 for use incident to the occupancy of a mobile home. The term "mobile home park" does not include "seasonal mobile home park," as defined by the Mobile Home Commission Act, Public Act 96 of 1987, as amended, being MCL 125.2301 et seq.

(c) Permitted Uses. In addition to the uses permitted in the underlying district, this chapter also permits, by right, the use of the premises as a mobile home park.

(d) Compliance with Rules of the Mobile Home Commission; Height, Yard, Lot Area, Lot Width, Building Coverage, Sign, Parking and Density Requirements.

(1) The use permitted by this chapter shall comply with all rules and standards for mobile homes and mobile home parks promulgated by the Mobile Home Commission, which rules and standards are adopted herein by reference.

(2) The height, yard, lot area, lot width, building coverage, sign and parking requirements of the underlying district shall be applicable to mobile home parks to the degree that such are not in conflict with the rules and standards promulgated by the Mobile Home Commission.

(3) Mobile home parks shall not have a density per acre of more than five mobile homes or in excess of the density factor for the underlying district, whichever is greater.

(e) Boundaries of Overlay Districts; Application for Designation

(1) The boundaries of MHP-OD Mobile Home Park Overlay Districts shall be delineated on the official zoning map of the city and titled "MHP-OD."

(2) The MHP-OD Mobile Home Park Overlay District zoning designation shall be applied for in the same manner provided for amendments to the Zoning Code for all or part of an underlying district.

(f) Administrative Remedies for Violations. In addition to the general penalty provided for violations of this Zoning Code, the city reserves all administrative remedies it may have before the Mobile Home Commission for a violation of this chapter or the rules and standards of the Mobile Home Commission.

(Ord. 10-2020.Passed 11-24-20.)

## CHAPTER 1251

### Standards Applicable to Specific Uses

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- 1251.01 Adult businesses.
- 1251.02 Assisted senior living.
- 1251.03 Automobile car wash establishment.
- 1251.04 Automobile repair.
- 1251.05 Automobile service station.
- 1251.06 Automobile or vehicle dealership.
- 1251.07 Banquet and meeting hall.
- 1251.08 Bed and breakfast.
- 1251.09 Campground.
- 1251.10 Cemetery.
- 1251.11 Community garden.
- 1251.12 Convalescent home, nursing home, or home for the aged.
- 1251.13 Drive-thru restaurant.
- 1251.14 Farmer's market.

- 1251.15 Government/public uses.
- 1251.16 General and specialized farms, including crops and the raising and keeping of livestock.
- 1251.17 Home occupations.
- 1251.18 Hospital greater than twenty thousand square feet.
- 1251.19 Hotel.
- 1251.20 Independent senior living with services.
- 1251.21 Junk or salvage yard.
- 1251.22 Kennels/veterinarian.
- 1251.23 Marihuana: marihuana business regulations.
- 1251.24 Marihuana: adult use marihuana retailer establishment.
- 1251.25 Marihuana: adult use marihuana microbusiness.
- 1251.26 Marihuana facilities and establishments.
- 1251.27 Marihuana: medical and adult use marihuana grow operation.
- 1251.28 Marihuana: medical and adult use marihuana processing facility.
- 1251.29 Marihuana: medical marihuana provisioning center.
- 1251.30 Marihuana: medical and adult use marihuana safety compliance facility.
- 1251.31 Marihuana: medical and adult use marihuana secure transporter.
- 1251.32 Multi-family dwelling units.
- 1251.33 Motel.
- 1251.34 Microbrewery.
- 1251.35 Outdoor recreation.
- 1251.36 Personal-scale solar energy facility.
- 1251.37 Personal-scale wind energy facility.
- 1251.38 Personal service establishment.
- 1251.39 Private garden.
- 1251.40 Religious institutions.
- 1251.41 Rooming and boarding houses.
- 1251.42 Self-storage/mini-storage facilities.
- 1251.43 State licensed child care family home, one through six children.
- 1251.44 State licensed child care group home, seven through twelve children.
- 1251.45 State licensed residential facility, adult foster care family home, one through six persons.
- 1251.46 State licensed residential facility, adult foster care group home for more than six residents; community residential facility and group homes.
- 1251.47 Transitional and supportive residential housing up to six persons.
- 1251.48 Transitional and supportive residential housing for more than six persons.
- 1251.49 Telecommunication towers.
- 1251.50 Utility-scale solar energy facility.
- 1251.51 Utility-scale wind energy facility.
- 1251.52 Vehicle repair, major.

#### **1251.01 ADULT BUSINESSES.**

(a) Purposes. In the development and execution of this chapter, it is recognized that there are some uses which, because of their very nature, have serious operational characteristics, particularly when concentrated or when one or more of them are located in near proximity to residential zones, thereby having a deleterious effect upon adjacent areas.



Regulation of these uses through location is necessary to ensure that the adverse effects of such uses will not contribute to the blighting or downgrading of the surrounding neighborhood. The provisions of this chapter are intended to prevent a concentration of these uses within any one area and to prevent deterioration or blighting of nearby residential neighborhoods.

(b) Restrictions on Location. An adult business may be located in the city only in accordance with the following restrictions:

(1) All such businesses shall be limited to areas zoned B-1 , I-1 or I-2, excluding those areas so zoned within the boundaries of the Battle Creek Tax Increment Financing Authority District known as Fort Custer Industrial Park, as approved by the City Commission in Resolution 27, passed April 28, 1986, and amended by Resolution 338, passed September 9, 1986 and excluded from within the boundaries of the Dickman Road Business Improvement District established by City Commission Resolution 351 on September 7, 1999.

(2) No adult business shall be located within 1,000 feet of another adult business; within 1,000 feet of a church, school, or public park; or within 300 feet of a residential or agricultural zoning district.

(c) Miscellaneous Requirements.

(1) The height, yard, lot area, lot width, building coverage, sign and parking requirements of an adult business shall conform to the requirements for the zone in which it is located.

(2) The distance between an adult business and a church, school, public park, or a residential or agricultural zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the adult business or building containing an adult business to the nearest property line of the protected use or residential or agricultural district.

(3) No person shall reside in or permit any person to reside in the premises of an adult business.

(d) Exceptions. The provisions of this chapter regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes or medical clinics, or to the offices of a physician, surgeon, chiropractor, osteopath or physical therapist, duly licensed by the state, or to massage therapists licensed by the State under Part 179A of the Public Health Code, MCL. 333.17951 et seq.

(e) Penalty; Equitable Remedies.

(1) A person who violates or fails to comply with any of the provisions of this chapter is responsible for a Class F municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(2) Notwithstanding subsection (a) hereof, the city may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this chapter.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

#### **1251.02 ASSISTED SENIOR LIVING.**

(a) Minimum Site Area. The minimum parcel area shall contain 2,000 square feet per living bed.

(b) Required Minimum Usable Floor Area in Square Feet Per Dwelling Unit

(1) State of Michigan licensing requirements regulate assisted living unit size.

(2) No living unit within a senior housing development may contain more than two bedrooms.

(c) Maximum Building Height. The maximum building height in an assisted senior living development shall not exceed forty feet.

(d) Setbacks. The minimum setbacks for senior housing shall be:

(1) Front yard setback: Fifty feet.

(2) Side yard setback: Fifty feet.

(3) Rear yard setback: Fifty feet.

(e) Open Space. A minimum of 25% of the site, exclusive of existing or planned public road right-of-way, must be maintained as landscaped open space. Courtyards larger than 2,400 square feet may be counted as required open space. Recreation facilities, active and/or passive, including paved walkways and covered sitting areas shall be provided in a manner that meets the needs of the resident population.

(f) Building Facade and Length. Assisted senior living buildings must present a residential architectural image in terms of building facades, the composition and use of exterior wall surface materials, and building length. Any building façade longer than 100 feet must provide for variations in the outside wall and roof line.

(Ord. 10-2020. Passed 11-24-20.)

#### **1251.03 AUTOMOBILE CAR WASH ESTABLISHMENT.**

(a) Pedestrian Access. The use must be located so as not to interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty (30) feet in width at the property line.

(c) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.04 AUTOMOBILE REPAIR.**

(a) Pedestrian Access. The use must be located so as not to interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty feet in width at the property line.

(c) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(d) Screening. All inoperable vehicles shall be enclosed by a sight-obscuring fence or wall of a minimum height of eight feet

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.05 AUTOMOBILE SERVICE STATION.**

(a) Pedestrian Access. The use must be located to not interfere with the pedestrian interchange between the parking lot and the storefront.

(b) Driveway Approaches. No more than two driveway approaches are permitted directly from any thoroughfare and the driveway must not exceed thirty feet in width at the property line.

(c) Pump Islands. Gasoline pumps and pump islands may be located in any required yard setback space but must be located at least twenty feet from any lot line.

(d) Circulation. Vehicular approaches to the property must be designed to allow sufficient off-street parking or waiting area without creating an interference with traffic on the street.

(e) Indoor Activity Only. All activities, except those required to be performed at fuel pumps, must be carried on inside a building. If work is performed on a vehicle, such vehicle must be entirely within a building.

(f) Outdoor Facilities and Merchandise. The location of outdoor facilities (e.g., vacuums, air machines, etc.) and outdoor merchandise (e.g., coolers, propane tanks, etc.) must be shown on the site plan and must not interfere with vehicular and pedestrian circulation.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.06 AUTOMOBILE OR VEHICLE DEALERSHIP.**

(a) Minimum Lot Size and Lot Width. Automobile or vehicle dealerships shall be located on a parcel of land containing no less than one-half acre and having a width of at least 100 feet at the front lot line.

(b) Outdoor Storage. Outdoor storage of disabled, damaged or unlicensed vehicles is prohibited, unless properly screened.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.07 BANQUET AND MEETING HALL.**

Only permitted in T-5 if on second floor or above.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.08 BED AND BREAKFAST.**

(a) Parking. Bed and breakfast establishments are permitted only when off-street parking is provided upon the lot or on adjoining property, which space is adequate to accommodate one car for each room available to tourists.

(b) Accessory Structures. No accessory buildings shall be used for bed and breakfast sleeping rooms unless they were originally constructed to accommodate residential use. No garage shall be used for bed and breakfast sleeping rooms.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.09 CAMPGROUND.**

- (a) Minimum Lot Size. Minimum campground size shall be five acres.
- (b) Access. The campground shall provide vehicular access to a public street or road.
- (c) Public Stations. Public stations, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities, shall be provided, uniformly throughout the campground at a ratio of not less than one such station for each twenty sites.
- (d) Commercial Enterprises. No commercial enterprises shall be permitted to operate in the campground, except that convenience goods shopping may be provided.
- (e) Campsite Setback. Campsites shall be located a minimum distance of fifty feet from property lines, and fifteen feet between all campsites.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.10 CEMETERY.**

- (a) Minimum Lot Size. Twenty acres.
- (b) Setbacks. No building or structure may be closer than fifty feet from any property line.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.11 COMMUNITY GARDEN.**

- (a) Applicability. Community gardens are subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the community garden is located.
- (b) Minimum Lot Size and Lot Width. Community gardens are a permitted use of vacant property that contains a minimum of 7,500 square feet and minimum width of sixty-six feet.
- (c) General Requirements. The following provisions apply to community gardens:
  - (1) Plant beds shall be setback three feet from the property lines and the public right-of-way.
  - (2) Accessory buildings including greenhouses, storage sheds, and shade pavilions shall be permitted in the side or rear yard, subject to Section 1260.01, but shall not exceed 10% of the total lot area.
  - (3) Hoop houses are permitted as an accessory building but are not counted toward the allowable accessory building size limitation. The coverings must be maintained and remain intact, and removed when no longer in use for a period of six-months or longer.
  - (4) Compost piles must be located at least five feet from all adjoining property lines and a minimum of twenty feet from the nearest residential structure. Each compost bin/area shall be less than sixteen square feet in size.
  - (5) Rain catchment systems must be located at least five feet from all adjoining property lines.
  - (6) Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. Except for sales of plants produced within the community garden and sold at the farm stand, there shall be no retail sales on the site.
  - (7) The use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.
  - (8) Lighting, if provided, shall be a minimal amount and shielded so that all directly emitted light falls within the property.
  - (9) Fencing shall comply with Section 1260.02.
  - (10) Vehicle access to the site shall only be by way of a driveway constructed to city standards to avoid vehicle damage to the curb, sidewalk and any lawn area in the right-of-way.
  - (11) There are no minimum parking requirements, however any parking lot proposed and designed for four or more vehicles must be constructed in accordance with Section 1261.01 only after a site plan has been reviewed and approved in accordance with Section 1281.04.
  - (12) One freestanding sign consisting of no more than twelve square feet shall be allowed. Such sign shall otherwise comply with the applicable regulations of the zoning district in which it is located.
  - (13) Trash containers may be provided on site.
  - (14) Gardening activities shall be conducted in a manner which is consistent with the activities and noise levels of the neighborhood in which they are located.
- (d) Maintenance.
  - (1) Community gardens shall be maintained in an orderly and neat condition, free of noxious weeds or debris. Dead

garden plants shall be removed regularly and, in any instance, no later than November 30 of each calendar year.

(2) Plants or ground cover other than grass shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.

(3) No plants except grass may be grown in the public right-of-way or within one foot of the public sidewalk. Grass must be maintained a height that does not exceed nine inches in height.

(4) No plant material may grow to a height that interferes with a clear vision line of sight at street intersections or when entering or exiting driveways.

(5) Oats, wheat, and rye may be used as a winter cover crop, but not grown to full maturity in any season.

(6) Trash receptacles shall be located to the rear of the property.

(7) Walkways shall be unpaved and covered with mulch, gravel or other aggregate that is treated to control dust.

(8) Garden waste or other refuse that is not allowed as compost may not be stored or allowed to accumulate on the site.

(9) Compost piles are only for waste created on the property and they must be maintained. Compost shall not include meat, grease, fat, oil, bones, manure, or milk products.

(10) These uses shall not be detrimental to the physical environment or to the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, odors, chemical, or biological pollutants. Nothing associated with a community garden or commercial urban farm, including allowable fertilizers, pesticides, insecticides, herbicides, compost materials, and water collection receptacles shall emit odors that can be detected beyond the confines of the property containing the garden or be an inordinate attraction for mice, rats or other rodents.

(11) Tools, supplies, and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off the ground in an enclosed, locked structure when the site is unattended.

(12) The property shall be maintained so as to prevent the flow of stormwater, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.

(13) At such time garden activity ceases completely and the site will no longer be used for a garden, any raised planting beds, accessory buildings, and other above ground remains of the garden shall be promptly removed and the ground leveled and restored so it can be utilized for uses permitted in that zoning district

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.12 CONVALESCENT HOME, NURSING HOME, OR HOME FOR THE AGED.**

Such businesses may establish adult foster care centers within their own facilities as a permitted accessory use. Convalescent homes, nursing homes, and homes for the elderly shall be licensed by the State of Michigan. Such businesses, however, may establish adult foster care centers within their own facilities as a permitted accessory use, if such use is permitted within the district.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.13 DRIVE-THRU RESTAURANT.**

(a) Drive-Thru Window. A restaurant with a drive-thru window shall provide a separate customer ordering station.

(b) Minimum Width. The traffic lane serving the drive-thru window shall be at least ten feet wide.

(c) By-Pass Lane. A by-pass lane or other suitable means of access to a public street shall be provided for vehicles that do not use the drive-thru window.

(d) Parking Spaces. Parking spaces located beyond drive-thru windows shall be designated for use of drive-thru window patrons.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.14 FARMER'S MARKET.**

If the farmer's market is seasonal, the use will require special land use approval.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.15 GOVERNMENT/PUBLIC USES.**

Public or semipublic service buildings, where permitted, may be erected to a height not exceeding sixty feet.

(Ord. 10-2020.Passed 11-24-20.)

## **1251.16 GENERAL AND SPECIALIZED FARMS, INCLUDING CROPS AND THE RAISING AND KEEPING OF LIVESTOCK.**

(a) Customary agricultural operations, including general farming, field crops, gardening, fruit orchards, nurseries, greenhouses and usual farm buildings, providing any farm building shall not be closer than fifty feet from any property line.

(b) General and specialized farms, including the raising and keeping for profit of cattle, hogs, horses, ponies, sheep and similar livestock on a lot having an area of not less than ten acres;

(c) Customary farm animals including horses, ponies, poultry, rabbits, goats, and similar small animals and similar livestock, may be kept on a noncommercial basis, for the enjoyment, use, and/or consumption by the occupants of the premises, when adequately housed and fenced on a parcel of land not less than 43,560 square feet in area, subject to the following conditions:

(1) No storage of manure or odor or dust producing materials or uses shall be permitted within 100 feet of any adjoining property line.

(2) A private stable for animals owned by the occupant may be kept, provided that the minimum area upon which one horse may be kept is one acre, and that one additional horse may be kept for each additional 20,000 square feet over one acre.

(3) Private stables or buildings housing farm animals shall not be closer than 100 feet from any adjoining property line.

(Ord. 10-2020.Passed 11-24-20.)

## **1251.17 HOME OCCUPATIONS.**

(a) Purpose. The purpose of this chapter is to provide for the regulation of certain business activities to be carried on or within residential districts when accessory and subordinate to the residential use, and which by their nature will not detract from the quality of residential neighborhoods.

(b) Home Occupation Defined. A home occupation is an activity carried out for consideration by a resident and conducted as an accessory use in the resident's dwelling unit. Consideration shall be defined as some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

(c) Regulations; Requirements. Home occupations engaged in within a Residential District by the resident of a dwelling unit shall comply with all of the following:

(1) Such occupation shall be carried on by one occupant within the principal building, excluding all outdoor activities, with no employees. Examples of such home occupations include, but are not limited to, hairdressing, millinery, dressmaking, bookkeeping and accounting services, real estate and insurance sales and catalog sales.

(2) A babysitting service or family childcare home when not more than six minor children are received for care and supervision for periods of less than eighteen hours a day, when unattended by a parent or legal guardian, is permitted. A special use permit shall be required to conduct a babysitting or group child care home that receives more than six minor children for care and supervision.

(3) Home occupations shall be conducted by a person living within the dwelling and by no others, either as a principal or an employee. However, home occupations involving subordinate assistants who do not reside within the dwelling may be allowed by the Zoning Board of Appeals, where, in the Board's discretion, the same would not materially impair the residential character of the neighborhood.

(4) Home occupations shall be operated in their entirety within the dwelling and not within any garage or accessory building located upon the premises, except for incidental storage which may be allowed within a residential type garage upon the premises.

(5) No external evidence of such home occupation shall be allowed indicating from the exterior that it is being used for anything but a dwelling. This includes the parking of commercial vehicles and temporary storage of any materials associated with a home occupation.

(6) The parking or storage of commercial vehicles at a residence is prohibited and in violation of this chapter. For purposes of this section, a commercial vehicle is any vehicle used to conduct a business or trade including but not limited to step vans, cargo vans, box trucks, stake beds, buses, tractor trailers, dump trucks, wreckers, trailers, earth moving equipment, cement mixers and other similar construction equipment that has two or more of the following characteristics:

- A. Exceeds a GVWR of 10,000 lbs.
- B. Exceeds seven feet in height.
- C. Exceeds twenty feet in length.
- D. Has more than two axles.
- E. Has more than four tires in contact with the ground.

F. Can carry more than eight passengers.

G. Is designed to sell food or merchandise directly from the vehicle.

(7) Home occupations may not be used as a meeting place, or rendezvous point for business activities or service operations before, during, or after shifts.

(8) No home occupation shall be conducted within a dwelling unless the same is clearly incidental and subordinate to the principal use of the premises for residential purposes.

(9) No home occupation shall involve the sale of goods from the premises.

(10) No service shall be sold or conducted upon or from the premises which would constitute a nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbances or lighting shall not be discernible beyond the boundaries of the property from which the home occupation is conducted.

(11) No home occupation requiring warehousing of retail or wholesale merchandise, or delivery of the same by large semitrailer-type trucks, shall be allowed.

(12) Paving of any yard area other than normal driveway areas to accommodate parking for home occupations is prohibited.

(13) No home occupation shall be allowed which utilizes more than twenty percent of the interior gross floor area of the inhabitable area of the dwelling and not, in any event, more than 300 square feet.

(14) In no instance shall the repair or sale of motor vehicles be permitted to be a home occupation.

(15) The permission for home occupations as provided herein is intended to secure flexibility in the application of this Zoning Code, but such permission is not intended to allow the essential residential character of a Residential District, in terms of use, traffic and appearance, to be changed in the slightest degree by the occurrence of nonresidential activities. Furthermore, no structural provisions shall be inherent in the design of the structure and no structural alterations shall be made for the accommodation of any home occupation. All activities, unless otherwise stated, shall be carried on indoors only, within the principal building.

(d) Other Requirements. The regulation of home occupations in this chapter shall not waive additional provisions that may be necessary to meet other local, state or federal requirements, including, but not limited to, the following:

(1) State, local or federal taxation or business licensing laws;

(2) All applicable State of Michigan regulations for the preparation and distribution of food and food products;

(3) Cosmetologists, land surveyors and other occupations requiring licensing by the Michigan Department of Licensing and Regulatory Affairs;

(4) Section 28.1814(1)(e) of the Uniform Traffic Code of the State of Michigan, which prohibits the parking of a motor vehicle on a public street for more than forty-eight continuous hours;

(5) The Child Care Organizations Act, Public Act 116 of 1973, as amended, being MCL 722.111 et seq. which provides for the licensing of child care facilities by the Michigan Department of Social Services. The Act defines family child care homes as private homes in which at least one but fewer than seven minor children are received for care and supervision for compensation for periods of less than twenty-four hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption.

(6) The Uniform Fire Code as it pertains to the storage of flammable materials, the use of mechanical or electrical equipment and the need to provide sufficient ingress and egress; and

(7) Private covenants or deed restrictions.

#### **1251.18 HOSPITAL GREATER THAN TWENTY THOUSAND SQUARE FEET.**

(a) Minimum Lot Size. All such hospitals shall be developed on sites consisting of at least five acres in area. Provided that there is a minimum of 1,500 square feet of lot area per bed.

(b) Minimum Setbacks. All structures and activity areas must be located at least 100 feet from all property lines.

(c) Screening. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence not less than six feet in height.

(d) Maximum Height. Public, semipublic or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.19 HOTEL.**



(a) Minimum Lot Area and Lot Width. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.

(b) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.20 INDEPENDENT SENIOR LIVING WITH SERVICES.**

(a) Minimum Site Area. The minimum site area shall contain 5,500 square feet per independent living unit.

(b) Required Minimum Usable Floor Area in Square Feet Per Dwelling Unit

(1) Independent Living Units: Efficiency/studio and one-bedroom dwelling units: 650 square feet; Two-bedroom dwelling units: 850 square feet.

(2) No living unit within a senior housing development may contain more than two bedrooms.

(c) Maximum Building Height. The maximum building height in a senior housing development shall not exceed forty feet.

(d) Setbacks. The minimum setbacks for senior housing shall be:

(1) Front yard setback: Fifty feet.

(2) Side yard setback: Fifty feet.

(3) Rear yard setback: Fifty feet.

(e) Open Space. A minimum of 25% of the site, exclusive of existing or planned public road right-of-way, must be maintained as landscaped open space. Courtyards larger than 2,400 square feet may be counted as required open space. Recreation facilities, active and/or passive, including paved walkways and covered sitting areas shall be provided in a manner that meets the needs of the resident population.

(f) Building Facade and Length. Senior housing buildings must present a residential architectural image in terms of building facades, the composition and use of exterior wall surface materials, and building length. Any building façade longer than 100 feet must provide for variations in the outside wall and roof line.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.21 JUNK OR SALVAGE YARD.**

(a) Screening. Where a junk yard is adjacent to residential or commercial zoned properties or has frontage on a road or highway, a solid masonry wall or solid obscuring fence of eight feet in height or one foot above the height of the piles, whichever is greater, shall be constructed in the side and rear yards. The fence shall be placed on or inside the required side yard, or rear yard setback.

(b) Enclosed. There shall be no burning of tires, vehicle bodies, wiring, oil or waste products on the site, and all industrial processes, including the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.

(c) Truck Routes. Truck routes must be established for movement in and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.22 KENNELS/VETERINARIAN.**

(a) Screening. All outdoor runs or breeding areas shall be enclosed on all sides by an obscuring wall or fence not less than four feet in height.

(b) Setback. All outdoor runs and breeding areas shall be located at least fifty feet from any lot line and shall not be located in the front yard.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.23 MARIHUANA: MARIHUANA BUSINESS REGULATIONS.**

Refer to Chapter 835, Adult Use Marihuana Establishments, and/or Chapter 833 Medical Marihuana Facilities of the City of Battle Creek Codified Ordinances for business licensing requirements.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.24 MARIHUANA: ADULT USE MARIHUANA RETAILER ESTABLISHMENT.**

Must be located at least 1,000 feet from K-12 schools and libraries open to the public, and, except for in the I-1 and I-2

Districts, must be located at least 1,000 feet away from a property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center. The setback measurements are between nearest property lines, regardless of ownership of property or licensee. In the I-1 and I-2 Districts, state licensed adult use marihuana retailers are permitted only when collocated with an adult use marihuana grower and/or processor.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

#### **1251.25 MARIHUANA: ADULT USE MARIHUANA MICROBUSINESS.**

##### **(a) Locational Specifications.**

(1) The property at which the microbusiness will be located shall be at least 1,000 feet away from any property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

(2) The property at which the microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

(3) The property at which the microbusiness will be located shall not abut a Residential ("R") zoning district or a property with a residential use.

(Ord. 10-2020. Passed 11-24-20.)

#### **1251.26 MARIHUANA FACILITIES AND ESTABLISHMENTS.**

(a) Purpose. The purpose of this chapter is to implement the provisions of the Michigan Medical Marihuana Act (MMA), Initiated Law 1 of 2008, as amended being MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, as amended, being MCL 333.2701 et seq., and the Michigan Regulation and Taxation of Marihuana Act (MRTMA), Initiated Law 1 of 2018, as amended, being MCL 333.27951 et seq. for establishing local zoning authority for the permitting of adult use marihuana establishments and medical marihuana facilities. Further, the purpose of this chapter also provides:

(1) A process for the city to legally facilitate the development of adult use marihuana establishments and medical marihuana facilities which are otherwise illegal under federal law.

(2) A procedure for growing, processing, testing, transporting, and selling medical marihuana for qualified persons and selling adult use marihuana as permitted under the MRTMA.

(3) Zoning authority for the protection and preservation of public safety, welfare, and property value; and ensuring consistency with the future land use map of the Master Plan.

(4) A licensing and taxing authority to the city to defray costs to additional public safety, administrative, and enforcement with the result of facilitating development of adult use marihuana establishments and medical marihuana facilities.

(5) Additional economic industry and benefit to the community.

(b) Authority. With the adoption of the MMA of 2008, the MMFLA of 2016, and the MRTMA of 2018, the City of Battle Creek has legislative authority to establish zoning regulations, application processes and associated fees, and enforcement abilities for marihuana development without penalty consistent with the state laws.

##### **(c) License and Permit Required; Application; Fee.**

(1) Licenses required. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following licenses:

A. An approved operating license from the State;

B. An approved permit from the City pursuant to Chapter 833 and/or Chapter 835; and

(2) Permit type. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following permits where required:

A. Approved building permit and occupancy permit. All marihuana establishments and facilities shall require an approved building permit showing compliance with applicable zoning and building codes. A certificate of occupancy shall be issued once all applicable inspections are shown satisfactory compliance with all zoning and building codes.

B. Approved site plan application. Certain medical marihuana facilities and adult use marihuana establishments shall require gaining an approved site plan application pursuant to Section 1281.04 Site Plan Review.

C. Approved special use permit, if required. Certain medical marihuana facilities and adult use marihuana establishments shall require an approved special use permit pursuant to Section 1281.05 Special Land Uses.

##### **(d) Non-Conforming Uses.**

(1) Medical marihuana dispensaries and growing operations which may have been established under the auspices of the 2008 MMA but have not gained approved permits from the City shall not be considered legally non-conforming. Owners



of such dispensaries or growing operations shall cease operation, or if applicable, obtain required permit pursuant to Section 1251.23.

(2) Medical marijuana dispensaries and growing operations which may have been established under the auspices of the 2008 MMA and have approved permits from the City are considered legally non-conforming and may continue operating pursuant to Chapter 1270 Nonconforming Uses and Structures.

(e) Locational Standards. Pursuant to the 2016 MMFLA, 2018 MRTMA, and Section 1251.23, all types of state licensed marijuana establishments and facilities are allowed in zoning districts established by this chapter and within specific zoning districts provided in this Zoning Code.

(1) The official updated 'Marijuana Maps' of the City of Battle Creek will be maintained by the City's Planning Division.

(2) Co-location of licenses. Where State Licensed Marijuana Growers, Processors, Adult Use Retailers, and Provisioning Centers are co-located on a single property, the usable floor area of the Provisioning Center and Adult Use Retailer shall not exceed 10% of the gross square footage of the overall combine areas of the growing and provisioning areas.

(3) Only one state licensed provisioning center, microbusiness or retailer shall be allowed on a property within the area defined by property lines, except for colocations at same locations by the same licensee holder.

(f) Development, Operational Standards. The following regulations are applicable to all state licensed marijuana establishments and facilities.

(1) Marijuana location. Except when being transported by state licensed security transporter, all marijuana shall be located entirely inside a building having permanent foundation, walls, and roof.

A. Notwithstanding subsection (1), a roof on grow establishments or facilities may consist of a sturdy transparent material, such as glass, to allow sunlight into the growing areas of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting from escaping through the roof.

B. Walls enclosing marijuana growing establishments or facilities shall be constructed of a structurally-supportive load bearing brick, wood, or masonry construction from grade to eight feet in height.

(2) Signage. Notwithstanding Chapter 1263 Signs, only two signs per street frontage shall be permitted for any state licensed marijuana establishment or facility. Neon lighted signs are prohibited.

(3) Fence. Use of barb wire outside of the Industrial Districts is prohibited.

(4) Window glass on ground floor levels must be transparent and free from film or other materials that block visibility. Interior shades, curtains, etc. are permitted.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

#### **1251.27 MARIJUANA: MEDICAL AND ADULT USE MARIJUANA GROW OPERATION.**

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Private or public schools;
- (c) Public parks;
- (d) Libraries open to the public;
- (e) Any Residential ("R") zoned property.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

#### **1251.28 MARIJUANA: MEDICAL AND ADULT USE MARIJUANA PROCESSING FACILITY.**

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Private or public schools;
- (c) Public parks;
- (d) Libraries open to the public;
- (e) Any Residential ('R') zoned property.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### **1251.29 MARIHUANA: MEDICAL MARIHUANA PROVISIONING CENTER.**

Must be located at least at least 1,000 feet away from K-12 schools and libraries open to the public, and, except for in the I-1 and I-2 Districts, must be located 1,000 feet away from a property containing an adult use marihuana retailer, an adult use marihuana microbusiness, and a medical marihuana provisioning center. These setback measurements are between nearest property lines, regardless of ownership of property or licensee. In the I-1 and I-2 Districts, state licensed medical marihuana provisioning centers are permitted only when collocated with a medical marihuana grower and/or processor.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.30 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA SAFETY COMPLIANCE FACILITY.**

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Private or public schools;
- (c) Public parks;
- (d) Libraries open to the public;
- (e) Any Residential ("R") zoned property.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### **1251.31 MARIHUANA: MEDICAL AND ADULT USE MARIHUANA SECURE TRANSPORTER.**

Must be located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- (a) Religious assembly uses;
- (b) Private or public schools;
- (c) Public parks;
- (d) Libraries open to the public;
- (e) Any Residential ("R") zoned property.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### **1251.32 MULTI-FAMILY DWELLING UNITS.**

(a) Minimum Lot Area. No dwelling shall be established having an area or width less than that specified in the R-1R District. However, for multiple family housing, the average lot area per family or dwelling unit shall be not less than 2,170 square feet allowing up to twenty units per acre.

(b) Location. Multiple family dwelling units shall be located only the second floor or above on Michigan Ave in the T4 and T5 zoning districts. Multiple family dwelling units are permitted on the ground floor everywhere else.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### **1251.33 MOTEL.**

(a) Minimum Lot Area. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.

(b) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.34 MICROBREWERY.**

(a) Distribution. Wholesale distribution shall be prohibited.

(b) Setback. Microbreweries must be setback a minimum of 300 feet from any residence.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.35 OUTDOOR RECREATION.**

Outdoor theaters according to the following:

(a) Compliance. The proposed internal design shall receive approval from the Building Inspector, Zoning Administrator, and the City Engineer as to adequacy of drainage, lighting, screening and other technical aspects.

(b) Direct Access. Outdoor recreation establishments shall abut directly upon a major thoroughfare of not less than 120 feet of right-of-way width.

(c) Ingress and Egress. Points of ingress and egress shall be available from abutting major thoroughfares of not less than 120 feet of right-of-way width and shall not be available from any residential street.

(d) Off-Street Waiting Space. Off-street waiting space shall be provided for all vehicles waiting or standing to enter the facility. No vehicle shall be permitted to wait or stand within a dedicated right of way.

(e) Screening. All lighting used to illuminate the area shall be so installed as to be confined within and directed onto the premises on which the outdoor recreation establishment is located.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.36 PERSONAL-SCALE SOLAR ENERGY FACILITY.**

Roof-mounted and wall-mounted solar energy systems for on-site use are permitted as personal-scale solar energy facilities, subject to the following regulations:

(a) Height. Roof-mounted systems must not extend more than three feet above the roofline nor will they extend above the maximum permitted height of the building to which it is attached.

(b) Location.

(1) Roof-mounted solar energy systems may be located anywhere on a roof of a principal or accessory structure. However, roof-mounted solar energy systems shall not protrude beyond the edge of the roof. A solar panel may function as a roof element, such as an awning.

(2) Wall-mounted solar energy systems may be located anywhere on the wall of a principal or accessory structure. Wall-mounted systems shall not extend above the edge of the roof.

(c) Performance Guarantee. All applications for a solar energy system must be accompanied by a performance guarantee sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04 (f) and Section 1281.046.

(d) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.37 PERSONAL-SCALE WIND ENERGY FACILITY.**

Personal-scale wind energy facilities designed to generate power for the property at which it is located are permitted, subject to the following regulations:

(a) Location. Personal-scale wind energy facilities may not fall within the front yard and must meet all of the applicable requirements of this Code.

(b) Maximum Wind Turbine Height. Ten feet above the highest point of the roof or ten feet above the maximum height of the zoning district, whichever is lower.

(c) Noise. A wind energy system must comply with the noise standards set forth in the City's ordinances.

(d) Shadow Flicker. The application for a wind energy system must include a shadow flicker analysis demonstrating impact on adjacent and nearby residential properties. Wind energy systems must be constructed in locations that minimize the impacts of shadow flicker on residences.

(e) Lighting. No wind energy system will be artificially lighted unless required by the Federal Aviation Administration (FAA).

(f) Appearance, Color, and Finish. The wind energy system must be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems will be a single non-reflective, non-obtrusive, matte finished color (e.g. white or gray).

(g) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires, must be located underground.

(h) Compliance with Electrical Code. Building permit applications for wind energy systems must be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(i) Construction Codes, Towers, and Interconnection Standards. Wind energy systems, including towers, must comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems

including towers, must comply with the FAA requirements, and other applicable local and state regulations. A wind energy system connected to the public utility electrical grid must comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(j) System Access. Wind energy systems must be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(k) Safety. A wind energy system must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers must have lightning protection. If a tower is supported by guy wires, the wires must be clearly visible to a height of at least six feet above the guy wire anchors.

(l) Minimum Ground Clearance. The lowest extension of any blade or other exposed moving component of a tower mounted wind energy system must be at least twenty feet above the surrounding grade at its highest point within twenty feet of the base of the tower and at least twenty feet above any outdoor surface intended for human use, such as balconies or roof gardens, that are located below the wind energy system.

(m) Roof-Mounted Wind Energy Systems. Roof-mounted wind energy systems must be limited to roof mounting and must not be mounted on any other building wall or surface.

(n) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned wind energy generator and that such connection has been approved. Off-grid systems are exempt from this requirement.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.38 PERSONAL SERVICE ESTABLISHMENT**

Personal service establishments requiring a state license must be licensed by the State of Michigan. Personal services establishments without required state licenses, if any, are not permitted in the City of Battle Creek.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.39 PRIVATE GARDEN.**

(a) Private gardens are allowed on any property when accessory to a permitted principal use and subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the private garden is located.

(b) Private gardens are permitted on any vacant property less than one acre in size with the following limitations:

(1) Plant beds shall be set back three feet from property lines and the public right-of-way.

(2) Accessory buildings not to exceed 200 square feet are permitted in the side and rear yard of the lot no closer than three feet from the side and rear property lines, including the roof overhang, and no closer than ten feet to a principal structure located on or adjacent to the property.

(3) Compost piles must be located at least five feet from all adjoining property lines and a minimum of 20 feet from the nearest residential structure. Each compost bin/area shall be less than 16 square feet in size.

(4) Rain catchment systems must be located at least five feet from all adjoining property lines.

(5) Farm stands selling plants grown at the property are permitted between 8:00 a.m. and 8:00 p.m. and shall be setback three feet from the property line and the public right-of-way. Except for sales of plants produced within the private garden, there shall be no retail sales on the site.

(6) Use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.

(7) Decorative landscape lighting is permitted.

(8) Fencing shall comply with Section 1260.02.

(Ord. 10-2020.Passed 11-24-20.)

### **1251.40 RELIGIOUS INSTITUTIONS.**

(a) Noise. If music, bells, carolers, chimes or similar audio presentation are to be used, the expected use, times, durations and volumes shall be disclosed on the site plan.

(b) Site Plan. All uses of the structure, facility and land shall be completely described in a full use statement on the site plan, such uses as outdoor recreation areas, pavilions, memorial gardens, memorials, gathering areas and similar uses or activities shall be identified on the site plan.

(c) Maximum Height. Churches and temples may be erected to a height not exceeding seventy-five feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

(d) Minimum Size and Access. In residential districts religious institutions must be located on a parcel having at least one acre of land, and must be located on a major street as show on the major street plan.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.41 ROOMING AND BOARDING HOUSES.**

Not more than four boarders are permitted in the R2 District and not more than ten boarders are permitted in the R3 District. In all cases the owner of the house must be the occupant and is responsible with maintenance and upkeep of the structure and property. Boarding and rooming homes must register with the City of Battle Creek and remain in compliance with Chapter 1462.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.42 SELF-STORAGE / MINI-STORAGE FACILITIES.**

Such use shall be screened from exterior view by a solid, well maintained fence which is eight feet in height, and vehicles shall not be stored in a manner exceeding the height of the fence.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.43 STATE LICENSED CHILD CARE FAMILY HOME, ONE TO SIX CHILDREN.**

(a) Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

(b) Limit on the Number of Children. The limit on the number of children at a child care family home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than four weeks in a calendar year.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.44 STATE LICENSED CHILD CARE GROUP HOME, SEVEN TO TWELVE CHILDREN.**

(a) Licensee as Permanent Resident. The licensee must permanently reside as a member of the household.

(b) Limit on the Number of Children. The limit on the number of children at a child care family home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than four weeks in a calendar year.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.45 STATE LICENSED RESIDENTIAL FACILITY, ADULT FOSTER CARE FAMILY HOME, ONE THROUGH SIX PERSONS.**

A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence. Such facility may not be located closer than 1,500 feet from any other state licensed residential facility.

(Ord. 10-2020.Passed 11-24-20.)

#### **1251.46 STATE LICENSED RESIDENTIAL FACILITY, ADULT FOSTER CARE GROUP HOME FOR MORE THAN SIX RESIDENTS; COMMUNITY RESIDENTIAL FACILITY AND GROUP HOMES.**

(a) For State Licensed Residential Facilities. The licensee must permanently reside as a member of the household.

(b) Minimum Lot Size. Is located on a lot that is not less than one-half acre and has not less than 500 square feet of lot area per person, including patients, employees and other residents;

(c) Front Yard Setback. Provides a front yard of not less than fifty feet;

(d) Side Yard Setback. Provides side yards of an aggregate of fifty feet and in no instance less than fifteen feet;

(e) Buffer. Is located outside of a 1,500-foot radius from the property lines of any other state licensed residential care facility.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

#### **1251.47 TRANSITIONAL AND SUPPORTIVE RESIDENTIAL HOUSING UP TO SIX PERSONS.**

(a) Register. Transitional and supportive residential homes must register with the City of Battle Creek and remain in compliance with Chapter 1462 and Chapter 818.

(1) Supportive services. Prior to approval, applicant shall provide documentation describing the onsite (and any offsite)

supportive services that will be provided to the residents. Documentation shall also indicate the name of the entity(ies) that will provide the supportive services.

(2) Residents. All residents within the house shall share a bond among themselves which together seek the same transitional or support service purpose.

(b) Parking. Off-street parking shall be provided on the basis of at least one space per three residents, plus an additional space for each employee (if applicable).

(c) Structure Exterior. The structure shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood, including applicable development standards and design guidelines.

(d) Signage. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify it as a transitional or supportive home.

(e) Occupancy. Must comply with Property Maintenance Code Section 404 Occupancy Limitations and shall not exceed more than two persons per habitable bedroom.

(Ord. 04-2021. Passed 4-13-21.)

#### **1251.48 TRANSITIONAL AND SUPPORTIVE RESIDENTIAL HOUSING FOR MORE THAN SIX PERSONS.**

(a) Register. Transitional and supportive residential homes must register with the City of Battle Creek and remain in compliance with Chapter 1462 and Chapter 818.

(1) Supportive services. Prior to approval, applicant shall provide documentation describing the onsite (and any offsite) supportive services that will be provided to the residents. Documentation shall also indicate the name of the entity(ies) that will provide the supportive services.

(2) Residents. All residents within the house shall share a bond among themselves which together seek the same transitional or support service purpose.

(b) Buffer. Is located outside of a 1,500-foot radius from the property lines of any other Transitional and Supportive Residential Home or State Licensed Residential Care Facility.

(c) Parking. Off-street parking shall be provided on the basis of at least one space per three residents, plus an additional space for each employee (if applicable).

(d) Structure exterior. The structure shall not be established or modified in a manner that would make it inconsistent with the scale and architectural character of the neighborhood, including applicable development standards and design guidelines.

(e) Signage. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify it as a transitional or supportive home.

(f) Occupancy. Must comply with Property Maintenance Code Section 404 Occupancy Limitations and shall not exceed more than two persons per habitable bedroom.

(Ord. 04-2021. Passed 4-13-21.)

#### **1251.49 TELECOMMUNICATION TOWERS.**

(a) New Facilities. New wireless telecommunications facilities, as defined in the Michigan Zoning Enabling Act, shall be permitted by special use approval in all zoning districts, regardless of whether a new support structure (tower) will be constructed or not, subject to the following standards:

(1) Before constructing a new facility, the applicant must demonstrate that they cannot achieve the needed service improvement by co-locating at an existing facility.

A. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the City, to demonstrate the needed service improvement and why co-location is not possible.

B. If an owner or operator of an existing tower refuses to allow a co-location, written evidence of the denial of the co-location request must be submitted to the City, and must include the reason for the denial.

(2) To the extent practical, all ground equipment associated with the facility must be enclosed within a locked building.

(3) Information must be submitted showing that the facility is in compliance with all applicable FCC regulations regarding radio frequency emissions.

(4) Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.

(5) Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence.



(6) If a new tower is to be constructed for the facility, it shall meet the following standards:

- A. The tower must be set back from all property lines by a distance equal to 1.5 times its height.
- B. Lighting on the tower shall be prohibited unless required by the Federal Aviation Administration.
- C. The tower must be a monopole design. Guyed and lattice towers are prohibited.
- D. No signage shall be placed upon the tower structure.

E. The tower must be the shortest possible height required to provide the service desired by the applicant. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the City, to demonstrate the needed service improvement and why the requested height is necessary. The City may request further information, including propagation maps, demonstrating the service at lower heights, in order to determine for itself whether the requested height is necessary.

F. The base of the tower and all associated equipment must be surrounded by a locked, opaque screening fence meeting the standards of the zoning district that the tower is located within.

G. The applicant must demonstrate the number of colocation sites that will be available on the tower.

H. A structural analysis, signed and sealed by a licensed engineer, must be submitted demonstrating that the proposed tower will be able to support all proposed antennae, including co-locations.

I. The applicant must submit renderings or photo-sims of the proposed tower as viewed from the following locations:

- 1. The nearest public roadway.
- 2. The nearest residential use.
- 3. Any other location requested by the City from which the tower may potentially be visible.

J. The applicant must pay all required fees, as designated by the City Commission.

(b) Co-Locations and Modifications to Existing Facilities

(1) Co-locations and modifications to existing facilities shall not require special use or site plan approval, except as described in Subsection (2), below. The Zoning Administrator shall have the authority to approve all co-locations and modifications that meet the standards of this Section, and shall be able to request the input and recommendation of the Planner and Engineer at their discretion.

(2) Under the following circumstances, co-locations and modifications shall require special use approval, regardless of the zoning district they are located in:

A. The applicant proposes to increase the height of an existing tower by more than twenty feet, or 10% of its original height, whichever is greater.

B. The applicant proposes to increase the width of the tower by more than the minimum necessary for structural stability given existing and proposed antennae.

C. The applicant proposes to increase the ground-level compound to more than 2,500 square feet in area.

(3) Co-locations and modifications must meet the following standards in order to be approved, either administratively or by special use.

A. The applicant must submit a structural analysis, signed and sealed by a licensed engineer, demonstrating that the tower, in its present condition, has the structural capacity to support any proposed new antennae or other tower-mounted equipment.

B. The applicant must submit the results of an inspection of the condition of the tower and equipment compound, noting any potential problems with the facility that could impact the health, safety, and welfare of the surrounding area, or the effective provision of service from the facility. Any concerns raised by the inspection must be corrected during construction of the modification of the co-location.

C. Information must be submitted showing that the facility is in compliance with all applicable Federal Communications Commission regulations regarding radio frequency emissions.

D. Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.

E. No lighting may be added to the tower unless required by the Federal Aviation Administration.

F. Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior fence. No signage shall be placed upon the tower structure.

G. The applicant must pay all required fees, as designated by the City Commission.

(c) Timeline for Approval. The City will comply with all state and federal requirements for approval timelines. In the event

of changes to federal or state law, this section shall be void and the laws in place at the time of application shall be followed.

(1) For new facilities, the City shall request all required information within fourteen business days of the application being filed with the Inspection Division. The City shall issue a decision on the special use within ninety days of the application being deemed complete by the City.

(2) For modifications and co-locations, the City shall request all required information within fourteen business days of the application being filed with the Inspection Division. The Building Official shall issue an administrative approval within sixty days of the application being deemed complete by the City.

(3) Once the City has notified an applicant that an application is incomplete, if the applicant does not provide any new information for 180 days, the application will be deemed to have been withdrawn. Any new information submitted after 180 days shall be deemed a new application for the purposes of this Zoning Code and the Michigan Zoning Enabling Act.

(d) Abandonment and Removal. At the time of application for a new tower structure, the applicant shall, at its cost and expense, be required to execute and file with the City a bond in an amount of at least seventy-five thousand dollars (\$75,000.00). If the tower is not used for as a wireless telecommunications facility for any period of six consecutive months, it must be removed at the expense of the property owner and/or owner of the tower. If the property owner and/or owner of the tower fail to remove the tower, the bond shall be forfeited, and the bond amount shall be used by the City to remove the tower.

(Ord. 10-2020. Passed 11-24-20.)

### **1251.50 UTILITY-SCALE SOLAR ENERGY FACILITY.**

Roof-mounted, wall-mounted, and ground-mounted solar energy systems are permitted as utility-scale solar energy facilities, subject to the following regulations:

(a) Location and Setbacks. Solar energy systems must be located in the rear of the principal building. Solar energy systems must also meet the minimum setbacks of the zoning district.

(b) Height. The height of the solar energy system and any mounts must not exceed ten feet when oriented at maximum tilt.

(c) Screening. Evergreen landscaping, sight obscuring fencing, or the combination of the two, must be provided to screen the racking (i.e., the framing below the panels) from view on all sides.

(d) Power Lines. All power lines between solar panels and inverters must be placed underground.

(e) Performance Guarantee. All applications for a solar energy system must be accompanied by a performance guarantee sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04(f).

(f) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(g) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned solar energy system and that such connection has been approved. Systems for on-site use are exempt from this requirement.

(Ord. 10-2020. Passed 11-24-20.)

### **1251.51 UTILITY-SCALE WIND ENERGY FACILITY.**

(a) Location. Utility-scale wind energy facilities may not fall within the front yard and must meet all of the applicable requirements of this Code.

(b) Minimum Lot Area. Must be located on a lot with a minimum area of one acre.

(c) Maximum Wind Turbine Height. Seventy feet.

(d) Noise. A wind energy system must comply with the noise standards set forth in the City's ordinances.

(e) Shadow Flicker. The application for a wind energy system must include a shadow flicker analysis demonstrating impact on adjacent and nearby residential properties. Wind energy systems must be constructed in locations that minimize the impacts of shadow flicker on residences.

(f) Lighting. No wind energy system will be artificially lighted unless required by the Federal Aviation Administration (FAA).

(g) Appearance, Color, and Finish. The wind energy system must be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems will be a single non-reflective, non-obtrusive, matte finished color (e.g. white or gray).

(h) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires, must be located underground.



(i) Compliance with Electrical Code. Building permit applications for wind energy systems must be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(j) Construction Codes, Towers, and Interconnection Standards. Wind energy systems, including towers, must comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems including towers, must comply with the FAA requirements, and other applicable local and state regulations. A wind energy system connected to the public utility electrical grid must comply with the Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(k) System Access. Wind energy systems must be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(l) Safety. A wind energy system must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. All wind towers must have lightning protection. If a tower is supported by guy wires, the wires must be clearly visible to a height of at least six feet above the guy wire anchors.

(m) Minimum Ground Clearance. The lowest extension of any blade or other exposed moving component of a tower mounted wind energy system must be at least twenty feet above the surrounding grade at its highest point within twenty feet of the base of the tower and at least twenty feet above any outdoor surface intended for human use, such as balconies or roof gardens, that are located below the wind energy system.

(n) Roof-Mounted Wind Energy Systems. Roof-mounted wind energy systems must be limited to roof mounting and must not be mounted on any other building wall or surface.

(o) Performance Guarantee. All applications for a wind energy system must be accompanied by a performance guarantee in an amount sufficient to ensure the decommissioning and removal of the system when it is abandoned or no longer needed. Refer to Section 1281.04(f).

(p) Insurance. The applicant must submit proof of sufficient property damage and liability insurance.

(q) Utility Connection. The applicant must submit evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned wind energy generator and that such connection has been approved. Off-grid systems are exempt from this requirement.

(Ord. 10-2020. Passed 11-24-20.)

## **1251.52 VEHICLE REPAIR, MAJOR.**

Truck parking areas, maneuvering lanes, and access ways to public streets must be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.

(Ord. 10-2020. Passed 11-24-20.)

## **CHAPTER 1260**

### **General Provisions**

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1260.01 Accessory buildings and uses.

1260.02 Fences.

1260.03 Exterior lighting.

1260.04 Clear vision triangle area.

#### **1260.01 ACCESSORY BUILDINGS AND USES.**

(a) Application.

(1) Accessory buildings include, but are not limited to: pool houses; storage buildings; patio covers; garages; carports; workshops; greenhouses; gazebos; tree-houses; play structures; and permanent or temporary tent structures including those intended to shelter vehicles.

(2) Any non-habitable portion of the main residential building that is used for an accessory use including parking and/or storage of vehicles or personal property and is structurally attached to the main residential building shall be considered a part of the main residential building and shall conform to all regulations of this Zoning Code applicable to main residential buildings. "Attached" for the purposes of this regulation is defined as being integrated visually, structurally, and architecturally with the main residential building, containing a common roof, and permitting access between the habitable and non-habitable areas either internally or under the common roof. If the common roof serves as an unenclosed connection between the two areas, they shall be considered attached if the length of the connection does not exceed the length of the non-habitable

portion by more than 50% or twenty feet, whichever is less.

(3) Accessory uses of a dwelling shall be limited as provided in Section 1230.06, but are deemed to include uses that are performed for personal enjoyment, amusement or recreation including hobby workshops, gardens, swimming pools for the use by the occupants, driveways, and the parking and/or storage of vehicles and other personal property.

(4) Accessory buildings or structures used in accordance with a permitted agricultural use are exempt from the provisions of this chapter.

(5) Landscape features including plantings, light poles, flag poles, planters, and statuary are exempt from the provisions of this chapter if they do not require a building permit and they do not restrict visibility from intersections or driveways.

(b) General Requirements.

(1) Construction of accessory buildings for one and two-family dwellings in the AG and R Districts shall conform to the following regulations except as may otherwise be provided in this Zoning Code. Accessory buildings for other permitted uses in the A and R districts and for permitted uses in other districts shall be constructed in accordance with regulations for main buildings in those districts.

(2) Any accessory building may not be constructed on a lot or parcel of land until and unless a main building is first constructed on the lot or parcel.

(3) Accessory buildings are allowed to be serviced by utilities including water, gas, electrical, and sanitary sewer, but in no case shall an accessory building contain kitchen facilities or be used for dwelling purposes.

(c) Size.

(1) All accessory buildings shall not exceed 10% of the lot area, excluding areas devoted to public road rights-of-way or private access easements.

(2) The totality of all accessory buildings shall not occupy in excess of 50% of a rear yard and shall comply with the building coverage requirements of Chapter 1241.

(3) The maximum size of the floor area of any one accessory building shall not exceed 1,500 square feet. The floor area shall be measured using the exterior wall dimensions.

(d) Height. Accessory buildings shall not exceed fourteen feet in height or the height of the main residential building, whichever is less.

(e) Location.

(1) Accessory buildings shall not be erected in the front yard of a lot or parcel, unless otherwise provided herein. In accordance with Section 1241.07(b) of this Zoning Code, front yards are located adjacent to all street frontages for parcels having frontage on two or more streets. Parcels having frontage on a lake, brook, stream, river or other watercourse shall be allowed an accessory building in the waterfront front yard if the building complies with the setback or in the street front yard if the waterfront yard prohibits the placement due to naturally occurring circumstances (topography) with approval from the Zoning Administrator.

(2) Accessory buildings may be erected in the side or rear yard, as regulated herein:

A. Where the main residential building contains an attached area for the storage of vehicles, personal property, or other accessory uses, the lot or parcel shall be permitted to have accessory buildings in the rear yard, as defined by Section 1230.06.

B. Where the main residential building does not contain an attached area for the storage of vehicles, personal property, or other accessory uses, the lot or parcel shall be permitted to have accessory buildings in the side and/or rear yard, as defined by Section 1230.06.

(3) Accessory buildings shall not be closer than three feet from all side and rear lot lines, including the roof overhang.

(4) Accessory buildings may not be closer than ten feet to the main building or another accessory building unless otherwise permitted under building code provisions.

(5) Wherever a required rear yard abuts the required side yard of an adjacent lot, accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot.

(6) Swimming pools, hot tubs, and Jacuzzi's shall not be nearer than six feet from the side or rear lot line or from any house, building or residence. No swimming pool shall be in any front yard.

(7) In no instance shall an accessory building be located within a dedicated easement right-of-way.

(Ord. 10-2020.Passed 11-24-20.)

## **1260.02 FENCES.**

(a) Short Title. This section may be referred to and cited as the "Fence Ordinance of the City of Battle Creek" or just the "the Fence Ordinance."

(b) Purpose. The purpose of this chapter is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties to light, air and view.

(c) Permit Required; Application; Fee.

(1) No person shall construct or cause to be constructed any permanent fence upon property within the City without first obtaining a permit therefor, unless otherwise stated. A permit shall not be required for painting or for repairs not affecting more than 25% of the fence performed within a one-year period provided that the height, location, and style of the repairs do not change.

(2) A fee in the amount established by the City Commission shall be paid for such permit and shall be submitted along with the application for the permit.

(3) A permit is not required for fences used for agricultural purposes where agriculture is the principal use, fences that can be installed or removed without the means of tools or machinery, or for shrubs or hedges planted to serve as a fence.

(d) General Provisions for All Fences.

(1) Location. No fence shall be located in a public right-of-way.

(2) In no circumstance shall any fence be erected or maintained within 25 feet of the corner property line at a street intersection so as to interfere with traffic visibility across the corner of streets or alleys. All fences in the front yard shall have a minimum transparent surface area of 50%.

(3) Decorative architectural features on fences shall not be included in the measured height of a fence so long as they do not extend more than nine inches above the maximum height and have a minimum spacing of five feet between features.

(4) Legally existing, nonconforming fences will be required to comply with this section when any change or repair is made to the fence affecting more than 25% of the fence surface within a one-year period. This provision does not include the painting of a fence.

(5) For purposes of this chapter, retaining walls are not considered a fence; however, any retaining wall exceeding four feet in height requires a minimum four-foot-tall fence erected along the highest elevation of the wall. For terraced retaining walls, any section of retaining wall that is over four feet in height where there is less than a three-foot-wide landing, there shall be a minimum four-foot-tall fence erected along the highest elevation of subject property grade.

(6) Solid fences or walls are required to completely conceal and enclose dumpsters with a capacity of two yards or more, and must extend at least six inches above the height of the dumpster being concealed.

(7) Construction fences not to exceed eight feet in height to secure the construction site are permitted for a period of one year or while a construction permit is open, whichever timeframe is less.

(8) Snow fences are permitted between November 1st and May 31st at a height and location for permanent fences in the district where the property is located.

(e) General Provisions by Zoning District and Use.

(1) Agricultural Districts. No restrictions are imposed to limit the size, type or location of fences in an agricultural district when used for agricultural purposes.

(2) Residential Districts and properties used for residential purposes regardless of zoning district No fence in a front yard shall exceed four feet in height and no fence in any rear or side yard shall exceed six feet in height.

(3) Commercial Districts.

A. No fence in a front yard shall exceed four feet in height. No fence in any side or rear yard shall exceed eight feet in height unless the fence is used to enclose outdoor retail displays, is contiguous to the principal use, and is not more than twenty feet tall or up to height of building, whichever the lessor.

B. Fences, walls, and/or plantings of complete concealment type measuring six feet in height shall be constructed at the common side or rear lot line between all building and parking areas whenever a commercial or office use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the commercial or office use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Zoning Administrator or their designee.

C. Storage yards for motor vehicles for salvage shall be governed by Section 1251.21.

(4) Industrial Districts.

A. No fence in a front yard shall exceed six feet in height. No fence in any side or rear yard shall exceed ten feet in height unless the fence is used to enclose outdoor storage areas, is contiguous to the principal use, and is not more than 20 feet tall.

B. Fences, walls, berms, and/or plantings of complete concealment type measuring six feet in height shall be

constructed at the common side or rear lot line between all buildings and parking areas whenever an industrial use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the industrial use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Zoning Administrator or their designee.

C. Storage yards for motor vehicles for salvage shall be governed by Section 1251.21.

(f) Construction and Maintenance.

(1) Any fence or hedge, under construction or completed, which, through lack of repair, neglect, type of construction, placement or otherwise, is a hazard or endangers any person, animal or property, is hereby deemed a violation of this code. A fence may not interrupt traffic patterns, parking spaces, maneuvering lanes, drainage areas, or cause visibility obstructions to cars or pedestrians at driveways and sidewalks.

(2) Fence posts must be set firmly in the ground and at a depth that will support the structure of the fence.

(3) Fences may be constructed from wrought iron, vinyl, wood pickets, stone, brick, chain link, or any other generally accepted fencing material. In no instance shall a fence be constructed from pallets, twigs, pressed board, plywood, scrap lumber or other nontraditional fencing material without the Zoning Administrator or their designee's approval.

(4) The owner of any fence shall maintain a fence by painting, treating, trimming, repairing or removal, as necessary to maintain the fence in a safe and reasonably attractive condition. A fence that is dangerous to public safety, health or general welfare as determined by the Zoning Administrator or their designee is considered a violation and the City may commence proceedings for the abatement thereof.

(g) Prohibited Fencing.

(1) No fence erected within the City limits shall be electrically charged in any manner unless the fence is buried beneath the ground unless authorized or permitted elsewhere in this chapter.

(2) No fence shall be constructed of barbed wire, razor wire, concertina strands, single wire, cattle fencing, or similar materials; provided however that a fence which includes barbed wire strands may be used to enclose hazardous materials or land uses, or where such additional security is appropriate for land used for commercial or industrial purposes, in the discretion of the Zoning Administrator or their designee, provided that only three strands are used, not more than a total of nine inches in height. Above ground electric fences and barbed wire fences are permitted for agricultural purposes in an agricultural zone.

(h) Exceptions.

(1) The height and location restrictions of this chapter shall not apply to schools, public recreation areas, public utilities, or any other use that the Zoning Administrator or their designee deems necessary to preserve the safety and protection of the public.

(2) Any conflict between this section and any ordinance, statute, or regulation regarding fences around swimming pools shall be controlled by that ordinance, statute, or regulation regarding swimming pools.

(3) Fences around public property and public and private recreation areas to enclose tennis courts, basketball courts, schools, church playgrounds, or other similar areas are permitted at a height not to exceed ten feet high, provided that all yard setbacks are maintained and that no obstruction to visibility is created thereby.

(Ord. 10-2020.Passed 11-24-20.)

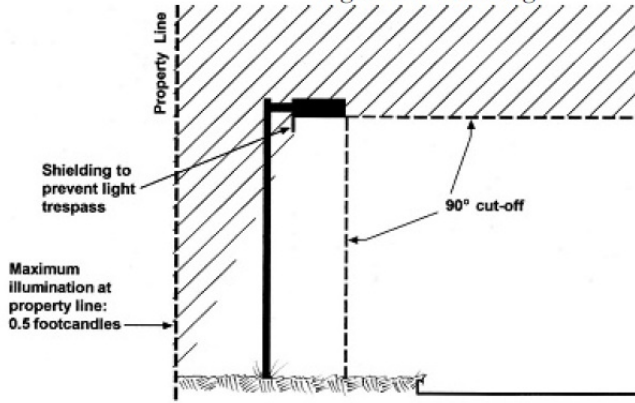
### **1260.03 EXTERIOR LIGHTING.**

(a) General Requirements.

(1) Shielding. All outdoor lighting must be directed toward and confined to the ground areas. Full cut-off fixtures must be used to prevent light from projecting above a ninety degree horizontal plane (see illustration below).

*Figure 19. Shielding*

Figure 19. Shielding



(2) **Illumination levels.** Sufficient lighting, as specified in the following table, shall be required for parking areas, walkways, driveways, building entrances, loading areas, and public common areas to ensure security of property and safety of persons.

<b>Location</b>	<b>Maximum Level of Illumination (Footcandles) for the Average of the Area</b>
Off-Street Parking Areas	1.0
Off-Street Loading Areas	1.0
Sidewalks	1.0
Building Entrances (Frequent Use)	5.0
Building Entrances (Infrequent Use)	1.0
Gas Station (Directly Under Canopy)	20.0
Other Outdoor Areas Not Listed	At the discretion of the Planning Director, with a maximum not to exceed 20.0

(3) **Light trespass limits.** Exterior lighting sources shall be designed, constructed, located, and maintained in a manner that minimizes light trespass onto neighboring properties. The light trespass from a property shall not exceed 0.5-foot candles at the property line, measured five feet from the ground. The light-emitting element of a light fixture shall not be directly visible from neighboring properties, as this is the primary cause of glare. All outdoor lighting in all use districts shall be directed toward and confined to the ground areas of lawns or parking lots (see illustration above).

(4) **Up-lighting.** All up-lighting used for the external illumination of buildings must be placed and shielded so as to not interfere with the vision of persons off the property.

(5) **Height.** The height of light fixtures shall be measured from the finished grade to the top of the fixture. All lighting fixtures in non-industrial districts shall not exceed twenty-five feet in height. In industrial districts, the Planning Commission may approve lighting fixtures up to a maximum height of thirty-five feet if the proposed lighting over twenty-five feet in height has no adverse impacts on the surrounding land uses and on the natural environment.

(b) **Prohibited Lighting.**

- (1) All illumination of outdoor features of a flashing, moving, or intermittent type are prohibited.
- (2) No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m., except to conclude a permitted recreational or sporting event or other activity already in progress prior to 11:00 p.m.
- (3) The use of laser source light or any similar intensity light for outdoor advertising or entertainment is prohibited.
- (4) The operation of searchlights for advertising purposes is prohibited.

(c) **Exempt Lighting.** The following exterior lighting fixtures and systems are exempt from the regulations of this section. The Zoning Administrator reserves the right to enforce standards to minimize glare, reduce light pollution, and otherwise protect the health, safety, and welfare of the public.

- (1) Light fixtures placed by a governmental agency in the right-of-way.
- (2) Decorative holiday lighting.

- (3) Pedestrian walkway lighting.
- (4) Temporary festival and civic lighting.
- (5) Temporary construction or emergency lighting.
- (6) Instances where federal, state, or local laws, rules, or regulations take precedence over the provisions of this section.

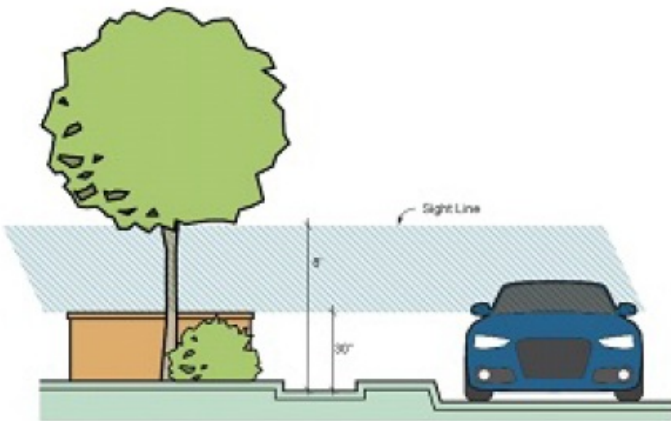
(d) Waiver Process. The Planning Commission has the ability to waive the lighting requirements of this section upon evidence that the required lighting would have a negative impact on neighboring properties.

(Ord. 10-2020.Passed 11-24-20.)

**1260.04 CLEAR VISION TRIANGLE AREA.**

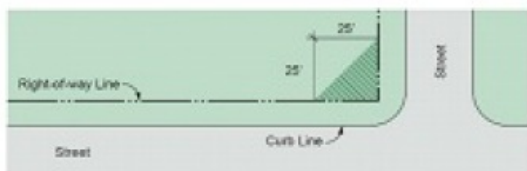
(a) Clear Vision Triangle Area. The area formed at the corner intersection of two road right-of-way lines, the two sides of the triangular area being twenty-five feet in length measured along the abutting right-of-way lines, and the third side being a line connecting these two sides. The clear vision triangle must be free from visual obstruction. See the figure below.

Figure 20. Clear Vision Area



**Clear Vision Area**

Maximum Height 30" for Shrubs and Other Landscape Features



**Clear Vision Area**

(b) Shrubs and Other Landscape Features. Shrubs and other landscape features permitted within this Code may be permitted in the clear vision triangle area provided that they are trimmed and maintained so that they are not more than thirty inches above grade.

(c) Trees. Trees shall not be planted closer than twenty-five feet to the corner intersection of two road right-of-way lines at street intersection; however, trees with at least eight feet of limbless trunk may be permitted within the clear vision triangle area.

(Ord. 10-2020.Passed 11-24-20.)

**CHAPTER 1261**

**Parking, Loading and Access Management**



1261.02 Front yard and vacant lot parking.

### **1261.01 PARKING REQUIREMENTS.**

(a) Purpose. The purpose of this chapter is intended to provide efficient and safe access management and adequate parking areas for specific uses as well as promote the efficient use of land. It also seeks to prevent the adverse environmental impacts of large paved areas to the City.

(b) General Requirements.

(1) In all districts, except for in the T-4 and T-5 Zoning Districts, off-street parking spaces shall be provided at the time a building is erected, converted in use, or where floor space is increased by more than 10%, except as otherwise provided in this chapter or unless otherwise approved by the Zoning Administrator or their designee.

(2) Off-street parking spaces shall comply with this chapter, 0 Landscaping, and Section 1281.04 Site Plan Review, unless otherwise approved by the Zoning Administrator or their designee.

(3) Required parking may be provided off-site on non-residential zoned property on a lot or lots where there is a written lease or shared parking agreement to accommodate parking, provided that such arrangement is approved by the Zoning Administrator. Any lease or shared parking agreement must include a provision that requires notification to the Zoning Administrator or their designee of any change in terms of the agreement or expiration of the agreement. Prior to approving the joint use of parking spaces to meet the minimum amount of required off-street parking for a given use in a given district, the Zoning Administrator must verify by a preponderance of the evidence that each of the statements are true:

A. Off-site parking must be within a convenient walking distance of the building entrances, as determined by the Zoning Administrator or their designee.

B. The joint use of off-street parking spaces is unlikely to have a need for the joint parking spaces at overlapping times.

C. The parking spaces designated for joint use comprise less than 75% of the applicant's minimum required off-street parking spaces.

(4) No commercial repair work, servicing or selling of any kind shall be conducted on any required off-street parking area unless an approved use for that district and only when the parking lot meets all minimum standards for parking requirements.

(c) Design and Construction Requirements.

(1) Parking areas shall be designed and marked as to provide for orderly and safe movement and storage of vehicles.

(2) There shall be provided, at the time a building is erected, sidewalks along any street rights-of-way unless grade, topography, connectivity, or other conditions exist that prohibits the installation of said sidewalk, at the determination of the Zoning Administrator or their designee.

(3) Parking areas, including drives and maneuvering lanes (excluding single-family, and two family uses), must maintain a minimum of a ten foot setback from any abutting street right-of-way and a five foot setback from all other abutting property lines. Where multi-family, office, commercial, or industrial uses abut a residential zoning district, a ten foot setback must be maintained between any parking area or maneuvering lane from any abutting property line. Required parking setbacks must be landscaped in accordance with 0 and screened in accordance with Section 1260.02.

(4) Adequate lighting shall be provided when a parking area is in operation. All lighting shall be so arranged as to reflect light away from residential property adjacent to the area and all abutting rights-of-way.

(5) An area equivalent to 10% of the required parking area must be provided for snow storage. The snow storage area must be landscaped and if the parking lot is bounded by a fence, the snow storage area must be located on the parking lot side of that fence. The snow storage area may be located in a landscape area required in 0 or in a storm water management area, subject to approval by the City.

(6) All new parking spaces shall be constructed with a concrete/ asphalt wheel stop or curb installed at the front of the space to prevent unintentional encroachment or furthering movement of the parked vehicle.

(7) Whenever a parking area with a capacity of four or more vehicles is built, an existing building or parking area is increased by 10% surface area, or parking lot mill and repave projects, such parking area must be laid out and maintained in accordance with the following standards showing by way of an approved site plan required by Section 1281.04 Site Plan Review:

A. Surfaces of all parking areas and drives must be surfaced with asphalt, concrete, or other smooth, durable hard surface approved by the Zoning Administrator or their designee, installed at no less than the minimum industry standards for thickness and weight rating.

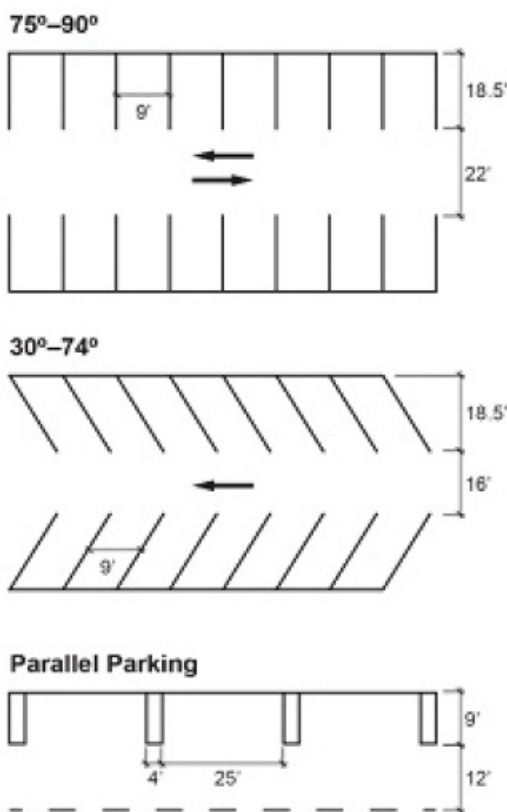
B. All parking areas must be approved for stormwater drainage by the Department of Public Works in accordance with the Stormwater Technical Manual and be graded/sloped at minimum of 2% and maximum of 5% unless otherwise approved by the Department of Public Works.

C. In addition to any other regulations required by the Michigan Manual of Uniform Traffic Control Devices, aisle lane

widths, parking space width, and parking space lengths are to be provided as shown in the Table and Figure below, unless otherwise approved by the Zoning Administrator or their designee. All spaces must have adequate access by means of aisles or lanes and not directly to a street. Aisles for access to all angle parking spaces must have one-way movement only and must be clearly marked as such.

<b>Parking Space Angle</b>	<b>Traffic Direction</b>	<b>Aisle Lane Width</b>	<b>Parking Space Width</b>	<b>Parking Space Length</b>
30 to 74 Degrees	One-Way	Min. 16 feet Max. 18 feet	9 feet	Min. 18.5 feet Max. 20 feet
75 to 90 Degrees	Two-Way	Min. 22 feet Max. 24 feet	9 feet	Min. 18.5 feet Max. 20 feet
Parallel	One-Way	12 feet	9 feet with a minimum 4-foot wide maneuvering area between each space	25 feet
	Two-Way	Min. 22 feet Max. 24 feet		

Figure 21. Parking Space Dimensions



## Parking Space Dimensions

(d) Rules for Calculating Required Number of Parking Spaces In computing the number of such spaces required, the following rules shall apply:

(1) Usable floor area (UFA). Parking calculations using usable floor area means the total floor area enclosed by exterior walls, excluding such areas that are not accessible or fit for occupancy including but not limited to fixed stairways, ramps, escalators or elevators, bathrooms, or areas used for storage.

(2) Bench seating. In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each thirty inches of such seating will be counted as one seat. In cases where a place of assembly has both fixed and non-fixed areas, requirements shall be computed separately for each type and added together.

(3) Employee calculations. For requirements stated in term of number of employees, the calculation will be based upon the maximum number of employees likely to be on the premises at one time and may include overlap of employees during shift changes.



(4) Bicycle parking. A minimum of four bicycle parking spaces may be provided in lieu of not more than one required automobile parking space in a parking area required by this chapter, with a maximum reduction of up to five automobile parking spaces. Bicycle parking spaces and racks must be located on a paved surface, in a visible location from the nearest ROW, and as close as practicable to the main entrance. Bicycle parking shall consist of a bicycle rack designed such that the bicycle frame can be locked to the rack.

(5) Reserve space allowed. Where at the outset of development a parking demand can be demonstrated that is less than or more than what is required by this chapter, the difference can be placed in landscaped open space until such time it may be needed.

(6) Mixed uses. In the case of mixed uses, such parking spaces shall equal the sum of the spaces required for each separate use. However, the Zoning Administrator or their designee may reduce the total number of spaces by up to 30% if it is determined that the operating hours of the uses do not overlap.

(7) Uses not specified. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature as determined by the Zoning Administrator or their designee. In making their determination, the Zoning Administrator or their designee shall refer to the most recent edition of the *Parking Generation*, published by the Institute of Traffic Engineers (ITE), or other acceptable standard applicable for that use or a similar use.

(8) Off-street parking space minimums and maximums. Parking space requirements and allowances (including those spaces designated for handicap parking usage as required by the US Department of Justice) are listed by use in the following Table of General Off-Street Parking Space Requirements. The Zoning Administrator or their designee may allow a reduction of the following requirements if warranted by property conditions, or when the requested adjustment is supported by the most recent edition of the ITE *Parking Generation* or a parking study from a qualified engineer. Where fractional spaces result, such parking spaces required shall be construed to be the next nearest whole number.

(e) Parking Standards by Land Use Type.

<b>USE</b>	<b>MINIMUM PARKING REQUIRED</b>	<b>MAXIMUM PARKING ALLOWED</b>
<b>USE</b>	<b>MINIMUM PARKING REQUIRED</b>	<b>MAXIMUM PARKING ALLOWED</b>
<b>RESIDENTIAL USES</b>		
Bed and Breakfast	2 spaces for the owner(s) of the bed and breakfast; plus, 1 space for each guest room	2 spaces for the owner(s) of the bed and breakfast; plus 1.1 spaces for each guest room
Home Occupation	2 parking spaces	4 parking spaces
Multi-Family Dwelling Units	1 space for each dwelling unit; plus, 0.5 of a space per each dwelling unit for visitor parking	1.5 spaces for each dwelling unit; plus 0.6 of a space per each dwelling unit for visitor parking
Rooming and Boarding Houses	1 space per room or resident, whichever is greater	1.1 spaces per room or resident, whichever is greater
State Licensed Family Child Care Home or Group Child Care Home	1 space per 8 children of licensed authorized capacity; plus, 1 drop-off space per 8 children of licensed authorized capacity; plus, 1 space for each employee on site at any one time	2.2 spaces; plus 1.1 spaces per 8 children of licensed authorized capacity; plus, 1 drop-off space per 8 children of licensed authorized capacity; plus 1.1 spaces for each employee on site at any one time
State Licensed Residential Facility	1 space per 8 residents of licensed authorized capacity; plus, 1 drop-off space per 8 residents of licensed authorized capacity; plus, 1 space for each employee on site at any one time	2.2 spaces; plus 1.1 spaces per 8 residents of licensed authorized capacity; plus, 1 drop-off space per 8 residents of licensed authorized capacity; plus 1.1 spaces for each employee on site at any one time
Two-Family Dwelling Units	2 spaces for each two-family structure	4 spaces for each two-family structure
<b>COMMERCIAL USES</b>		
Adult Business	1 space for each 500 sq. ft. of floor area	1.1 spaces for each 500 sq. ft. of floor area
Adult-Use Marijuana Microbusiness	1 space for each 500 sq. ft. of floor area	1.1 spaces for each 500 sq. ft. of floor area

Adult-Use Marihuana Retailers	1 space for each 500 sq. ft. of floor area	1.1 spaces for each 500 sq. ft. of floor area
Agri-Tourism	1 space for each 500 sq. ft. of activity space	1.1 spaces for each 500 sq. ft. of activity space
Arena/Theater	1 space per 3 seats	1 space per 2 seats
Artisan/Maker Space	1 space per work station	1.1 spaces per work station
Assisted Senior Living	1 space per 4 residents plus 1 space per employee in the largest shift	1 space per 2 residents plus 1 space per employee in the largest shift
Automobile Car Wash Establishment (automatic)	1 space per employee on largest working shift; plus, 12 stacking spaces for the initial car wash bay; plus, 5 stacking spaces for each additional car wash bay	1.1 spaces per employee on largest working shift; plus, 14 stacking spaces for the initial car wash bay; plus, 5 stacking spaces for each additional car wash bay
Automobile Car Wash Establishment (manual)	2 spaces; plus, 1 space per each employee on the largest working shift, plus 2 stacking spaces per bay	4 spaces; plus 1.1 spaces per each employee on the largest working shift, plus 2.2 stacking spaces per bay
Automobile Repair	2 spaces for each service bay; plus, 1 space for each employee on largest working shift	2.2 spaces for each service bay; plus 1.1 spaces for each employee on largest working shift
Automobile Service Station	0.5 spaces per 150 sq. ft. of UFA; plus, 1 stacking space per each fueling station; plus, 1 space for each 6 seats of on-site seating; plus, 1 space per each employee based upon the peak shift; plus, 2 spaces per each service bay; plus, 6 stacking spaces for accessory car washing facilities	1 space per 150 sq. ft. of UFA; plus 1.5 stacking space per each fueling station; plus, 1 space for each 6 seats of on-site seating; plus, 1 space per each employee based upon the peak shift; plus, 3 spaces per each service bay; plus, 7 stacking spaces for accessory car washing facilities
Automobile or Vehicle Dealership	1 space for each 300 sq. ft. of interior sales area in addition to the spaces dedicated for vehicle sales; plus, 1 space for each service bay; plus, 1 space for each 2 employees on largest working shift	1.5 spaces for each 300 sq. ft. of interior sales area in addition to the spaces dedicated for vehicle sales; plus, 1 space for each service bay; plus, 1 space for each 2 employees on largest working shift
Banquet and Meeting Hall < 100 capacity	1 space per 2 persons of capacity authorized by the Building Code or 10 spaces per 1,000 sq. ft. of UFA, whichever is greater	1.1 spaces per 2 persons of capacity authorized by the Building Code or 11 spaces per 1,000 sq. ft. of UFA, whichever is greater
Banquet and Meeting Hall > 100 capacity	1 space per 2 persons of capacity authorized by the Building Code or 10 spaces per 1,000 sq. ft. of UFA, whichever is greater	1.1 spaces per 2 persons of capacity authorized by the Building Code or 11 spaces per 1,000 sq. ft. of UFA, whichever is greater
Bar, Tavern, or Saloon	10 spaces per 1,000 sq. ft. of UFA; plus, one space per employee on maximum shift	15 spaces per 1,000 sq. ft. of UFA; plus 1.1 spaces per employee on maximum shift
Bookstore	1 space per 225 sq. ft. of UFA	1 space per 200 sq. ft. of UFA
Brewpub	1 space per 1,000 sq. ft. of production space; plus, 1 space per 200 sq. ft. of taproom area	2 spaces per 1,000 sq. ft. of production space; plus, 1 space per 200 sq. ft. of taproom area
Catering Businesses	1 space for every 3 persons, based on maximum capacity	1 space for every 2 persons, based on maximum capacity
Convalescent Home, Nursing Home, or Home for the Aged	1 space for each 4 beds; plus, 1 space for each 2 employees on the maximum shift	1.1 spaces for each 4 beds; plus 1.1 spaces for each 2 employees on the maximum shift
Distillery, Winery - w/ or w/o food	1 space for each 300 sq. ft. of floor area	1 space for each 250 sq. ft. of floor area

Financial Institutions	1 space for each 150 sq. ft. of floor space, plus 1 space for each employee in largest working shift	1 space for each 125 sq. ft. of floor space, plus 1 space for each employee in largest working shift
Funeral Homes, Mortuaries, and Crematoriums	1 space for each 50 sq. ft. of UFA in service parlors, chapels and reception areas; plus, 1 space for each fleet vehicle	1.1 spaces for each 50 sq. ft. of UFA in service parlors, chapels and reception areas; plus 1.1 spaces for each fleet vehicle
Hospital > 20,000 s. f.	1.8 spaces per bed; plus, the spaces required per 1,000 sq. ft. of UFA devoted to office, research or other related uses; plus, the required spaces for outpatient care centers	2 spaces per bed; plus, the spaces required per 1,000 sq. ft. of UFA devoted to office, research or other related uses; plus, the required spaces for outpatient care centers
Hotel	1 space per guest room; plus, 10 spaces per 1,000 sq. ft. of UFA of lounge, restaurant, conference, banquet rooms or exhibit space (if the majority of the patrons are expected to be hotel/motel guests)	1.1 spaces per guest room; plus, 11 spaces per 1,000 sq. ft. of UFA of lounge, restaurant, conference, banquet rooms or exhibit space (if the majority of the patrons are expected to be hotel/motel guests)
Independent Senior Living with Services	1 space per dwelling unit	1.1 spaces per dwelling unit
Indoor Recreation	1 space per 100 sq. ft. of UFA	2 spaces per 100 sq. ft. of UFA
Kennels/Veterinarian	5 spaces; plus, 1 space per employee on maximum shift	6 spaces; plus 1.1 spaces per employee on maximum shift
Medical Marijuana Provisioning Center	1 parking space for each 500 sq. ft. of UFA	2 parking spaces for each 500 sq. ft. of UFA
Medical or Dental Clinic < 20,000 s. f.	4 spaces per 1,000 sq. ft. of UFA	4.4 spaces per 1,000 sq. ft. of UFA
Motel	1 space per guest room; plus, 10 spaces per 1,000 sq. ft. of UFA of lounge, restaurant, conference, banquet rooms or exhibit space (if the majority of the patrons are expected to be hotel/motel guests)	1.1 spaces per guest room; plus, 11 spaces per 1,000 sq. ft. of UFA of lounge, restaurant, conference, banquet rooms or exhibit space (if the majority of the patrons are expected to be hotel/motel guests)
Microbrewery	1 space per 1,000 sq. ft. of production space; plus, 1 space per 200 sq. ft. of taproom area	2 spaces per 1,000 sq. ft. of production space; plus, 1 space per 200 sq. ft. of taproom area
Nightclub	10 spaces per 1,000 sq. ft. of UFA; plus, 1 space per employee on maximum shift	15 spaces per 1,000 sq. ft. of UFA; plus 1.1 spaces per employee on maximum shift
Office	4 spaces per 1,000 sq. ft. of UFA	6 spaces per 1,000 sq. ft. of UFA
Outdoor Recreation	5 spaces per 1,000 sq. ft. of use area	7 spaces per 1,000 sq. ft. of use area
Personal Service Establishment	1 parking space for each 500 sq. ft. of UFA	1 parking space for each 250 sq. ft. of UFA
<b>RESTAURANTS</b>		
Carry-Out Restaurant	5 spaces; plus, 1 space per employee on maximum shift	10 spaces; plus, 1 space per employee on maximum shift
Drive-In Restaurant	15 spaces per 1,000 sq. ft. of UFA, excluding the areas used for food preparation; plus, 5 stacking spaces per lane from the location where orders are placed; plus, 1 space per employee on maximum shift	20 spaces per 1,000 sq. ft. of UFA, excluding the areas used for food preparation; plus, 7 stacking spaces per lane from the location where orders are placed; plus 1.1 spaces per employee on maximum shift

Drive-Thru Restaurant	15 spaces per 1,000 sq. ft. of UFA, excluding the areas used for food preparation; plus, 5 stacking spaces per lane from the location where orders are placed; plus, 1 space per employee on maximum shift	20 spaces per 1,000 sq. ft. of UFA, excluding the areas used for food preparation; plus, 7 stacking spaces per lane from the location where orders are placed; plus 1.1 spaces per employee on maximum shift
Full-Service Restaurant	15 spaces per 1,000 sq. ft. of UFA, excluding the areas used for food preparation; plus, 1 space per employee on maximum shift	25 spaces per 1,000 sq. ft. of UFA, excluding the areas used for food preparation; plus 1.1 spaces per employee on maximum shift
Limited Service Restaurant	1.5 spaces per 125 sq. ft. of UFA; plus, 1 space per employee on maximum shift	2 spaces per 125 sq. ft. of UFA; plus 1.1 spaces per employee on maximum shift
Retail Sales	5 spaces; plus 2.5 spaces per 1,000 sq. ft. of UFA for stores up to 25,000 sq. ft.; plus, 1 space per each additional 1,000 sq. ft. of UFA for stores greater than 25,000 sq. ft. of UFA such as shopping centers, discount stores, club warehouses, home improvement centers and grocery stores	5 spaces; plus, 4 spaces per 1,000 sq. ft. of UFA for stores up to 25,000 sq. ft.; plus 3 spaces per each additional 1,000 sq. ft. of UFA for stores greater than 25,000 sq. ft. of UFA such as shopping centers, discount stores, club warehouses, home improvement centers and grocery stores; and 0.3 spaces per 1,000 sq. ft. of UFA of outdoor display and sales area
Tree Farm	1 space for each 500 sq. ft. of retail space	1 space for each 250 sq. ft. of retail space
Vehicle Repair	2 spaces for each repair bay; plus, one 1 space for each employee	3 spaces for each repair bay; plus, one 1 space for each employee
<b>INDUSTRIAL USES</b>		
Junk or Salvage Yard	1 space for each 2 employees; plus, 1 space for each 10,000 sq. ft. of use area	1 space for each employee; plus, 1 space for each 10,000 sq. ft. of use area
Manufacturing	2 spaces; plus, 1 space per employee on maximum shift	5 spaces; plus 1.1 spaces per employee on maximum shift
Medical and Adult Use Marihuana Processing Facility	1 space per 1,000 sq. ft. of UFA	1.1 spaces per 1,000 sq. ft. of UFA
Medical Marihuana Safety Compliance Facility	1 space per 1,000 sq. ft. of UFA	1.1 spaces per 1,000 sq. ft. of UFA
Research and Development	1 space for each employee on largest working shift	1.1 spaces for each employee on largest working shift
Self-Storage Facilities	1 space per 3,000 sq. ft. of UFA	1 space per 2,500 sq. ft. of UFA
Transportation and Logistics	1 space per 500 sq. ft. of UFA	1.1 spaces per 500 sq. ft. of UFA
Warehouse	2 spaces; plus, 1 space per employee on maximum shift; plus, 1 space for each vehicle to be stored on the premises	5 spaces; plus 1.1 spaces per employee on maximum shift; plus 1.1 spaces for each vehicle to be stored on the premises
Wholesale	1 space for each 500 sq. ft. of floor space	1.1 spaces for each 500 sq. ft. of floor space
<b>OTHER USES</b>		
Essential Services	1 space for each employee on the largest working shift	1.1 spaces for each employee on the largest working shift

Government/Public Uses	0.5 spaces per 3 seats of permitted capacity with fixed seats (e.g., arenas, auditoriums, and stadiums); or 1 space per 300 sq. ft. of UFA without fixed seats (e.g., community centers)	0.8 spaces per 3 seats of permitted capacity with fixed seats (e.g., arenas, auditoriums, and stadiums); or 1.1 spaces per 300 sq. ft. of UFA without fixed seats (e.g., community centers)
Greenhouse / Nursery (Principal Use)	1 space for each 500 sq. ft. of retail space	1.1 spaces for each 500 sq. ft. of retail space
Institutions of Higher Education	1 space for each employee; plus, 1 space for each 10 students of capacity; plus 0.5 spaces for each seat in any assembly, auditorium, and/or outdoor arena areas	1.1 spaces for each employee; plus 1.1 spaces for each 10 students of capacity; plus 0.6 spaces for each seat in any assembly, auditorium, and/or outdoor arena areas
Private K-12 Schools	1 space for each employee on maximum shift, plus 0.5 spaces for each seat in any assembly, auditorium and/ or outdoor arena areas, plus 10 pick-up/ drop-off spaces as well as any necessary waiting or loading area for buses. High schools are subject to the parking requirements in the first sentence in addition to 1 parking space for each 20 students of capacity.	1.1 spaces for each employee on maximum shift, plus 0.6 spaces for each seat in any assembly, auditorium and/ or outdoor arena areas, plus 11 pick-up/ drop-off spaces as well as any necessary waiting or loading area for buses. High schools are subject to the parking requirements in the first sentence in addition to 1.1 parking spaces for each 20 students of capacity.
Public K-12 Schools	1 space for each employee on maximum shift, plus 0.5 spaces for each seat in any assembly, auditorium and/ or outdoor arena areas, plus 10 pick-up/ drop-off spaces as well as any necessary waiting or loading area for buses. High schools are subject to the parking requirements in the first sentence in addition to 1 parking space for each 20 students of capacity.	1.1 spaces for each employee on maximum shift, plus 0.6 spaces for each seat in any assembly, auditorium and/ or outdoor arena areas, plus 11 pick-up/ drop-off spaces as well as any necessary waiting or loading area for buses. High schools are subject to the parking requirements in the first sentence in addition to 1.1 parking spaces for each 20 students of capacity.
Religious Institutions	1 space for each 4 seats of capacity	1.1 spaces for each 4 seats of capacity
Telecommunication Towers	2 spaces for each substation	2 spaces for each substation

(1) Each parking lot that services a building entrance, except single- or two-family residential or temporary structures, shall provide parking spaces for the physically handicapped which shall be located as close as possible to walkways and entrances. All parking lots shall be designed in conformance with the Utilization of Public Facilities by Physically Limited Act, Public Act 1 of 1966, as amended, being MCL 125.1351 et seq., and the Americans with Disabilities Act, as amended, being 42 USC 126, as summarized in the table below.

<b>TOTAL SPACES REQUIRED</b>	<b>BARRIER-FREE SPACES REQUIRED</b>
<b>TOTAL SPACES REQUIRED</b>	<b>BARRIER-FREE SPACES REQUIRED</b>
1-25 Spaces	1 Space
25-50	2 Spaces
51-75	3 Spaces
76-100	4 Spaces
101-150	5 Spaces
151-200	6 Spaces
201-300	7 Spaces
301-400	8 Spaces

401-500	9 Spaces
501-1,000	2% of total
Greater than 1,000	20, plus one (1) for each 100 spaces over 1,000

(f) Ingress and Egress. The purpose of this section is to establish guidelines for the location and design of driveways that can be used for new construction in undeveloped areas and for redevelopment of existing developed areas within the commercial (B-1, B-2, T-3, T-4, T-5, S) and industrial (I-1 and I-2) districts. The objectives of these requirements are to reduce the frequency of conflicts between vehicular movements and to increase the spacing between conflict points, thereby providing motorists with increased decision process time, which will increase safety and assure smoother traffic flow.

Plans for development shall meet the following standards unless otherwise approved by the City Traffic Engineer or Zoning Administrator or their designee:

(1) Turn prohibitions. Left turns may be prohibited to and/or from driveways if any of the following circumstances exist: inadequate corner clearance; inadequate sight distance; or inadequate driveway spacing.

(2) Relationship to opposing driveways. To the extent reasonably possible, driveways shall be aligned with driveways on the opposite side of the street.

(3) Sight distance. Adequate sight distance shall be ensured for all vehicles exiting from a proposed development. If certain movements cannot be made safely, then they shall be prohibited.

(4) Driveway permits. Prior to granting a building permit for any construction involving a new or expanded driveway opening to a public street, a permit for such driveway from the appropriate governmental entity having jurisdiction over the roadway shall be obtained.

(5) Driveway spacing. The minimum spacing allowed between a proposed driveway and all other driveways and streets located on the same side of the street shall be as follows unless otherwise approved by the City Traffic Engineer or Zoning Administrator or their designee:

<b>MINIMUM DRIVEWAY SPACING REQUIREMENTS</b>	
Posted Legal Driving Speed Limit on the Street Which Adjoins or Abuts the Proposed Driveway	Minimum Spacing in Feet*
30 mph or less	125'
35 mph	175'
40 mph	225'
45 mph	275'
50 mph	300'

\* The above spacings are based on average vehicle acceleration and deceleration rates (Federal Highway Administration, FHWA-H1-91-0212). The spacing is measured from centerline to centerline of the driveways.

In the event that a particular parcel or parcels lack sufficient road frontage to maintain adequate spacing, the landowner(s) have one of three options:

A. They may seek a waiver from the Zoning Administrator or their designee for minimum spacing unless denial of the waiver would prohibit access to the site. In no case shall the waiver be greater than the next lowest classification. For example, on a forty-mph road requiring 225-foot spacing, the distance may be reduced to no less than 175 feet, which is the standard for a thirty-five-mph road facility; or

B. They may establish a common driveway with an adjacent landowner that serves the subject property and the adjacent property. A recorded access and maintenance easement for the driveway shall be provided to the City of Battle Creek Planning Division.

C. Apply to the Zoning Board of Appeals for a dimensional variance pursuant to Section 1280.03(d).

(6) Number of driveways per parcel.

A. Under normal circumstances a maximum of one driveway opening shall be permitted to a particular parcel from any abutting street.

B. The Zoning Administrator or their designee may permit one additional driveway entrance along a continuous site with frontage in excess of 330 feet and two additional driveway entrances along a continuous site if driveway access volumes exceed 5,000 vehicles per day and frontage exceeds 600 feet.

C. A dual-service (median-divided) driveway is considered to be one direct access driveway.

D. Only one pair of one-way drives may be used per 250 feet of street frontage.

(7) Driveway design.

A. Driveway width shall be sufficient for the particular use and anticipated traffic flows. One-way drives shall be a minimum of sixteen feet and a maximum of nineteen feet in width. Two-way drives shall be at least twenty-five feet wide, but no greater than sixteen feet per lane.

B. For uses which generate exit volumes in excess of 100 vehicles per hour or more than 5,000 vehicles per day, two exit lanes shall be provided and clearly marked for left and right turns. Driveways shall be designed with a minimum twenty-five-foot radius for inbound curbs and a minimum twenty feet for out-bound curbs.

C. Unless written permission is obtained from adjacent property owners, no portion of the driveway shall extend beyond the adjacent property lines extended to the edge of the street.

(8) Corner clearance. The minimum corner clearance distance between the centerline of a proposed driveway and the edge of the right-of-way of a nearby cross street shall be 100 feet. Traffic movements into and out of a driveway with a centerline located less than 150 feet from the edge of the right-of-way of a signalized intersection may be limited to right turns into and out of the driveway.

(9) Traffic impact studies. The Zoning Administrator or the City Engineer may require a traffic impact study (TIS) for all development proposals that it reviews. The TIS shall be accordance with and meet the standards of the City. The TIS shall be submitted by the developer or applicant to determine the potential future traffic conditions on adjacent roadways once a proposed development is finished. TIS shall predict the peak-hour operational conditions at site driveways and road intersections affected by the development. The results of the TIS shall be used in the final design of access points and internal circulation and may identify necessary off-site road improvements. At a minimum, the TIS shall meet standards as published by the Southeast Michigan Council of Governments (SEMCOG) and MDOT in the handbook titled Evaluating Traffic Impact Studies.

(10) Modification of standards for special situations. During site plan review, the Zoning Administrator shall have the authority to modify the standards of this section upon consideration of the following:

A. The standards of this section would prevent reasonable access to the site.

B. Access via a shared driveway or service/frontage road is not possible due to the presence of existing buildings or topographic conditions.

C. Roadway improvements (such as the addition of a traffic signal, center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.

D. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.

E. The proposed location and design are supported by the Michigan Department of Transportation (MDOT) or Calhoun County as an acceptable design under the existing site conditions. The Zoning Administrator may also request the applicant provide a traffic impact study to support the requested access design.

F. Where there is a change in use or expansion at a site that does not comply with standards of this Ordinance, the Zoning Administrator shall determine the amount of upgrade needed in consideration of the existing and expected traffic pattern and the capability to meet the standards of this Ordinance to the extent practical.

(g) Off-Street Loading Facilities.

(1) In order to prevent undue interference with the public use of streets, alleys, and public rights-of-way, off-street loading and unloading areas must be provided for uses which customarily receive or distribute material or merchandise by vehicles, subject to the following standards:

A. Loading areas must located on the same property of the building it serves, and located only in the side or rear yard.

B. Each space shall not be less than twelve feet in width, thirty feet in length, and provide at least fourteen feet of height clearance.

C. Each space shall be easily accessible from a street but have adequate room in the off-street parking area in which to maneuver. In no instances shall a public roadway be used to maneuver into or out of a loading area.

D. Each space shall be surfaced with asphalt, concrete, or other smooth, durable hard surface approved by the Zoning Administrator or their designee, and installed at no less than the minimum industry standards for thickness and weight rating.

E. If a loading area abuts any residential property, it shall be suitably screened or fenced from view according to the requirements of Section 1260.02.

(2) The Zoning Administrator may modify this requirement during site plan review, to be less than twelve feet by thirty feet if the minimum dimensions are impractical based on the use of the site or the site cannot reasonably accommodate a loading space of twelve feet by thirty feet. If a smaller loading area is approved, it must be the minimum dimensions necessary to accommodate loading on the site. Where two adjacent uses can both utilize one loading space, a joint loading space may be approved if there is evidence that two deliveries will not be made simultaneously.



## **1261.02 FRONT YARD AND VACANT LOT PARKING.**

(a) Purpose: Declaration of Nuisance. For the purpose of protecting the public health, safety and general welfare, for the enhancement of the visual environment of the City and for the improvement of residential uses in the City, the parking, storage or leaving unattended of any motor vehicle, truck, recreational vehicles and/or trailers, tractor, or similar property on any vacant lot or in any front yard on any premises in the City is hereby declared to be a nuisance and is prohibited.

(b) Application of Chapter. This chapter shall be applicable to premises located in the City that are used for residential purposes or upon which the structure located thereon is used for dwelling purposes, as well as to all vacant parcels of land upon which no structure exists, unless the use thereof for such purposes is permitted by other provisions of this Zoning Code and except as herein provided. The lawful use of required front yards or vacant lots which do not conform to this chapter shall be discontinued forthwith.

(c) Exceptions to Chapter. This chapter shall not apply to:

(1) Residential premises in Agricultural Districts when the land is also used for farming or agricultural purposes;

(2) Automobile parking on an improved driveway or turnabout. An improved driveway or turnabout is constructed of concrete, asphalt, or brick, or uniformly surfaced with macadam, gravel, or cinder not less than six inches thick in compacted depth. If required parking spaces equal four or more vehicles, use and construction of parking spaces shall conform with use and construction requirements outlined in Section 1261.01(c).

(3) A motor vehicle with a valid State handicapper's sticker or plate when parked in the front yard of any corner lot.

(d) Driveways; Turnabouts. An improved driveway shall lead from an authorized curb cut to a garage, carport or other required parking space or turnabout. A turnabout abutting an improved driveway in the front yard may be used for automobile parking only if all of the following conditions are satisfied:

(1) The turnabout shall only be used by motor vehicles for intermittent parking, loading and unloading, turning around or washing or waxing.

(2) The turnabout shall be improved and with access exclusively from the improved driveway.

(3) The turnabout, together with the abutting improved driveway, shall not:

A. Exceed a total width of twenty-four feet from paving edge to paving edge; and

B. Occupy in excess of 40% of the area defined as the front yard.

(4) The turnabout shall be wholly on the lot which benefits from it and shall be set back at least twenty-five feet from public rights of way.

(e) Occupancy of Recreational Vehicles, Tents, and Trailers in R Districts

(1) The provisions of this section provide for the occupancy or use of recreational vehicles and/or trailers only as accessory uses to a primary residential use.

(2) Recreational vehicles and/or trailers shall not be occupied when parked or stored on a residentially zoned property except;

A. By approved permit under Chapter 1468.

B. One camping tent may be set up for no more than four consecutive days for the purposes of temporary sleeping shelter. The camping tent shall only be permitted in a rear yard or between a building and a waterway.

(f) Storage and Parking of Recreational Vehicles and/or Trailers

(1) Recreational vehicles, trailers or equipment may be parked or stored in a fully enclosed garage or accessory building.

(2) If a recreational vehicle and/or trailer is not parked or stored in a fully enclosed garage or accessory building it can only be parked or stored as follows:

A. Recreational vehicles and/or trailers may be parked in a front yard only for the purposes of loading, unloading, and cleaning for a period not to exceed seventy- two hours and not more than four times in any one calendar year, providing the recreational vehicles and trailers are parked on an improved driveway or turnabout.

1. Such vehicles may have fixed connections to electricity and water for cleaning purposes only.

2. In no circumstance shall any parking occur within twenty-five feet of a corner property line at a street intersection or interfere with vehicle or pedestrian visibility or movements.

B. Recreational vehicles and/or trailers may be parked or stored in a side yard, on an improved surface approved by the Zoning Administrator, not less than three feet away from a side lot line and screened from adjacent property with a six-foot tall solid fence.

C. Recreational vehicles and/or trailers may be parked or stored in a rear yard, three feet away from a rear or side property line.

D. On corner lots, recreational vehicles and/or trailers may be parked or stored as follows:

1. In an interior side yard, on an improved surface approved by the Zoning Administrator, not less than three feet away from a side lot line, and screened from adjacent property with a six-foot tall solid fence, or;

2. In a rear yard, three feet away from property lines.

3. In no case shall a recreational vehicle and/or trailer be parked or stored closer to a street than the main building.

E. For lots having frontage along a waterway, recreational vehicles and/or trailers may be parked or stored in an interior side yard or in the yard along that water frontage, thirty feet away from waterway. In no case shall a recreational vehicle and/or trailers be parked or stored closer to a street than the main building.

F. Residential properties where it is impossible to park or store recreational vehicles and/or trailers in other than the front yard because of the configuration of the lot on which the property sits, terrain, natural boundaries, lot lines or other similar characteristics or problems may park or store such items on a driveway or an improved parking area approved by the Zoning Administrator.

(g) Presumptions.

(1) In any proceeding for a violation of any of the provisions of this chapter, proof that any properly registered vehicle described in the complaint was parked in violation of any of the provisions of this chapter, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner of such vehicle was the party who parked such vehicle in violation of this chapter.

(2) In any proceeding for any other violation of any of the provisions of this chapter, proof that the particularly described property in the complaint was parked or stored in violation of any of the provisions of this chapter, together with proof that the defendant named in the complaint was, at the time of such parking or storing, the owner of the premises or the party having charge, custody, control or use of such premises, shall constitute in evidence a presumption that the defendant was the party who parked or stored, or permitted the parking or storage of, the property in violation of this chapter.

(h) Interpretation. This chapter shall not be deemed to be in conflict with other provisions of these Codified Ordinances relating to the parking or storage of motor vehicles or other named property, but shall be construed as supplementary to any such provisions as well as to any statutes of the state relating thereto.

(i) Violations.

(1) No person shall place, park or store a motor vehicle at any place designated as a vacant lot or in any front yard of a residential premises to which this chapter applies.

(2) No owner or person having charge, custody, control or use of any premises shall park or store, or permit the parking or storage of, any motor vehicle or other item of property described in Section 1261.02(a) on any vacant lot or in any front yard of a residential premises in the City to which this chapter applies.

(Ord. 10-2020.Passed 11-24-20.)

## CHAPTER 1262

### Landscaping and Screening

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1262.01 Purpose and intent.

1262.02 Required landscaping.

1262.03 Tree/landscape planting protection.

1262.04 Landscape elements.

1262.05 Size requirements.

#### 1262.01 PURPOSE AND INTENT.

The impact of urban development on the form, function and environment of the City is significant. The following requirements are intended to ensure a high level of quality development, maintain compatible relationships between land uses, and to improve the overall appearance of all locations within the City. Furthermore, it is the intent of this Chapter to eliminate large expanses of paved parking areas and provide on-site natural areas for storm water to collect and infiltrate into the ground. Bio-swales and rain gardens are strongly encouraged. To this end, a detailed landscape plan showing the names, both common and botanical, location, spacing, plantings, size of plantings to be installed, and the location and type of all materials proposed to be included in the landscape treatment areas, shall be submitted as part of site plan approval

submittal process of Section 1281.04 Site Plan Review.

(Ord. 10-2020.Passed 11-24-20.)

**1262.02 REQUIRED LANDSCAPING.**

(a) Whenever any yard (front, side, or rear) of a use other than single or two-family residential, is not designated for building, off-street parking, loading or unloading, or other purpose required by the zoning district requirements, such yard shall be improved with either natural or living groundcover including grass, plant material, rocks, stones, mulch, etc.

(b) The proposed landscape plan shall integrate existing significant trees, tree stands, and natural vegetation to the greatest extent possible and shall be included in the minimum landscape requirements of this chapter as determined by the Zoning Administrator.

(c) All existing and future landscaping shall be maintained in a presentable condition and shall be kept free of refuse and debris. All existing and future plants and living materials shall be maintained in a sound, noxious weed-free, healthy and vigorous growing condition, free of plant disease and harmful insects.

(d) All new parking lots subject to site plan review and approval in accordance with Section 1281.04 shall provide and incorporate all of the following landscaping to the extent possible:

(1) Interior parking lot landscaping. Interior tree plantings areas and side and rear yard planting strips for multifamily residential, commercial, and industrial activities shall be provided as follows:

<b><i>Parking Lot Size by Space</i></b>	<b><i>Landscaping Required by Location</i></b>
0-10 spaces	Front and side yard planting strips
11-20 spaces	Front, side, and rear yard planting strips
21-40 spaces	Front, side, and rear planting strips; interior islands

(2) Planting strips - rear and side. One deciduous canopy tree or coniferous tree shall be planted in any unpaved area along the side and rear property line, external to a parking area, at a rate of one tree per eight parking spaces or one tree per thirty lineal feet of planting strip, whichever is greater. Ornamental trees may be provided in lieu of canopy or coniferous trees at a rate of one tree per six parking spaces or one tree per twenty lineal feet of planting strip, whichever is greater. In addition, six deciduous or coniferous shrubs shall be provided for each thirty lineal feet of planting strip.

(3) Where the site abuts a public road right-of-way, the following frontage landscaping shall be provided in the front yard area adjacent to the road right-of-way (see example of frontage landscaping below):

<b><i>Type of Landscaping</i></b>	<b><i>Minimum Required Landscaping</i></b>
Deciduous or Evergreen Tree	1 per 30 linear feet of road frontage or fraction thereof
Shrubs	1 per 30 linear feet of road frontage or fraction thereof

The depth of the frontage landscaping area shall be sufficient to contain the required landscaping and ensure the survivability of plant material. For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform intervals, at random, or in groupings. However, the Zoning Administrator may require the planting design to use massing or groupings of materials to create a stronger visual impact from the public right-of-way.

Example of Frontage Landscaping

Length of Road Frontage: 250 linear feet minus 30-foot driveway = 220 feet

Required Number of Plants

Deciduous or evergreen trees 220 ft./30 ft. = 7 deciduous or evergreen trees

Shrubs (220 ft./30 ft.) = 7 shrubs

TOTAL 7 deciduous or evergreen trees and 7 shrubs

Figure 22. Frontage Landscaping

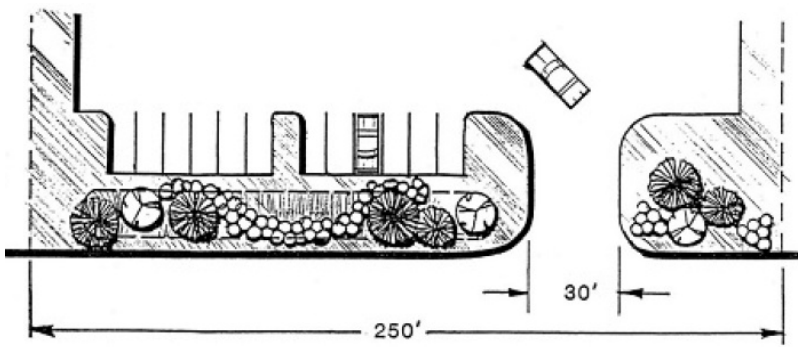


Figure 22. Frontage Landscaping

(4) Interior tree planting areas. Interior tree planting areas must be provided at a size equal to or greater than 10% of the overall parking lot area. Interior islands must be surrounded by or contained by at least two sides of parking lot. Multiple interior planting areas may be grouped or combined. One deciduous canopy tree or conifer type tree shall be provided at a rate of one tree per eight parking spaces, and at least one tree must be provided per interior planting area. Landscaping islands with or without walkways must be used to subdivide parking areas into parking rows with no more than twenty spaces. See image below.

Figure 23. Interior Tree Planting Areas

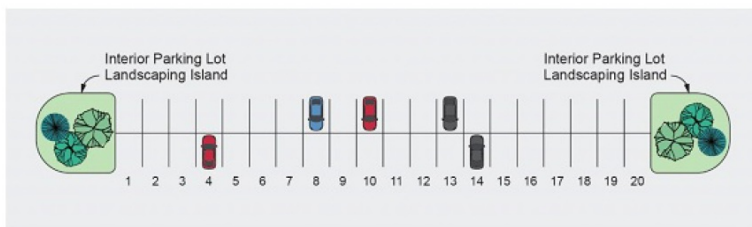


Figure 23. Interior Tree Planting Areas

(5) Trees and shrubs may be placed either symmetrically or asymmetrically throughout and around the parking area within planting strips and interior planting areas.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### 1262.03 TREE/LANDSCAPE PLANTING PROTECTION.

All landscaped areas shall be protected from the encroachment of vehicles by way of curbing or parking block stops except when used as part of an approved storm-water management plan as outlined in the Stormwater Technical Reference Manual.

(Ord. 10-2020. Passed 11-24-20.)

### 1262.04 LANDSCAPE ELEMENTS.

(a) Quality. Plant materials shall be of generally acceptable varieties and species, free from harmful insects and diseases, and hardy to Calhoun County, Michigan. The American Standard for Nursery Stock should be used as a reference to meet this requirement.

(b) Composition. A mixture of plant material, such as evergreens, and deciduous trees, and shrubs are recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement. No more than 50% of landscape plant materials shall consist of any one species. This requirement may be waived by the Zoning Administrator if written documentation is received from a professional botanist, horticulturist, or other applicable professional outlining justification of why this requirement should be waived for a specific property.

(c) Existing Trees. Where existing trees are used to satisfy the requirements of this chapter, the following requirements shall apply:

(1) Paving or other site improvements shall not encroach upon the dripline of the existing tree(s) to be preserved.

(2) If existing plant material is labeled "to remain" on the site plan, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No materials, vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such methods are approved by the Zoning Administrator.

(3) In the event that healthy trees which are used to meet the minimum requirements of this Zoning Code or those labeled "to remain" are cut down, destroyed, damaged, or excavated at the dripline, as determined by the Zoning Administrator, the contractor shall replace them with trees at a one-to-one ratio: for example, for every inch in diameter of tree that is removed, one inch diameter of new tree shall be planted; or, if one twenty-inch diameter tree is removed: it shall be replaced with ten two-inch diameter trees, or replaced with five four-inch diameter trees, as approved by the Zoning Administrator.

(d) Installation, Maintenance and Completion.

(1) All landscaping required by this chapter shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee may be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed. A temporary certificate of occupancy may be issued for projects needing additional time planting the approved landscaping elements based on seasonal limitations.

(2) All landscaping and landscape elements shall be planted in a sound workmanlike manner in accordance with accepted planting procedures.

(3) The owner of property required to be landscaped by this chapter shall maintain such landscaping in a strong and healthy condition, free from refuse, debris, and harmful insects. All materials used to satisfy the requirements of this chapter which becomes unhealthy, diseased, damaged, or dead, shall be replaced within one year (or the next appropriate planting period, whichever comes first) of the onset of the unhealthy condition, disease, damage, or death. All landscaped areas shall be provided with a readily available and acceptable water supply as needed.

(4) Any plants, trees, shrubs or vegetation identified as an invasive species by the Michigan Natural Features Inventory list of invasive species are prohibited.

(Ord. 10-2020.Passed 11-24-20.)

### **1262.05 SIZE REQUIREMENTS.**

Where landscaping is required the following schedule sets forth minimum size requirements for representative landscape materials:

<b>Tree Type</b>	<b>Minimum Height (H) or Caliper (C) at time of Planting</b>
Coniferous Evergreen Trees	6' (H)
Narrow Evergreen Trees	4' (H)
Deciduous Shade Tree	2.5" (C)
Deciduous Ornamental Tree	6' (H)
Deciduous Shrubs	24" (H)
Coniferous Shrub	15" spread

(Ord. 10-2020.Passed 11-24-20.)

## **CHAPTER 1263**

### **Signs**

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- 1263.01 Short title.
- 1263.02 Purpose statement.
- 1263.03 Permit required.
- 1263.04 Signs exempt from permits.
- 1263.05 Prohibited signs.
- 1263.06 General requirements for all signs.
- 1263.07 Measurement of sign area.
- 1263.08 Agricultural and residential zoning districts.
- 1263.09 Commercial and industrial districts.
- 1263.10 Billboards.

- 1263.11 Sign illumination.
- 1263.12 Maintenance.
- 1263.13 Mandatory sign removal.
- 1263.14 Abatement of nonconforming signs; notice.
- 1263.15 Penalty; equitable remedies.

#### **1263.01 SHORT TITLE.**

This chapter shall be referred to as the "Sign Ordinance of the City" or just the "Sign Ordinance."  
(Ord. 10-2020.Passed 11-24-20.)

#### **1263.02 PURPOSE STATEMENT.**

The purpose of this chapter is to permit signs that will not, by way of their own reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety or otherwise endanger public health or safety, and to permit and regulate signs in such a way as to support and compliment land use objectives as set forth in this Zoning Code to support a more aesthetic environment within the City.  
(Ord. 10-2020.Passed 11-24-20.)

#### **1263.03 PERMIT REQUIRED.**

No person shall erect or substantially alter a permanent sign without first acquiring a permit from the Community Services Department. Drawings showing to scale the dimensions, construction supports, sizes, electrical wiring, component materials of the sign, and method of attachment shall be submitted with the permit application. This requirement shall not be construed to require a permit for the replacement of a sign panel, or the change in copy on a changeable copy sign.  
(Ord. 10-2020.Passed 11-24-20.)

#### **1263.04 SIGNS EXEMPT FROM PERMITS.**

- (a) Temporary signs.
- (b) Building signs that are incorporated into the architecture of the building, including memorial tablets and historic markers attached to, embossed or engraved on the face of the building.
- (c) Signs painted on or permanently attached to motor vehicles which are legally licensed for and primarily used for transportation provided that no such vehicle is parked on a premise for the primary purpose of advertising.
- (d) Sidewalk signs for commercial buildings where the building is setback less than three feet from the public rights-of-way are permitted subject to the following requirements:
  - (1) Only one sidewalk sign is permitted per building tenant frontage;
  - (2) Permitted sidewalk signs are strictly limited to a maximum area of eight square feet per side, including any supporting structure or frame, and a maximum height of four feet, measured from the ground to the top of the supporting structure or frame;
  - (3) Sidewalk signs shall not be illuminated;
  - (4) Sidewalk signs shall be placed so as to maintain at least five continuous feet of clear sidewalk, as measured from the nearest edge of the sign or sign frame to the nearest curb or building wall for pedestrian passage;
  - (5) Sidewalk signs must be securely anchored or weighted to prevent the sign from being blown so as to cause danger to the public or property, but may not be attached to a building, or secured to or placed in the ground, nor attached to any element including but not limited to trees, signs, light poles, planters, or similar objects;
  - (6) A sidewalk sign shall not be placed so as to present an obstruction to visibility or movement of vehicular or pedestrian traffic at any driveway or street intersection;
  - (7) No sidewalk sign shall be placed in a manner that obstructs or impedes sidewalk plowing or cleaning;
  - (8) Sidewalk signs shall be constructed of wood, metal, or other similarly durable material;
  - (9) All signs shall be maintained in a high-quality state; no peeling, broken, cracked or faded paint or vinyl;
  - (10) Environmentally activated devices such as flags, festoons, balloons, ribbons or other attachments, including wheels or hitches for towing, are not permitted on a sidewalk sign;
  - (11) All signs placed on a public sidewalk or within any portion of the public right-of-way must be well maintained to prevent any injury;



(12) Sidewalk signs may only be displayed during the hours of operation of the business, and must be removed from the sidewalk at the close of business each day; and

(13) The owner of the sign shall be strictly liable for and indemnify the City for any injury or damage to person or property caused by the size, placement or maintenance of a sidewalk sign, which occupies or extends over any portion of a public sidewalk or right-of-way.

(Ord. 10-2020.Passed 11-24-20.)

### 1263.05 PROHIBITED SIGNS.

(a) Signs in the public right of way or other City property, except for signs erected by the City or with written approval by the City, or in the case of a permanent sign, an approved lease with the City, or sidewalk signs permitted pursuant to Section 1263.04(d).

(b) Roof and portable signs.

(c) Flashing signs and animated signs.

(d) Signs which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled right of way, which are of such intensity as to cause glare or impair the vision of pedestrians or the driver of any motor vehicle, or interfere with the operation of a motor vehicle are prohibited.

(e) Abandoned signs, pursuant to Section 1263.11(b).

(Ord. 10-2020.Passed 11-24-20.)

### 1263.06 GENERAL REQUIREMENTS FOR ALL SIGNS.

The following conditions apply to all signs erected or located in any zoning district:

(a) Sign Location. No sign shall be permitted at any location that creates any type of safety hazard or visual impediment to pedestrian or vehicular traffic. Any citation or notice of violation of this subsection shall cite any relevant building or electrical codes, provisions of this Zoning Code or other City ordinances.

(b) Alterations. No sign will be altered, rebuilt, enlarged, extended or relocated except in conformity with the provisions of this chapter. The refacing of signs is not an alteration within the meaning of this chapter.

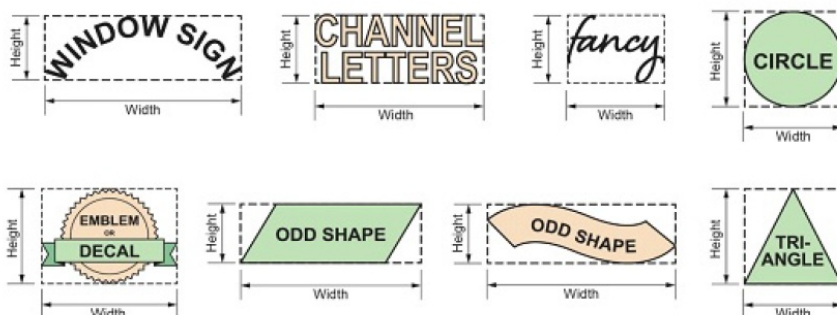
(c) Sign Attachment and Support. A sign must not be attached to or supported by a tree, utility pole, light pole, trash receptacle, bench, vending machine, public shelter, or be painted or drawn upon rocks or other natural features.

(Ord. 10-2020.Passed 11-24-20.)

### 1263.07 MEASUREMENT OF SIGN AREA.

(a) The area of a sign, expressed in square feet, shall mean the entire area within any circle, triangle or rectangle or square enclosing the extreme limits of writing, representation, emblem or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Refer to the figure.

Figure 24. Area of a Sign



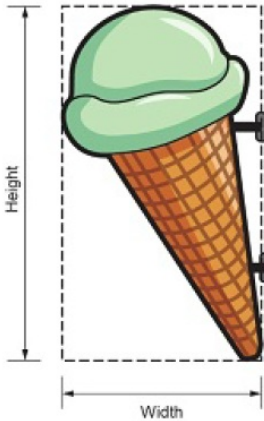
(b) Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

(c) Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area unless it too contains advertising lettering, materials or symbols.



(d) Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), the sign area is measured as their maximum projection, upon a vertical plane, as viewed from a position in the public right-of-way which produces the largest visual projection. See figure 25.

Figure 25. Sign Area, Three-Dimensional Objects



(e) Regardless of their spacing, the letters forming a word or name shall be considered a single sign. The area of such a sign shall be measured as provided in this chapter.

(Ord. 10-2020.Passed 11-24-20.)

**1263.08 AGRICULTURAL AND RESIDENTIAL ZONING DISTRICTS.**

Sign Type	Agricultural and Residential Districts	
	All Uses	Multi-family apartment complexes and permitted non-residential uses only
Temporary Signs	Maximum Area: 6 square feet Maximum Height: 3 feet Setbacks: Shall be located at least three feet away from the rights-of-ways and interior property lines	
Wall Sign	Not Permitted	Maximum Number: 1 per frontage along rights-of-way Maximum Area: 8 square feet
Automatic Changeable Copy Signs	Maximum Area: Shall not exceed 50% of the total allowed sign area for the premises.	
Freestanding Sign	Not Permitted	Maximum Number: 1 Maximum Area: 24 square feet. For properties having a street frontage of more than 300 feet, an additional 25% of sign area shall be allowed for each additional 150 feet of street frontage. However, the maximum size allowed for a sign shall not exceed 48 square feet. Setbacks: Shall not be closer than 10 feet from the street's right-of-way line, or 10 feet from any interior property line. 25 feet from any street intersection, measured from the intersection of the street's right-of-way lines. Maximum Height: 6 feet

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

**1263.09 COMMERCIAL AND INDUSTRIAL DISTRICTS.**

	Commercial and Industrial Districts
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Sign Type	Each parcel used in accordance with permitted uses or legal nonconforming non-residential uses	
All Signs	Where a commercial parcel abuts a residential parcel, the setback distance of the sign shall be increased one foot for every square foot of signs	
Temporary Signs	Maximum Area: 24 square feet. No individual sign shall exceed 12 square feet. Parcels greater than 300-foot frontage are permitted an additional 12 square feet of temporary signage. Maximum Height: 4 feet Setbacks: At least 3 feet from the rights-of-way and interior property lines	
Freestanding Sign	Each parcel used in accordance with permitted uses or legal nonconforming non-residential uses	For properties having frontage on a limited access highway (I-94/M66) only
	Maximum Number: 1 per property. Where more than one tenant or buildings shares a single parking area, there shall be permitted only 1 freestanding sign. Properties having frontage on more than one street rights-of-way are allowed a freestanding sign on each, however each secondary sign shall not exceed 50% the size of the primary sign.	Maximum Number: 1 freestanding sign on their premises, specifically oriented to traffic on the limited access highway Maximum Area: 150 square feet Maximum Height: 25 square feet above the grade level of the limited access highway (I-94) at its nearest point to the sign
	Maximum Area: The allowable area is no greater than 1.2 times the parcel frontage, not exceeding 100 square feet Maximum Height: 25 feet Setbacks: At least 10 feet from any street right-of-way	Setbacks: The sign may not be less than 25 feet nor more than 50 feet from the highway right-of-way line and may not be less than 100 feet from any other freestanding sign.
Wall Signs	These signs are permitted to be on any side of the building facing a parking lot or street so long they are not facing any residential district or use. Maximum Area: Shall not exceed the 1.2 times building frontage. Cannot exceed 10% of the walls total area. Maximum Height: In T-4 and T-5 zoning districts, the maximum height of a wall sign shall be the lowest point of the second-floor windows, or if there are no windows, 2 feet below the roof line or cornice.	
Window Signs	Maximum Area: Shall not exceed 30% of each window area	
Canopy Sign	Maximum Area: Shall not exceed 1.2 times the canopy frontage in square footage in total this can be used in combination with other specified signs.	
Drive-up/drive-thru businesses	Maximum Number: 1 sign per drive up lane in the side or rear yard. Each additional service window is allowed 1 sign not to exceed 24 square feet. Maximum Area: 32 square feet. Maximum Height: 8 feet from grade	
Automatic changeable copy signs	Maximum Area: Shall not exceed 50% of the total allowed sign area for the premises.	

(Ord. 10-2020.Passed 11-24-20.)

**1263.10 BILLBOARDS.**

(a) Except as otherwise prohibited by this section, billboards are permitted in and limited to placement along in Agriculture, B-1, I-1 and I-2 zoning districts when placed along a limited access highway or state trunk line. A billboard is not

permitted to be erected or placed on a premise which also contains a freestanding sign.

(b) Billboards are subject to the following conditions:

(1) Such signs shall be placed no closer than 1,500 feet from any other billboard sign on the same side of the right-of-way.

(2) Such signs shall not exceed 672 square feet of area when located on or facing a limited access highway. When all other conditions are met for placement, the setback from a limited access highway or highway shall not exceed 300 square feet. When located on any primary highway as used in the subsection, terms limited access highway and primary highway shall have the same meaning as provided for as in the Highway Advertising Act Public Act of 1972, as amended, being MCL 252.301 et seq.

(3) Such signs shall not exceed thirty-five feet in height.

(4) Such signs shall not be closer than ten feet from any property line, twenty feet from any street right-of-way, and 100 feet from any residential, public or quasi-public structure.

(5) Such signs shall be maintained free of peeling paint or paper, sun-fading, staining, rust or other conditions which impair the legibility, supporting structures, frames, braces, guys and anchors of such signs shall be maintained so as not to be unsafe or in a state of disrepair.

(6) Such signs shall not be illuminated other than by approved electrical devices in accordance with Chapter 1422 "Electrical Code." Underground wiring shall be required for any illuminated sign permitted under this section. Such signs shall not employ flashing, blinking or oscillating lights. Any lighting shall be directed away from adjacent properties, passing motorists and pedestrians.

(c) No billboard shall be erected at any time when there are seventy-five or more billboard faces in the City. With Administrator approval, a sign owner choosing to remove a legally nonconforming billboard may transfer the billboard's square footage to a new billboard in another location in accordance with this section.

(d) The City reserves all rights it is granted or permitted to regulate signs pursuant to the Highway Advertising Act, Public Act 106 of 1972, as amended, being MCL 252.301 et seq., and nothing in this subsection shall be interpreted or construed to in any way limit the ability of the City to regulate, restrict or limit the number and locations of billboards within the City pursuant to the Home Rule City Act, Public Act 279 of 1909, as amended, being MCL 117.1 et seq., and the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006, as amended, being MCL 125.3101 et seq.

(Ord. 10-2020.Passed 11-24-20.)

### **1263.11 SIGN ILLUMINATION.**

Internally lit signs are not to exceed 100 watts or 1,600 lumens. This is to be measured from one foot away of the sign's face, and at midpoint of the sign face. External lights shall have the source so obscure and shielded that no direct rays from it are visible from a public right-of-way or from an abutting property.

(Ord. 10-2020.Passed 11-24-20.)

### **1263.12 MAINTENANCE.**

(a) Signs and sign structures must be well maintained with no signs of damage or wear. The sign structure and related pertinence need to be safe. If there are any defective parts, they need to be repaired or replaced, so the structure is not considered dangerous to public health.

(b) Any sign structure left open with no sign or blank panel for over ninety days shall be considered abandoned. If the sign or blank panel is removed and the existing structure meets the current zoning regulations, it shall be replaced by another sign or blank panel within those ninety days, or it shall be considered abandoned pursuant to Section 1263.04(e). Any nonconforming sign that is abandoned is the responsibility of the owner and shall be removed by such owner. If the owner fails to comply, after receiving due notice, the Administrator may direct the sign to be removed and assess the costs of removal against the property owner as a special assessment for legally rendered City services, in accordance with Section 216.13 of the Administration Code.

(c) Any billboard that is a nonconforming sign may be maintained and repaired so as to continue the useful life of the sign. However, under no circumstances may nonconforming billboards be expanded, enlarged or extended. Any nonconforming sign or sign structures substantially destroyed by fire, wind or other casualty shall not be restored or rebuilt.

(Ord. 10-2020. Passed 11-24-20; Ord. 02-2022. Passed 2-15-22.)

### **1263.13 MANDATORY SIGN REMOVAL.**

(a) Emergency Conditions. Should the Administrator determine that a sign is so dangerous that it requires immediate removal, he or she shall attempt to provide the sign owner or property owner with a notice of the danger and the need for immediate abatement. Due to the emergency nature of the danger, if such notice is not possible due to the lack of knowledge as to the whereabouts of the sign owner or property owner, or should the sign or property owner not be available or refuse to immediately abate the nuisance, the Administrator shall abate such nuisance. The cost of the abatement,

including a service fee of ten percent of the actual costs of such correction, shall become a lien against the property in accordance with Section 216.13 of the Administration Code.

(b) Nuisance Abatement. Any other sign regulated by this charter that fails to comply with the provisions of this chapter but which does not require emergency action, shall also constitute a nuisance. The owner of such sign and the real estate upon which it is located shall be given written notice of thirty days by regular mail for the abatement thereof. If such abatement is not accomplished within the 30-day period, the Administrator shall abate the nuisance. The cost of such abatement, including a service fee of 10% of the actual cost of such abatement, shall become a lien against the property in accordance with Section 216.13 of the Administration Code.

(c) Remedies Cumulative. The action of the Administrator to abate a nuisance under this section shall be in addition to the penalties described elsewhere in this Zoning Code.

(d) Removal by Administrator. Notwithstanding any other provision in this Zoning Code, signs which are affixed in any manner to walls, fences, trees, posts, bridges, utility poles, street signs or traffic signs, or otherwise located in the public right of way may be removed by the Administrator and/or their assigns and may be destroyed without notice to the violator.

#### **1263.14 ABATEMENT OF NONCONFORMING SIGNS; NOTICE.**

The intent of this chapter is to abate nonconforming signs, except as otherwise specifically set forth in this chapter, as rapidly as the police power of the City permits. After the enactment of this chapter, the Administrator or their designated agent shall, as soon as is practical, survey the City for signs which do not conform to the requirements of this chapter. Upon determining that a sign is nonconforming, the Administrator shall use reasonable efforts to notify the owner of the sign, in writing, by regular U.S. mail.

(Ord. 10-2020.Passed 11-24-20.)

#### **1263.15 PENALTY; EQUITABLE REMEDIES.**

(a) Unless otherwise specified, a person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

(b) A person who violates any of the provisions of this Zoning Code that causes an imminent threat to the public health or safety shall be subject to an Order to Correct setting forth a deadline to abate the violation. A person who fails, after receiving notice, to timely correct a condition that causes an imminent threat to the public health or safety is guilty of a misdemeanor and shall be subject to the penalty provided in Section 202.99.

(c) A sign which is not erected or maintained in accordance with this chapter is deemed to be unlawful and a nuisance. Nothing in this section shall preclude or abrogate the availability to the City of any other remedy available at law or in equity to prevent or remedy a violation of any of the provisions of this Zoning Code.

(Ord. 10-2020.Passed 11-24-20.)

## **CHAPTER 1270**

### **Nonconformities**

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- 1270.01 Continuance; changes.
- 1270.02 Damaged buildings.
- 1270.03 Discontinued buildings.
- 1270.04 Alteration of buildings.
- 1270.05 Violations; removal or correction.
- 1270.06 Elimination of nonconforming uses and structures.
- 1270.07 Appeal to circuit court.
- 1270.08 Declaration and abatement of nuisance per se.
- 1270.09 Acquisition by City of nonconforming uses and structures.
- 1270.10 Nonconforming dimensions or setbacks.
- 1270.11 Nonconforming lots.

#### **1270.01 CONTINUANCE; CHANGES.**

(a) The lawful use of a dwelling, building, or structure existing at the time of the adoption of this Zoning Code may be

continued, although such use does not conform to this Zoning Code and is hereby classified as legal nonconforming.

(b) Such legal nonconforming use may be extended throughout the portion of the building that was obviously designed therefore, provided no structural alteration, except as may be required by law or ordinance, is made therein. If no structural alteration is made to a legal nonconforming use of a building, it may be changed to another nonconforming use of the same or a more restricted classification.

(c) This section shall apply to nonconforming uses of the land in districts hereafter changed. Whenever a nonconforming use of a building has changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(Ord. 10-2020.Passed 11-24-20.)

#### **1270.02 DAMAGED BUILDINGS.**

Except for as provided herein, no building that has been damaged by fire, explosion, act of God or the public enemy, shall be restored, except in conformity with this Zoning Code.

(a) Restoration can occur if the replacement or repair costs do not exceed the current year's assessed value contained in the City of Battle Creek assessing records.

(b) In situations where a legal nonconforming residential building has not intentionally been damaged or destroyed to an extent exceeding the current year's assessed value and the damaged residential building is within a 300 foot radius comprised of at least 50% of other nonconforming residential properties, the residential unit may be repaired, rebuilt or replaced within twelve months of such damage or destruction, provided that such repairs or rebuilding or replacement does not expand more than 25% of the original ground floor area of the residential use or building so long as the expansion meets all other zoning requirements and the following standards:

- (1) The change will maintain the building in safe repair.
- (2) The change will protect public health, safety, and welfare.
- (3) The change will lead to increased compliance with the specified zoning district.
- (4) The change will produce an accessory dwelling unit or building that is incidental to the existing building.

(Ord. 10-2020.Passed 11-24-20.)

#### **1270.03 DISCONTINUED BUILDINGS.**

If an intent to abandon a use of a nonconforming building or premises is discovered, the use of the same shall thereafter conform to the regulations of the district in which it is located.

(Ord. 10-2020.Passed 11-24-20.)

#### **1270.04 ALTERATION OF BUILDINGS.**

No existing building or premises devoted to a nonconforming use shall be enlarged, extended or structurally altered except in any of the following circumstances:

(a) Residential dwellings as outlined in Section 1270.02.

(b) When required by law or ordinance or unless such use is changed to one permitted in the district in which such building or premises is located.

(c) A legal nonconforming residential building may be expanded no more than 25% of the original ground floor area of the residential use or building so long as the expansion meets all other zoning requirements.

(d) This section shall not prevent the alteration, improvement, or rehabilitation of any legal nonconforming building which meets the following requirements:

- (1) The change does not involve any height, area, bulk, or change of use.
- (2) The change will maintain the building in safe repair.
- (3) The change will protect public health, safety, and welfare.
- (4) The change will lead to increased compliance with the specified zoning district.
- (5) The change will produce an accessory dwelling unit or building that is incidental to the existing building.

(Ord. 10-2020.Passed 11-24-20.)

#### **1270.05 VIOLATIONS; REMOVAL OR CORRECTION.**

A nonconforming structure that was erected, converted or structurally altered in violation of any previous Zoning Code

adopted by the City of Battle Creek or the Township of Battle Creek shall not be validated by the adoption of this Zoning Code, and such violation or any violation of this Zoning Code may be ordered to be removed or corrected by the proper official at any time pursuant to Section 1281.02.

(Ord. 10-2020.Passed 11-24-20.)

#### **1270.06 ELIMINATION OF NONCONFORMING USES AND STRUCTURES.**

The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under the Michigan Acquisition of Property by State Agencies and Public Corporations Act, Public Act 149 of 1911, as amended, being MCL 213.21 et seq.

(Ord. 10-2020.Passed 11-24-20.)

### **1270.07 APPEAL TO CIRCUIT COURT.**

(a) Any party aggrieved by any order, determination, or decision of any officer, agency, board, or commission, of the City, or the City Commission, made under Section 1270.01 through Section 1270.06 of this chapter may obtain a review in Calhoun County Circuit Court. The review shall be in accordance with Section 1280.03(e).

(b) Any person required to be given notice under Section 1281.01(c)(2)A.3. of the appeal of any order, determination, or decision made under Section 1270.01 through Section 1270.06 shall be a proper party to any action for review under this section.

(Ord. 10-2020.Passed 11-24-20.)

### **1270.08 DECLARATION AND ABATEMENT OF NUISANCE PER SE.**

Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted pursuant to the Michigan Zoning Enabling Act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se.

(Ord. 10-2020.Passed 11-24-20.)

### **1270.09 ACQUISITION BY CITY OF NONCONFORMING USES AND STRUCTURES.**

The City may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The City Commission may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in the City. Property acquired under this section by the City shall not be used for public housing.

(Ord. 10-2020.Passed 11-24-20.)

### **1270.10 NONCONFORMING DIMENSIONS OR SETBACKS.**

When, on a developed lot from which additional right-of-way is acquired by the Michigan Department of Transportation, the City or another entity exercising the power of eminent domain for the purpose of street reconstruction, street relocation or street widening, a nonconformity results with respect to the dimensional requirements of Chapter 1241 or Section 1261.01, any buildings or structures shall be permitted to be altered, enlarged or rebuilt, provided that the specific nonconformity created when the right-of-way was acquired is not increased.

(Ord. 10-2020.Passed 11-24-20.)

### **1270.11 NONCONFORMING LOTS.**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Code, a single-family dwelling and customary accessory buildings may be erected on a single lot of record at the effective date of adoption or amendment of Ordinance No. 10-2020. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district; provided that yard setbacks and lot coverage and other requirements not involving area, width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be requested of the Zoning Board of Appeals.

(Ord. 10-2020.Passed 11-24-20.)

## **CHAPTER 1280**

### **Administrative Organization**

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1280.01 Objectives; authority of City Commission.

1280.02 Planning Commission.

1280.03 Zoning Board of Appeals.

#### **1280.01 OBJECTIVES; AUTHORITY OF CITY COMMISSION.**

The principal objective of this Zoning Code is to provide for the orderly arrangement of compatible buildings and land uses and for the proper location of all types of uses required for the social and economic welfare of the City. To accomplish this objective, each type of use is classified as permitted in one or more of the various districts established by this Zoning Code. However, in addition to those uses specifically classified and permitted by right in each district, there are certain additional uses which may be necessary or desirable to allow because of their unusual characteristics or the service they provide to the



public. These special uses require particular consideration as to their proper location in relation to adjacent established or intended uses or to the planned development of the community. Such uses include:

(a) Uses either municipally operated or operated by publicly regulated utilities or traditionally affected by public interest; and

(b) Uses entirely private in character which, because of their peculiar locational needs or the nature of the service they offer to the public, may have to be established in a district in which they cannot reasonably be allowed as a permitted use under this Zoning Code.

(Ord. 10-2020.Passed 11-24-20.)

## **1280.02 PLANNING COMMISSION.**

(a) Establishment; Powers and Duties. The City Planning Commission, heretofore created in accordance with the Michigan Municipal Planning Act, Public Act 285 of 1931, repealed and replaced by the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, is hereby continued pursuant to MCL 125.3881(3). The Planning Commission shall have all of the powers and shall be charged with all of the duties set forth in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, being MCL 125.3801 et seq. The Planning Commission shall further have all the powers and duties now or hereafter conferred upon such commissions by the law of the State of Michigan.

(b) Membership; Compensation; Other Offices.

(1) The Planning Commission shall consist of nine members appointed by the Mayor, subject to the approval, by a majority vote, of the members of the City Commission elected and serving. Members may include the City Manager or a person designated by the City Manager, if any, the Mayor and one or more members of the City Commission, or any combination thereof, as ex officio members; however, not more than one-third of the members of the Planning Commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the Planning Commission.

(2) The term of an ex officio member of a Planning Commission shall be as follows:

- A. The term of a Mayor shall correspond to their term as Mayor.
- B. The term of a City Manager shall expire with the term of the Mayor that appointed that City Manager.
- C. The term of a member of the City Commission shall expire with their term on the City Commission.

(3) Members of the Planning Commission other than ex officio members shall be appointed for three-year terms or until their successor takes office.

(4) The membership of a Planning Commission shall be representative of important segments of the community, such as the economic, governmental, education, and social development of the local unit of government, in accordance with the major interests as they exist in the local unit of government, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable.

(5) Members of a Planning Commission shall be qualified electors of the local unit, except that one Planning Commission member may be an individual who is not a qualified elector of the City.

(6) Members of the Planning Commission shall serve as such without compensation.

(c) Removal of Members; Conflict of Interest

(1) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(2) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the bylaws, or a majority vote of the remaining members of the Planning Commission.

(3) Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

(4) The Planning Commission shall define conflict of interest in its bylaws.

(d) Vacancies. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term in the same manner as provided for an original appointment.

(e) Chairperson; Meetings; Rules; Records; Bylaws; Annual Report. The Planning Commission shall elect a Chairperson and Secretary from among the appointed members and create and fill such other of its offices as it may consider advisable. An ex officio Planning Commission member is not eligible to serve as Chairperson. The term of each officer shall be one year with eligibility for reelection as specified in its bylaws. The Commission shall hold not less than four regular meetings each year, and by resolution shall determine the time and place of the meetings. It shall adopt rules for the transaction of business set out in bylaws and shall keep a record of its resolutions, transactions, findings and determinations, which records shall be a public record. It shall also make an annual written report to the City Commission concerning its operations and the status of

planning activities, including recommendations regarding actions by the City Commission related to planning and development.

(Ord. 10-2020.Passed 11-24-20.)

### **1280.03 ZONING BOARD OF APPEALS.**

#### **(a) Powers; Membership; Compensation.**

(1) The Zoning Board of Appeals for the City, having been heretofore created in accordance with Public Act 207 of 1921, repealed and replaced by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., is hereby continued and, in addition to the general duties and powers conferred upon it by law, may exercise such powers as are conferred upon it by the Charter and this Zoning Code. The Board shall be organized as provided in this chapter.

(2) The word "Board," when used in this Zoning Code, shall be construed to mean the Zoning Board of Appeals. The Board shall consist of seven members appointed by a majority vote of the City Commission. The members shall serve for terms as follows: Two for one year, two for two years and three for three years, in the first instance, and thereafter all appointments shall be for three years each, except for members serving because of their membership on the Planning Commission and/or the City Commission, whose terms shall be limited to the time they are members of those bodies. One regular member of the Board may be a member of the City Planning Commission. The remaining regular members of a Zoning Board of Appeals, and any alternate members under subsection (3) below, shall be selected from the electors of the City of Battle Creek residing within the City of Battle Creek. The members selected shall be representative of the population distribution and of the various interests present in the City of Battle Creek. One regular or alternate member of the Board may be a member of the City Commission; however, such a member shall not serve as Chairperson of the Board. The Chairperson of the Board shall be elected annually by the members of the Board. Vacancies shall be filled by the City Commission for the unexpired term. A successor shall be appointed not more than one month after the term of the preceding member has expired. A vacancy on the Board shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(3) The City Commission may appoint, in accordance with procedures specified in this Zoning Code, not more than two alternate members for the same term as regular members of the Board. The alternate members may be called, as specified in this Zoning Code, to sit as regular members of the Board if a regular member is absent from or unable to attend two or more consecutive meetings, or for a period of more than thirty consecutive days. An alternate member may also be called to serve for the purpose of reaching a decision on a case in which the regular member has abstained because of a conflict of interest. The alternate member appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board.

(4) An employee or contractor of the City Commission may not serve as a member of the Zoning Board of Appeals.

(5) The City Commission may remove a member of the Board for inefficiency, misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A Board member shall disqualify themselves from a vote in which the member has a conflict of interest. Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(6) The Board shall not conduct business unless a majority of the regular members of the Board are present.

(7) A member of the Board who is also a member of the Planning Commission or the City Commission shall not participate in a public hearing on, or vote on the same matter that the member voted on as a member of the Planning Commission or the City Commission. However, the member may consider and vote on other unrelated matters involving the same property.

#### **(b) Meetings; Rules of Procedure; Records.**

(1) Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify. There shall be a fixed place for meetings and all meetings shall be open to the public. The Chairperson or, in their absence, the acting Chairperson may administer oaths and compel the attendance of witnesses.

(2) The Board shall adopt its own rules of procedure and maintain a public record of its proceedings which shall be filed in the office of the City Clerk.

#### **(c) Appeals to Zoning Board of Appeals.**

(1) An appeal may be taken to the Zoning Board of Appeals by a person aggrieved or by an officer, department, board, or bureau of this state or the City. In addition, a variance in the zoning ordinance, may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, Public Act 87 of 1980, being MCL, 213.54, and as provided for under the Michigan Zoning Enabling Act. The Zoning Board of Appeals shall state the grounds of any determination made by the Board.

(2) Such appeal shall be taken within such time as is prescribed by the Board by general rule, by filing with the body or officer from whom the appeal is taken and with the Zoning Board of Appeals a notice of appeal, specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator or their designee certifies to the Board, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, all of the papers constituting the record upon which the appeal was taken.

(4) The Board shall fix a reasonable time for the hearing of an appeal and notice shall be given as provided in Section 1281.01(c)(2).

(5) At a hearing under this section, a party may appear personally or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(6) Fees, in accordance with a schedule enacted from time to time by the City Commission, by resolution, shall be paid to the Department at the time the notice of appeal is filed.

(d) Jurisdiction, Voting Requirements for Determinations.

(1) The Zoning Board of Appeals shall have the following powers:

A. To hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of zoning maps;

B. To hear and decide on matters referred to the Board or upon which the Board is required to pass under a zoning ordinance.

C. To hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this Zoning Code; and

D. To grant exceptions in the following instances:

1. Permit the extension of a district where the boundary line of a district divided a lot held in single ownership at the time of passage of this Zoning Code (Ordinance 10-2020, adopted on November 24, 2020);

2. Interpret this Zoning Code in such a way as to carry out the intent and purpose of the zoning district map, where the street layout existing on the ground varies from that shown on the map;

3. Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God or the public enemy, to the extent of more than 50% of its insurable value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use, and the primary purpose of continuing the nonconforming use is not to continue a monopoly; and

4. Waive or reduce the parking and loading requirements in the multiple dwelling, commercial or industrial districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience. The Board may waive or reduce the requirements of off-street parking whenever any property lies within a 300-foot radius of a publicly owned parking lot.

(2) The Board shall have the authority to grant the following variations:

A. Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act; and

B. Use. If there is an unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a use variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act.

(3) Variance standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

A. Nonuse (dimensional) variances.

1. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this Zoning Code (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

2. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this Zoning Code by simply relocating or redesigning the structure(s), then a variance shall not be granted.

3. A variance shall not be granted when it will alter or conflict with the intent of this Zoning Code considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

4. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

B. Use Variances.

1. The building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which the property is located.

2. The condition or situation of the specific piece of property or the intended use of the property is unique to that property and not commonly present in the general vicinity or zoning district. Unique conditions or situations may include exceptional narrowness, shallowness, or shape of the property that existed when the applicable zoning ordinance provision took effect: exceptional topographic conditions or other extraordinary situation on the land, building, or structure: or the use or development of the property immediately adjoining the property in question; or any other physical situation on the land, building or structure deemed by the Board to be extraordinary.

3. The proposed use, if granted, will not alter the essential character of the neighborhood or the intent of the master plan.

4. The immediate hardship cited as the cause for the variance was not created by any affirmative action by the applicant.

(e) Finality of the Decision of Board; Appeal to Circuit Court

(1) The decision of the Board shall be final. A party aggrieved by the decision may appeal to the Calhoun County Circuit Court. The burden of proof shall be on the appealing party.

(2) The Circuit Court shall review the record and decision to ensure the decision meets all of the following requirements:

- A. Complies with the constitution and laws of the state.
- B. Is based upon proper procedure.
- C. Is supported by competent, material, and substantial evidence on the record.
- D. Represents the reasonable exercise of discretion granted by law to the Board.

(3) If the Circuit Court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented at the hearing before the Board, then the Court shall order further proceedings on conditions the Court considers proper. The Board may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the Court. The Court may affirm, reverse, or modify the decision. The Court may make other orders as justice requires.

(4) An appeal from a decision of the Board shall be filed within thirty days after the Board issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Board if there is no chairperson, or within twenty-one days after the Board approves the minutes of its decision.

(Ord. 10-2020.Passed 11-24-20.)

## **CHAPTER 1281**

### **Administrative Procedures**

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- 1281.01 Zoning ordinance/map amendments.
- 1281.02 Certificates of occupancy.
- 1281.03 Applications for building permits and zoning permits; records.
- 1281.04 Site plan review.
- 1281.05 Special land uses.
- 1281.06 Enforcement by Zoning Administrator; appeals.
- 1281.07 Interpretation, purpose and conflicts.
- 1281.08 Protest petition, submission of ordinances to electors.
- 1281.09 Requirement of payment of fees.
- 1281.10 Transfer of ownership.

## 1281.01 ZONING ORDINANCE/ MAP AMENDMENTS.

(a) Initiation. The City Commission may amend, supplement or change the regulations or the district boundaries of this Zoning Code pursuant to the authority and according to the procedure set forth in The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. Changes in the text of this Zoning Code may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission; or

(3) Any interested person or organization through a petition, which shall not be initiated for the same property more often than once every twelve months.

Changes in zoning district boundaries may be proposed by:

- (1) The City Commission;
- (2) The Planning Commission;
- (3) The owner(s) of the premises concerned; or
- (4) The designated agent of a person having a freehold interest in the property.

(b) Definition. An amendment to this Zoning Code shall be deemed to be any change to the text or to the official map, including:

- (1) Petitions for zoning ordinance amendments; or
- (2) Conditional rezonings.

(c) Amendment Review Procedures. The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

(1) Technical review. Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate City departments and divisions and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated City consultants for review.

(2) Public hearing. A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., as summarized below:

A. On any amendment to this Zoning Code, the Planning Commission shall hold a public hearing prior to the amendment being referred to the City Commission for action. A record of the comments received at the public hearing shall become a part of the Planning Commission report and recommendation to the City Commission. The following requirements shall pertain to public hearings held before the Planning Commission:

1. Not less than fifteen-day notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the City.

2. Not less than fifteen-day notice of the date, time and place of the hearing shall be given, by regular mail, to each public utility company and to each railroad company owning or operating any public utility or railroad within the City that registers its name and mailing address with the City Clerk for the purpose of receiving such notices.

3. Not less than fifteen-day notice shall be given, by regular mail, to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the subject property affected by the amendment, as listed in the most current assessment roll and to the occupants of all structures with 300 feet of the subject property regardless whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, then notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

4. The notice under subsection 3. above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen days before the date the request will be considered. If the name of the occupant is not known, then the term "occupant" may be used for the intended recipient of the notice. However, failure of property owners to receive such notice, shall not invalidate the amendment.

5. A notice under this section shall do all of the following:

- a. Describe the nature of the request.
- b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street

addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, then other means of identification may be used.

c. State when and where the request will be considered.

d. Indicate when and where written comments will be received concerning the request.

6. For any group of adjacent properties numbering eleven or more that is proposed for rezoning, the requirements of above subsection iii), and the requirement of above subsection 5.b., that street addresses be listed do not apply to that group of adjacent properties.

(3) Planning Commission consideration of proposed amendment The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Commission.

(4) City Commission action on proposed amendment Upon receipt of the report and recommendation from the Planning Commission, the City Commission may approve or deny the proposed amendment. If determined to be necessary, the City Commission may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official zoning map, the City Commission shall approve or deny the amendment, based upon its consideration of the criteria contained in this Zoning Code.

A. The City Commission, upon receipt of the Planning Commission study and report, shall publish a notice indicating the proposed amendment, proposed use and affected property in a newspaper of general circulation in the City. Such notice shall be published at least five days before the City Commission meeting, and shall indicate the time, date and place of such meeting.

(d) Standards of Review for Amendments In considering any petition for an amendment to the text of this Zoning Code or to the zoning map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the area shall be considered.

(2) Consistency with the basic intent and purpose of this Zoning Code.

(3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(4) The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

(5) That conditions have changed since the Zoning Code was adopted or there was an error in the Zoning Code that justifies the amendment.

(6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

(7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

(11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

(e) Notice of Adoption of Amendment Following adoption of an amendment by the City Commission, one notice of adoption shall be filed with the City Clerk and one notice shall be published in a newspaper of general circulation in the City within fifteen days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq. A record of all amendments shall be maintained by the City Clerk. A Zoning Map shall be maintained by the City Clerk, which shall identify all map amendments. The required notice of adoption shall be maintained by the zoning administrator and include all of the following information:

(1) In the case of a newly adopted Zoning Ordinance, the following statement: "A zoning ordinance regulating the

development and use of land has been adopted by the City of Battle Creek."

(2) In the case of an amendment(s) to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s).

(f) Referendum.

(1) Within seven days after publication of the Zoning Ordinance, a registered elector residing in the zoning jurisdiction of the City may file with the City Clerk a notice of intent to file a petition under this section, in accordance with Section 401 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3401.

(2) If a notice of intent is filed under subsection (1) above, the petitioner shall have thirtydays following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction of the City not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the City Clerk requesting the submission of the zoning ordinance or part of the zoning ordinance to the electors residing in the zoning jurisdiction of the City for their approval,, in accordance with Section 402 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3402.

(3) Whenever there is a conflict between this section of the Zoning Ordinance or the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3101 et seq., shall govern.

(g) Conditional Rezoning.

(1) Intent. The Planning Commission and City Commission recognize that, in certain instances, it would be an advantage to both the City and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being MCL 125.3405, to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this Zoning Code to accomplish, among other things, the objectives of the zoning ordinance and the master plan to achieve integration of the proposed land development project with the characteristics of the surrounding area.

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

A. "Rezoning Conditions" shall mean conditions regarding the development and use of property proposed by the applicant and approved by the City as part of an approval under this section, including review and recommendation by the Planning Commission.

B. "Rezoning with Conditions Agreement" shall mean a written agreement approved and executed by the City and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the City has approved a rezoning with conditions.

C. "Rezoning with Conditions Plan" shall mean a plan of the property which is the subject of a rezoning with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the rezoning with conditions plan shall be determined by the applicant, subject to approval of the City Commission after recommendation by the Planning Commission.

D. "Rezoning" shall mean the amendment of this Zoning Code to change the zoning map classification on property from its existing district to a new district classification.

(3) Authorization and eligibility.

A. The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

B. In order to be eligible for consideration of a rezoning with conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a rezoning with conditions agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:

1. The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.

2. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.

3. Preservation of open space, natural resources and/or natural features.

4. Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire City.

5. Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by City ordinance.



6. Limitations on permissible uses of the property.
7. Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and review procedures.

A. Application.

1. At the time of making application for amendment of this Zoning Code seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning a property owner may submit a complete application for approval of a rezoning with conditions to apply in conjunction with the rezoning.

2. The application, which may be amended by the applicant during the process of consideration, shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.

3. An application for a rezoning with conditions shall include a rezoning with conditions agreement (“the agreement”). The agreement shall set forth the rezoning conditions and may incorporate a rezoning with conditions plan.

4. The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

B. Planning Commission review.

1. The proposed rezoning with conditions shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the zoning ordinance.

2. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Commission on the proposed rezoning with conditions.

C. City Commission review. Upon recommendation by the Planning Commission, the City Commission shall make a final determination to approve or deny the rezoning with conditions as offered by the applicant. The City Commission may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The City Commission's deliberations shall include, but not be limited to, a consideration of the review criteria for a rezoning with conditions.

(5) Review criteria. A rezoning with conditions shall only be approved if it meets the following requirements and standards:

A. The proposed rezoning with conditions will further the goals and objectives of the city master plan.

B. Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the rezoning with conditions agreement).

C. The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

1. Development and use of the property shall be subject to the more restrictive requirements shown or specified in the rezoning with conditions agreement, and/or in other conditions and provisions set forth in the rezoning with conditions agreement required as part of the rezoning with conditions approval. Such rezoning with conditions agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

2. As part of the grant of final approval of a rezoning with conditions, the City Commission shall be authorized to grant modifications to the strict terms of the zoning ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the City Commission finding that each zoning ordinance provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the city master plan and compatible with the surrounding area.

D. The proposed rezoning with conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such enhancement would be unlikely to be achieved or would not be assured in the absence Of the use of a rezoning with conditions.

E. As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the rezoning with conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the City by the City Commission and Planning Commission.

F. The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

G. Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the rezoning with conditions without negatively impacting the delivery of public services to other properties in

the City, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the City.

H. The offered condition(s) are beneficial to the public good and likely to be enforceable.

I. The condition does not have the same effect as a use variance.

J. The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of approval. Approval of the rezoning with conditions and rezoning with conditions agreement confirms only the rezoning of the property, subject to any conditions reflected in the rezoning with conditions agreement and after recordation as set forth in subsection (8) below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The zoning map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "B-1, Corridor Commercial District (CR, Rezoning with Conditions)", with a zoning map designation of "B-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the rezoning with conditions agreement. No development or use of the land inconsistent with the conditions of the rezoning with conditions agreement shall be permitted.

(7) Compliance with conditions.

A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the rezoning with conditions agreement. Any failure to comply with a condition contained within the rezoning with conditions agreement shall constitute a violation of this Zoning Code and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

B. No permit or approval shall be granted under this Zoning Code for any use or development that is contrary to an applicable rezoning with conditions agreement.

(8) Period of approval.

A. The rezoning with conditions and agreement shall expire after a period of one year from the effective date of the rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two years unless development of the property is substantially begun within such two year period and proceeds diligently and in good faith as required by ordinance to completion.

B. In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one year and bona fide development has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the rezoning with conditions agreement shall be void and of no effect.

C. The property owner may apply for a one year extension two times. The request must be submitted to the Planning Division before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the City Commission finds that there has not been a change in circumstances that would render the rezoning with conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

An extension request shall be considered by the City Commission following a recommendation by the Planning Commission.

D. If the rezoning with conditions becomes void in the manner provided in this section, the following procedures shall apply:

1. The property owner may seek a new rezoning of the property within thirty days of the expiration of the period of approval.

2. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.286i (as amended). The City Commission shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Code.

3. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with conditions agreement requirements. A rezoning with conditions agreement shall be executed between the applicant and the City at the time of City Commission approval of a rezoning with conditions.

A. Rezoning with conditions agreements shall, at a minimum, contain all of the following items:

1. Identification of the requested zoning district and a listing of the conditions offered by the applicant.

2. A statement acknowledging that the rezoning with conditions was proposed by the applicant, and, further

agreement and acknowledgment that the conditions and rezoning with conditions agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

3. Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the rezoning with conditions agreement.

4. Agreement and understanding that the approval and rezoning with conditions agreement shall be binding upon and inure to the benefit of the property owner and City, and their respective heirs, successors, assigns, and transferees.

5. The date upon which the rezoning with conditions becomes void, as specified in Section 1281.01(g)(8). If the City Council grants an extension of approval, a new rezoning with conditions agreement with the new expiration date shall be recorded.

6. Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in Section 1281.01(g)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

7. Agreement and understanding that each of the requirements and conditions in the rezoning with conditions agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

8. A legal description of the property affected by the rezoning with conditions.

9. Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

10. Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

B. A rezoning with conditions plan may be included as an exhibit to the agreement. The rezoning with conditions plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a rezoning with conditions plan as an exhibit to a rezoning with conditions agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of rezoning with conditions agreement Amendment of a rezoning with conditions agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with conditions.

(11) Recordation of rezoning with conditions agreement A rezoning with conditions shall become effective following publication in the manner provided by law, and, after recordation of the rezoning with conditions agreement, whichever is later. All rezoning with conditions agreements shall be recorded with the Calhoun County Register of Deeds.

(12) Termination. The City Commission shall be the only body with the authority to terminate a rezoning with conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination shall comply with any applicable provisions of this Zoning Code or the rezoning with conditions agreement. If the agreement is terminated, the City shall follow the procedures in Section 1281.01(g)(8)D.

(13) City right to rezone. Nothing in the rezoning with conditions agreement or in the provisions of this section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a rezoning with conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Zoning Code and the Michigan Zoning Enabling Act.

(14) If land that is subject to a rezoning with conditions agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no rezoning with conditions agreement, the rezoning with conditions agreement attached to the former zoning classification shall cease to be in effect. In such a case, the Zoning Administrator shall record with the Calhoun County Register of Deeds a notice that the rezoning with conditions is no longer in effect upon the property owner's written request.

(h) Fees. Petitions for an amendment to this Zoning Code shall be accompanied by a fee as prescribed in the schedule provided for in Section 802.24. Such fee is applicable when filing a petition for zoning reclassification or special use permits and is nonrefundable.

(i) Protest Petition. An amendment to a zoning ordinance is subject to a protest petition under Section 1281.08.

(j) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board provided for under this chapter.

(Ord. 10-2020.Passed 11-24-20.)

## **1281.02 CERTIFICATES OF OCCUPANCY.**

(a) Subsequent to the effective date of this Zoning Code (Adopted on November 24, 2020), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with this Zoning Code.

(b) No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been approved for such certificate, and no building or premises shall be occupied until such certificate and a permit are issued.

(c) A record of all certificates of occupancy shall be kept on file in the Inspections Division office. Copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in buildings affected by such certificates.

(Ord. 10-2020.Passed 11-24-20.)

**1281.03 APPLICATIONS FOR BUILDING PERMITS AND ZONING PERMITS; RECORDS.**

(a) It shall be unlawful for any person to commence excavation for construction of any building or structure, structural changes or repairs in any existing building, a change in use, or moving of an existing building without first obtaining a zoning permit and/or building permit from the City of Battle Creek. No permit shall be issued for construction, alteration or remodeling of any building or structure, or change in use, until an application has been submitted in accordance with the provision of this Zoning Code showing that the construction proposed is in compliance with the provisions of this Zoning Code and with the Building Code adopted by the City. "Alteration" or "repair" of an existing building or structure, shall include any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress and ingress, use, or any other changes regulated by the Building Code of the City, the Housing Law of Michigan, Public Act 167 of 1917, as amended, being MCL 125.401 et seq., this Zoning Code, except for minor repairs or changes not involving any of the aforesaid provisions.

(b) Each application for a zoning permit shall contain all required information specified in Section 1281.04(d). A record of applications and plot plans shall be kept in the offices of the Planning Division.

(c) Zoning permits are required for activities detailed in Section 1281.04(o), and as otherwise specified in this Zoning Code.

(d) No building, plumbing, electrical, drainage or other permit shall be issued until the City of Battle Creek has determined that the plans and designated use indicate that the proposed structure and lot will conform to the provisions of this Zoning Code.

(Ord. 10-2020.Passed 11-24-20.)

**1281.04 SITE PLAN REVIEW.**

(a) Purpose. It is the purpose of this chapter to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. Site plan approval shall be required before building permits are granted by the City for parcels subject to this chapter. The regulations contained in this chapter are intended to promote:

- (1) Safe and convenient vehicle and pedestrian traffic movements, both within a site and in relation to access streets;
- (2) Harmonious relationships between buildings, structures and uses, both within a site and within adjacent sites;
- (3) Conservation of natural amenities and resources; and
- (4) Compliance with all other applicable regulations of this Zoning Code.

(b) Application.

(1) Applications for site plan approval shall be available at the Planning Division and a complete application packet shall be filed with the Inspections Division. A complete application packet shall consist of a completed application, three signed and sealed prints or drawings of the proposed site plan, a digital format of the site plan, any other applicable drawings, supporting information, and the review fee established in Section 802.24.

(2) All requirements for site plan approval shall be filed with the Inspections Division at one time, as a complete single submittal.

(3) Once a complete application, site plan, and other materials are submitted, the Zoning Administrator or their designee will schedule a review at the earliest possible date, but in no instance will the review be completed any later than fifteen days after the date of submittal.

(c) Required Review Based on Activity Proposed The table below details which type(s) of reviews are required based on the proposed activity.

<b>PROPOSED ACTIVITY</b>	<b>Staff Review</b>	<b>Site Plan Review</b>	<b>Zoning Permit</b>	<b>Planning/City Commissions</b>
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<b>PROPOSED ACTIVITY</b>	<b>Staff Review</b>	<b>Site Plan Review</b>	<b>Zoning Permit</b>	<b>Planning/City Commissions</b>
Any proposed new building or parking area or where an alteration, addition, or expansion of existing developments constitute an increase or reduction to the existing buildings or parking area of more than 10%		•		
Projects where less than 10% increase or reduction of the building or parking will occur shall adhere to review requirements as outlined in the Stormwater Management Program Technical Reference Manual	•			
Planned Unit Developments	•	•		•
Parking lot mill and repave projects where an approved site plan is not on file		•		
Special land uses		•		•
Driveway or curb cut relocation where the new driveway will be relocated to within 25 feet of the existing driveway location or where a driveway or curb cut is being totally eliminated	•			
Construction and development on any parcel of land of multi-family, commercial, or industrial uses		•		
Site improvements that include landscaping, lighting, site access, and parking lot grading, layout, and new off-street parking		•		
Landscaping that is less than 25% of the parcel size or 5,000 square feet, whichever is less	•			
Re-paving of an off-street parking lot, provided there are no grading changes and no changes to the configuration of the parking lot layout	•			
Construction of and/or the conversion of an existing structure to one (1) or more units meeting the definition of a State Licensed residential facility	•			
Construction/replacement of fence, sheds, signage, driveways			•	

(1) Site plan review shall not be required for the following:

- A. Detached single-family housing and related parking;
- B. Two-family dwelling units and related parking;
- C. Agricultural uses; and
- D. Nonresidential accessory buildings no more than 120 square feet in area and all residential accessory buildings.

(2) No grading, removal of trees or other vegetation, land-filling or construction of improvements shall commence for any project which requires site plan approval until a site plan is approved and is in effect and any other applicable permits are obtained.

(d) Site Development Plans. All site development plans shall be submitted on standard twenty-four inch by thirty-six inch,

or thirty-six inch by forty-two inch, architectural or engineering sheets, and are required to incorporate the following information, unless waived by the Zoning Administrator or their designee or designated representative:

Site Plan Required Information:

- (1) The title of the proposed project;
  - (2) The name of the property owner, proprietor or project director;
  - (3) The location of the project, the street name and the address;
  - (4) Professional seal of the architect, engineer or designer, and their name, address, phone number, and email address, if available;
  - (5) The date drawn and subsequent revision dates;
  - (6) The scale of the drawing, the north directional arrow, and vicinity map showing location of project;
  - (7) Property line dimensions, including all easements and rights-of-way, existing and proposed, building set-back lines; gross and net acreage, and zoning classification of the site and adjacent properties;
  - (8) Location of adjacent property lines, buildings and structures, sidewalks, parking lots, rights-of-ways, abutting streets, curb cuts, and access easements within 100 feet of the subject property;
  - (9) Existing man-made or natural features such as wetlands, waterways, woodlands, and areas with slopes greater than 10%, with an indication of which features will be retained or removed;
  - (10) The topography, existing and proposed, including contours with a maximum of two-foot contours, or spot elevations sufficient to determine the topography of the site, so as to clearly indicate required cutting, filling, and grading. The site plan shall contain arrows indicating direction of drainage and stormwater calculations;
  - (11) Location and dimension of existing and proposed buildings or structures, including intended uses, floor area, number of floors, width, length, height, number of types of dwelling units (where applicable), and setback distances;
  - (12) The location of sidewalks, rights-of-ways, abutting streets, curb cuts, and access easements, ingress and egress drives, both existing and proposed, to thoroughfares, showing traffic patterns into the site from the same, including ultimate pavement width, deceleration lanes and the like; the location of private and public pedestrian walkways;
  - (13) On-site traffic circulation and parking areas, including the number and size of parking bays, width of maneuvering aisles, designation of fire lanes, the location and size of handicapped parking, surface materials and striping of the parking lot surface to delineate parking bays and individual spaces;
  - (14) The location of loading berths, truck docks, truck wells, service drives and exterior parking lot lighting, including photometric plan;
  - (15) The location and size of all existing and proposed public and private utilities above and below ground proposed to service the project and the location of any public or private utility easements, to include water, gas, electric, cable, stormwater, stormsewer, catch basins, and fire hydrants;
  - (16) The spatial relationship of buildings on the site, including pedestrian walkways, protective or retaining walls, fences, landscaped buffers, either existing or proposed, and the materials to be utilized, if required;
  - (17) The location of signs, either existing or proposed, and an indication of their size, height and design pursuant to City sign regulations;
  - (18) A landscaping plan of the site, including greenbelts or buffers if required, and the identification of all plant and landscape material to be utilized as to type, size and location;
  - (19) The location and proposed method of screening trash refuse receptacles;
  - (20) Location of outdoor storage/display areas including a description of the items to be located outdoors, as well as the location and description of required screening;
  - (21) Storage and containment areas if the use of hazardous substances is involved; and
  - (22) Any additional information as may be required of the applicant to properly evaluate the proposed development.
- (e) Standards for Consideration. The following shall be the standards for consideration of all plans for developments submitted for site plan approval:
- (1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjacent properties and the type and size of buildings.
  - (2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by topographic modifications which result in maximum harmony with adjacent areas.
  - (3) The site plan shall provide reasonable visual and sound privacy for all occupants located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(4) All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practical means to all sides as may be required by the Building and/or Fire Code.

(5) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(6) There shall be provided a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

(7) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves an adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the City Engineer and/or any other entity having authority over said roadway.

(8) Where the Planning Division, City Engineer, or Traffic Engineer finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, they shall require marginal access drives as follows:

A. For a narrow frontage of less than 120 feet, the design will require a single outlet.

B. For a series of adjacent frontages in a developing area, a service road shall be constructed and a single marginal access drive shall serve all establishments fronting thereon, with road cuts not closer than 330 feet centerline to centerline, or 330 feet from a street intersection.

C. The overall design of a marginal access drive shall uphold the purposes of this chapter, promote the public safety, and serve the public interest.

D. Marginal access drives shall be required only if the concept is reasonable in terms of the land available for such an improvement.

(9) All site plans shall be designed in accordance with the City of Battle Creek Stormwater Management Program Technical Reference Manual. All stormwater shall be detained on site for controlled release. Attention shall be given to proper site drainage to ensure neighboring properties will not be adversely affected.

(10) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential uses or districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height.

(11) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(12) Development occurring within the City of Battle Creek wellhead protection area, in accordance with Chapter 1041, shall comply with the requirements established in the performance standards as administered by the Department of Public Works.

(f) Decisions and approval.

(1) The Planning Division, the Inspection Division, and the Department of Public Works shall be responsible for reviewing site plans, and the Zoning Administrator shall be responsible for granting approval. A decision approving, conditionally approving, or rejecting a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted City planning documents, other applicable ordinances, and state and federal statutes.

(2) The Zoning Administrator or their designee will provide a decision in writing to the applicant no longer than fifteen business days after the date of submittal.

(3) Any revisions to the site plan shall be submitted in accordance with Section 1281.04(b).

(4) If approved, the site plan shall become part of the record of approval, and subsequent actions related to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.

(5) A site plan approved under this section shall be valid for a period of one year. If construction has not commenced within this time period, or if construction has ceased for more than one year, the site plan shall become null and void. Thirty days prior to the expiration of an approved final site plan, an applicant may make application for a four-month extension of the site plan. The extension shall be granted if the Zoning Administrator finds good cause for the extension and that zoning regulations and site conditions of the subject property and adjacent properties have not changed since the approval.

(6) Performance guarantee. In accordance with the Michigan Zoning Enabling Act, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City, in an amount to cover the estimated cost of the improvements associated with the project, be deposited with the City Clerk to insure faithful completion of the improvements as set out in the site plan approved by the Zoning Administrator. If the City has required a performance guarantee, then it shall be subject to the following terms and conditions:

A. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or



project. The City may not require the deposit of the performance guarantee until it is prepared to issue the permit.

B. Rebates of cash deposits. Where the performance guarantee has been made in the form of a cash deposit, the performance guarantor shall be entitled to a rebate of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements as satisfactory work progresses. The performance guarantor may request the rebates in three equal installments each time one-third of the entire required work has been satisfactorily completed in accordance with the final approved site plan, including any approved amendments.

C. Failure to complete improvements. If the performance guarantor fails to complete the improvements as approved in the final approved site plan within such time period as is required by the conditions or guarantees as outlined above, then the City may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the irrevocable letter of credit, or shall take the necessary steps to require performance by the bonding company.

(g) Appeals. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Planning Division, the City Engineer or the Traffic Engineer as it relates to this chapter. Such appeal shall be taken within such time as is prescribed by Section 1281.03 .

(h) Amendments. All site improvements shall conform to the final site plan. A site plan may be amended upon application and in accordance with the procedure herein. The Zoning Administrator or their designee shall have the authority to determine if a proposed change requires an amendment to an approved final site plan, provided that a revised final site drawing be submitted showing such minor changes, for purposes of record.

(i) As-Built Plan. After construction has concluded, as-built plans shall be submitted to ensure compliance with final site plan approval.

(j) Violations and Penalties.

(1) All site improvements shall conform to the final approved site plan, unless an amendment has been approved by the Zoning Administrator or their designee. If an amendment has not been approved, the Planning Division may require the applicant to correct any physical changes to the site that were completed without proper approval so as to conform to the approved final site plan.

(2) Stop work order. If improvements and/or construction is being undertaken contrary to this Chapter or the final approved site plan, including any approved amendments, the Zoning Administrator or their designee shall give written notice to the holder of the building permit, or if a building permit has not been issued, then to the person doing the construction and/or improvements, notifying them of the violation of this Chapter, or other applicable laws and ordinances. If the person doing the construction is not known, or cannot be located with reasonable effort, then the notice may be delivered to the person in charge of, or apparently in charge of, the construction/improvements. If the holder of the permit or the person doing the construction or improvements fails to correspond with the City to show good cause within one full working day after notice is delivered, the Zoning Administrator or their designee shall cause a written order to stop construction and/or improvements to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction and/or improvements in violation of a stop work order, except with permission of the Zoning Administrator or their designee to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction and/or improvements is not obeyed, the Zoning Administrator or their designee may apply to the Calhoun County circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(3) A person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.9

(Ord. 10-2020. Passed 11-24-20.)

### **1281.05 SPECIAL LAND USES.**

(a) Application for Special Uses: Certificates of Occupancy. An application to build or occupy any of the special uses described in Section 1240.02 shall be submitted in accordance with the following procedure:

(1) Applications shall be submitted through the Planning Division to the Planning Commission. A copy of the application shall be forwarded to the City Commission. Each application shall be accompanied by a nonrefundable filing fee as established in the fee, bond and insurance schedule.

(2) Every application shall be accompanied by the following information and data:

A. A special use petition form supplied by the Planning Division;

B. A site plan, plot plan or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their proposed uses;

C. Preliminary plans and specifications of the proposed development and for all intended construction; and

D. A statement with supporting evidence regarding the required findings specified in Section 1281.05(c).

(3) Before authorization by the City Commission of any of the special uses referred to in this chapter, the Planning

Commission shall cause a study and report concerning the effect of the proposed use on the master plan and on the character and development of the neighborhood.

(4) The Planning Commission may recommend, and the City Commission may impose, such conditions or restrictions upon the construction, location and operation of a special use as is deemed necessary to secure the general objectives of this Zoning Code and to preserve the value of property in the neighborhood. Any proposed special use shall otherwise comply with all of the requirements set forth in this Zoning Code for the district in which the use is located, except that the City Planning Commission may permit hospitals and institutions to exceed the height limitations of such district.

(5) Certificates of occupancy for special uses shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

(b) Hearings and Notices. (Requirements for public hearing and hearing notices are the same as for an amendment to the Zoning Code as specified in Section 1281.01 (c)(2).

(c) Decision on Application; Basis for Determination.

(1) The City Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

(2) Before approving, or approving with conditions, a request for a special land use, the Planning Commission and the City Commission shall establish, beyond a reasonable doubt, that the general standards specified in the following shall be satisfied by the completion and operation of a proposed development:

A. The use will be harmonious with and in accordance with the general objectives of the master plan.

B. The use will be designed, constructed, operated and maintained so as to be compatible with adjacent uses of land, the natural environment, and harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.

C. The use will not be hazardous or disturbing to existing or future neighboring uses.

D. The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

E. The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.

F. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

H. The use will be consistent with the intent and purpose of this Zoning Code.

(3) A request for approval of a special land use shall be approved (except requests for approval of a group child care home, which are discretionary approvals) if the request is in compliance with the standards stated in this ordinance, the conditions imposed under this Zoning Code and other applicable ordinances, and state and federal statutes.

(d) Approval of Special Land Use with Conditions

(1) Reasonable conditions may be required with the approval of a special land use. The conditions may include conditions necessary to ensure 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 ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all the following requirements:

A. Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, 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.

C. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(2) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

(3) To ensure compliance with any conditions imposed pursuant to the section, the City may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City covering the estimated cost of necessary improvements be deposited with the City Clerk to insure faithful completion of the improvements relative to the imposed conditions. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the special use. Refer to Section 1281.04(f)(4).

(e) Reapplication.

(1) No application for a special use permit shall be submitted for the same property, or any part thereof, or as part of a larger parcel, for a period of six months from the date of Planning Commission decision on a special use application for the property, except on grounds of newly discovered evidence or proof of changed conditions found, in the discretion of the Planning Commission, to be sufficient to justify a reconsideration.

(2) As used in this section, "newly discovered evidence" means a finding that the evidence itself, not merely its materiality, is newly discovered; that the evidence is not cumulative; that the evidence is such as to render a different result probable on rehearing; and that the evidence could not, with reasonable diligence, have been discovered and produced at the time of the original hearing.

(3) For purposes of this section, "proof of changed conditions" shall not include an application for another or different special use than that originally requested.

(Ord. 10-2020. Passed 11-24-20; Ord. 04-2021. Passed 4-13-21.)

### **1281.06 ENFORCEMENT BY ZONING ADMINISTRATOR; APPEALS.**

The Zoning Administrator or their designee shall enforce this Zoning Code. The officers and employees of the City, especially all of the members of the Police Department, shall assist the Zoning Administrator or their designee by reporting to the Administrator upon observing new construction, reconstruction or land uses or upon observed violations. An appeal from a decision of the Zoning Administrator or their designee may be made to the Zoning Board of Appeals as provided in Section 1280.03.

(Ord. 10-2020. Passed 11-24-20.)

### **1281.07 INTERPRETATION, PURPOSE AND CONFLICTS.**

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. This Zoning Code is not intended to interfere with, abrogate or annul any ordinance, rule, regulation or permit previously adopted or issued and not in conflict with any of the provisions of this Zoning Code, or which shall be adopted or issued pursuant to a law relating to the use of buildings or premises and likewise not in conflict with any of the provisions of this Zoning Code, nor is this Zoning Code intended to interfere with, abrogate or annul any easement, covenant or other agreement between parties, provided that where this Zoning Code imposes a greater restriction upon the use of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the provisions of this Zoning Code shall control.

(Ord. 10-2020. Passed 11-24-20.)

### **1281.08 PROTEST PETITION, SUBMISSION OF ORDINANCES TO ELECTORS.**

(a) An amendment to the zoning ordinance is subject to a protest petition as required by this subsection. If a protest petition is filed, then approval of the amendment to the zoning ordinance shall require a 2/3 vote of the City Commission. The protest petition shall be presented to the City Commission before final legislative action on the amendment and shall be signed by one or more of the following:

(1) The owners of at least 20% of the area of land included in the proposed change.

(2) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(b) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (a) above.

(Ord. 10-2020. Passed 11-24-20.)

### **1281.09 REQUIREMENT OF PAYMENT OF FEES.**

The City may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

(Ord. 10-2020. Passed 11-24-20.)

### **1281.10 TRANSFER OF OWNERSHIP.**

It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a

notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. 10-2020. Passed 11-24-20.)

## **CHAPTER 1290**

### **Violations, Penalties, and Enforcement**

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1290.01 Violations.

1290.02 Penalties.

1290.03 Equitable remedies.

#### **1290.01 VIOLATIONS.**

Unless otherwise specified, a person who violates or fails to comply with any of the provisions of this Zoning Code is responsible for a Class C Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98. The officers and employees of the City and members of the Police Department, shall assist the Zoning Administrator or their designee by reporting to the Administrator upon observing new construction, reconstruction or land uses or upon observed violations.

(Ord. 10-2020. Passed 11-24-20.)

#### **1290.02 PENALTIES.**

A person who violates any of the provisions of this Zoning Code that causes an imminent threat to the public health or safety shall be subject to an order to correct setting forth a deadline to abate the violation. A person who fails, after receiving notice, to timely correct a condition that causes an imminent threat to the public health or safety is guilty of a misdemeanor and shall be subject to the penalty provided in Section 202.99.

(Ord. 10-2020. Passed 11-24-20.)

#### **1290.03 EQUITABLE REMEDIES.**

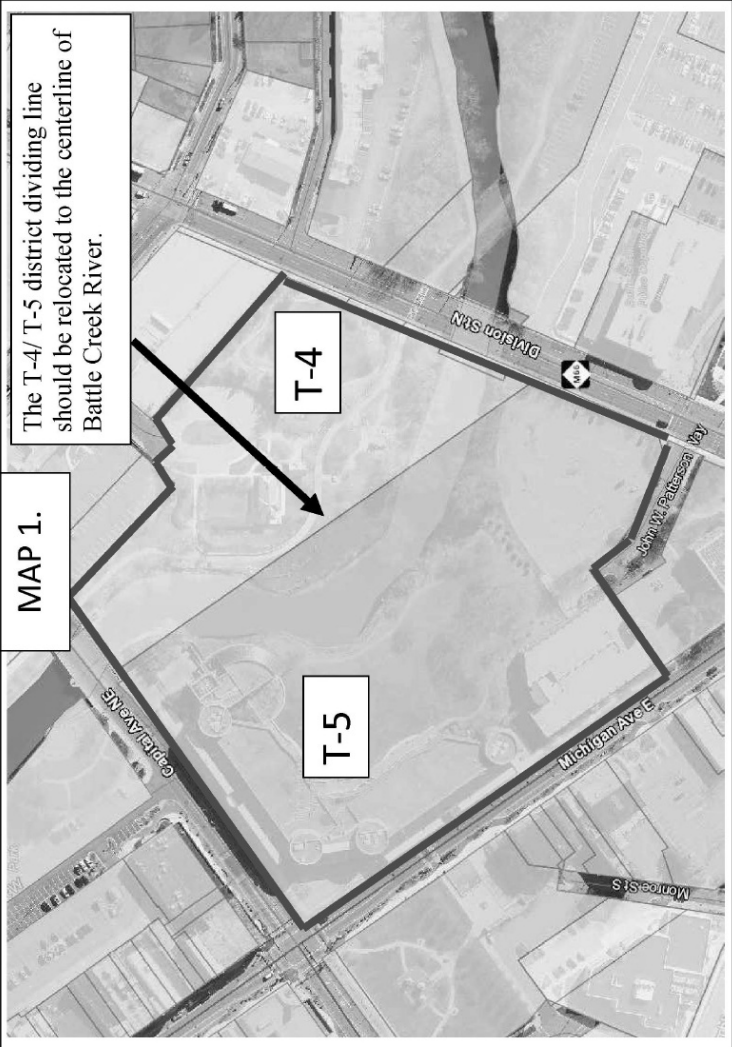
Nothing in this section shall preclude or abrogate the availability to the City of any other remedy available at law or in equity to prevent or remedy a violation of any of the provisions of this Zoning Code.

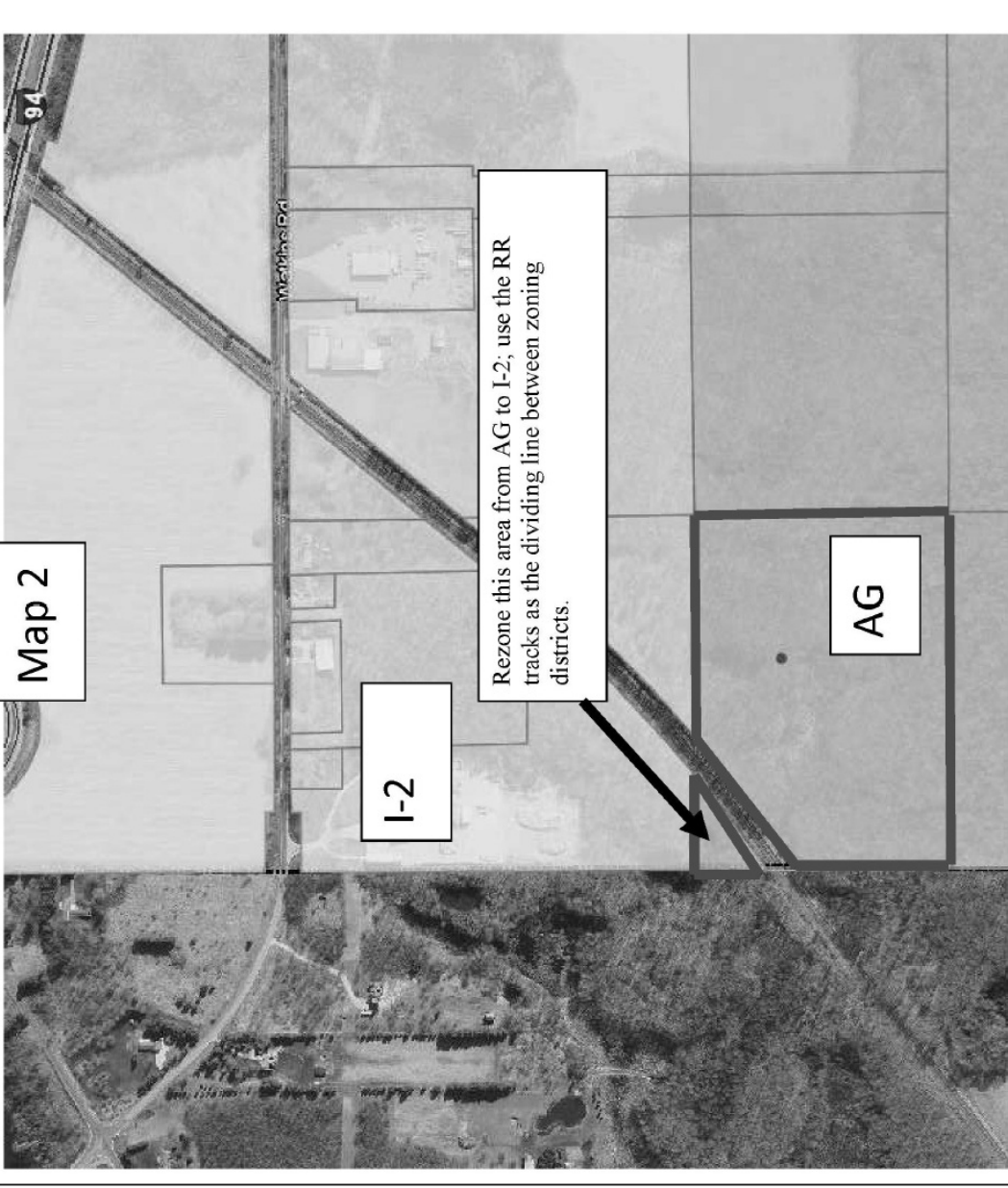
(Ord. 10-2020. Passed 11-24-20.)

## **APPENDIX: MAPS**

**MAP 1.**

The T-4/ T-5 district dividing line should be relocated to the centerline of Battle Creek River.



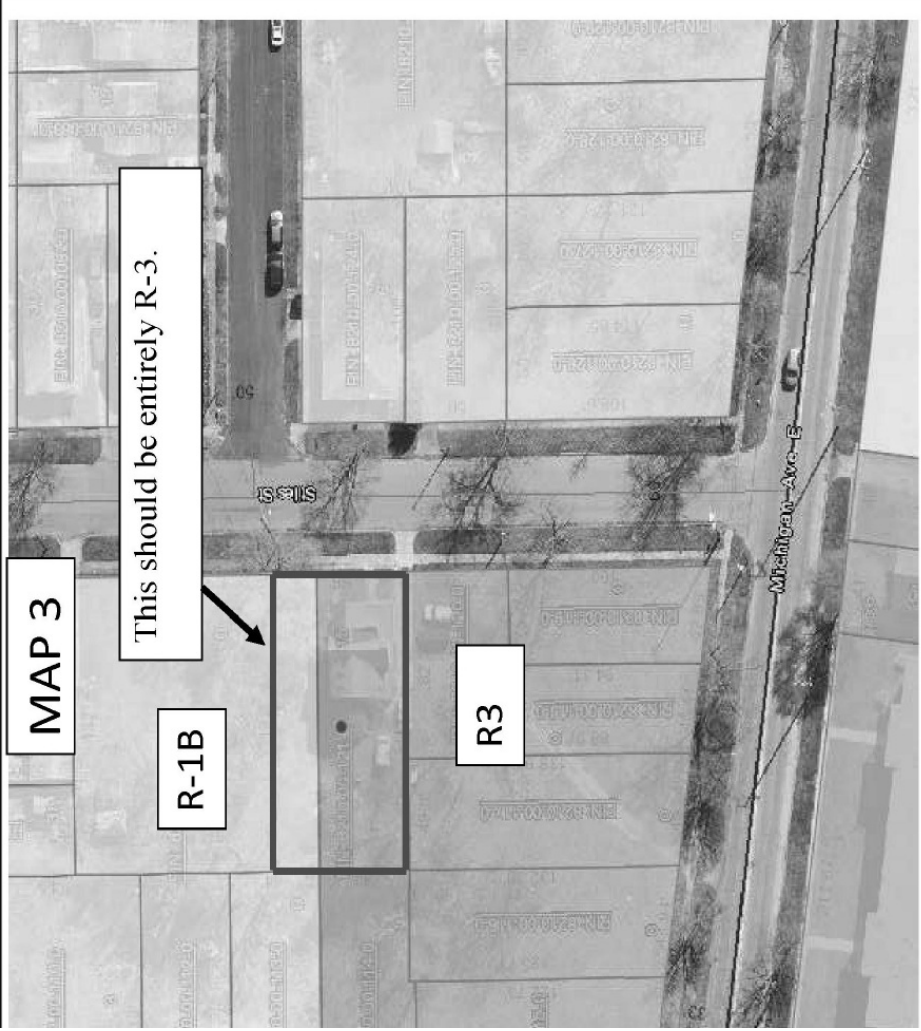


Map 2

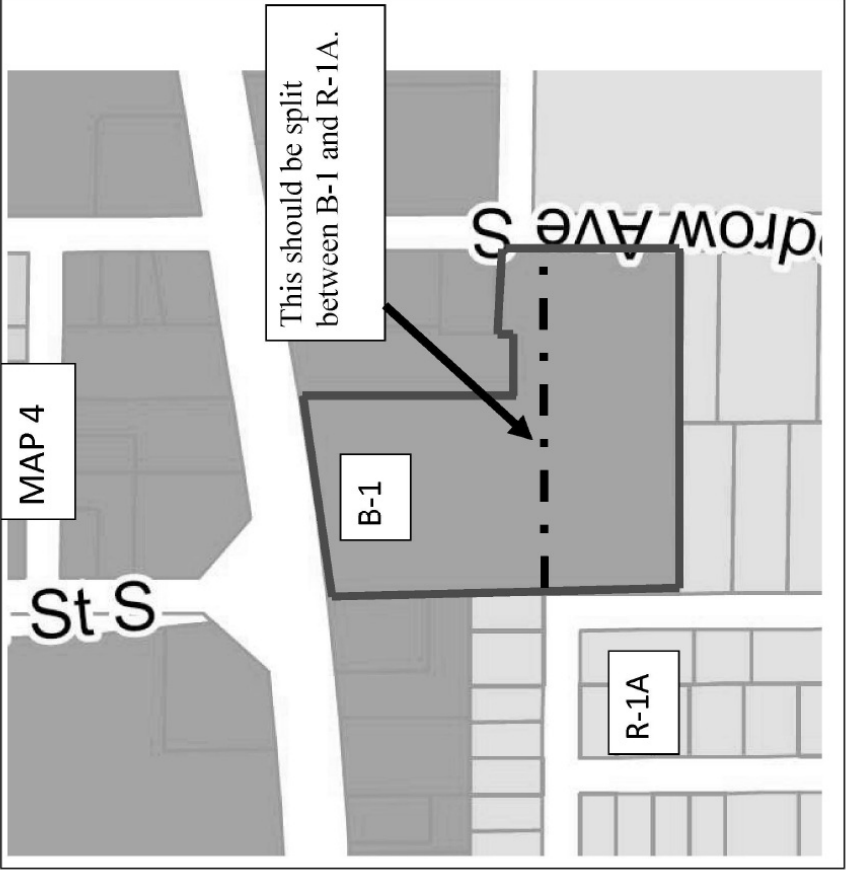
I-2

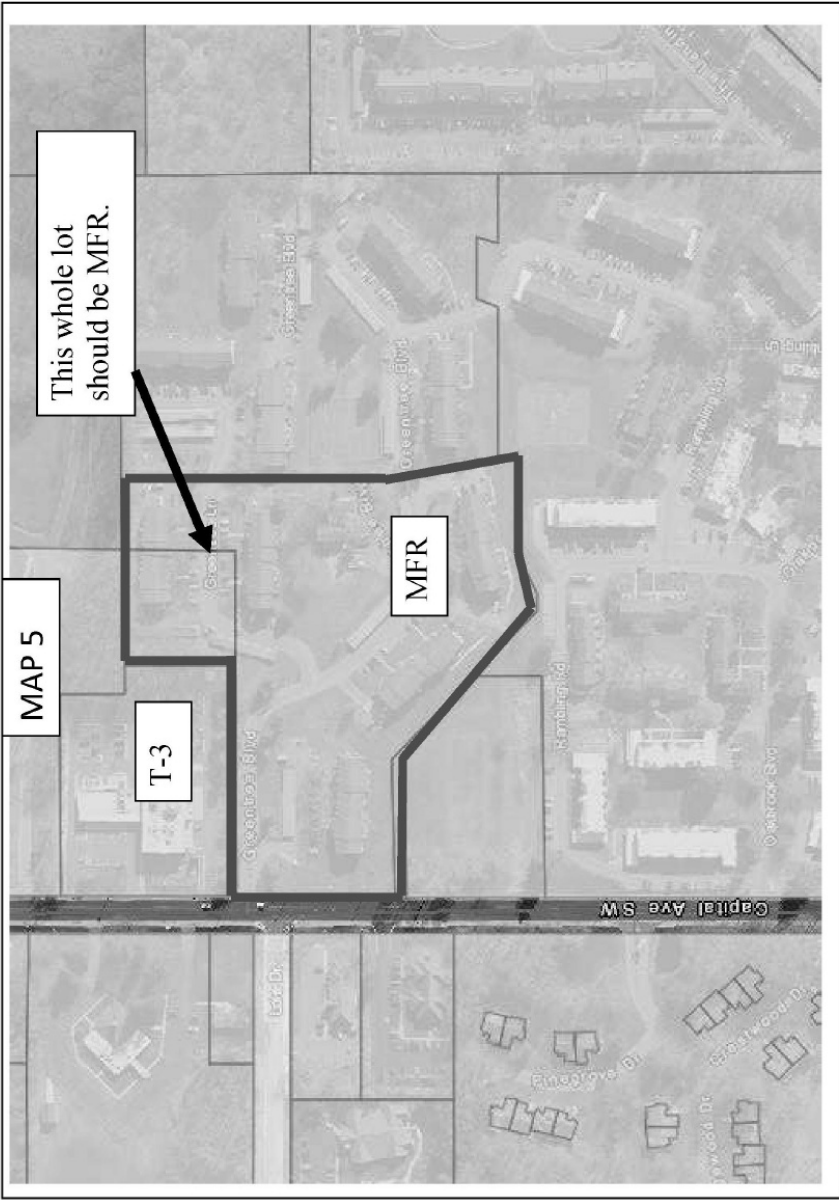
Rezone this area from AG to I-2; use the RR tracks as the dividing line between zoning districts.

AG









This whole lot should be MFR.

MAP 5

T-3

MFR

Capital Ave SW

Lester Dr.

Pineapple Dr.

Chestnut Dr.

Maplewood Dr.

Greenwood Blvd

Huntingwood

Oakbrook Blvd

Greenlee Blvd

Greenwood Blvd

Maplewood Dr.

Maplewood Dr.

Maplewood Dr.

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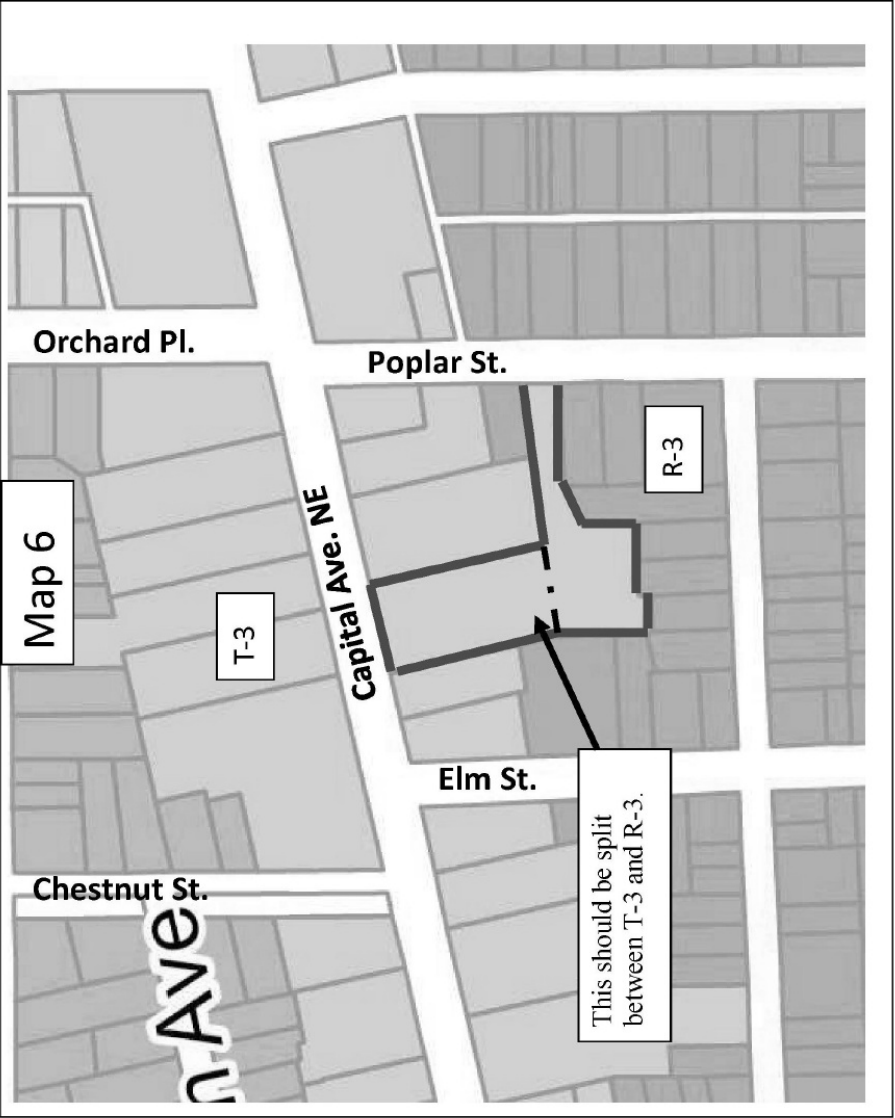
Maplewood Dr.

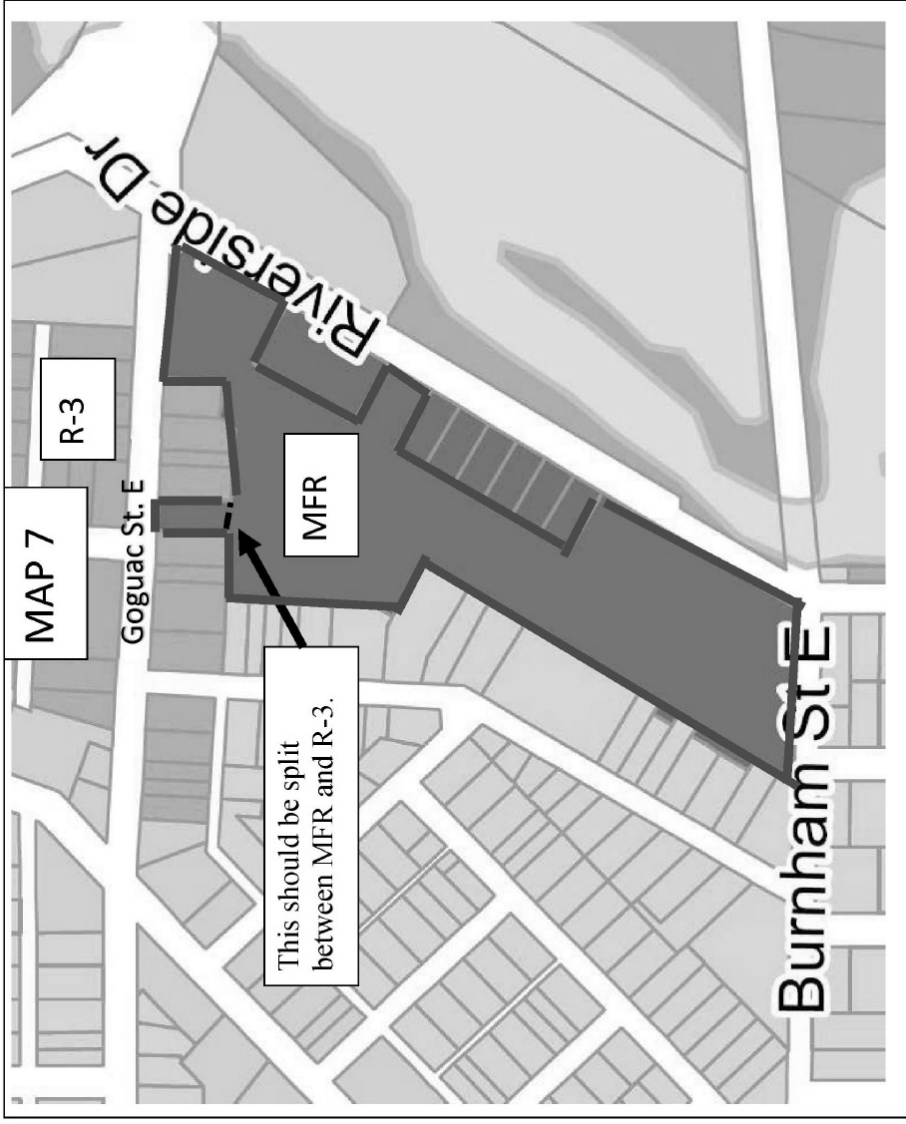
Maplewood Dr.

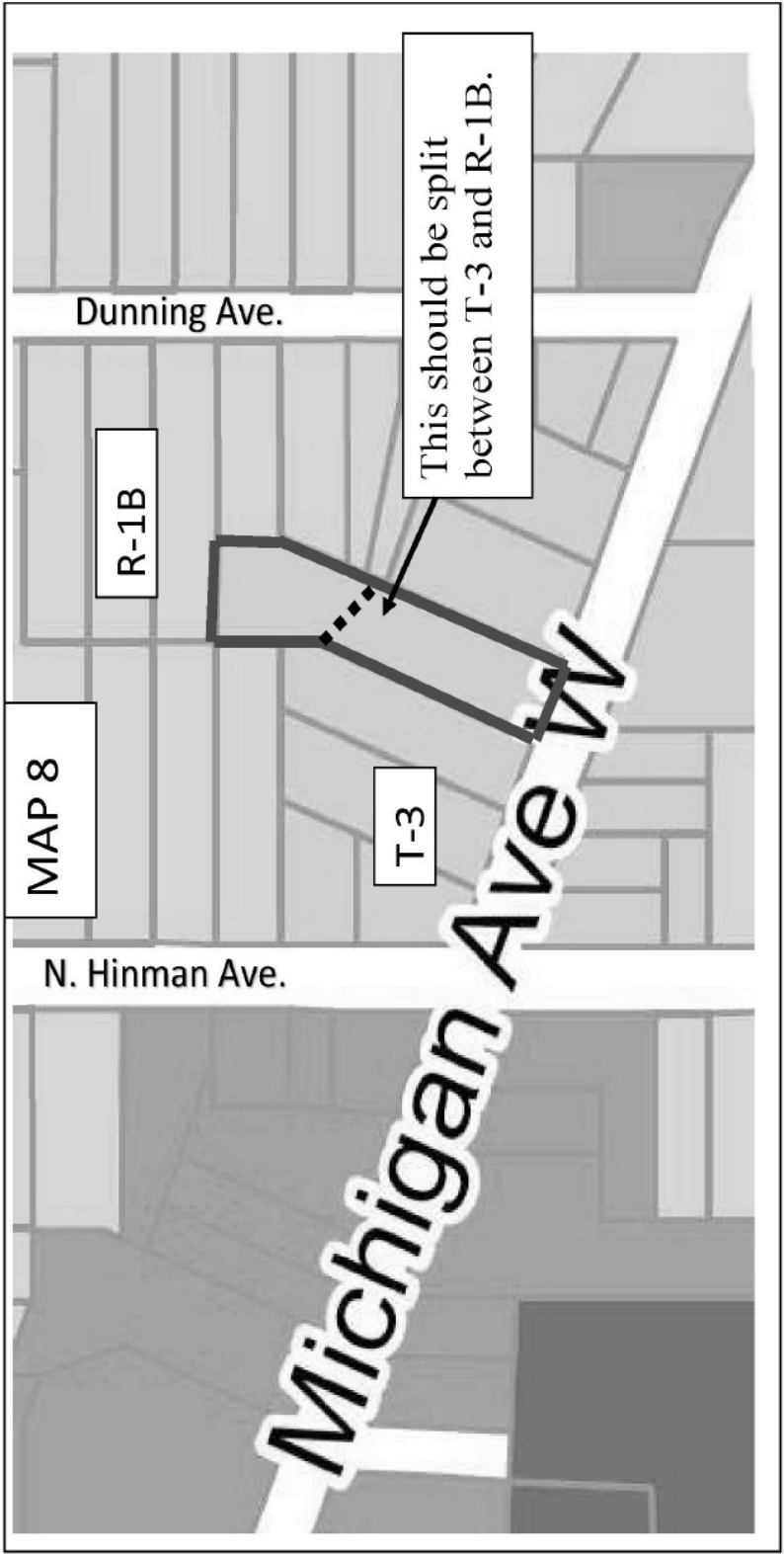
Maplewood Dr.

Maplewood Dr.

Maplewood Dr.







MAP 8

Dunning Ave.

R-1B

T-3

This should be split between T-3 and R-1B.

N. Hinman Ave.

Michigan Ave W



**MAP 10**

Rezone to I-1  
Light Industrial.

I-1

R-1B

MFR

